

COMMISSION OF ENQUIRY

TO EXAMINE AND ENQUIRY INTO ALL OF THE CIRCUMSTANCES WHICH LED TO THE TRAGIC INCIDENTS WHICH OCCURRED ON FRIDAY FEBRUARY 25TH 2022 AT FACILITIES OWNED BY PARIA FUEL TRADING CO. LTD LOCATED AT NO. 36 SEALINE RISER ON BERTH NO. 6, WHICH LED TO THE DEATHS OF THE FOUR (4) EMPLOYEES OF LMCS LIMITED

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FOUR (4) EMPLOYEES OF LMCS LIMITED

International Waterfront Centre
Level 11 Tower D
One Wrightson Road
Port of Spain

WEDNESDAY, SEPTEMBER 07, 2022

Commissioners:
The Hon. Jerome Lynch QC
Mr. Gregory Wilson

Commission Counsel:
Mr. Ramesh Lawrence Maharaj SC
Mr. Ronnie Bissessar
Ms. Vijaya Maharaj

Secretary:
Ms. Sarah Sinanan

PROCEDURAL HEARING

1 **10.36. a.m.:** *Procedural Hearing commenced.*

2 **Mr. Chairman:** Well, good morning, everyone. Can I say
3 something first of all about masks? The protocol, as you know, in and
4 out of this building still is that there should be masks to be worn by all
5 those who come and leave. In this room, I shall not wear a mask and I
6 do not require anyone to wear a mask. Of course, it is a matter
7 entirely for anyone to wear it if they choose. If you feel more
8 comfortable then you should, but if you wish to take it off please feel
9 free to do so. Anybody who has a difficulty with that, probably now
10 is a good time to leave, otherwise, as I say, that is going to be the
11 protocol that we will adopt for now. Please, turn off your telephones.
12 I've left mine in my chambers so I would ask you all to at least put it
13 on silent.

14 I wonder if, Mr. Maharaj, you'd be kind enough to make some
15 introductions of those that are sitting in the counsel's rows so that I
16 might know who everyone is.

17 **Mr. Maharaj SC:** Much obliged, Chairman [*Inaudible*]—

18 **Mr. Chairman:** You need to put the microphone on, I think, Mr.
19 Maharaj.

20 **Mr. Maharaj SC:** Sorry. The attorneys-at-law who are present and
21 the parties they represent, I would kindly ask the attorneys-at-law to
22 stand when their names are called. Paria Fuel Trading Company
23 Limited and Heritage Petroleum Company Limited represented by
24 Mr. Gilbert Peterson Senior Counsel, leading Mr. Jason Mootoo,
25 instructed by Gretel Baird.

26 **Mr. Chairman:** Good morning.

27 **Mr. Maharaj SC:** Ministry of Energy and Energy Industries,

1 represented by Mr. Colin Kangaloo as counsel instructed by Ms.
2 Danielle Inglefield.

3 **Mr. Chairman:** Good morning.

4 **Mr. Kangaloo:** Good morning.

5 **Ms. Inglefield:** Good morning.

6 **Mr. Chairman:** I see there's a lady with you.

7 **Mr. Maharaj SC:** Estate of Fyzal Kurban, Aliyah Henry, a child of
8 Yusuf Henry, represented by Mr. Prakash Ramadhar, assisted by Mr.
9 Ted Roopnarine and also appearing with them Kiel Taklalsingh,
10 Stefan Ramkissoo, Ved Trebouhansingh, but those last three are not
11 present today but they have asked me to apologize on their behalf,
12 instructed by Niara Boodan.

13 **Mr. Chairman:** Good morning.

14 **Mr. Maharaj SC:** Thank you.

15 **Mr. Chairman:** I believe, um—Mr. Maharaj, I believe that we do
16 not have any application for standing from the gentlemen from
17 Freedom Chambers, is it, and Ramadhar's chambers. Is that correct?

18 **Mr. Maharaj SC:** Yes. Yes, yes, yes Commissioner.

19 **Mr. Chairman:** Well in the absence of having any application for
20 standing I won't ordinarily hear anything from anybody who has not
21 been—either applied or been granted. I think the others have and I'm
22 certainly content that they should address us at the appropriate time
23 this morning. But let me just please deal with the opening session.

24 Today is our first day of this Enquiry and, um, it is a
25 Commission of Enquiry into all of the circumstances which led to the
26 tragic incidents which occurred on Friday the 25th of February of this
27 year at the facilities owned by Paria Fuel Trading Company Limited,

1 located at 36 sealine riser on berth number six at Pointe-a-Pierre
2 which led to the deaths of four employees of LMCS Limited. As I
3 say, this is the formal opening by me, the Chairman, on behalf of the
4 commission. So welcome.

5 Today is the 7th of September. It is the first day and I am its
6 Chairman, Jerome Lynch Queen's Counsel. This is the formal
7 opening into the death of those four divers and such an incident in a
8 modern country, used to dealing with the extraction of oil and gas and
9 the maintenance of machinery necessary to effect such extraction is
10 both surprising and tragic in the 21st Century.

11 A hundred and ninety-four days ago, four men died when
12 something happened that caused them to be sucked into a 30-inch
13 pipe, stretching across the sea bed from berth six to berth five. It is
14 right that we should remember them with sorrow and compassion, not
15 just them but their families and friends who grieve for them. I would
16 ask you please to join with me and observe a minute's silence as a
17 mark of our respect for those men who have died and for those whose
18 lives have been changed forever.

19 [*The Commission sat in silence*]

20 **Mr. Chairman:** Thank you. It is right that at the very outset of this
21 Enquiry that I should express on my own behalf and on behalf of all,
22 my fellow Commissioner, Mr. Gregory Wilson who sits to my left,
23 Counsel to the Commission of Enquiry who are sitting to my right and
24 the members of the Enquiry team our heartfelt sadness at the suffering
25 and despair caused by this loss of life. We are acutely aware that
26 these men were fathers and sons, brothers and cousins, friends and
27 colleagues. They were breadwinners and confidants who provided joy

1 and succour to many. This Enquiry cannot bring them back but it can
2 and it will provide answers to the inevitable questions of how a
3 tragedy of this kind could occur in today's society. In that, I hope that
4 we will be able to provide some small measure of solace to all.

5 The facts are undoubtedly tragic and there are bound to be
6 moments when emotion will get the better of some. Let us be
7 understanding and caring. Similarly, there are about to be lighter
8 moments of levity and humour which creeps into everyone's daily
9 routine. That does not mean that we do not take it very seriously
10 indeed or that we lack empathy. Nothing could be further from the
11 truth.

12 It is also right to observe that a disaster of this kind provided a
13 unique challenge to the emergency services as well as to those
14 charged with direct responsibility for those divers. There are many
15 aspects of the response to the tragedy that the Commission of Enquiry
16 will wish to examine but it is right that we should pay tribute to those
17 people who were ready to risk their lives to attempt a rescue of these
18 men. As you know, a fifth diver did manage to escape with the help
19 of at least one other on the site.

20 In response to that terrible event on the 25th of February, the
21 President of Trinidad and Tobago, at the behest of the government and
22 with no small contribution from members of the public, called for a
23 Commission of Enquiry. Initially the Chairman of the Commission
24 was to be the very experienced retired judge Dennis Morrison
25 Queen's Counsel but he had to withdraw creating something of a
26 hiatus and consequent delay in getting the Enquiry up and running.
27 We've lost four months. I regret to say that delay has been

1 compounded. I was appointed by the President to take over on the 6th
2 of July of this year. Mr. Wilson is still here with me, thankfully. Let
3 us be—let me say something please about the timing of this Enquiry.

4 This Commission of Enquiry, as with all such Commissions,
5 requires staff and facilities to carry out its work. I made clear at a
6 short press conference on the 7th of July that I, nay we, would do all
7 we could to expedite the matter with—whilst at the same time
8 ensuring—thoroughness. Sadly, apart from the stalwart Secretary,
9 Ms. Sarah Sinanan who sits in front of us, we had no administrative
10 support until Monday of this week, the 5th of September when we
11 were joined by our new manager, a Mr. Russell Seebaran together
12 with some IT and technical support. The office structure at SAPA
13 which was determined to be the place where we would have our
14 offices, was only completed on Friday the 26th of August, who, but
15 for the considerable efforts of Mr. Noel Garcia and his staff at
16 UDeCott we would still have an empty shell.

17 It's no part of my responsibility or any of us here to blame
18 anyone for this rather slow provision of the basics to carry out our
19 work. And I know that the honourable Minister Stuart Young MP has
20 been doing all he can to push this along. Happily, as a consequence, I
21 understand he plundered the offices of the Prime Minister in order to
22 provide us with some chairs and desks and the basics of office
23 furniture over the last weekend. He's apparently gone abroad with the
24 Prime Minister—the President.

25 I do not know if the honourable Keith Rowley is now sitting on
26 the floor as a result of having his offices plundered but the fact is we
27 got somewhere to sit which makes up for it in some way. I await with

1 some considerable concern for pens to write with, paper to write on,
2 printers to print on, scanners to scan with, the Internet to connect to.
3 The upshot is, is that we are falling behind and I wish to emphasize
4 that it is not the responsibility of any of those who are sitting here on
5 this side that we have had this slip in timing. I want to assure
6 everyone that we will do everything we can to make up that time.

7 To date we have received something in the order of 40 separate
8 statements from witnesses, over 30 separate documents resulting in a
9 total of some four and a half thousand pages of material, videos,
10 photographs and a plethora of correspondence. We have no one to
11 process it. There's a limit to what one lady can do. I hope that we
12 will be able to hear early legal submissions, either at this particular
13 hearing or at some future stage which might have affected the
14 witnesses, directions and all of the other things that you would have
15 expected of us, that that might have been achieved today, but it can't
16 be.

17 And so, it falls for me to tell you that whilst we stand ready to
18 do that which we are charged to do we cannot do so without the basic
19 tools to carry it out. To those whose responsibility it is to equip, I ask
20 publicly, please, help us do our job. Go the extra mile to provide us
21 with the necessary tools to carry out this Enquiry without further
22 delay. With your help, we can get to the bottom of this tragedy in
23 timely order. To those who had complied with our request to provide
24 evidence and documents in support in timely fashion, you have our
25 thanks and I regret that we've been unable to progress the matter
26 beyond reading and collating.

27 To those who await answers as to how and why their loved

1 ones died, and to the general public, you have our unreserved apology
2 that this Commission of Enquiry has been delayed yet again. It's not
3 fair, it's not right. However, as I say, I want to ensure, and I know
4 that I have the support of those around me, that we will make up that
5 lost time. Anyway, enough of my complaints because you'll
6 understand the sense of frustration that we have felt over here.

7 You'll appreciate that as the Chairman of this Enquiry the
8 responsibility is mine and you can find out about me on the website.
9 And I don't want to blush by telling you about my achievements. I'd
10 simply want to point out that you could find out who I am and what
11 I've done by going on the website. But I do want to say something
12 about the others.

13 Mr. Gregory Wilson, who sits to my left, has spent 25 years in
14 the subsea and construction industry at sea. His considerable
15 experience in crisis management and safety in the oil industry, and his
16 knowledge of processes, procedures and compliance within the energy
17 sector has already proved to be extremely valuable to all of us. He is
18 a great asset to this Commission of Enquiry and I'm very pleased to
19 have him as my co-Commissioner. Whilst I am a recreational diver,
20 that is a far cry from understanding some of the specialist work that
21 those engaged in the oil industry are required to undertake. It is his
22 expertise that I rely upon and that which no doubt will be provided to
23 us in the course of evidence.

24 We are assisted by a legal team headed by Mr. Ramesh Maharaj
25 who probably takes little introduction. He's Senior Counsel but we
26 are fortunate to have him, such an experienced practitioner, a veteran
27 of a number of other public enquiries around the Caribbean. He was

1 called to the Bar by the Inner Temple in 1966. Makes me feel very
2 old indeed. Since then, he's been in legal practice, served as a
3 Member of Parliament, Minister for Legal Affairs and as the Attorney
4 General. He has been more important—more importantly I should
5 say that he used to be associated with my chambers in London in
6 Cloisters. When I was still a pupil and had a full head of hair he was
7 known to associate our corridors.

8 He is in—I should say he's in turn assisted by Mr. Ronnie
9 Bissessar, also a very experienced lawyer and a member of my Inn in
10 the United Kingdom, Lincoln's Inn, the best Inn I should say. He is
11 head of his own chambers here in the Trinidad and Tobago and he
12 practices in the field of commercial law, both in litigation and
13 advisory. He also sits as an arbitrator. His charitable work covers a
14 wide cross-section involving not just the promotion of law and
15 training but also in the medical field.

16 Mrs. Vijaya Maharaj, unrelated to Mr. Ramesh, she is a highly
17 qualified lawyer, with over 18 years' experience in civil and public
18 law. They are an extremely good team. Anybody who needs their
19 assistance in the course of this Enquiry need but ask.

20 Our administrative staff is headed by the Secretary to the
21 Commission, Ms. Sarah Sinanan, who seems to have choked herself
22 drinking a glass of water a few moments ago, at least I hope that's all
23 it was, she has taken up her appointment to this Commission. She
24 was senior legal counsel to the Attorney General's chambers and had
25 advised various government departments. She has been the one sole
26 constant ensuring that such work as could be done has been done. As
27 I say, I'm so grateful to have such a competent team working with me

1 and Mr. Wilson on this very serious Enquiry.

2 The Commission of Enquiry's Terms of Reference have been
3 widely published and can be found on its website but it may be useful
4 if I just read them out for the benefit of everyone or anyone who has
5 not seen them. They are as follows so forgive me, it takes a moment
6 or two to read them.

7 One, to enquire into the circumstances which led to the tragic
8 incidents which occurred on Friday February the 25th, 2022 at
9 facilities owned by Paria Fuel Trading Company Limited.
10 Paria, located at the address I've already given and which led to
11 the deaths of four employees of the company, LMCS Limited.

12 The scope of works issued by Paria for the underwater
13 maintenance exercise on a 30-inch pipeline in which LMCS
14 divers were carrying out works on Friday the 25th within a
15 hyperbaric chamber on the said number 36 Sealine Riser at
16 berth number six;

17 And to ascertain the proposals and plans submitted by LMCS to
18 conduct the works at the said number 36 Sealine Riser;

19 And to examine generally the policies, procedures, practices
20 and conduct relating to Paria and LMCS' employees, organized
21 and contracted labour for those types of maintenance exercises;

22 And to identify the precise facts and circumstances which led
23 up to and resulted in the loss of life and whether that was
24 reasonable and justifiable in the circumstances appertaining;

25 And to examine all of the decisions and actions taken after it
26 became clear that the five LMCS divers went missing;

27 And to investigate the nature, extent and application of any

1 Standing Orders, policy considerations, legislation or other
2 instructions in dealing with the situation which gave rise to
3 these incidents;

4 And to identify whether Paria/LMCS had in place any life-
5 saving contingency plans in the event that life threatening
6 incidents occurred and, if so, whether such or any plans were
7 employed in response to those incidents.

8 Further, whether they employed sufficient safeguards and
9 measures to ensure the safety of their contracted employees
10 properly and to prevent—the prevention of those incidents and
11 to rescue the five LMCS divers;

12 And to determine adequacy and mechanical integrity of
13 equipment utilized by LMCS;

14 And to determine the adequacy of LMCS plans utilized for the
15 operation of the maintenance exercise;

16 And to identify whether by act or omission any identified or
17 unidentified person or entity directly or indirectly caused the
18 loss of life;

19 And to examine the role played by Paria/LMCS through their
20 respective units individually and collectively in dealing with
21 those incidents and to examine all other material circumstances
22 leading up to and surrounding the incidents which took place on
23 February the 25th led to the tragic deaths of the four LMCS
24 divers and continuing up to the recovery of their bodies.

25 Two, to make such findings, observations and
26 recommendations arising out of its deliberations as may be
27 deemed appropriate in relation to:

1 Whether there has been any breach of duty by any persons or
2 entities;

3 Whether there are any grounds for criminal proceedings to be
4 initiated against any persons or entities;

5 Whether criminal proceedings should be recommended to the
6 Director of Public Prosecutions for his consideration and the
7 appropriate and best practices and/or policies and/or procedures
8 to be utilized by companies such as Paria and LMCS for the
9 conduct of these types of maintenance exercises and in response
10 to these types of incidents;

11 The policies, measures, mechanisms and systems that should be
12 implemented to prevent the recurrence of the tragic incidents
13 which occurred on Friday, February the 25th this year and
14 continuing up to the recovery of the four bodies;

15 And, making any other recommendations that may be deemed
16 necessary in the circumstances in accordance with the
17 provisions of section 6 of the Commissions of Enquiry.
18 Forgive me, that was quite a mouthful.

19 The Terms of Reference are deliberately cast in very broad
20 terms in order for us to have the scope to pursue whatever lines of
21 enquiry seem likely to be fruitful to us. It is I think worth
22 emphasizing that the specific areas of investigation to which they refer
23 are intended to identify the main subjects of this Commission of
24 Enquiry, and whilst it might appear that they're fairly exhaustive, it's
25 not necessarily intended to be so nor constricted. It is for us to
26 determine and interpret what those Terms of Reference refer to. We
27 shall not be deflected from pursuing lines of enquiry which may lead

1 to information of value.

2 It is important to understand the nature of the task ahead. It
3 will require hard work, especially given the short timeline in obtaining
4 and analyzing thousands of documents and in the preparation of
5 statements from those who may be able to give valuable evidence. It
6 is not simply a case of Mr. Smith providing a statement and we
7 proceed on that basis. No, it is the task of my team, where necessary,
8 to take statements or augment them and ask appropriate questions so
9 that we have a complete picture. With the help of my team, I intend
10 to make sure, with Mr. Wilson, that the work proceeds as speedily as
11 possible, as I say, without foregoing thoroughness.

12 Let me say something briefly about legal representation. We
13 have received some correspondence from a number of different
14 lawyers asking for financial assistance to represent the families in
15 particular of the deceased and the sole survivor. I have made it clear
16 that I support counsel being instructed on their behalf and this
17 Commission of Enquiry has conveyed that much to them and the
18 Attorney General and the Minister, the honourable Stuart Young, and
19 just about anybody else who would listen.

20 We are governed by the Commission of Enquiry Act. It does
21 not empower us to grant any kind of legal aid or legal assistance or to
22 quantify any legal aid or assistance that may be given. That is the
23 responsibility of others. It is not a question of us abrogating any
24 responsibility. I've made it clear that as far as we're concerned, those
25 who represent the families of the deceased and the sole survivor could
26 and should be represented but I do not have in our power the
27 wherewithal to provide it. Seek it elsewhere, please?

1 But I want to be quite clear. Those who are directly involved
2 with the issues that concern this Enquiry cannot and will not be
3 permitted to thwart the Enquiry by making their cooperation with it
4 contingent upon receiving the legal assistance. It is important to
5 understand that the Commission of Enquiry process is not an
6 adversarial trial. Our task is to decide which—is not, forgive me, our
7 task is not to decide which or two or more competing parties has the
8 better case nor is it to punish anyone or to award anyone with
9 compensation. It is simply to get to the truth with the help of all those
10 who have relevant evidence to supply.

11 The process should be seen as essentially one of cooperation.
12 Accordingly, the role of counsel to the Commission of Enquiry is not
13 to promote any particular conclusion or result, still less to favour any
14 particular witness or class of witnesses, rather, it is to place before us,
15 that is Mr. Wilson and myself, and the public at large, evidence that
16 will enable us to make findings about what occurred and put forward
17 recommendations for the future in the hope that such
18 recommendations will meet with the approval of the President and her
19 government and be implemented and thereby prevent such a tragedy
20 from ever happening again.

21 Counsel to the Commission of Enquiry will do that by
22 presenting the evidence at this public hearing and others that will
23 follow, and I'll give you the dates in due course, by questioning those
24 witnesses whom we decide should be called to give oral evidence.
25 We have the power, where necessary, to subpoena witnesses to give
26 evidence, irrespective of whether they have legal counsel, and we
27 shall not hesitate to use that power in the event that there are any

1 recalcitrant witnesses whom we believe have valuable evidence to
2 provide.

3 All hearings will be conducted in public unless the particular
4 nature of the evidence or arguments require otherwise, and I make it
5 clear now that we will need some considerable persuading to agree to
6 hear any evidence in camera or privately. Moreover, notwithstanding
7 rule 26 as to confidentiality of the documents, that's the rule that are
8 part of the rules of this Commission. As to confidentiality of those
9 documents, this Commission will place every document we receive on
10 our website before the hearings of that evidence is heard, so that
11 everyone would have access to all of the material.

12 I make it clear now that if any party wishes to have any
13 document withheld from the public domain, they will need to
14 persuade us of the need for that to happen, and it better be a
15 substantial reason. Embarrassment will not count. It goes on the
16 website unless we say otherwise.

17 I'm well aware that the past months has seen a considerable
18 amount of press attention and speculation, over the weekend, in the
19 months that have gone by. Theories have been postulated as to the
20 lack of preparedness, who is or is not responsible., why more was not
21 done to rescue those men and many have expressed a great sense of
22 anger and betrayal, outrage, but this is—and that this is entirely
23 natural and understandable. Of course it is.

24 This Commission of Enquiry is here to get to the truth of what
25 actually happened. It must seek out all the relevant evidence and
26 examine it, calmly, dispassionately and rationally. Counsel acting for
27 the Commission of Enquiry will approach their task in that way, as I

1 hope would all the legal representatives of the various principal
2 participants. This will help us to discover where the truth really lies.

3 I should also remind everyone that it is no part of our duty on
4 this Commission of Enquiry to rule on or determine anyone's civil or
5 criminal liability. However, we're not to be inhibited by the
6 likelihood of liability being inferred from any findings or
7 recommendations that we may make. We shall therefore not shrink or
8 hesitate in making any findings or recommendations that are justified
9 by the evidence, simply because someone else may say at a later stage
10 that that forms the basis for civil or criminal liability. The police and
11 other agencies are of course conducting their own enquiries and
12 investigations into possible criminal offences or civil liability. It's no
13 part of our job.

14 This room was chosen for today's formal opening and
15 procedural hearing because it was necessary to find a space large
16 enough to accommodate all the various people that we thought might
17 wish to attend, and in that I wish to express my thanks to Judith
18 Gonzalez for making that possible. At present I am unclear as to
19 whether the entirety of the proceedings will be conducted here or
20 whether it may be conducted in some other place but certainly
21 interviews can and will be conducted at SAPA, the offices that are just
22 about being prepared, unless there's good reason to do otherwise.

23 A time and place of future hearings will be posted on the
24 Commission of Enquiry's website but I can provide you with the dates
25 that we have hitherto identified for the live hearings of this
26 Commission of Enquiry and they are:

27 The 21st to the 24th of November, four days inclusive.

1 The 5th to the 8th of December, four days inclusive.

2 The 12th to the 15th of December, four days inclusive.

3 And then, as a contingent, the 9th to the 13th of January of next
4 year.

5 I am hopeful that that will not be necessary but I put it in as a
6 contingent so that everyone keeps those dates free.

7 Any application not to sit on any particular day must be made
8 in writing in advance and I would expect any problems with the
9 witness orders that will be passed down in due course as to which
10 witnesses we want on which particular days, we must be notified if
11 there is a difficulty with that well in advance so that we can make
12 appropriate adjustments. I don't want days lost unnecessarily, please?

13 We will ordinarily sit from about 10.00 in the morning to about
14 3.30 each day with a short break in the morning around 11.30 for a
15 coffee or stretch your legs and a lunch break at around one o'clock for
16 an hour or so. I do expect flexibility to conclude witnesses to
17 minimize inconvenience to them. As I've said previously and
18 indicated previously, if necessary we'll sit one evening to
19 accommodate family members of the deceased who may wish to give
20 evidence and if that means sitting one evening, well, that's what we'll
21 have to do.

22 Can I say this, that, um, I don't want any witness to have to
23 come back the following day if it's unnecessary and if that means
24 sitting a little longer that's what I intend to do. At the conclusion of
25 each week, I may permit the press to ask a few questions of clarity,
26 not every day but at the end of each four-day session that I've
27 identified. Providing it's not abused, I see no reason why they should

1 not seek clarification of anything that's been dealt with in the course
2 of that week.

3 Information about how to make contact with the Commission of
4 Enquiry team could be obtained from those who are here. Come and
5 speak to us afterwards, masked or otherwise, and in due course you'll
6 be able to, of course, access any information and contact through the
7 Commission of Enquiry's website, www.coe2022.com. In due
8 course, as I say, a transcript of the proceedings, today's and at each
9 hearing, will be put on the website. Any rulings or directions that we
10 give will be put on the website. If there's anything anyone needs to
11 know it is on the website. If there's something that's not there and
12 you would need to know, then there is a contact through that website.

13 Now, unless there's a good reason not to do so in any particular
14 case, the hearings themselves will be streamed live through the
15 Commission of Enquiry's website and live on TTT so that the public
16 as a whole can follow the proceedings and, as I said, transcripts of
17 those hearings will be posted I think within about 24 hours or so.

18 The evidence given by witnesses at the hearings will, however,
19 be only part of the material which the Commission of Enquiry will
20 have to consider. Much of that material will be in the form of
21 documents and statements where we have determined that it is not
22 necessary for a witness to give live evidence. We therefore intend to
23 ensure that all the relevant documents can properly be made public are
24 scanned and on to an electronic database which will allow them to be
25 called up and displayed on a screen in this, whether it's in this
26 building or some other place, but everyone will see the document
27 that's being referred to.

1 Now, whether hearings will be streamed contemporaneously I
2 think it important that members of the public should be able to attend,
3 and if they wish to do so we need to be able to make sure that there is
4 sufficient place for them to do so. I shall therefore take steps to
5 ensure that there—our hearings of the evidence are held in rooms
6 large enough to accommodate at least some members of the public as
7 well as obviously members of the press and the media.

8 We propose to conduct giving evidence insofar as we're able in
9 four separate parts as follows. Firstly, what was done in preparation
10 of the work commencing. This will include industry standards,
11 government protocols, emergency procedures, contingency plans,
12 contracts, briefings, experience, all of those things will be dealt with
13 as the first part of our Enquiry.

14 I anticipate we would have a site visit. At this time both the
15 hyperbaric chamber itself and, I'm not sure where that is, no doubt
16 someone will tell me in the course of this morning, but we would like
17 to see, if at all possible, that hyperbaric chamber, and also to go to the
18 berths five and six. I would like to do that on day two of our sitting so
19 that, somebody remind me what date that is, um, that would be the
20 22nd of November. If that's at all possible.

21 **Mr. Maharaj SC:** The 22nd.

22 **Mr. Chairman:** Thank you. Yes, the 22nd of November, if at all
23 possible so that we have a picture in our minds of what we're dealing
24 with, before we start to hear the actual evidence. I anticipate that on
25 the first day we will have Mr. Maharaj open the case on behalf of the
26 Commission of Enquiry and then anyone else who applies and is
27 granted leave to say something at the outset will also make their

1 opening statements on that day. So, first day opening statements,
2 second day we sit, site visit, third day witnesses.

3 The second part of the evidence is really what happened during
4 the work itself. This will include what the work entailed, monitoring
5 of the men whilst they were working, what caused the men to be
6 sucked into the pipe and what the conditions were and what
7 precautions were taken and put in place to avoid any such incident.

8 The third part of the evidence will be what happened when it
9 was clear that there'd been a major incident. This will include how
10 one man escaped, the actions of the emergency services, the reaction
11 of the owners of the plant, the actions of the various contractors and
12 the others involved, family, friends and those at the scene, and then
13 the last part of the testimony will be what we characterize as any
14 expert evidence. At this time it is unclear whether there will be any
15 conflicting expert testimony but we will see what the evidence
16 produces, if predicated at the moment on a root cause analysis from at
17 least one expert in the field which we already have.

18 And, it's our intention that we should obtain written and oral
19 evidence from those who can give direct accounts of what occurred
20 before, during and after these tragic events. There will inevitably be
21 some overlap between those particular categories. They would
22 include employees of LMCS Limited who were contracted to carry
23 out the work, in particular Mr. Boodram the sole survivor, the rescue
24 divers who attempted a rescue, in particular, Ronald Ramoutar and
25 Cory Crawford who helped Mr. Boodram, Paria Fuel Trading
26 Company Limited whose people on the ground were coordinating
27 their response to the incident, and the families who attended at the site

1 when advised that their loved ones were trapped in a pipeline. All of
2 this evidence is likely to be of great value.

3 We shall also have access to photographs, video footage, the
4 various autopsy reports and other sensitive evidence. I know that
5 giving evidence, whether in the form of a statement or in person, can
6 be a stressful experience for anyone. So, I intend to ensure, so far as
7 possible, that those most closely associated with those who died are
8 treated sensitively and will be asked, where necessary, to give
9 evidence once and once only, coordinated to be convenient to them as
10 I said, if necessary, by sitting in the evening. But we are mindful that
11 for some the stress of giving evidence is likely to be magnified by the
12 continuing effects of what can only have been a most traumatic
13 experience. We are acutely aware of the challenge that presents itself.
14 I intend to do everything possible in our power to ensure that the
15 process of assessing and assisting the Commission of Enquiry does
16 not result in further unnecessary suffering.

17 To that end, I shall be looking for the help from all of those
18 who seek to represent the families and others directly involved in this
19 tragedy. I'm open to suggestions as to how that might best be
20 achieved in the most sensitive and appropriate way, and I'll be slow to
21 permit any cross-examination or undue unnecessary questions of any
22 of these witnesses.

23 The work of the Commission of Enquiry is urgent and there is
24 an obvious need to begin hearings as soon as possible and I recognize
25 that it is necessary to act with sensitivity and compassion and I shall
26 take whatever steps, as I say, are appropriate in line with current
27 practice to ensure witnesses give the best possible evidence. As I've

1 already said we're charged to seek answers to the very comprehensive
2 questions posed by those Terms of Reference I read at some length,
3 but it is the very nature of the process of this kind and I shall want to
4 follow up leads and any new lines of enquiry as they arise.

5 I wish to emphasize, it is for us to interpret the Terms of
6 Reference and the Commission of Enquiry is not limited to factual
7 questions surrounding the incident itself as I've already said and made
8 clear. It's my intention to look closely at best practices, procedures,
9 legislative provision, the emergency services, the decision-making
10 and to what extent these were taken into account and acted upon by
11 those responsible for the safety and welfare of workers in these sorts
12 of environments. This would entail considering what considerations
13 motivated them such as timing, pollution risk, cost, chain of command
14 and the like. That will be an integral part of understanding how and
15 why this incident occurred and what could or might have been done in
16 the immediate aftermath. It is only by that that we will learn the
17 lessons for the future.

18 This Commission of Enquiry has its rules. It has been
19 published on our website. We place certain duties upon those who are
20 engaged in this enterprise and upon us, in particular in relation to core
21 participants, lawyers having standing as recognized by the legal
22 representatives. I said at the outset that we have had two applications,
23 both of which have been granted. Anybody who wants standing must
24 ask for it. We will consider it. Procedures for applying for standing
25 were published on our website in mid-July in the *Trinidad and Tobago*
26 *Gazette* on the 15th of July and those who wish, as I say, to be part of
27 these proceedings need to apply—or paragraph 18 of the rules if

1 anybody hasn't seen them.

2 Anyway, witnesses who are to give evidence do not need to
3 apply for standing if they are—if they have counsel representing their
4 interest, just while they give evidence. If it's just to look after a
5 witness, we have no difficulty with that. You do not need to apply for
6 standing. If you want to be part of the overall proceedings, you do.
7 So far as possible we intend to seek voluntary cooperation in the
8 production of documents and other evidence such as witness
9 statements and the Commission of Enquiry will carry out that work.

10 I expect everyone to whom a request of that kind is made to
11 provide all the relevant material without the need for us to exercise
12 our statutory powers. And I wish to take this opportunity to ask you
13 all and the media present, today, now, if anyone is or thinks he has
14 information of any kind, evidence, documents, relevant matters that
15 pertain to this Enquiry, please come forward, preserve that material
16 and let us take a statement. Details of the way in which the
17 Commission of Enquiry proposes to deal with documents again can be
18 found within the rules for the receipt and handling of such documents.

19 I just pause there for a moment. These rules are not written for
20 fun. They're there for a purpose, and, if we're to conduct this Enquiry
21 in any semblance of order, those rules need to be followed. I should
22 like at this stage to say a little more about the procedure I intend to
23 adopt in carrying out our Terms of Reference. It is unlikely that it
24 will be necessary to hold more than any more procedural hearings. I
25 cannot for my part see the need to do that.

26 When this Commission of Enquiry resumes on the 21st of
27 November, as I said, we will be hearing the Commission of Enquiry's

1 counsel open the case. Mr. Maharaj will do that, and anyone else
2 who's applied will be permitted, where so permitted, to make their
3 opening. If there are some other applications, they can be
4 foreshadowed with skeleton arguments and put in writing so that we
5 can consider them in advance and I suspect that nearly everything of
6 that kind, provided it's compliant with the rules as set out, would be
7 able to be dealt with administratively in writing in advance so that we
8 do not lose time at the actual hearing of the evidence.

9 And frankly, nobody wants to hear all of that. What the public
10 want to hear is what the evidence is. They want to hear what the
11 witnesses have to say. And I suspect they will be not particularly
12 impressed in having to hear any legal arguments when that can be
13 dealt with by us, the lawyers, in advance. So please, if you have any
14 application, send them in advance to Ms. Sinanan and she will make
15 sure that we have them for our consideration.

16 At the beginning of the hearing at which the Commission of
17 Enquiry intends to take evidence counsel will be making, as I say,
18 their opening statement and that will set out in outline the nature of
19 the evidence that it is intended to be called, when it's going to be
20 called, and the order in which it's going to be called. All witnesses
21 who are called to give oral evidence will be the Commission of
22 Enquiry's witnesses. I repeat that. All witnesses who are required to
23 give oral evidence before this Commission of Enquiry are the
24 Commission of Enquiry's witnesses. They will therefore be called,
25 and, where necessary, examined by my legal team, Mr. Maharaj and
26 his associates.

27 The Commission of Enquiry will seek the assistance of

1 attorneys given standing in the preparation of witness statements. We
2 shall decide which statements are to form part of the record of
3 documentary evidence, which witnesses are to be called to give oral
4 evidence in addition to any written statements that they've already
5 provided. Our team will be closely involved in the process of
6 obtaining statements from potential witnesses. Where appropriate, the
7 secretary or counsel to the Commission of enquiry would explain the
8 topics which should be covered in a witness' statement.

9 As I said earlier, it's not simply a question of Mr. Smith writing
10 a statement and saying, "There you go", and then washing his hands
11 of it. That's not how it works. Mr. Smith will give us his statement,
12 we've had many as I've indicated, but if we think it's appropriate to
13 further interview them to augment what they say or to add anything to
14 a statement, we will do so but it is not our intention to catch anyone
15 out. We're not going to ambush anybody. Any documents we need
16 you to refer to we'll provide them in advance so that everyone will
17 have as much notice as is necessary for them to be able to provide the
18 best possible evidence to this Commission of Enquiry.

19 Whether I will permit, or Mr. Wilson will permit any
20 questioning of other witnesses by other parties and to what extent they
21 will be provided, um, allowed to do so, will be a matter of our
22 discretion. We will of course entertain anything that is, er, seems to
23 us sensible and will advance the purposes of this Enquiry.

24 I'm currently minded to invite final submissions in writing after
25 the conclusion of all of the evidence, and to give those with standing
26 and who have been permitted to do—to write such submissions, to
27 make an—give them an opportunity to make a brief oral summary or

1 précis, if you like, of what it is that they've set out in writing.
2 Whatever they do set out in writing will be on the website and, um—
3 but I would hear any argument as to whether or not that's appropriate
4 course once we've heard the evidence.

5 The process of gathering evidence has begun in earnest but
6 there is much more to do. Taking a statement from those important
7 witnesses will require care, but none of that can properly start until we
8 have the right equipment. Thus, I ask you all once again please to
9 exercise a degree of patience with us. We're doing everything we can
10 to move it forward but in order to ensure there's no further slippage, I
11 have insisted that this hearing should start, these hearings should start
12 no later than the 23rd of November for the hearing of evidence.

13 And when I was sworn in as the Commission of Enquiry—as
14 the Chair to this Commission of Enquiry, I hoped to have a draft
15 report available before Easter. That presents a challenging goal but
16 one which with everyone's goodwill we can still achieve. To achieve
17 it will require much hard work as well as the active cooperation of all
18 of those concerned, but I hope that we can count on the continuing
19 cooperation of the Minister and his staff to ensure that this
20 Commission of Enquiry has all that it needs to proceed as quickly and
21 as smoothly as possible.

22 It is in the interest of the families whose loved ones have died
23 that we do all that we can to give them the facts and bring such solace
24 as the truth can provide. It is in the public interest that our findings
25 which may affect the safety of the people who are still and necessarily
26 must work in this industry that our findings are published sooner
27 rather than later. We all share a common goal. We are all searching

1 after truth about what happened, the tragic loss of life that caused it
2 and what we can do to prevent it from ever happening again. We owe
3 it to those who died and to those whose lives have been turned upside
4 down to work together to achieve that goal.

5 Thank you very much indeed for coming. I look forward to
6 seeing many of you again at subsequent hearings. That is the opening
7 statement by me, the Chairman, on behalf of us, Mr. Wilson and
8 myself. Mr. Maharaj, is there anything else I need to deal with this
9 morning?

10 **Mr. Maharaj SC:** No, no, no Chairman. Unless I think, um, one or
11 two of the legal representatives—

12 **Mr. Chairman:** Certainly.

13 **Mr. Peterson SC:** Morning, Mr. Chairman. Gilbert Peterson on
14 behalf of Paria and Heritage. I want to thank you and your fellow
15 Commissioner for hearing us, and formally welcome you to the shores
16 of Trinidad and Tobago, Sir.

17 **Mr. Chairman:** Thank you.

18 **Mr. Peterson SC:** On behalf of Heritage and Paria, you can be
19 assured of our cooperation and assistance. We extend of course
20 sympathies to the families who have lost loved ones and we commit to
21 assisting you in arriving at possibly what could have caused this
22 unfortunate tragic event, so we stand ready to assist, Sir.

23 In light of that, we were advised—first of all let me thank you
24 for granting standing to both Heritage Petroleum and to Paria. We
25 have been lodging statements with the Commission, but
26 notwithstanding our efforts, we would need to seek your leave and
27 extension of time with respect to three items, Sir. We propose to

1 submit a further five or six statements. We were hoping to do so by
2 yesterday, but we seek your leave and extension to do so on the 30th
3 of September, 2022.

4 We also seek additionally an extension of time to submit the
5 statement of Mr. Mushtaq Mohammed, the General Manager of Paria
6 who unfortunately lost a close family member just about two or three
7 days ago, and, because of that we are unable to incorporate him into
8 the deadline of the 30th of September so we seek your leave to extend
9 the time for Mr. Mohammed's statement to the 14th of October.

10 We also seek an extension of time to submit a substantial
11 bundle of documents to the Commission which we anticipate we will
12 be able to do so by the 3rd of—Monday the 3rd of September, so
13 that's the third extension of time which we seek, Sir. And we pray
14 that you grant us those because we are very minded to put all the
15 material that we considered at this stage to be relevant to assist you
16 before your Commission, Sir.

17 But in your opening, Mr. Chairman, you did enquire and
18 sought, well if someone could assist you as to the location of the
19 hyperbaric chamber and we are able to say now, that chamber was
20 being removed after the incident on the 22nd of March by LMCS,
21 and, I want to use a neutral term, it ended up on the sea bed. It is still
22 there, I'm advised. Paria has taken no steps to interfere with it since
23 they're mindful that there is an ongoing police investigation and they
24 did not want to attempt to interfere with that chamber. So to answer
25 your question, Sir, that chamber is located on the sea bed.

26 **Mr. Chairman:** How deep?

27 **Mr. Peterson SC:** We can get instructions, Sir. My co-counsel is

1 unable to tell me the depth although he's a recreational diver, I think.

2 **Mr. Chairman:** Or he can come with me, then.

3 **Mr. Peterson SC:** I would not advise it until we can determine the
4 cause of this [*Inaudible*].

5 [*Commissioners and Commission Secretary confer*]

6 **Mr. Peterson SC:** I'm advised it's approximately 60 feet, Sir.

7 **Mr. Chairman:** Forgive me for one moment, please?

8 **Mr. Peterson SC:** Yes.

9 [*Commissioner Lynch confers with Commission Secretary*]

10 **Mr. Chairman:** Mr. Peterson, I have to say we're a little troubled by
11 the time that's being sought. As you know, we originally asked for all
12 material to be supplied by the 16th of August. I think you were given
13 an extension to the 1st or 2nd of September in the first instance when
14 you applied, or someone from your office applied, for an extension,
15 and I'm simply concerned that you're talking about a substantial body
16 of documents being supplied to us by the 3rd of October which is the
17 best part of four weeks away.

18 First of all, I'm bound to observe that there is a bundle of
19 documents. One assumes they exist somewhere already, these are not
20 documents where you're dependent upon taking a statement, and I'm
21 concerned that you see if we don't get them until the 3rd of October,
22 and we've conducted or my legal team have conducted a number of
23 interviews of potential witnesses only to find that in this bundle of
24 documents there is a document that we would wish that witness to
25 have a look at before he concludes his statement, we'll have to get
26 him back again and I want to avoid that process.

27 I wonder if I could invite you to consider whether it is not

1 achievable to have the bundle of documents in half of that time simply
2 because what we're talking about is, as I say, somebody presumably
3 going through all various files and papers putting them together in a
4 bundle and letting us have them, even if at that stage you can't
5 provide a witness statement necessarily dealing with each of them, at
6 least we have them, we can read them.

7 **Mr. Peterson SC:** That is, in fact, so, Mr. Chairman. I can assure
8 you that what is taking the time, we were going to put them in
9 categories and seek to do indices with respect to—but as far as the
10 existence of the documents, you are correct, but we were going to
11 grant further assistance by putting them in a particular order
12 categorizing them in particular order and putting indices with respect
13 to the documents, but that is what is taking the time, otherwise the
14 documents are available to ones submitted earlier.

15 **Mr. Chairman:** I mean, I assuming they've been available since this
16 or shortly after this incident and, and, you know, we were rather
17 hoping to have all of this by the 16th of August. That was then
18 delayed by a further two weeks and now you're asking for a further
19 four weeks, and really, I'm bound to say with your best efforts to
20 collate them in the way you've described, surely, we can have them in
21 the next two weeks.

22 **Mr. Peterson SC:** Well Sir, we'll do our best to do it within two
23 weeks or our best to where we are is two weeks we will make them
24 available.

25 **Mr. Chairman:** Mr. Peterson, your reputation precedes you. I'm
26 sure that with your persuasion you'll be able to ensure that we can
27 have all these documents in two weeks.

1 **Mr. Peterson SC:** We will be able to do that, Sir.

2 **Mr. Chairman:** I'm gratified to hear it.

3 **Mr. Peterson SC:** Yes.

4 **Mr. Chairman:** Thank you for that. So that, that, that's takes a—so
5 what—let's identify a date, shall we? Instead of the 3rd of October,
6 shall we say the, um, Monday the 19th of September? That gives you
7 one week—just a little—a day or two less, well I'm happy to say the
8 21st of September.

9 **Mr. Peterson SC:** I'm happy to say that too, Sir.

10 **Mr. Chairman:** Right. Shall we say then the 21st of September for
11 the supply of those documents? Now can we turn next to, um, the—
12 you say there are five or six statements yet to be taken and you've
13 asked for the 30th of September for those.

14 **Mr. Peterson SC:** Yes, Sir.

15 **Mr. Chairman:** All right. Can I, first of all, approach it this way?
16 Rather than waiting for you to have a bundle of five or six statements
17 and serving them all on one go on the 30th of September, could I not
18 inveigle you to take the statements, as you will no doubt do, one at a
19 time and as soon as you've got it send it to us?

20 **Mr. Peterson SC:** Sure. Yes, Sir, we'll do that.

21 **Mr. Chairman:** So, um, can we therefore have your assurance that
22 we're not going to get five or six statements served on us on the 30th
23 of September but, as each and every one is taken between now and
24 that date, that we will have them as soon as they are ready?

25 **Mr. Peterson SC:** You will have them that way, Sir. The 30th of
26 September was aimed on or before. That should have been my
27 application, not the 30th, on or before the 30th.

1 **Mr. Chairman:** When I'm emphasizing the word, "before".

2 **Mr. Peterson SC:** Yes, Sir.

3 **Mr. Chairman:** And I'd be grateful if you could do that, because, for
4 the same reasons that we've identified, and particularly with a witness
5 fare they may say something that we will want to put to other
6 witnesses, what I don't want to do is to be in a situation where our
7 legal team have been working with witnesses and taking statements
8 only to find they have to get them back again, so please, do all you
9 can and I'm reassured in your response that we will have them as and
10 when they arise.

11 **Mr. Peterson SC:** You have that undertaking.

12 **Mr. Chairman:** Thank you very much. As for Mr. Mohammed
13 who's the General Manager, I understand he's had a death in the
14 family and that is obviously tragic news for him and his family.
15 Nonetheless, you are asking for six weeks.

16 **Mr. Peterson SC:** That is because he is—well, he's out of the
17 jurisdiction, he was out of the jurisdiction with that family member
18 and the family member passed away two days ago, so there are a lot
19 of arrangements to get back into the jurisdiction, to get the body of the
20 person back into the jurisdiction, and it's not a near location, Sir, so
21 that—

22 **Mr. Chairman:** I can understand, yes. I wonder if we could more at
23 this stage have it at the same time as the others and in the event that it
24 just proves impossible, you write to us and let us know why that is so?

25 **Mr. Peterson SC:** We will do that, Sir.

26 **Mr. Chairman:** Could you—so can we say all witness statements to
27 be provided by the 30th of September, not necessarily on that day—

1 **Mr. Peterson SC:** Yes, Sir.

2 **Mr. Chairman:**—as many as possible before that day with a view to,
3 um, I have it in mind that you may apply for that particular witness to
4 provide his statement a couple of weeks later.

5 **Mr. Peterson SC:** That is fine.

6 **Mr. Chairman:** You'll set out why it's been necessary.

7 **Mr. Peterson SC:** Yes, Sir.

8 **Mr. Chairman:** Just a moment.

9 *[Mr. Chairman confers with Mr. Wilson]*

10 **Mr. Chairman:** Can I just ask Mr. Maharaj if he's content with that?
11 He's the one going to be doing all the work.

12 **Mr. Maharaj SC:** I'm much obliged. I'm okay with that.

13 **Mr. Chairman:** Thank you very much. All right, so the Order will
14 then be, just so that we're clear, the bundle of documents that we've
15 referred to will be supplied by the 21st of September. All witness
16 statements to be supplied by the 30th of September but as many as
17 possible before that date, and I look forward to receiving them before
18 that date.

19 **Mr. Peterson SC:** Yes, Sir.

20 **Mr. Chairman:** Thank you very much.

21 **Mr. Peterson SC:** Thank you for the indulgence, Sir. That's all I
22 wish—

23 **Mr. Chairman:** Not at all.

24 **Mr. Peterson SC:**—that's all I wish to say at this stage.

25 **Mr. Chairman:** Thank you very much. Anyone else?

26 **Mr. Kangaloo:** Mr. Chairman—

27 **Mr. Chairman:** Yes.

1 **Mr. Kangaloo:**—Colin Kangaloo from the Ministry of Energy and
2 Energy Industries. Mr. Chairman, Commissioner Wilson, we are in a
3 similar type position with respect to witness statements. I'm grateful
4 to learned Senior, Mr. Peterson, for cutting the track for me to run on
5 because I originally—

6 **Mr. Chairman:** Well be assured it's the same track.

7 **Mr. Kangaloo:** I think it might be the same track, Mr. Chairman.
8 Originally I had—I was going to ask for September 30th as well. I
9 think the Ministry—um, I have just been retained. We sent a letter
10 yesterday—

11 **Mr. Chairman:** I see.

12 **Mr. Kangaloo:**—to the Secretariat and we indicated that we had just
13 been retained. We are in the process of taking instructions. I believe
14 we did send a bundle of documents to the Commission before. I think
15 we have one or two that we got after that we would need to send. We
16 haven't sent it.

17 **Mr. Chairman:** I haven't seen any particular bundles from you. In
18 fact, the first I've heard from you was the letter yesterday.

19 **Mr. Kangaloo:** I see. Well I will check. My understanding was—
20 well, I will check with my client. I believe an email was sent on April
21 7th, I believe, I'm not sure but I will take instructions and I will
22 confirm.

23 **Mr. Chairman:** Well, let me be clear. I don't want to receive a large
24 pile of material on the 30th of September. I shall—

25 **Mr. Kangaloo:** No.

26 **Mr. Chairman:** I shall regard it as a discourtesy—

27 **Mr. Kangaloo:** Yes.

1 **Mr. Chairman:**—to this Commission of Enquiry.

2 **Mr. Kangaloo:** And I can understand that.

3 **Mr. Chairman:** If we receive large bundles of material on that day—
4 I will give you till the 30th September, but I expect as and when it
5 arises to let us have it. I don't want it to all arrive on one day.

6 **Mr. Kangaloo:** Well, Mr. Chairman if—I was actually going to say
7 because of the track that Mr. Peterson cut that I would be able to give
8 you the documents before. I was actually thinking of the 16th of
9 September but you had indicated to Mr. Peterson the 19th. I can do
10 on either day.

11 **Mr. Chairman:** Sixteenth please?

12 **Mr. Kangaloo:** Yes. Certainly, Mr. Chairman.

13 **Mr. Chairman:** Thank you.

14 **Mr. Kangaloo:** And with respect to statements, if any, if I could get
15 the 30th, I would be very grateful. Of course, I will try to do it before.

16 **Mr. Chairman:** Yes. I, I, mean, I—you know, I don't know how
17 many witness statements you're looking to provide but the fact is,
18 today is the 7th of September. Tomorrow and Friday are working
19 days and I hesitate to use the expression but, you know, let's get on
20 with it, shall we? I mean, start taking the statements and as you've
21 finished taking one, provide it us to, and then if you need to then
22 move on to the next one and provide that a few days later, I
23 understand, that but I am anxious that it is absolutely clear to
24 everybody who is—I address not just you but everybody—that might
25 be supplying information to this Commission of Enquiry that it
26 doesn't all arrive on the 30th of September because that is neither fair
27 nor reasonable to those who are working in preparing that material for

1 us as the Commissioners to then have to assimilate. So please, do all
2 you can and I do expect lawyers of your experience to be able to do
3 just that. Thank you very much.

4 **Mr. Kangaloo:** Certainly, Mr. Chairman.

5 **Mr. Chairman:** Um, can I, though, please return to one other matter?
6 I indicated—Mr. Peterson, I indicated that we would like to have a
7 view on the second day that this Enquiry sits, of the site, that is the
8 risers five and six and wherever the work took place that we can view
9 so we have a sense of what can be seen, can be seen, if you
10 understand what I mean. We're going to see what can be done about
11 the hyperbaric chamber. I appreciate that, you know, it's not in your
12 hands but if we can't see the original one I'm going to see if there is
13 one available somewhere so that we can have a look at what looks like
14 it. Thank you. Forgive me for one moment? Thank you.

15 *[Mr. Maharaj SC passed note to Mr. Chairman]*

16 **Mr. Chairman:** You know, Mr. Maharaj, I can't read your
17 handwriting at all.

18 **Mr. Maharaj SC:** I wonder, Chairman, whether you'd want to ask if
19 anyone is unrepresented, and they want to—

20 **Mr. Chairman:** Thank you for that, no, and I will. Thank you so
21 much, yes. Yes, I don't know if you're able to assist us with the
22 viewing the locus in quo, if I could put it like that, forgive me for
23 using Latin, but, um, you know, the site where this took place?

24 **Mr. Peterson SC:** Yes, Mr. Chairman. We were quite heartened that
25 you did say that because we discussed it in our team that we think it
26 would have been advisable and it's a course that we were proposing to
27 suggest to—

1 **Mr. Chairman:** Right.

2 **Mr. Peterson SC:**—the honourable Commission. We will make the
3 arrangements. I will get on that immediately—

4 **Mr. Chairman:** Sure.

5 **Mr. Peterson SC:**—with the clients to make, to make the second day,
6 which is supposed to be the 22nd of November—

7 **Mr. Chairman:** Yes; if you can liaise with Ms. Sinanan—

8 **Mr. Peterson SC:** Yes, we will do so—

9 **Mr. Chairman:**—and she will get that—

10 **Mr. Peterson SC:**—put all arrangements in place.

11 **Mr. Chairman:** Marvelous. Thank you very much. And I'm timely
12 reminded by Mr. Maharaj, orally if not in writing, that I should ask if
13 there is anybody here who is unrepresented and wanted to say
14 anything, um, who is an interested party in these proceedings. Please
15 don't be shy. Is there anyone who wishes to say anything? No? All
16 right. Well, if anybody thinks of anything you know who to contact
17 and how to do it. Thank you very much. Is there anything else from
18 anyone else?

19 **Mr. Ramadhar:** Chairman, I do not know if that's an invitation to us
20 having regard to what is—what you had indicated earlier that those
21 who have not applied for standing will not be heard.

22 **Mr. Chairman:** So can I ask you this? Is it your intention to apply
23 for standing?

24 **Mr. Ramadhar:** Yes it is.

25 **Mr. Chairman:** And without being too hard about it, why haven't
26 you?

27 **Mr. Ramadhar:** Well there is a very, very relevant reason in that we

1 are in the final stages of filing an action in the High Court and there is
2 a concern that matters may be put before the court that my friends
3 who may very well be the defendants in the matter, you know, we do
4 not know what they may make use of it and whether, in fact—

5 **Mr. Chairman:** Oh.

6 **Mr. Ramadhar:** Yes. So there is that dichotomy of interests here.

7 **Mr. Chairman:** Well that's going to be a matter for you not me.

8 **Mr. Ramadhar:** And there you go.

9 **Mr. Chairman:** If you're going to file for standing, please do so.
10 We will consider it. If you're not and are here as an observer, then, so
11 be it.

12 **Mr. Ramadhar:** I'm very grateful to the opportunity to have spoken
13 a bit and I will indicate Mr. Michael Kurban is present and in relation
14 to the other people we look after, Aliyah is only 11 years old but we
15 look after the interest of the estate in relation to her.

16 **Mr. Chairman:** All right. Thank you very much.

17 **Mr. Ramadhar:** May I also say this, Commissioner? We are
18 concerned somewhat in the Terms of Reference that there is literally
19 no reference to the actions or inactivity of the Coast Guard of Trinidad
20 and Tobago.

21 **Mr. Chairman:** Well, as I said to you in my opening, I take the view
22 that those Terms of Reference are a guide to the way in which we
23 should be approaching this matter. I do not regard them as the sole
24 basis upon which we shall be investigating the matter and I have well
25 in mind that there are areas, just as you have identified, which will
26 call for investigation and indeed we've already had some evidence
27 from them, so, fear not.

1 **Mr. Ramadhar:** I'm deeply heart—

2 **Mr. Chairman:** There will be no stone left unturned, probably more
3 than once.

4 **Mr. Ramadhar:** I am deeply heartened to hear that, Commissioner.
5 Thank you so much.

6 **Mr. Chairman:** All right. Anything else that we need to deal with?
7 No? That's very good. Thank you very much indeed, for everyone
8 who's come. I do—as I indicated at the outset, if there was a question
9 or two from the press or media I'm prepared to hear that. Whether I'll
10 answer it or not will depend on what the question is. No? I see one
11 hand going up. Yes, Sir.

12 **Mr. Daniel George:** Good morning, everyone. Daniel George from
13 SAWIC Media Mode and I am looking at the fact that 194 days ago
14 four men died, approximately 62 days ago the Commission of Enquiry
15 was formed, you were at SAPA and now we are hearing that because
16 of the death of a relative of someone whose death was only three to
17 four days ago, less than a week ago, we are hearing excuses why
18 information or data that should have been submitted already, we are
19 hearing excuse why it cannot be submitted on time and we are hearing
20 a request for a lengthy extension.

21 Sir, I am concerned about what was happening within that
22 space of time, that 194 days, and, you know, it makes me wonder
23 were these people totally unaware and they only found out last week
24 that they are supposed to face the Commission of Enquiry into the
25 deaths of the four divers who passed away at Paria? Thank you very
26 much.

27 **Mr. Chairman:** Well, as I've indicated, there are many, many

1 witness statements to be considered. I have a team at the moment of
2 four, three lawyers on that side, one in front of me over here and one
3 or two others. We have plenty of work to be doing and if there is a
4 difficulty with a particular witness I will allow them a degree of
5 latitude. We've done that. I expect to have their statement by the
6 30th of September unless there is any good reason for why it
7 shouldn't be. That's where we are. Thank you very much. One
8 more.

9 **Mr. Prior Beharry:** Good morning, Prior Beharry AZP News.
10 Chairman, I just wanted to get your sense. Do you think that there's
11 been a deliberate attempt to put delay into this Enquiry given the fact,
12 one, that you were starved for resources and now the—some of the
13 state organizations they still want time to file submissions?

14 **Mr. Chairman:** Right. Look, I don't know why it has taken little
15 time to get some of the facilities that we've asked for. It's, as I made
16 clear, not part of my responsibility or indeed Mr. Wilson's to
17 apportion blame on anyone. What I do know is that the Minister has
18 done all he can and has pushed as hard as he can to ensure that we
19 have those facilities. We've had a number of members of the civil
20 service trying to help us to have what we need.

21 I am clear that this Enquiry will proceed at a pace. It will not
22 be thwarted by delays, whichever way they may come, whether it is
23 by a witness being in some difficulty or whether it is by the lack of
24 provision of materials. We will ensure this proceeds at a proper pace
25 with a view to providing a draft report before Easter of next year,
26 before then, so that you, the public, and the families will have a report
27 in the hands of this Government in short order. Nothing is going to

1 deflect us from that happening. So, rest assured, whatever obstacles
2 are placed in our way, we will circumvent them, we'll go over them,
3 around them, whatever. Thank you very much indeed for coming
4 today. I will see you all in November.

5 **11.56 a.m.:** *Procedural Hearing adjourned.*

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COMMISSION OF ENQUIRY
TO EXAMINE AND ENQUIRE INTO ALL OF THE
CIRCUMSTANCES WHICH LED TO THE TRAGIC
INCIDENTS WHICH OCCURRED ON FRIDAY FEBRUARY
25TH 2022 AT FACILITIES OWNED BY PARIA FUEL
TRADING CO. LTD LOCATED AT NO. 36 SEALINE RISER
ON BERTH NO. 6, WHICH LED TO THE DEATHS OF THE
FOUR (4) EMPLOYEES OF LMCS LIMITED

International Waterfront Centre
Level 11 Tower D
One Wrightson Road
Port of Spain

MONDAY NOVEMBER 21, 2022

Commissioners:
The Hon. Jerome Lynch KC
Mr. Gregory Wilson

Commission Counsel:
Mr. Ramesh Lawrence Maharaj SC
Mr. Ronnie Bissessar
Ms. Vijaya Maharaj

Secretary:
Ms. Sarah Sinanan

1 **EVIDENTIARY HEARING DAY 1**

2 **10.04 a.m.:** *Enquiry commenced.*

3 **Mr. Chairman:** Good morning, everybody. Welcome to the
4 first part of the oral hearings in this Enquiry. We started properly
5 today. Before I start, can I express a few gratitudes to a number of
6 people.

7 Last time you will probably recall, since it was splashed all
8 over the newspapers the next day, that I expressed my disquiet at the
9 lack of resources that had been provided to this Enquiry, and I am
10 very pleased to announce that we have been well stocked with paper
11 and pens and all the other accoutrement that we need. And I want to
12 thank the Honourable Stuart Young, Minister, for galvanizing that
13 action, and Mr. Garcia, in particular, of UDeCott, for making it
14 happen, and all of those who rose to the occasion. I also want to
15 thank my team and Co-Commissioner for the extraordinary effort that
16 they have put into what has been achieved in about two and a half
17 months. It is remarkable and I am grateful to all of them for getting us
18 ready; and we are ready.

19 As you will know, we have sought to speed the process by
20 taking witness statements from individuals who are concerned in this
21 Enquiry and, thereafter, taking any further interviews from them—the
22 principal witnesses in this Enquiry. Many have engaged with that
23 process; some have not. I cannot compel them to do so, and
24 consequently, they will need to be asked questions here from that
25 witness box, perhaps taking rather more time than we had hoped. It
26 means that there are delays that are likely to occur as a result of
27 having to take that evidence afresh from the witness box. Regrettably,

1 Paria, Heritage have chosen not to assist in that way, and there are a
2 considerable number of witnesses that we need to ask questions of.
3 So that will, I'm afraid, mean that it will take a little longer than we
4 had planned.

5 Let me say, I still expect to have a report, at least in draft form,
6 ready by Easter of next year. That will be about nine months from the
7 date from which I was commissioned as the Chairman of this
8 Commission of Enquiry.

9 So let me explain how our programme for this week and the
10 weeks ahead are going to work. Today we will hear Mr. Maharaj,
11 Senior Counsel for the Enquiry, outline the evidence and set out the
12 matter as he sees it. We will, I'm afraid, hear some footage of the
13 men who were alive in the pipe. It is harrowing to listen to. Anyone
14 who feels that that might be too much should leave when it's being
15 played, and Mr. Maharaj will signal the moment during his address
16 when that will happen. I have to tell you, there's no one who has
17 listened to it who has not been moved.

18 I anticipate he will conclude his opening remarks early this
19 afternoon, and then we will hear from two other Counsel, Mr. Gilbert
20 Peterson, Senior Counsel for Paria and Heritage and Ms. Persad-
21 Maraj representing the LMCS for what we have granted permission to
22 address us on this opening day. We refused other requests to speak at
23 this time, but I anticipate we will permit them to do so at the close of
24 this Enquiry.

25 I hope that this could all be achieved today, when we will then
26 adjourn for the day, even if that means sitting a little longer to get it
27 concluded so that we can have the evidence fresh tomorrow.

1 Tomorrow we have changed the order of witnesses to
2 accommodate Mr. Boodram. You will know that Mr. Boodram was
3 the sole survivor. We are anxious to accommodate, as I previously
4 explained, those who are the most directly affected by this tragedy.
5 Mr. Boodram has expressed the desire to be at this Enquiry
6 throughout, to be able to come and go as he pleases, and in order to
7 accommodate him, we're going to take his evidence first out of
8 sequence, so that he can do just that.

9 We—that is Mr. Wilson and myself—have asked to hear his
10 evidence in full, unlike the other witnesses. We think it right and
11 proper that he should be given an opportunity to express that which he
12 experienced. Let me say something about Mr. Boodram and his
13 evidence. You will all readily understand this is extremely difficult
14 for him. What he went through on the afternoon of the 25th February
15 this year was on any view a horrifying experience that lives with him
16 every day.

17 Extricating himself from that pipe—it's about the diameter of
18 that ring. [*Mr. Chairman demonstrated*] So that you have some idea
19 of what we are talking about; that is about an inch or two, smaller than
20 the inside of that pipe. That is what he was in when he was sucked in
21 on the 25th February. What he did in trying to help others and to
22 extricate himself was nothing short of heroic. Any cross-examination
23 of him must be done with sensitivity and limited to only that which is
24 necessary. I'm sure that those who are experienced Counsel will do
25 that. Please, exercise some restraint.

26 Let me say a couple of things about witnesses, please.
27 Witnesses are permitted in these hearing—for today during the

1 opening addresses and for today only, until they have given evidence
2 themselves—they are permitted to remain in this room after they have
3 given evidence. They are not permitted—I make it clear—they are
4 not permitted to be present here if they are due to give evidence, until
5 they have given their evidence. That means that they are not
6 permitted to watch it on screen either. This is a live feed for the
7 public to be able to see. I rely on Counsel here to make that clear to
8 them, that they should not do so. Please, do not undermine the
9 integrity of the evidence gathering in this Enquiry by allowing any of
10 your witnesses to do that. And I'm sure, as I say, with the
11 experienced Counsel that we have here, that that won't happen.

12 After Mr. Boodram's evidence other witnesses will be called.
13 The order and approximate date on which they are to give their
14 evidence will be placed on the website, and anybody can ask Counsel
15 after the Enquiry for any details that they might want. The plan is to
16 have Counsel explain who the witness is and give a short synopsis of
17 what they have told us, either in their statements or in their interviews,
18 or both. They will then be asked any additional questions that my
19 legal team feel is necessary before permitting cross-examination.

20 Let me say something about cross-examination. I don't repeat
21 what I said on the last occasion. I'm not going to permit cross-
22 examination which is designed to try and apportion blame. We're
23 seeking to attain the facts. Those who have standing and have applied
24 and been granted standing at this hearing will be permitted to cross-
25 examine, and I would suggest in this order, unless someone persuades
26 me otherwise—counsel for Paria; counsel for LMCS Limited; then
27 counsel for the Ministry of Energy; then counsel for OSHA—I see

1 they're not here. Perhaps they're not that interested in making any
2 representations; and then counsel for the Seamen Workers' Waterfront
3 Trade Union. And, finally, any counsel who wishes to ask questions
4 on behalf of the family members. I think there's more than one, and if
5 they wish to do so, they can, perhaps, work out between them who
6 goes when. I would have thought that one would have been sufficient
7 with each witness.

8 I'll remind everyone that all of the documents in this case, the
9 thousands of pages that we have now gathered that run to eight
10 volumes, are on the website. Anybody who wants them has them, can
11 see them, consider them, use them, access them at any time. We will,
12 where anyone is relying on a document, put them up on the screen so
13 that they're made available in this Court, so that they can see what's
14 being utilized and asked about.

15 We aim to sit between 10.00 and 3.30 each day. We will have a
16 morning break and take lunch around one o'clock. But we should all
17 approach these times flexibly, so as to minimize any disruption to and
18 inconvenience to witnesses. They must come first, and if that means
19 sitting a little later over lunch, we'll do that. If it means sitting a little
20 later at the end of the day, we'll do that.

21 We'll sit this week until Thursday and then resume again on
22 Monday 5th December. I think I'd foreshadowed that on the last
23 occasion. The sitting days are on our website. We will now go about
24 the task of determining what happened; not just what occurred and
25 what caused these men to die, but what happened thereafter, why they
26 could not have been or were not saved.

27 We know, as a matter of fact, that they were alive in that tube

1 for some hours. This is a public hearing. We are all approachable. I
2 hope that people feel I am, and if there's something that concerns
3 anyone, you have only to ask. I will permit, as I indicated on the last
4 occasion, at the end of each week that we sit, a few questions from the
5 media for clarification. Don't jump the gun. We got weeks of
6 evidence to hear. But if anybody wants to ask anything from the
7 media, at the end of the week.

8 At the close of business today there is an application to be made
9 by Counsel for Paria to discharge a witness summons that I have
10 issued. This will be in camera; that means it's in private. It means
11 everybody needs to clear out other than Counsel. So, I'll ask you,
12 please, if you would, to vacate the premises as quickly as you can at
13 the close of business today.

14 I also like, if you would, please, Mr. Peterson, to make enquires
15 of your client as to whether it's possible for the Commission of
16 Enquiry to conduct a view of the site. I know that there had been
17 some problems with maintenance or something of that kind that
18 needed to be done, so we weren't able to go, as we'd originally
19 planned, tomorrow. But we would like to go, if we can, please, on the
20 9th January. That's the day that we resume. So, if we could do that
21 I'd be very grateful; if you make that enquiry, and then we could
22 worry about the logistics of that later. But if that was a day that would
23 work for them, then I would be grateful, please, to being told.

24 Now, before I ask Mr. Maharaj, Senior Counsel, to open this
25 matter, are there any other issues that arise at this time that ought to be
26 dealt with now?

27 **Mr. Peterson SC:** Mr. Chairman, I mean, it's not for me to say, but I

1 would have thought that an earlier visit by the Commission would aid
2 the Commission with respect to questioning witnesses or have a better
3 view as to the plans that we are dealing with, as opposed to at the end
4 of the evidence.

5 **Mr. Chairman:** Well, the position is this, Mr. Peterson; I would have
6 thought so too, which is why we originally scheduled it for tomorrow.
7 I was told that that's not possible, but that you wished to bring it
8 forward to, I think, last week. And since I'm probably the only person
9 who doesn't live here, it was not possible for me to be back here in
10 time to do that. I'm anxious not to interrupt the flow of evidence that
11 we will be hearing. But if once you've consulted with your clients
12 that there is a date that we might do it in, say December, well, please,
13 let me know and then we'll see what we can rearrange to make that
14 work. I mean, for my part, I would have preferred to go tomorrow.
15 That's not been possible. But if there is another date earlier, then we
16 can consider that.

17 **Mr. Peterson SC:** Is Friday this week totally inconvenient to you
18 and the Commission?

19 **Mr. Chairman:** It is, I'm afraid. I'd say it is. Let me see.

20 **Mr. Peterson SC:** We'll try for that and then also we'll consider
21 looking at an early December date.

22 **Mr. Chairman:** If you can consider dates in December. As it
23 happens, I'm not flying out on Friday. The plan had been that we
24 would have Fridays with my team to go over the evidence and where
25 we are, and so on. So it may be that we could go on Friday. But I'll
26 have to see about that. All right?

27 **Mr. Peterson SC:** Sure.

1 **Mr. Chairman:** All right. Well, thank you very much for that.
2 Now, is there anything else that I need to deal with now before we
3 hear from Mr. Maharaj? That's delightful. Excellent. Well, Mr.
4 Maharaj, the floor is yours. Thank you very much.

5 **Mr. Maharaj SC:** Much obliged, Mr. Chairman and Commissioner
6 Wilson.

7 A tragic accident occurred on the afternoon of Friday 25th
8 February, 2022, when five divers employed with LMCS Limited were
9 doing sub-sea repair and maintenance works under water on a 30-inch
10 diameter pipeline owned by Paria Fuel Trading Company Limited.
11 This tragic accident led to the tragic deaths of four of the five divers.
12 One of the five divers, Christopher Boodram, survived. He was the
13 only eyewitness to what happened that afternoon.

14 Paria had contracted LMCS to do the said works which were
15 being done at Berth 6 at the Pointe-à-Pierre Harbour when the five
16 divers were sucked into the 30-inch diameter pipeline. These divers
17 were doing the works in what has been described as a hyperbaric
18 chamber, but it is also known as a habitat. This was a cubed eight feet
19 by eight feet shaped enclosure placed over the pipeline and it was
20 supplied with positive pressured air by a compressor. This permitted
21 the divers to do the works on the pipeline under water but in a water-
22 free environment. These divers accessed the habitat by diving from a
23 barge into the water and by swimming up into the habitat from below
24 the habitat.

25 Christopher Boodram was rescued that afternoon after he
26 swam, dragged himself, and crawled in the pipeline to berth 6. He
27 was then rescued from the top of the pipeline by Ronald Ramoutar

1 and Corey Crawford. The four other divers remained alive in the
2 underwater pipeline, and they were not rescued.

3 Their bodies, a few days later, were recovered from the
4 pipeline. Christopher Boodram, when he was rescued, stated to all
5 who were present that the other divers were alive in the pipeline and
6 Fyzal Kurban was just behind him in the pipeline. Both LMCS and
7 Paria gave evidence of the efforts made by them to rescue these divers
8 before and after Christopher Boodram was rescued. Later in my
9 statement I would give a summary of the evidence given by Paria and
10 LMCS of the efforts made by both of them to rescue the divers.

11 These divers who were not rescued were Kazim Ali Jr., Yusuf
12 Henry, Fyzal Kurban, Rishi Nagassar. The bodies of three of the
13 divers, namely Kazim Ali Jr., Yusuf Henry, and Fyzal Kurban were
14 recovered on Monday 28th February, 2022, and the body of Rishi
15 Nagassar was recovered on Wednesday 2nd March, 2022. The post-
16 mortem examinations on the bodies of the deceased divers were done
17 by two forensic pathologists.

18 Based on Professor Hubert Daisley's post-mortem report, he gave the
19 following dates and times of the death of the four divers. In respect of
20 Kazim Ali Jr., he could have been alive as late as midnight on
21 Saturday 26th February, 2022. In respect of Fyzal Kurban, he could
22 have been alive as late as 6.00 p.m. on Saturday, 26th February, 2022.
23 In respect of Yusuf Henry, he could have been alive as late as the
24 early hours of Saturday 26th February, 2022. And in respect of Rishi
25 Nagassar, he could have been alive as late as midnight on Friday the
26 25th February, 2022.

27 Based on the post-mortem report of Dr. Pramanik, he gave the

1 following dates and times of the deaths of the four divers. In respect
2 of Kazim Ali Jr., he could have been alive as late as midnight on
3 Sunday, 27th February, 2022. In respect of Fyzal Kurban, he could
4 have been alive as late as midnight on Sunday, 27th February, 2022.
5 In respect of Yusuf Henry, he could have been alive as late as
6 midnight on Sunday, 27th February, 2022. In respect of Rishi
7 Nagassar, he could have been alive as late as midnight on Monday,
8 28th February, 2022.

9 Let me give you the structure of my opening statement. My
10 opening statement would be in accordance with the following
11 structure. First, I would state the background facts to the appointment
12 of the Commission of Enquiry, and in doing so, I would illustrate with
13 diagrams on the screen, the pipeline, the habitat, and the other relevant
14 sections of the pipeline system in order for there to be a greater
15 understanding of what happened that day.

16 Second, I would refer to the appointment of the Commission of
17 Enquiry and give a summary of its Terms of Reference. Third, I
18 would identify the officers of the Commission of Enquiry. Fourth, I
19 would give an account of the investigative stage of the Enquiry. A lot
20 of work has been done at this stage, and I will give you an idea of the
21 evidence.

22 Also, at the fifth stage I would give you an overview of some of
23 the expert evidence gathered during the investigative stage of the
24 Enquiry, including the evidence of experts, the Occupational Safety
25 and Health Agency (OSHA), and the evidence of the rescue efforts
26 made by both Paria and LMCS, and, sixth, I would give a summary of
27 the other relevance gathered at the investigative stage of the Enquiry

1 in three compartments or categories, namely, the pre-accident stage,
2 the accident itself, and the post-accident stage.

3 Background facts to the appointment of the Commission of
4 Enquiry: The background facts are the pipeline on which the divers
5 were working were Sealine 36, which ran along the seabed
6 horizontally for approximately 1200 feet between berths 5 and 6 with
7 two vertical sections called risers at each end at berths 5 and 6. Berths
8 5 and 6 at the Pointe-à-Pierre Harbour were connected by Sealine 36
9 and Sealine 66 to the Pointe-à-Pierre Tank Farm which receives oil
10 from the oilfields in the country.

11 Ships which berth at Berths 5 and 6 receive crude oil from the
12 tank farms for export and they also refuel with bunker oil, those ships
13 which oil also comes from the tank farms. Sealine 36 had a defective
14 section on the risers. The riser at berth 6 was leaking below sea level.
15 The works which had to be done included the cutting of the defective
16 section of the riser and replacing it with a new section. The habitat
17 was placed over the riser which was under water and the works were
18 done in the habitat.

19 On the 13th February, 2022, LMCS inserted an inflatable plug
20 and a mechanical plug into the riser at Berth 6 and then install the
21 habitat on the riser at Berth 6. I am now going to show you on the
22 screen the mechanical plug and the inflatable plug and some
23 illustrative diagrams of the pipeline at Berths 5 and 6.

24 The mechanical plug and the inflatable plug are known as a
25 migration barrier. Figure 1 is a photograph of the mechanical plug
26 which was inserted into the riser at Berth 6. Figure 2 is a photograph
27 of the inflatable plug which was inserted in the riser at Berth 6.

1 Figure 3 is a photograph of the habitat which was installed over the
2 riser at Berth 6 below sea level. As you can see, it consists of a cube
3 at the bottom and a stovepipe to the top.

4 Figure 4 depicts both plugs installed in the riser at Berth 6. As
5 you can see, first, the inflatable plug was installed and then the
6 mechanical plug was installed over the inflatable plug.

7 **Mr. Chairman:** Mr. Maharaj, can I just be clear about this so that I
8 understand it? The inflatable plug is one which literally is pumped
9 full of air so that it has a psi, pressure inside it?

10 **Mr. Maharaj SC:** Yes, yes.

11 **Mr. Chairman:** And that expands on the inside of the pipe so that it
12 creates a seal. Is that right?

13 **Mr. Maharaj SC:** Correct, Mr. Chairman.

14 **Mr. Chairman:** And then the mechanical plug is quite separate, as
15 you've shown us, and that's put on top.

16 **Mr. Maharaj SC:** On top.

17 **Mr. Chairman:** With a gap in-between?

18 **Mr. Maharaj SC:** Yes, with a little gap in-between.

19 **Mr. Chairman:** Right. And that one is operated by tightening those
20 bolts that we've seen on the diagram.

21 **Mr. Maharaj SC:** Yes.

22 **Mr. Chairman:** And that squashes it so that it creates a seal again to
23 the inside of the pipe. Have I got that right?

24 **Mr. Maharaj SC:** Correct, Mr. Chairman.

25 **Mr. Chairman:** Thank you very much.

26 **Mr. Maharaj SC:** Both plugs are shown in red. Figure 5 depicts the
27 installed habitat on the riser at berth 6. The habitat is shown in purple.

1 The cube part of the habitat is below sea level and the stovepipe part
2 of the habitat is partly below sea level and partly above sea level.
3 And you'll see the two risers at both ends, and, um—

4 On the 15th February, 2022, LMCS cut the defective part of the
5 riser from within the habitat, lifted that defective part of the riser in
6 the stovepipe of the chamber and installed a slip-on flange on the
7 existing riser where the cut had been made.

8 Figure 6 depicts the following: It depicts the defective part of
9 the riser which had been cut and lifted a few feet up in the stovepipe
10 of the habitat. The cut part of the riser is shown in green. It was lifted
11 in the stovepipe of the chamber, with slings attached to a crane
12 located on a barge on the water. The slings are shown in brown. It
13 also depicts the location of the installation of the slip-on flange on the
14 existing pipe. This is shown in yellow.

15 On the 25th February, 2022, LMCS removed the defective part
16 of the riser from within the stovepipe of the habitat and inserted the
17 new riser section which also had a flange. The divers entered the
18 habitat after returning from lunch on the afternoon of the 25th
19 February, 2022, for the purpose of connecting the new section of the
20 riser to the existing riser. They removed the mechanical seal and
21 started to deflate the inflatable plug. The mechanical seal was the one
22 at the top which was bolted and the inflatable plug is the one which
23 could be deflated. The seawater then flooded the habitat, a vortex was
24 created, and the water sucked the divers and their equipment into the
25 30-inch diameter pipeline.

26 So, one would see in the risers and in the line running
27 horizontally the water in the pipeline and one would see the indication

1 of the vortex. Figure 7 shows the seawater flooding the habitat and
2 the seawater and everything else in the habitat including the divers
3 was sucked into the pipeline.

4 So, one could imagine those five divers were in that habitat.
5 They came after lunch, and as they were in the process of deflating or
6 removing the inflatable plug, there was this vortex. The water came
7 into the habitat, got in the pipe, created a vortex, and you would hear
8 later about something called “Delta P”, that is when you have
9 different pressures in the habitat and in the pipeline.

10 Following this tragic accident and the tragic deaths of these
11 four divers, there was widespread condemnation by the public and
12 sections of the media of what happened and what led to this tragic
13 accident and for the four divers to have died. The public demanded to
14 know all the circumstances which led to the tragic accident and the
15 deaths. The public also demanded to know the efforts made to rescue
16 the five divers, and the public wanted to find out why the other divers
17 could not have been rescued from the pipeline after Christopher
18 Boodram made his way unaided to the top of the riser of the pipeline
19 and was rescued from the top of the riser.

20 In April 2022 the Cabinet advised the President to establish a
21 Commission of Enquiry pursuant to the provisions of Section 2 of the
22 Commission of Enquiry Act of the Laws of Trinidad and Tobago.
23 The Commissioners, by their instrument of appointment on the 22nd
24 April, 2022, were given the mandate to enquire into all of the
25 circumstances which led to the tragic accident and the deaths of the
26 four divers employed with LMCS. I will give you a summary of the
27 Terms of Reference.

1 The Terms of Reference are published in the Trinidad and
2 Tobago Gazette, Extraordinary Volume 62, dated the 22nd April,
3 2022, and are also published on the website of the Commission. The
4 Terms of Reference mandated the Commissioners to enquire into,
5 among other matters, the following:

6 The circumstances which led to the tragic accident and the four
7 deaths, and whether that was reasonable and justifiable in the
8 circumstances; the scope of works issued by Paria for the said works
9 and the proposal and plans submitted by LMCS to conduct the said
10 works; the policies, procedures, practices, and conduct relating to
11 Paria and LMCS employees and contracted labour for these types of
12 maintenance exercises; all the decisions and actions taken after it
13 became clear that the five LMCS divers went missing; any lifesaving
14 contingency plans of Paria and LMCS to respond to such incidents;
15 And, finally, whether Paria and LMCS employed sufficient safeguards
16 and measures to ensure the safety of their contracted employees and
17 the prevention of these incidents and to rescue the five LMCS divers.

18 The Commissioners are also mandated to make such findings,
19 observations, and recommendations which they deem appropriate in
20 relation to the following: whether there was new breach of duty;
21 whether there are any grounds for criminal proceedings to be
22 instituted against any persons or entities, and whether criminal
23 proceedings should be recommended to the Director of Public
24 Prosecutions; the appropriate and best practices, and/or policies,
25 and/or procedures to be utilised by companies such as Paria and
26 LMCS for the conduct of these types of maintenance exercises and in
27 respect of these types of accidents; the policies, measures,

1 mechanisms, and systems which should be implemented to prevent
2 the recurrence of the tragic accident which occurred on the 25th
3 February, 2022 and continuing up to the recovery of the four LMCS
4 divers; and finally, to make any other recommendations that the
5 Commission may deem necessary in the circumstances.

6 After the appointment of the Commission of Enquiry, the first
7 Chairman from the Commission withdrew. The Honourable Mr.
8 Justice Cecil Dennis Morrison was appointed Chairman of the
9 Commission of Enquiry together with Mr. Gregory Wilson as his Co-
10 Commissioner. Justice Morrison, after his appointment, withdrew
11 from the Commission of Enquiry. The appointment of Mr. Jerome
12 Lynch, then QC now KC, as Chairman of the Commission of Enquiry.
13 On the 6th July, 2022, pursuant to section 15 of the Commission of
14 Enquiry Act, the President appointed the Honourable Mr. Jerome
15 Lynch, then QC now KC, as the Commissioner and Chairman of the
16 Commission of Enquiry.

17 The Commissioners: Mr. Chairman, permit me to say that
18 Trinidad and Tobago is privileged to have you as head of this
19 important Commission of Enquiry. Your distinguished legal career is
20 well-known. You have been engaged in the practice of civil law,
21 criminal law, and public law, and you are currently seconded to a
22 leading law firm in Bermuda, Trott & Duncan. Mr. Chairman, it is
23 also known that you are a recreational diver. This makes the task of
24 Counsel at this Commission easier as counsel would know that the
25 Chairman has knowledge of the technical issues relating to the diving
26 industry.

27 Mr. Chairman, the leadership which you have provided to this

1 Commission has made it possible for us to have this evidentiary
2 hearing today. This is a mere five months after you were appointed to
3 Head this Commission of Enquiry. I have not researched the point,
4 but I am optimistic that I'm speaking accurately that this is a historical
5 event in Trinidad and Tobago because it is the first time in Trinidad
6 and Tobago a Commission of Enquiry is having its evidentiary
7 hearing a mere five months following the appointment of the
8 Chairman.

9 Commissioner Gregory Wilson, you are a commercial diver and
10 a sub-sea specialist with 24 years of diversified experience and in-
11 depth knowledge of the sub-sea construction industry. You have also
12 served as President of the Association of Commercial Divers in
13 Trinidad and Tobago and you have extensive knowledge and
14 experience in offshore and onshore commercial diving operations.
15 The combination of the diving knowledge and experience of both the
16 Chairman of the Commission and Commissioner Wilson would be of
17 tremendous assistance to those who are appearing before this
18 Commission.

19 The Secretary and Secretariat:

20 The Secretary of the Commission and Head of the Secretariat is
21 Ms. Sarah Sinanan. She's an attorney-at-law for over 13 years called.
22 She's attached as a Senior Legal Counsel to the Ministry of the
23 Attorney General, and is assigned to this Commission on a full-time
24 basis. She's assisted at the Secretariat with eight competent members
25 of staff who were only appointed in September 2022. The
26 Secretariat's accommodation was only available from September
27 2022. The Secretary and the Secretariat have given to the

1 Commission competent administrative support to facilitate us to have
2 this evidentiary hearing today.

3 Role of Counsel to the Commission and the legal assistance he
4 has been given. In the performance of my duties as Counsel to the
5 Commission, I am ably assisted by attorneys-at-law Mr. Ronnie
6 Bissessar and Ms. Vijaya Maharaj. My primary duty as Counsel to
7 the Commission is to assist the Commissioners with the gathering and
8 compilation of the evidence and also to interview and question the
9 witnesses. In essence, my job and that of the legal team is to help the
10 Commissioners to lay before them the bare truth of what happened in
11 order to answer the issues and questions raised in the Terms of
12 Reference.

13 The proceedings before this Commission are not like civil or
14 criminal proceedings. I do not perform the role which a prosecutor
15 fulfills in a criminal case or which a claimant's or defendant's lawyer
16 performs in a civil case. The proceedings before the Commission of
17 Enquiry are totally different. They are not adversarial; they are
18 inquisitorial. I am required, as counsel to the Commission, in the
19 performance of my duties to be independent, objective, and fair-
20 minded. I'm also required to probe the evidence which has been
21 gathered, and which is being given at this evidentiary hearing with the
22 aim of the Commissioners ascertaining the truth of what happened.

23 The investigative stage of Enquiry.

24 There are three main stages of a Commission of Enquiry: The
25 investigative stage, the evidentiary stage, and the report stage; that is
26 when the Commissioners compile their report. Since the Commission
27 was appointed the Commissioners' Counsel to the Commission and

1 the legal team together with Secretary and the staff of the Secretariat
2 have been engaged in the investigative stage of the Enquiry. The
3 Commission received statements and representation from over 62
4 persons and/or entities. Counsel to the Commission and the legal
5 team have conducted over 33 interviews with witnesses in order to
6 obtain from them witness statements, and received over 20,000 pages
7 of documents.

8 The written statements received—the written statements
9 prepared after interviews were conducted and the documents received
10 by the Commission have been published on the Commission's
11 website. It is important at the investigative stage of any Commission
12 of Enquiry to uncover all relevant evidence to answer the Terms of
13 Reference so that the Commissioners can ascertain the truth of what
14 happened. The importance of the evidence obtained at the
15 investigative stage of Enquiry can become the life blood of the
16 Enquiry.

17 In the authoritative legal textbook on public enquiries by Jason
18 Beer, then QC now KC, at page 176 at paragraph 510, the learned
19 author stated the investigative work carried out by the Enquiry is of
20 the first importance in particular because the information, documents
21 and evidence that is uncovered become the life blood of the Enquiry.
22 If the investigative phase of the Enquiry is ineffective, the oral
23 hearings and the report will suffer correspondingly.

24 One second, Mr. Chairman. [*Pause*] I'm sorry; I'm sorry.
25 Overview of some of the expert evidence before the Commission of
26 Enquiry. Delta P. An issue which arises in this Enquiry is whether,
27 on the afternoon of Friday, 25th February, 2022, there was in the

1 habitat a latent differential condition known as Delta P, which became
2 active and caused the divers to be sucked into the 30-inch pipeline. It
3 does not appear from the evidence that there is any dispute that the
4 divers were sucked into the pipeline on the afternoon of 25th
5 February, 2022, as a result of a Delta P condition, which became
6 active when the divers attempted to deflate the inflatable plug from
7 within the riser.

8 It is clear from the evidence that it was at that stage the habitat
9 became flooded with seawater which entered the 30-inch diameter
10 pipeline and a vortex was created, which then sucked the divers with
11 their equipment into the pipeline. There is only one eyewitness to this
12 serious accident; Christopher Boodram. An examination of his
13 evidence as to what he saw and what he experienced is as follows.
14 The divers removed the mechanical plug from the pipeline and they
15 began to remove the inflatable plug from the pipeline which loosened
16 its seal on the pipeline.

17 Kazim Ali Jr. came into the chamber, the habitat, to check on
18 them, and Christopher saw the water level in the habitat suddenly start
19 to rise in the habitat. This is how Christopher Boodram described his
20 evidence and what he saw. And I quote:

21 "I remember jumping into the water to swim out from inside the
22 chamber, but strange enough, as I entered the water, I felt my
23 body was lifted by the water rather than allowing me to sink in
24 it. I felt like it had no gravity. Then I remember being swirled
25 inside the chamber like a tornado. The chamber was pitch
26 black and my body was spinning out of control in the water. I
27 was sucked into the pipe and I felt my body thrashing about in

1 the pipe. I remember my body was flying through the pipe like
2 what felt like a hundred miles per hour. I thought to myself that
3 I was destined to die, because I was inside the pipe, there was
4 no air, and I was going to drown. I could not see a thing, but I
5 felt my body hitting the inside of the pipe, and the slushy debris
6 on the walls of the pipe. I was holding my breath for as long as
7 I could. I remember hearing like my lungs were crackling, and
8 my throat was hurting from how hard I was trying to hold my
9 breath before I drowned.”

10 And after a few words that he stated.

11 “After what felt like a lifetime I ended up in an open area with
12 air. The water subsided and I was in complete darkness inside
13 the pipe. I was not sure if I was dead or alive. I was gasping
14 for ‘daar’ life—D-A-A-R—daar life.”

15 A GoPro camera belonging to Kasim Ali Jr. was recovered after the
16 accident. It contains various video footage included footage from
17 previous days. It also contains video footage and audio from when
18 Kazim Ali Jr. entered the water with the GoPro camera on his
19 forehead on the afternoon of Friday, 25th February, 2022, to when the
20 divers started to remove the inflatable plug.

21 The footage then goes black, but the audio continues. You can
22 hear the suction of the water and when the suction effect stopped, you
23 can hear the divers speaking about being aware that they were inside
24 the pipeline. The audio continues for about 29 minutes thereafter, and
25 during that time the conversation of the divers can be heard.

26 We wish to advise persons in the room and viewing virtually
27 that the footage and audio retrieved contains distressing and graphic

1 contents of the harrowing experiences of the divers. Viewer
2 discretion is therefore advised. As the Commissioner has advised this
3 morning, if anyone wishes to leave the room, they can do so now.
4 And those who are viewing or listening to the proceedings may wish
5 to turn their devices off for a few minutes. We will not play the entire
6 footage and audio. We will play 6 minutes and 55 seconds of contents
7 of what was retrieved.

8 The footage shows Kazim Ali Jr. entering the water, the divers
9 beginning to remove the inflatable plug, and the screen going black.
10 The audio will include the suction effect which can be heard and the
11 voices of the divers after the suction effect stops.

12 [Video shown]

13 **Mr. Chairman:** Pause. I just wanted to be clear of what we are
14 looking at, please, Mr. Maharaj. As I understand it, it's Kazim Ali
15 who is in the water with scuba equipment?

16 **Mr. Maharaj SC:** Yes, it's Ali—

17 **Mr. Chairman:** He's been passed a wrench?

18 **Mr. Maharaj SC:** A wrench.

19 **Mr. Chairman:** Presumably, that's the one that was going to be used
20 to undo the plug.

21 **Mr. Maharaj SC:** The plug; the mechanical plug.

22 **Mr. Chairman:** He has then dived down; he has come up inside the
23 habitat—we can see him coming up inside; and who is the man that
24 we see standing with his back—do we know who that is?

25 **Mr. Maharaj SC:** We don't know. But we think it is Christopher.

26 **Mr. Chairman:** It may be Christopher Boodram. All right. And
27 that's where we left. I wonder if we can go back then, please, so that

1 we know what we're looking at. Thank you.

2 [Video continued]

3 **Mr. Maharaj SC:** That is the suction effect.

4 [Video stopped]

5 Mr. Chairman and Commissioner Wilson, one of the expert reports
6 commissioned by the Occupational Safety and Health Authority
7 (OSHA) is the In-Corr Tech Report, which was signed by its President
8 and Chief Executive Officer Mr. Zaid Khan, who is a Mechanical
9 Engineer, Failure Analysis Consultant, Registered Professional
10 Engineer, and Certified Welding Inspector.

11 In-Corr Tech Limited is an established engineering and design
12 and quality engineering company in Trinidad and Tobago. The report
13 stated, among other things, as follows:

14 The root cause of the accident was the failure by both Paria and
15 LMCS to recognize that a latent hazardous differential pressure
16 condition, Delta P was created by the methods used in the execution
17 of the works, with particular reference to the removal of fuel oil from
18 Sealine 36. If this Delta P hazard was recognized, simple mitigation
19 steps and/or change in Methods of work could have been instituted to
20 eliminate this hazard.

21 It went on:

22 This latent hazardous differential pressure condition known as
23 Delta P existed at the onset of the work within the habitat and it
24 became active when the divers were attempting to remove the
25 inflatable plug from within the riser. Not being aware of this latent
26 differential pressure condition, incorporating a gaseous void, LMCS
27 divers proceeded to deflate the plug after the safe removal of the

1 mechanical seal. On reaching a deflated pressure of approximately
2 11.4 psi, the resistive force of the plug was then lower than the
3 downward force.

4 Simultaneously, the transient and sudden loss of habitat
5 pressure caused the sea water to rush into the habitat, pouring into the
6 30” diameter riser at a rate of 540 gallons per second at a velocity of
7 40 feet per second, creating a free vortex entraining all personnel and
8 loose equipment into the riser. Gravity, habitat supply air from the
9 compressor, a large gaseous void, and an endless supply of water from
10 the sea perpetuated this vortex in the riser until the differential
11 pressure equalized and the system stabilized.

12 The report went on state:

13 “Appropriate job safety analysis, risk assessments were not
14 seen for several key activities in LMCS proposal supplied to
15 OSHA from Paria with respect to safety issues. This reflected
16 the lack of thoroughness of the Bid Evaluation by Paria. Paria
17 stipulated in its scope of works that Method Statements and job
18 safety analysis had to be supplied for all key elements of the
19 project.”

20 And the report continued further:

21 “The removal of the inflatable plug, could have only been
22 applied safely, if a Delta P condition was not present. This was
23 also a grave oversight by both Paria and LMCS during this
24 evaluation and subsequent discussions with LMCS. It is
25 submitted that an important question for determination in this
26 Enquiry is whether a Delta P hazard was considered in the risk
27 assessment and evaluation by Paria and LMCS of the works to

1 be done.”

2 Mr. Chairman, we have obtained a helpful video which explains
3 how a Delta P occurs, and the hazards associated with a latent Delta P
4 hazard. The video was produced by the Association of Diving
5 Contractors International Incorporated, and it's available to all users
6 of the World Wide Web on the YouTube website. The entire video is
7 11 minutes and 28 seconds, but we will only be playing two minutes
8 and twenty-two seconds.

9 *[Video played]*

10 Mr. Chairman, another report commissioned by OSHA is from
11 an International Association. The Association of Diving Contractors
12 International Inc. (ADCI), based in Houston Texas. The video was
13 produced by this Association. The report is dated 29th July, 2022,
14 and it's signed by its Executive Director Phil Newsum. He has
15 experience as a commercial diver, and as a diving instructor. He was
16 trained as a commercial diver at the Divers' Institute of Technology.
17 Mr. Newsum also served as Co-Chair of the HDCI OSHA Differential
18 Pressure, Delta P Task Force, the primary mission of which is to
19 establish recommended safety practices for diving contractors and any
20 users in the United States of America when working in environments
21 where Delta P hazards are present.

22 The report defines Delta P as a differential pressure being the
23 difference in pressure between any two points in an open or closed
24 system, which can result in free flow creating a hazard to the diver.
25 The report also assesses on operational readiness and safety
26 management of LMCS as well as the failure of Paria officials and the
27 Trinidad and Tobago Coast Guard to respond to the emergency and to

1 effect a rescue operation.

2 The findings of the report included the following. Only two
3 members of the dive team were in possession of commercial diving
4 certification. The remainder of the dive team was in possession of
5 recreational scuba certification. Scuba certification was not intended
6 or designed to prepare divers for commercial diving. The diving
7 personnel, therefore, was inadequately trained for commercial diving,
8 specifically to perform an operation that involves differential pressure
9 hazards.

10 The contractor also failed to manage operational safety with
11 respect to dealing with differential pressure hazards. The operational
12 and safety management observations concerning the contractor and
13 the facility operators did not include umbilical management as the
14 dive operation was performed on scuba. Scuba-diving was absolutely
15 not the tool for the job for the type of operation, and the location
16 offshore from the main facility. With surface supply diving, there is
17 independent hardware communication between each of the divers and
18 their supervisor topside.

19 It would have been easier from a diver/retriever's standpoint as
20 the divers are tethered with dive umbilical. Surface supply diving
21 would have also afforded the divers with an unlimited supply of air to
22 accommodate any complications that might arise during the
23 emergency response.

24 Then the report stated:

25 "From all material reviewed it is apparent that no planning,
26 mitigation plan, emergency response plan, pre-dive checks, and
27 verifications as well as actions during the course of the dive

1 took into account the potential for a Delta P hazard.”

2 And it continued:

3 “The testimony of Christopher Boodram outlines the failure of
4 both Paria Officials and the coast guard to authorize the timely
5 rescue of the other four divers, which ultimately made it a
6 recovery operation.”

7 It is respectfully submitted that an issue which arises for
8 determination in this Enquiry is whether Paria and LMCS considered
9 or ought to have considered the use of commercial surface supply air
10 instead of scuba air in the preparation of the scope of works and in
11 development of an emergency response plan.

12 May I draw attention to the evidence which the coast guard
13 gave. I also draw attention to the evidence of Lt. Hargreaves of the
14 Trinidad and Tobago Coast Guard at paragraphs 10 and 11 of his
15 evidence, in which he stated that a rescue operation of the divers from
16 the pipeline required commercial equipment such as a dive helmet
17 with ship air supply. He also stated that the coast guard did not have
18 equipment of that nature. He informed Paria’s Catherine Balkissoon
19 that the coast guard were only trained and have the requisite aptitude
20 to perform operational scuba-diving and not commercial dives.

21 I also your draw attention, Mr. Chairman, to the evidence of
22 Paria’s Randolph Archbald at paragraphs 34 and 35 of his witness
23 statement, in which he said that he advised Paria’s Incident
24 Commander, Collin Piper, that it was unsafe for divers to dive within
25 the pipeline to perform a rescue without a continuous air supply with
26 surface and supply equipment.

27 The preliminary findings of OSHA in the OSHA Report dated

1 the 29th April, 2022 is relevant to this Enquiry. In that report it
2 stated: The issues—I'm sorry. It is respectfully submitted that the
3 issues whether they existed on Friday, 25th February, 2022 in the
4 habitat at the time the accident had occurred, a safe system of work
5 was in place. And in that context it is relevant to refer to the
6 preliminary findings of the report compiled by OSHA dated 29th
7 April, 2022.

8 OSHA, Mr. Chairman, is a statutory body, and its core tasks are
9 to encourage and ensure compliance with the Occupational Safety and
10 Health Act and its related regulations. It conducted an investigation
11 into this accident to determine whether there were any breaches of the
12 OSH Act. Its preliminary findings included the following:

13 The safe system of work employed for the sub-sea maintenance
14 works failed to ensure that persons working within the habitat
15 were not thereby exposed to risk to their safety and health.

16 The risk assessment and job safety analysis done by LMCS was
17 neither suitable nor sufficient for the task.

18 LMCS emergency plans revealed that the plans did not identify
19 and make provisions for emergency scenarios based on an assessment
20 of the potential risks of the works to be done. Based on the interviews
21 OSHA conducted with Paria Officials, OSHA made the following
22 findings at paragraph 6.2.4 of its report.

23 1. Paria's planner, Mr. Terrence Rampersadsingh stated that he
24 did not have experience in offshore sub-sea maintenance works.

25 2. Paria's maintenance technician, Mr. Houston Majardsingh
26 stated that he had seven months' experience in Paria, and his
27 prior work experience was in construction and pipe fitting. He

1 had no experience in offshore and sub-sea maintenance work.
2 And the custodian of the permit to work procedure, Paria HSEQ
3 Lead, Mr. Randolph Archbald stated, one, he served in different
4 capacities in his prior work experience in Petrotrin, but he did
5 not have any experience in offshore sub-sea maintenance work.
6 And two, he admitted that his team did not have the required
7 competency in offshore sub-sea maintenance work.

8 At paragraph 625 of that report, it states that a review of Paria's
9 fire and emergency response plan revealed that the plan did not
10 identify and make provisions for emergency scenarios based on an
11 assessment of potential risk the sub-sea maintenance works.

12 I will now deal, Mr. Chairman, with the rescue efforts of LMCS
13 and Paria. One of the Terms of Reference of the Commission is for
14 the Commission to enquire into whether Paria and LMCS employed
15 sufficient safeguards and measures to ensure the safety of the divers
16 and the measure employed to ensure the rescue of the divers. I would
17 summarize the evidence of the efforts made by LMCS and Paria to
18 rescue the divers.

19 LMCS efforts: Christopher Boodram, in his evidence, stated
20 that when he was rescued on the afternoon of Friday, 25th February,
21 2022, the other divers were alive and were waiting to be rescued. He
22 said that Fyzal was just behind him in an air pocket. The evidence of
23 LMCS, is that LMCS assessed that the divers were in the pipeline
24 after the accident occurred, and they devised a rescue plan at 3.20
25 p.m. on Friday, 25th February, 2022, utilizing scuba equipment.

26 This plan could have been implemented immediately according
27 to LMCS. LMCS stated that it was prevented from conducting such a

1 rescue in the pipeline by Paria, notwithstanding that LMCS had divers
2 and equipment available to conduct the rescue.

3 **Mr. Chairman:** Could I ask you to pause there for a minute, just that
4 I got the timings right? What time was it that Mr. Boodram came out
5 of the pipe, and when was he actually rescued?

6 **Mr. Maharaj SC:** He was rescued at sometime between 4.30 and
7 4.45 or 5.00 p.m. But these are efforts made before Boodram.

8 **Mr. Chairman:** So this is before that. Right. That's what I wanted
9 to understand. This is a rescue plan that was devised at 3.20pm.

10 **Mr. Maharaj SC:** Yes.

11 **Mr. Chairman:** So more than hour before.

12 **Mr. Maharaj SC:** Yes.

13 **Mr. Chairman:** Right. Thank you very much.

14 **Mr. Maharaj SC:** Much obliged, Mr. Chairman. This plan could
15 have been implemented immediately. LMCS stated that it was
16 prevented from conducting such a rescue in the pipeline by Paria,
17 notwithstanding that LMCS had divers and equipment available to
18 conduct the rescue. LMCS' evidence is that its rescue plan was
19 revised at about 6.30 p.m. to include the use of surface supply
20 equipment, which arrived at the site, which is a commercial supply
21 document.

22 LMCS evidence is that notwithstanding its appeals for Paria to
23 permit an attempted rescue, Paria refused to permit it to do so. LMCS
24 evidence is that when Christopher Boodram stated that all of the
25 divers were alive and LMCS divers sought to defy those instructions
26 and effect the rescue; LMCS divers were directed by the coast guard
27 to stand down.

1 Paria—that is before Christopher Boodram. According to the
2 evidence of Paria at about 3.06 p.m. it activated its incident command
3 system and convened its incident command team. It commenced open
4 water sea searches, notified the relevant support agencies of the
5 accident, and was seeking to obtain information about what occurred.
6 When Paria was informed that about 5.45 p.m. that Christopher
7 Boodram was rescued, Paria then considered the real possibility that
8 the divers could be in the pipeline and devised an action plan to obtain
9 video footage of inside of the pipeline to determine the exact location
10 of the divers, and to get experts to review the footage to advise it on a
11 possible rescue.

12 It also decided through its incident commander that LMCS be
13 informed that diving into the pipeline was not allowed because it was
14 too dangerous, and it requested the coast guard to enforce that
15 decision.

16 **Mr. Chairman:** Again, sorry to interrupt you; so that again I have
17 the time; when was it that the timing of the actual incident itself, when
18 the screen, as we saw it earlier, went blank?

19 **Mr. Maharaj SC:** Around 2.45p.m.

20 **Mr. Chairman:** That's at 2.45p.m. So we have the incident taking
21 place at 2.45p.m. And am I to understand you to say that it was three
22 hours or so from that moment before Paria or the coast guard
23 considered that the divers were actually in the pipe?

24 **Mr. Maharaj SC:** Yes.

25 **Mr. Chairman:** So for three hours' no one, or they, at least, did not
26 consider that any of the divers were actually inside the pipe?

27 **Mr. Maharaj SC:** Correct, Mr. Chairman.

1 **Mr. Chairman:** Because it was looking in the ocean.

2 **Mr. Maharaj SC:** According to the evidence. Correct.

3 **Mr. Chairman:** Three hours.

4 **Mr. Maharaj SC:** Yes.

5 **Mr. Chairman:** And what triggered them to believe that they might
6 be inside the pipe was the fact that Mr. Boodram came out of it?

7 **Mr. Maharaj SC:** Yes, Mr. Chairman.

8 **Mr. Chairman:** Thank you very much.

9 **Mr. Maharaj SC:** According to Paria, the video footage which it
10 obtained around midnight on Friday, 25th February, 2022 at 3.00 a.m.,
11 on Saturday 26th February, 2022 showed that there was equipment
12 and gear stuck in the pipeline. Paria also contends that the coast guard
13 and the dive companies it contacted declined to perform any rescue,
14 because they considered such an operation too risky. Paria also
15 explored the option of cutting the pipeline which it said would have
16 taken too long. At 5.00 p.m. on Saturday, 26th February, 2022, Collin
17 Piper, Incident Commander, and Mushtaq Mohammed General
18 Manager decided to move the operation to one of recovery.

19 **Mr. Chairman:** Sorry. What time is that?

20 **Mr. Maharaj SC:** Five fifteen p.m. on Saturday, 26th February.

21 **Mr. Chairman:** On the Saturday. Thank you.

22 **Mr. Maharaj SC:** The question which arises is whether reasonable
23 efforts were made by Paria and LMCS to rescue the five divers from
24 the pipeline. That is the efforts made before the rescue of Christopher
25 Boodram and the efforts made to rescue the four divers from the
26 pipeline after Christopher Boodram was rescued.

27 What I want to do now, Mr. Chairman, is to summarize some of

1 the other relevant evidence under the categories: pre-accident, the
2 accident and post-accident.

3 **Mr. Chairman:** Thank you. Pick your own moment when you think
4 it's appropriate to take a short break. All right?

5 **Mr. Maharaj SC:** Much obliged, Mr. Chairman. Pre-accident—and
6 this would—I would summarize the evidence about the Scope of
7 Works, Method Statement, Risk Assessments and Emergency
8 Response Plan.

9 The evidence shows that the Scope of Works for the contract
10 were developed and prepared by Paria. LMCS agreed with the Scope
11 of Works which was prepared by Paria. Paria also reviewed and
12 accepted LMCS' Method Statements for doing the works, the Risk
13 Assessments for the works, which were to be done by LMCS, and the
14 Emergency Response Plans for the works, in the event that any
15 emergency arose in LMCS doing the said works.

16 Prior to the contract to be entered into by Paria and LMCS
17 work, the scopes of the contract developed by Paria, there was a
18 tendering process which was conducted. Tenders were submitted and
19 Paria reviewed all the relevant documents, and then agreed for LMCS
20 to be the contractor for the works.

21 Sealine No. 36 had been out of service as its risers at Berths 5
22 and 6 had leaks. Works on the Sealine 36 section, at Berth 5 were
23 previously successfully undertaken by LMCS Limited in November
24 2020. The Scope of Works for the repair to the risers at Berths 5 and
25 6 on number 36 Sealine, I will refer collectively as to the project, was
26 prepared by Paria, using the 2020 Scope of Works. So, in effect, what
27 it seems that Paria did, it used the previous Scope of Works to

1 influence it in having the Scope of Works done for the subsequent job.

2 The Scope of Work for the project fit into three sections.
3 Section A related to the works which were being done on Friday, 25th
4 February. Section A was the works related to the change out of a
5 section of sub-sea riser and tying piping on Sealine No. 36 at Berth
6 No. 5 and Berth No 6. Paria then commenced the tendering process
7 by issuing an invitation to bid for the project by registered vendors,
8 and LMCS was one of the registered contractors.

9 LMCS tender bid included, among other things, a Method
10 Statement covering sections A to C, a Risk Assessment for each
11 section of the Scope of Works, and an Emergency Response Plan.
12 LMCS bid was found by Paria to be valid. It was reviewed by the
13 internal multi-department team comprising persons from Paria's
14 Health and Safety Executive, and maintenance and operations
15 department reviewed and accepted LMCS' Method Statement, Risk
16 Assessments, and Emergency Response Plan.

17 So Paria approved all the Risk Assessment done, all the Method
18 Statements and all the evaluations for the Emergency Response Plan.
19 On the 27th May, 2021, Paria's management tender's committee, then
20 approved the award of the contract for the project to LMCS. By
21 works and services purchase order number—dated 1st June, 2021,
22 Paria awarded the contract for the project to LMCS. According to
23 Paria, the works were governed by the purchase order and the
24 invitation to bid, and Paria's general conditions of contract dated the
25 10th May, 2021.

26 There was a previous incident on the 2nd June—and I'll just
27 mention this quickly. There was an accident on the 2nd July, 2021

1 resulting in an injury to LMCS employee during the fabrication of a
2 riser pile support at offshore services dock. OSHA issued a
3 prohibition notice to Paria, suspending all works on Sealine 36. After
4 the issues were addressed in the notice, OSHA lifted that prohibition
5 notice and works resumed in January 2022.

6 I will now deal with January/February 2022 when there was
7 removal of the liquid content from Sealine 36. The line contents of
8 the underwater pipeline between Berths 5 and 6 is an important issue
9 in this Enquiry. The absence of liquid content in the underwater
10 pipeline between Berths 5 and 6 is a relevant factor in determining
11 whether LMCS and/or Paria was responsible for the latent Delta P
12 situation, which became active when the inflatable plug was being
13 removed from the pipeline.

14 The first relevant aspect of Section A of the Scope of Works
15 involved the removal of the liquid content of Sealine 36. The exercise
16 was done from January to February 2022 over a period of time by air
17 blowing. This was done in two phases. The first phase involved the
18 liquid content being removed from the topside piping which was
19 above sea level and the removal of the tying piping between the
20 topside piping and the riser which is below sea level.

21 The second phase involved the removal of the second the liquid
22 from the underwater pipeline between Berths 5 and Berths 6.

23 In relation to the removal of liquid content, LMCS submitted a
24 Method Statement and a Job Hazard Analysis in relation to each phase
25 of that process. Paria also issued a work instruction for clearing of the
26 Sealine between Berth No. 5 and Berth No. 6.

27 According to LMCS' evidence based on its Method Statements,

1 the entire content of the topside piping was removed. With respect to
2 the underwater pipeline between Berths 5 and 6, the evidence of
3 LMCS is that the entire contents were not removed. LMCS says that
4 it only removed enough content in the riser at Berth 6 to achieve a 30-
5 feet ullage in that riser.

6 **11.34 a.m.:**

7 According to the Scope of Works prepared by Paria, however, Paria
8 required that line to be clear, and dry and I'll give the reference to
9 this, Addendum I at CD 598.

10 It is submitted that an issue which arises for determination
11 includes how much of the contents of the pipeline between Berths 5
12 and 6 was removed by LMCS and what was the contractual
13 understanding of Paria and LMCS as to the amount of the contents of
14 the pipeline to be removed. It is also submitted that the volume of the
15 liquid contents in the pipeline between Berths 5 and 6 at the time
16 when the inflatable plug was being deflated, is relevant for the
17 Commission to determine whether a latent differential pressure hazard
18 existed having regard to the method of removal of the line contents
19 and the quantity of the removal of the liquid contents of the
20 underwater pipeline between Berths 5 and 6.

21 I now go to the 13th of February, 2022 when there was the
22 installation of the plugs and the habitat. After the removal of the line
23 contents, the next task at Berth 6 was the installation of the plugs and
24 the habitat. This was necessary because the change-out of the riser at
25 Berth 6 was to be done below sea level from within the habitat. The
26 installation of the plugs and habitat was done on or about the 13th
27 offer February, 2022. According to LMCS, the inflatable plug, and

1 we have seen that photograph, was installed just above water level in
2 the riser at Berth 6 and the mechanical plug was installed above the
3 inflatable plug. The habitat was then installed over the riser at Berth
4 6.

5 The purpose of both plugs was to maintain a safe area for hot
6 works in the habitat. The plugs would prevent hydrocarbon vapours
7 from migrating into the habitat, and, at the same time, prevent molten
8 metal from the welding from falling into the pipeline. The plugs are
9 referred to as a migration barrier. We have seen the habitat and we
10 have already shown that it's tube-shaped at the bottom of the
11 enclosure and it's pumped with air with a compressor to permit the
12 divers to breathe and also a water-free environment. According to
13 LMCS' evidence, LMCS wanted to complete the subsea works within
14 a four-day window from the installation of the plugs to the completion
15 of the works. There is no dispute on the evidence so far as to the tasks
16 conducted on the 13th of February, 2022.

17 I now go to the 15th of February, 2022 which was the cutting of
18 the old part of the riser and the welding on of the slip-on flange. On
19 the 15th of February, 2022, the divers entered the habitat and cut the
20 defective part of the riser to be removed. The part of the riser which
21 was cut was lifted up approximately 4 feet within the stovepipe of the
22 habitat and secured with slings connected to a crane. A slip-on flange,
23 a ring placed over the pipe, would have been welded on the riser
24 where the cut had been made and a dive penetrant test performed on
25 the weld. A planned pressure test was deferred to the 17th of
26 February and a blind flange cover was installed in the meantime.
27 Also, there does not appear to be any dispute so far as to what was

1 conducted, what tasks were conducted on the 15th of February, 2022.

2 The 17th of February, 2022: work could not proceed on the
3 17th of February, 2022 as Paria suspended all works due to LMCS
4 mobilizing a barge to go to berth 6 while LMCS was waiting on
5 permits to work to be issued for work to be done that day. Again, no
6 dispute on the facts so far. I now come to that date, the 25th of
7 February, 2022. I wonder whether this may be a convenient time.

8 **Mr. Chairman:** It would be a very—

9 **Mr. Maharaj SC:** Good.

10 **Mr. Chairman:** —convenient time, thank you very much. All right,
11 we'll adjourn for, um—I've got 20 to 12.00. Shall we say twelve
12 o'clock?

13 **Mr. Maharaj SC:** Much obliged.

14 **Mr. Chairman:** Twelve o'clock? Very good. Thank you.

15 **11.38 a.m.:** *Commission suspended.*

16 **11.58 a.m.:** *Commission resumed.*

17 **Mr. Chairman:** Thank you. Mr. Gilbert Peterson—

18 **Mr. Peterson SC:** Yes.

19 **Mr. Chairman:** —I've been told that—

20 **Mr. Peterson SC:** Yes, we have an update.

21 **Mr. Chairman:** —you have a couple of options.

22 **Mr. Peterson SC:** Yes, Mr. Chairman, I have used my limited art of
23 persuasion and leaned on Paria to adjust the, um—

24 **Mr. Chairman:** You're being modest.

25 **Mr. Peterson SC:** —and we got Wednesday morning clear to, um—
26 but I must say, Sir, from speaking with everyone, there seemed to
27 have been a misunderstanding as to the cancellation of tomorrow

1 previously.

2 **Mr. Chairman:** Right.

3 **Mr. Peterson SC:** What we had—there is a great need for the repairs
4 on some of the lines—

5 **Mr. Chairman:** Right.

6 **Mr. Peterson SC:** —and I advised the client I did not want them
7 touching the infrastructure until the Commission had the opportunity
8 to view the structure.

9 **Mr. Chairman:** Right.

10 **Mr. Peterson SC:** So we were applying to bring forward your visit
11 so that we could commence the needed repairs.

12 **Mr. Chairman:** Well, we have—

13 **Mr. Peterson SC:** And then it was in the—yes. We—I spoke with
14 Counsel for the Commission and seeing that we were all of a
15 misunderstanding that the request to bring brought forward was a
16 cancellation of the 22nd.

17 **Mr. Chairman:** Right.

18 **Mr. Peterson SC:** So I just, um, leaned on Paria to clear the course
19 for Wednesday morning.

20 **Mr. Chairman:** Right.

21 **Mr. Peterson SC:** I am of the view, Sir, that it would be more useful
22 if the Commission were to visit prior to a lot of the evidence and
23 cross-examination and—

24 **Mr. Chairman:** Wednesday morning?

25 **Mr. Peterson SC:** Wednesday morning.

26 **Mr. Chairman:** Well, can I say for me that would be okay? I'm
27 particularly anxious not to disturb Mr. Boodram's evidence.

1 **Mr. Peterson SC:** Yeah, which is tomorrow.

2 **Mr. Chairman:** Yes, which is tomorrow. It's fine.

3 **Mr. Peterson SC:** Yeah, that's why—yeah, I thought of that too, Sir.
4 That's why I didn't press for tomorrow.

5 **Mr. Chairman:** The only other concern I have, because obviously
6 I'm here anyway, the other concern I have is that there have been a
7 number of people who have expressed an interest in being present,
8 and here I'm dealing really with the logistics of it because the position
9 is this. Those who've expressed an interest in attending, together with
10 the Commissioners, are now in excess of the 10 that you placed by
11 way of a limit. Right? First of all, I need to ask you whether or not
12 that can be increased by at least a couple or so.

13 **Mr. Peterson SC:** The English couple of two—of—a couple—

14 **Mr. Chairman:** An English couple of two, yes.

15 **Mr. Peterson SC:** Yes.

16 **Mr. Chairman:** Because the difficulty is that I don't want to bar any
17 particular team from coming.

18 **Mr. Peterson SC:** Yes.

19 **Mr. Chairman:** I can limit them to one. [*Commissioners confer*]
20 Sorry, yes.

21 **Mr. Peterson SC:** We were just trying to get some instructions. I
22 think Paria is saying it's a matter of security and it being a port and I
23 think that's what—that—they have a formula that they arrived at to
24 fix the number.

25 **Mr. Chairman:** Yes. Look, I understand, there's a need to do all of
26 that. I just wondered whether or not it's an inflexible number. If
27 you're suggesting it is inflexible we cannot have any more than 10,

1 and if that is the case we'll have to think about how we're going to
2 arrange that—

3 **Mr. Peterson SC:** Yes.

4 **Mr. Chairman:** —who I permit and don't permit to come. Secondly,
5 I don't know whether any of those who've expressed an interest to
6 come are going to be available on Wednesday, because obviously we
7 told them that it was not going to be tomorrow and that it will be a
8 date set, so they would have to think about that and let us know.
9 There are also issues, as I understand it, with things like cameras.

10 **Mr. Peterson SC:** Yes, Sir, because there—

11 **Mr. Chairman:** Meaning what, that he can't take a camera, or, do
12 we have to make sure that whatever camera we take is secure so that it
13 doesn't cause a spark or something of that kind?

14 **Mr. Peterson SC:** Well I know that when I visited I was instructed to
15 leave my cell phone in my vehicle.

16 **Mr. Chairman:** Yeah, well I'm perfectly happy to not bring the cell
17 phone but, I mean, it may be that one way of dealing with the issue of
18 the numbers being there that there's a sort of live feed or a filming of
19 it so that people can watch it—and I see your colleague shaking his
20 head. Well, I do note from the evidence that there was an awful lot of
21 camera going on during the course of the events that took place upon
22 which we are now discussing. It doesn't seem to have caused any
23 particular difficulty on that day. I just wondered whether or not we're
24 being a little overly cautious, and I do invite you to consider whether
25 it was possible, assuming that there is some sort of camera that can be
26 obtained, that will not cause the problems that you're concerned
27 about.

1 **Mr. Peterson SC:** We'll take instructions on that whilst, um, my
2 colleague, Mr. Maharaj—

3 **Mr. Chairman:** I'm the last person to want to be there, if there's
4 going to be a problem.

5 **Mr. Peterson SC:** Right.

6 **Mr. Chairman:** —be assured of that. But it does seem to me that
7 we're being a little overly cautious in a circumstance where we know,
8 as a matter of fact, that on the day and on other days there's been both
9 footage of it, there's been cameras taken, people were using their
10 mobile phones. And I'm not encouraging that. I'm simply asking
11 whether or not a limited version of the filming might be done by
12 someone who can perhaps put their camera in a cloak or something or
13 prevent that possibility. I, I, I—

14 **Mr. Peterson SC:** We'll take further instructions on that, Sir. I had
15 only spent the time cracking the whip, so to speak, to clear
16 Wednesday.

17 **Mr. Chairman:** All right. Well, all those who had expressed an
18 interest in attending, can you look at your diaries and see whether or
19 not that is—it's possible that we don't sit on that day but that we
20 attend this view on Wednesday? I have in mind at the moment to
21 limit each team to one person. I mean, obviously us two have to be
22 there. We will need someone to keep some sort of record and then
23 does this 10 include you?

24 **Mr. Peterson SC:** No, Sir. I don't need to attend.

25 **Mr. Chairman:** You're not coming?

26 **Mr. Peterson SC:** No, Sir.

27 **Mr. Chairman:** All right.

1 **Mr. Peterson SC:** Not that I would not enjoy the company of the
2 Commission, but—

3 **Mr. Chairman:** All right.

4 **Mr. Peterson SC:** —in order to keep the numbers—

5 **Mr. Chairman:** You've been already; I take it?

6 **Mr. Peterson SC:** In order to keep the numbers down, Sir, I
7 declined—

8 **Mr. Chairman:** Yes.

9 **Mr. Peterson SC:** —and I have been there before.

10 **Mr. Chairman:** All right. All right. Well, that's helpful. All right,
11 so we'll revisit this perhaps before the end of the day, then, please.
12 No one could just look at making sure that that's something they can
13 achieve and perhaps liaise with Sarah Sinanan behind me who can
14 make the arrangements.

15 **Mr. Peterson SC:** Yes, Sir.

16 **Mr. Chairman:** So, for the moment tentatively, yes, please, we'll go
17 on Wednesday.

18 **Mr. Peterson SC:** Thank you, Sir.

19 **Mr. Chairman:** Can I ask what he ought to be wearing? I'm not
20 good at attire on barges. But, um, can I—

21 **Mr. Peterson SC:** No, Sir, I think that's another thing. They might
22 be supplying—yeah, that's another thing. They were supplying PPE.

23 **Mr. Chairman:** Yes.

24 **Mr. Peterson SC:** And I got them to special order something for
25 about 6 feet 6 for you, Sir, and—size shoes—

26 **Mr. Chairman:** Well I'm tall.

27 **Mr. Peterson SC:** But, um, there will be supplied PPE for the

1 persons, so that's another thing.

2 **Mr. Chairman:** All right, yes. All right, good. Well then I shall
3 wear a—

4 **Mr. Peterson SC:** And PPE includes goggles, boots, coverall and
5 hard hats.

6 **Mr. Chairman:** All right, good. Thank you very much. Well we'll
7 revisit this at the end of the day, then. Thank you very much. Mr.
8 Maharaj.

9 **Mr. Maharaj SC:** Much obliged.

10 **Mr. Chairman:** You can bring your own hard hat if you like.

11 **Mr. Maharaj SC:** I wondered whether my learned friend is afraid of
12 the sea so he does not want to go in that vicinity.

13 **Mr. Chairman:** You mean like you are? [*Laughter*] Yes. All right,
14 thank you.

15 **Mr. Maharaj SC:** Okay. Mr. Chairman, I was discussing a
16 summary of the evidence pre-accident and then I had reached on the
17 date of the accident itself, the 25th of—

18 **Mr. Chairman:** Yes. There was something I just wanted to ask you
19 about that, please? Can you just tell me the date on which the plugs
20 were put in?

21 **Mr. Maharaj SC:** Plugs were put in on the 13th of February.

22 **Mr. Chairman:** The 13th of February?

23 **Mr. Maharaj SC:** February. And the habitat was also installed on
24 that day.

25 **Mr. Chairman:** Sorry, let me just make a note of that. Thirteenth of
26 February, plugs inserted.

27 **Mr. Maharaj SC:** And the habitat also.

1 **Mr. Chairman:** Did the habitat go on before the plugs?

2 **Mr. Maharaj SC:** After the plugs. After the plugs.

3 **Mr. Chairman:** So—after the plugs. Thank you very much.

4 **Mr. Maharaj SC:** And on the 15th the cut part of the riser was lifted
5 up.

6 **Mr. Chairman:** Yes, I got that.

7 **Mr. Maharaj SC:** So I come to the 25th of February—

8 **Mr. Chairman:** Thank you.

9 **Mr. Maharaj SC:** —and the work plan on the 25th of February. The
10 evidence shows that LMCS contends that the work plan for Friday,
11 the 25th of February, 2022 included the removal of both plugs. Paria,
12 however, disputes that the removal of both plugs was authorized to be
13 removed on that day because it contends that the work permit stated
14 that a migration barrier were to be used. Paria contends that the plugs
15 were to be removed after the habitat was removed. LMCS contends,
16 however, that at all material times it was the understanding between
17 LMCS and Paria that the work plan included the removal of the plugs
18 before the replacement riser was connected.

19 **Mr. Chairman:** Well this is the crucial issue, isn't it?

20 **Mr. Maharaj SC:** That's the crucial issue.

21 **Mr. Chairman:** Yeah it is. And are you going to address the
22 question of monitoring of that?

23 **Mr. Maharaj SC:** Yes, yes.

24 **Mr. Chairman:** Thank you.

25 **Mr. Maharaj SC:** On the morning of Friday, the 25th of February,
26 2022 Paria issued four permits to work. The main permit to work is
27 permit number 9320 which is in relation to the maintenance works to

1 be conducted on the pipeline. On that morning the evidence of LMCS
2 shows that it conducted a toolbox meeting where a safety talk was
3 given by LMCS safety officer Mr. Victor Dhillpaul and that Mr.
4 Kazim Ali Jr. also addressed the divers on safety as well as the job
5 to be done. According to the toolbox meeting form Andrew Dopson
6 and Houston Majardsingh of Paria were also present on behalf of
7 Paria. According to the evidence of LMCS, the work plan for that day
8 included first the removal of the plugs, then the connection of the
9 replacement riser.

10 Paria disputes that the work plan for that day included the
11 removal of the plugs. It contends that the removal of the plugs was
12 not authorized by it on this day in the permit to work. Paria points out
13 that the permit to work states that the migration barrier was to be used
14 for the works referred to in the permit to work. It contends that the
15 plugs were to be removed topside, that is, not in the habitat. It was to
16 be removed after the habitat was removed.

17 **Mr. Chairman:** Was this discussed in the toolbox meeting?

18 **Mr. Maharaj SC:** Well, according to LMCS.

19 **Mr. Chairman:** According to them it was, according to Paria it
20 wasn't?

21 **Mr. Maharaj SC:** We don't have the evidence from Paria.

22 **Mr. Chairman:** Ah, yes, because we haven't been able to interview
23 them. Sorry.

24 **Mr. Maharaj SC:** And it may be because we didn't get a chance to
25 interview the witnesses yet.

26 **Mr. Chairman:** Those witnesses at the time?

27 **Mr. Maharaj SC:** Yes.

1 **Mr. Chairman:** Yes. Well we'll hear from them in due course.
2 Lastly this. The toolbox meeting, that is a sort of standard type of
3 meeting between the various interested parties before the works are
4 carried out, is that right?

5 **Mr. Maharaj SC:** Yes.

6 **Mr. Chairman:** And what is the purpose of this toolbox meeting?
7 It's that odd phrase? You know? What is it about?

8 **Mr. Maharaj SC:** As I understand it, Mr. Chairman, it is for the
9 persons who are involved in the works and all the important people
10 who are associated with the works—

11 **Mr. Chairman:** Right.

12 **Mr. Maharaj SC:** —for it to be discussed, questions to be asked and
13 for it to be discussed exactly what is going on.

14 **Mr. Chairman:** Do they discuss safety issues, do they discuss—
15 what, what—both the programme of work and the safety issues? Is
16 that what they do?

17 **Mr. Maharaj SC:** I would—yes, yes, yes.

18 **Mr. Chairman:** That is—is that the purpose of it?

19 **Mr. Maharaj SC:** Yes.

20 **Mr. Chairman:** Right. Sorry, I think Mr. Wilson had a question.

21 **Commissioner Wilson:** I heard that there were two personnel on
22 behalf of Paria. Were their roles and responsibilities identified for
23 why they were there?

24 **Mr. Maharaj SC:** Not on the form, and we were expecting to
25 explore those things when they come in the box.

26 LMCS, on the other hand, contends that at all material
27 times it was the understanding between Paria that the work plan

1 included removal of the plugs before the replacement riser was
2 connected. It also said that the permit to work form does not have
3 enough space for every task to be written on it and that is why the
4 Method Statement for the works was attached to the permit to work
5 form, and I could give the reference to that, supplemental witness
6 statement of Ali Sr. at paragraph 78. The Method Statement attached
7 to the permit to work identified that the work method entail first
8 removing the plugs before the riser replacement is connected to the
9 existing pipeline.

10 **Mr. Chairman:** This Method Statement actually says that, does it?

11 **Mr. Maharaj SC:** Yes. It said that. It expressly stated that.

12 **Mr. Chairman:** And that's attached to the method of works?

13 **Mr. Maharaj SC:** Attached to the work permit.

14 **Mr. Chairman:** The work permit?

15 **Mr. Maharaj SC:** And that is not disputed on the evidence so far.

16 **Mr. Chairman:** Right, thank you.

17 **Mr. Maharaj SC:** Paria, however, contends that this Method
18 Statement was expressly accepted by LMCS to be subject to its permit
19 to work system, but Paria is saying that since the permit to work has
20 on it that it is subject—that notwithstanding that this was attached to
21 it, it means that it should not be done and priority should be given to
22 what is on the permit to work permit.

23 **Mr. Chairman:** Do we know what—well, what's the point of
24 attaching that document to the permit to work to it—

25 **Mr. Maharaj SC:** Well, well, Mr. Chairman, we were hoping to
26 explore all of that when Mr. Wei comes into the witness box.

27 **Mr. Chairman:** Sorry, I'm doing that which I have been imploring

1 others not to, jumping the gun.

2 **Mr. Maharaj SC:** We are in the same boat you are in, Chairman.

3 **Mr. Chairman:** All right, sorry.

4 **Mr. Maharaj SC:** Also, the evidence of Christopher Boodram was
5 that the work plan was discussed at the toolbox meeting on the
6 morning of the 25th of February, 2022 and included the removal of
7 the plugs to be done that day, and his evidence is WSB 1569
8 paragraph 22. It is therefore submitted that an issue arises therefore as
9 to what was the authorized work plan on Friday, the 25th of February,
10 2022. At another stage in my presentation I'll deal with the person
11 from Paria who was monitoring the works when the works were being
12 done, Mr. Chairman.

13 **Mr. Chairman:** Right.

14 **Mr. Maharaj SC:** The accident itself: according to the evidence of
15 Christopher Boodram, the following occurred after the safety meeting.
16 He, together with Fyzal Kurban, Rishi Nagassar and Yusuf Henry
17 entered the cube of the habitat. In the habitat, he and Yusuf Henry put
18 up a chain block, like a manual crane, to be able to lift up the blank
19 flange as it is half inches thick and about 150 to 200 pounds. Also,
20 they were working at chest height level in relation to the 30-inch
21 diameter pipeline. The inside of the pipeline was exposed so they
22 could have seen the mechanical plug in the pipeline.

23 Before the mechanical plug was removed, he exited the
24 habitat to check whether the CARBER testing was completed on
25 Berth 5. This was confirmed. He then went back into the habitat and
26 he and Yusuf unbolted the mechanical plug so that the CARBER
27 testing could be done. This was about 11.30 a.m. Pressure testing

1 was to be done with a CARBER plug but this equipment could not be
2 installed as Fyzal said it was too small.

3 The divers then went for lunch whilst Paria and LMCS
4 discussed the issue with the CARBER plug. Paria eventually made a
5 decision to cancel the CARBER testing and this has not been denied
6 by LMCS or Paria. On the contrary, it has been admitted. After
7 lunch, the divers, Fyzal, Yusuf, Rishi and Christopher, returned to the
8 habitat, and, as the inflatable plug was being deflated, Kazim Jr.
9 entered, the habitat started filling up rapidly with water and
10 Christopher described as a feeling like a tornado as the men were
11 sucked into the pipe.

12 Important part of this Enquiry, Mr. Chairman, is what
13 happened after the accident, and therefore I will now summarize
14 LMCS' response on the 25th and the 26th of February to the accident
15 itself and then I will summarize Paria's response. I'll put them in two
16 compartments, the rescue efforts made before Christopher Boodram
17 came out of the pipeline and the rescue efforts which were made after.
18 So LMCS' rescue efforts made before the rescue of Christopher
19 Boodram, the summary is as follows.

20 At about 2.45 p.m. on Friday, the 25th of February,
21 Andrew Farah, LMCS diver supervisor, observed a splash of water on
22 the screen—that is the screen which monitors what was happening—
23 in which he had been monitoring the works from topside, and then the
24 screen went black. He then searched the water around Berth 6 and
25 also entered the habitat. He observed that the men were missing from
26 the habitat and there was water in the riser about three to four feet
27 below the top of the pipeline. He concluded that the men were

1 probably in the pipeline.

2 At about 3.20 p.m., Kazim Ali Sr. arrived at Berth 6. He
3 also accepted that the men were in the pipeline and assumed that if
4 they were alive and each had a dive cam he estimated that they would
5 have lived for about one hour. Kazim Ali Sr., Dexter Guerra, who
6 was LMCS' supervisor, and Andrew Farah made a simple rescue plan
7 to be immediately implemented to rescue the men utilizing scuba
8 equipment.

9 The plan was that, one, Andrew Farah, a commercial
10 diver, would go in the pipeline, feet first, with an extra set of diving
11 gear. Two, Dexter Guerra would stay at the top in the habitat. Three,
12 Andrew Farah would be connected to a rope or a tagline which he
13 would use to communicate with Dexter Guerra who would assist to
14 pull him back up in the riser. Four, Andrew Farah also called
15 commercial diver Conrad Beddoe for commercial surface air supply
16 equipment and told him to call whoever else he could to make their
17 way down to Paria. The rescue plan was discussed with Paria
18 personnel present but Paria personnel kept on saying that LMCS had
19 to get permission from the management team of Paria, that the permits
20 to work were pulled by Paria and LMCS was not allowed to enter the
21 pipeline or dive.

22 Andrew Farah was then told that Collin Piper of Paria
23 wanted to have a meeting with him. He then left to go to meet Mr.
24 Piper. At about 4.20 p.m., knocking and shouting was heard coming
25 from inside the habitat.

26 **Mr. Chairman:** What time?

27 **Mr. Maharaj SC:** Four twenty p.m. Around this time, certified

1 commercial divers Michael Kurban, son of Fyzal Kurban, Corey
2 Crawford and Ronald Ramoutar arrived and they were preparing to
3 enter the water to attempt a rescue. Andrew Farah also returned to
4 Berth number 6, having turned around from going to meeting with
5 Collin Piper, upon him being informed that Dexter Guerra—um,
6 informed by Dexter Guerra of the knocking in the habitat. Paria's
7 representative present at Berth 6 stated that no one was to dive in the
8 pipeline but LMCS' Andrew Farah and Dexter Guerra told the Paria
9 representative they could not leave the men there.

10 Corey and Ronald then entered the habitat for that
11 purpose and found Christopher Boodram at the top of the riser. They
12 rescued him from the pipeline from the top of the riser. Christopher
13 told them that Fyzal was right behind him and the other divers were
14 alive in an air pocket. Michael says that Christopher was rescued at
15 about 4.30 p.m.

16 **Mr. Chairman:** Can I understand a little about that, please? Mr.
17 Boodram describes in his statement how he made his way to the sur—
18 up the pipe and that he was unable to climb out of the pipe himself. Is
19 that correct?

20 **Mr. Maharaj SC:** Correct.

21 **Mr. Chairman:** He was both exhausted, injured and of course the
22 pipe was very slippery. He was hanging, I believe, by a chain.

23 **Mr. Maharaj SC:** Chain.

24 **Mr. Chairman:** And he was hanging down—

25 **Mr. Maharaj SC:** He was holding on to a chain.

26 **Mr. Chairman:** —as long as he possibly could.

27 **Mr. Maharaj SC:** As long as he possibly could.

1 **Mr. Chairman:** Had there been no one in that habitat to pull him
2 out—

3 **Mr. Maharaj SC:** Not at that time.

4 **Mr. Chairman:** —what would have happened?

5 **Mr. Maharaj SC:** But what happened was that Kurban and the
6 other—well, Kurban—not Kurban, Ronald Ramoutar and Corey
7 Crawford, there was knocking and they attempted to go to—about the
8 knocking and that is how they went in the habitat—

9 **Mr. Chairman:** Right.

10 **Mr. Maharaj SC:** —as I understand it.

11 **Mr. Chairman:** But for them being in the habitat, he would have
12 been still hanging there for as long as he could—

13 **Mr. Maharaj SC:** Yes. Well, he could—

14 **Mr. Chairman:** —and then he might have fallen back away.

15 **Mr. Maharaj SC:** Yeah, he would have ultimately fell if no one had
16 gone.

17 **Mr. Chairman:** And they, they went in—

18 **Mr. Maharaj SC:** And they were—

19 **Mr. Chairman:** —defying those who were saying, “You shouldn’t”?

20 **Mr. Maharaj SC:** Yeah, and they rescued him.

21 **Mr. Chairman:** And that was as a result of knocking that they
22 heard?

23 **Mr. Maharaj SC:** Yes, knocking and shouting.

24 **Mr. Chairman:** And shouting.

25 **Mr. Maharaj SC:** Apparently, from Boodram’s evidence he was
26 knocking—

27 **Mr. Chairman:** And shouting.

1 **Mr. Maharaj SC:** —and he was shouting.

2 **Mr. Chairman:** Thank you very much.

3 **Mr. Maharaj SC:** Right. Now I deal with the rescue efforts from
4 LMCS' point of view after the rescue of Christopher Boodram. In the
5 light of Christopher being rescued from the pipeline and what
6 Christopher said about the other divers, Corey, Ronald, Andrew and
7 Dexter, again discussed the plans to rescue the other divers. The
8 originally formulated rescue plan utilizing scuba equipment was
9 revised in that Michael, assisted by Corey and Ronald, would enter
10 the pipeline instead of Andrew being the one to go into the pipeline
11 assisted by Dexter. Paria's representative again indicated to LMCS
12 personnel that Paria's management said they could not dive but
13 LMCS took the position that they had to attempt a rescue because they
14 knew that the men were alive based on what Christopher had stated.

15 Michael, Ronald and Corey then went into the habitat.
16 Corey and Ronald assisted Michael into the riser utilizing scuba
17 equipment. Michael reached the elbow inside the pipeline and entered
18 the horizontal section of the pipeline for about 10 to 15 feet, which as
19 far a hundred feet—which was as far his hundred feet airline could
20 have permitted him to go. Michael retrieved one empty tank, left
21 another in the pipeline as it still contained some air, in the event that
22 one of the divers needed it.

23 Around 5.45 p.m., certified commercial diver, Conan
24 Beddoe, arrived with his equipment, tanks and other gear to give
25 assistance. The rescue plan was then revived in that Conan would be
26 the one entering the pipeline, with scuba equipment, and Michael and
27 Ronald would be tending him with the line whilst he was in the

1 pipeline. According to Conan he, Michael and Ronald entered the
2 habitat, that Michael didn't appear to Conan to be in sound mind to
3 properly tend him, so Conan made a decision to wait until his brother,
4 Conrad, came so they could have commercial service supply air to use
5 for the dive and would not be long before he arrived. The coast guard,
6 however, told LMCS personnel to stand down and that no one was
7 allowed to go into the pipeline. Some of the coast guard officers
8 present had weapons, according to LMCS' evidence.

9 At about 6.30 p.m. Conan's brother, Conrad Beddoe,
10 arrived with commercial surface supply equipment. The rescue plan
11 was now modified so that Conan could enter with commercial service
12 supply equipment. About 7.30 p.m., approximately two other dive
13 support vessels arrived with additional commercial equipment to
14 assist with the rescue. Andrew Farah, Dexter Guerra and Michael
15 Kurban, according to their evidence, kept trying to convince Paria's
16 representatives present at Berth 6 to let them conduct a rescue and
17 they gave them the details of the rescue plan and the resources which
18 were available to them to do the rescue. They were back and forth
19 with Paria's representatives. The Paria representatives kept telling
20 him that they would rely—that they were going to relay their request
21 to their superiors and that they would report that they did not have—
22 and they reported that they did not have permission and they had to
23 stand down. Andrew Farah—

24 **Mr. Chairman:** Can I just, again, before you move on, two things.
25 So, it was—ultimately it was Paria who was saying stand down on
26 that revised plan?

27 **Mr. Maharaj SC:** Yes.

1 **Mr. Chairman:** Until they got—

2 **Mr. Maharaj SC:** According to the evidence.

3 **Mr. Chairman:** According to the LMCS, I appreciate that, but that's
4 as the evidence is at the moment?

5 **Mr. Maharaj SC:** Yes.

6 **Mr. Chairman:** And so it was, it was—well it was their pipeline,
7 they were saying stand down.

8 **Mr. Maharaj SC:** And they—

9 **Mr. Chairman:** —until they'd reported, until they—

10 **Mr. Maharaj SC:** —and, and they had pulled the work permits.
11 They had pulled the work permits.

12 **Mr. Chairman:** Right.

13 **Mr. Maharaj SC:** Paria had pulled the work permits from LMCS.

14 **Mr. Chairman:** Right, so they couldn't do anything at that point.
15 Right. The second thing is this: you said earlier that the coast guard
16 had told those LMCS potential rescuers also to stand down.

17 **Mr. Maharaj SC:** Yes. They said they had instructions from Paria
18 to.

19 **Mr. Chairman:** They said what, sorry?

20 **Mr. Maharaj SC:** They said they had instructions to prevent them.

21 **Mr. Chairman:** Well, what authority does the coast guard have in
22 this circumstance?

23 **Mr. Maharaj SC:** Well, the only authority I could think of that they
24 had instructions from Paria and I think that is the evidence. It is
25 subject to we reviewing it again but I think that is just it. Am I
26 correct? [*Mr. Maharaj SC confers with Mrs. Maharaj*] Yeah, as a
27 matter of fact, my learned Jr., Mrs. Maharaj, reminds me that it's

1 Paria's evidence that they gave the instructions to the coast guard.

2 **Mr. Chairman:** Right, so they, they were utilizing—

3 **Mr. Maharaj SC:** Yeah.

4 **Mr. Chairman:** —the coast guard to secure their site?

5 **Mr. Maharaj SC:** Yes.

6 **Mr. Chairman:** Thank you very much.

7 **Mr. Maharaj SC:** And Mr. Hargreaves, Lieutenant Hargreaves, in
8 his witness statement he admitted that he got instructions from Paria.
9 And he was the head of the coast guard.

10 **Mr. Chairman:** Right. So he says that that's what he was asked to
11 do by Paria. I mean, again, as I say, it's their site and they're entitled
12 to utilize such security as they thought appropriate.

13 **Mr. Maharaj SC:** Yes.

14 **Mr. Chairman:** But it was on their request that the coast guard were
15 exercising their authority, as they saw it, over the LMCS divers.

16 **Mr. Maharaj SC:** Based on LMCS' evidence.

17 **Mr. Chairman:** Yes.

18 **Mr. Maharaj SC:** And based on what Paria said Hargreaves,
19 Lieutenant Hargreaves said.

20 **Mr. Chairman:** Well, it's, it's—I mean, if Mr. Hargreaves is saying
21 that that's what happened, it's not just then LMCS' evidence, then, is
22 it?

23 **Mr. Maharaj SC:** Yes, it's LMCS' evidence but also Hargreaves'
24 evidence.

25 **Mr. Chairman:** All right. Again, well we'll hear from Paria of
26 course.

27 **Mr. Maharaj SC:** Yes, yes. And I'll be going through what Paria

1 has said as part of it.

2 **Mr. Peterson SC:** Mr. Chairman, I'm sorry to, I'm sorry, really sorry
3 to do this, but I can't leave what I respectfully consider to be
4 inaccuracies to go viral against—I will be failing in my duty.

5 **Mr. Chairman:** Right.

6 **Mr. Peterson SC:** I don't understand officer Hargreaves to be saying
7 that, and when one speaks just short of giving the rationale with
8 respect to anything that may have been said, all the statements are
9 pregnant with references as to the advice and the lack of knowledge as
10 to the conditions within the pipe. It's not just not to dive coldly with
11 persons possibly in the pipe. Those are inaccuracies, with the greatest
12 of respect.

13 **Mr. Chairman:** Well, I hear what you say, Mr. Gilberterson [*Sic*] and
14 of course your clients, um, many of the witnesses that are yet to come
15 to give evidence will be able to deal with this—

16 **Mr. Peterson SC:** Yes, Sir.

17 **Mr. Chairman:** —this issue. And I hope that it is clear to everyone
18 that what is being summarized by Mr. Maharaj at this stage is really
19 the evidence of LMCS which may or may not be accepted by these
20 Commissioners, including myself, in due course.

21 **Mr. Peterson SC:** Sir—

22 **Mr. Chairman:** It is simply outlining what they are saying was the
23 position, coupled with Mr. Hargreaves who was the coast guard or in
24 charge of, it is our understanding, who was saying that that's the
25 instruction that he was given. Is there anything wrong with that?

26 **Mr. Peterson SC:** Well, nothing is wrong, Sir, with what is ascribed
27 to LMCS as their evidence at this stage.

1 **Mr. Chairman:** That's right.

2 **Mr. Peterson SC:** But, my recollection of Mr. Hargreaves' statement
3 doesn't go as far as it's being released now, and, with respect, the fact
4 that the evidence is to come, impressions are being created and one
5 may—and first impressions are what tend to remain.

6 **Mr. Chairman:** Of course.

7 **Mr. Peterson SC:** And I think my client's image, if nothing else, at
8 this stage is potentially prejudiced by the way the evidence is being
9 summarized, with respect. I could be wrong, it wouldn't be my first
10 time, but—

11 **Mr. Chairman:** I hope that we—we'll be hearing in due course from
12 Mr. Maharaj the summary of the position so far as Paria is concerned
13 at the moment.

14 **Mr. Peterson SC:** Yes, Sir. And since I have your ear, I intended to
15 address it. It had been put out earlier this morning that my clients,
16 Paria and Heritage, refused to be interviewed. That was the end
17 position but that's not the whole story. There was a lot of exchanges
18 and rationale and offers to give supplemental statements in areas that
19 the Commission requires clarification, but what was put out there this
20 morning, Sir, is that was—there was a blanket mere refusal by Paria
21 and Heritage, which, with the greatest of respect, is not accurate.

22 **Mr. Chairman:** Right. Well, I don't necessarily accept that. I have
23 seen the correspondence and the net result was that there was a
24 blanket refusal by all of the staff not to be permitted to be interviewed
25 by my team, and where—how we got there, it seems to me, not
26 particularly important. What's important is that we had sought to try
27 and save time and to ensure a balance of the material at this stage,

1 and, for reasons which I suspect are either tactical, or, for time
2 reasons, you decided not to permit any of the witnesses to give that
3 additional material.

4 **Mr. Peterson SC:** Sir, with respect, that's not the entire picture. We
5 were trying to assist the Commission by even ascertaining how are
6 those interviews going to be categorized. We said the public will not
7 be privy to those interviews and we took your opening at a previous
8 hearing that the public should be kept in the loop on this, so one of our
9 positions was what would be the status of that private interview. We
10 gave statements. We thought the next hearing is that persons will be
11 questioned so that the public could see all the evidence, and that's
12 there we were at, Sir.

13 **Mr. Chairman:** Mr. Gilbert—

14 **Mr. Peterson SC:** It was not a blanket refusal.

15 **Mr. Chairman:** Right, well, Mr. Gilbertson, it would be [*Inaudible*]
16 of us to determine whether it is or not. You will have an opportunity,
17 as I have already permitted, for you to say whatever you want to say
18 as part of the opening in these, hearings.

19 **Mr. Peterson SC:** Well, I didn't want to address that opening, Sir. I
20 just thought it was—

21 **Mr. Chairman:** It's a matter for you whether you choose—

22 **Mr. Peterson SC:** Very well, Sir.

23 **Mr. Chairman:** —to address it or not, but I do think that there—it
24 is—we are left in the position that we are because, for whatever
25 reason, Paria's witnesses and Heritage's were not permitted or did not
26 seem to be willing to be interviewed. Those interviews were put into
27 a statement and into writing, they were then invite—each witness was

1 then invited to sign that as being an accurate representation of what
2 was said during those interviews, and they're online. Everyone can
3 see what's been said.

4 The fact that your witnesses, I say your witnesses, that
5 Paria's or Heritage witnesses that are to be called by this Commission
6 chose not to engage in that process is a matter entirely for them. I
7 can't force them, as I said earlier, to come and do that. Why they
8 have done it, I leave to others to come to a view about it themselves. I
9 take no view one way or the other.

10 **Mr. Peterson SC:** Thank you, Sir.

11 **Mr. Chairman:** What I do say is that we don't have it and my
12 complaint is not that they chose not to do it. My complaint is that
13 what it will do is to take more time than we wanted to spend in oral
14 hearings. That's my complaint.

15 **Mr. Peterson SC:** Your point is taken, Sir. Once it's not—the
16 impression is not created, that they are not cooperating or not—don't
17 wish to make further evidence, they are—

18 **Mr. Chairman:** Well, I've made clear, I'm not suggesting for a
19 minute that there is no cooperation.

20 **Mr. Peterson SC:** Thank you, Sir.

21 **Mr. Chairman:** If that had been the case, we'd have had to issue
22 subpoenas. We haven't done that at all.

23 **Mr. Peterson SC:** You can put it to rest, Sir. I will not revisit it in
24 my opening. I think we have explored it and it could rest there.

25 **Mr. Chairman:** Marvellous.

26 **Mr. Maharaj SC:** Mr. Chairman, I take strong objections to Counsel
27 to the Commission and the legal team being accused of telling this

1 Enquiry matters which are not accurate. In Paria's statement, witness
2 statement of Collin Piper, at paragraph 109, it states:

3 "After discussions between myself and the General Manager about the
4 apparently volatile situation developing at the scene, he and I agreed
5 that the TTTCG"—which is the Trinidad and Tobago Coast Guard—
6 "should take control of the site, safeguard Paria/Kenson personnel,
7 take control of the ongoing rescue operations. This would include
8 preventing the LMCS divers from entering the pipeline. Mushtaq,
9 who is the General Manager, therefore made this request to the TTTCG
10 in my presence."

11 That is the evidence of Paria.

12 **Mr. Chairman:** All right.

13 **Mr. Maharaj SC:** And Hargreaves, at paragraph 20 of his witness
14 statement said that:

15 "As far as I'm aware, the decision to prevent persons from attempting
16 a rescue was made by Paria personnel, not by either myself or any
17 member of the TT diving department or by any member of the TTDS.
18 Neither I or any member of the TTTCG diving nor any member of the
19 TTDF had the requisite authority to do so. The decision by Paria,
20 however, was based on the assessment by TTTCG diving department
21 that an attempt at a rescue can have several health and safety
22 implications as stated."

23 So the TTTCG was involved in stopping people from diving on Paria's
24 instructions.

25 **Mr. Chairman:** All right.

26 **Mr. Maharaj SC:** And—so I take strong objection because I have
27 been very impartial in assessing this evidence and everything that I

1 say here, Mr. Chairman, and Commissioner Wilson, can be checked
2 and they are accurate.

3 **Mr. Chairman:** No doubt, if it isn't, the great experience of Mr.
4 Gilbertson will be brought to bear upon you.

5 **Mr. Maharaj SC:** Yes.

6 **Mr. Chairman:** And—

7 **Mr. Peterson SC:** And it will be with all of respect and friendship.

8 **Mr. Maharaj SC:** Yes. I think I reached the stage where I said the
9 coast guard, however, told LMCS personnel to stand down and that no
10 one was allowed to go in the pipeline. Some of the coast guard
11 officers had weapons. At about 6.30 p.m. Conan's brother, Conrad
12 Beddoe, arrived with commercial service supply equipment, the
13 rescue plan was now modified so that Conan could enter with
14 commercial service supply equipment. At about 7.30 p.m.,
15 approximately, two other dive support vessels arrived with additional
16 commercial equipment to assist with the rescue.

17 Andrew Farah, Dexter Guerra and Michael Kurban kept
18 trying to convince Paria representatives present at Berth 6 to let them
19 conduct a rescue and they gave them the details of the rescue plan and
20 the resources which were available to them to do the rescue. They
21 were back and forth. Paria's representatives kept on telling them they
22 would relay their request to their superiors, and would report that they
23 did not have permission and to just stand down. Andrew Farah also
24 tried to convince the coast guard but they also said they could not dive
25 and they had to stand down until they got instructions.

26 All communications between LMCS, Andrew Farah and
27 Paria personnel present at the berth were cordial and good. The Paria

1 personnel told the LMCS person that they could not make the
2 decision. According to the evidence of LMCS, they had divers
3 available on site willing to conduct a rescue of the divers from the
4 pipeline with available equipment from the time of the accident on
5 Friday, the 25th of February, 2022 until Saturday the 26th of
6 February, 2022. Conan Beddoe says he remained on Berth 6 until
7 8.00 a.m. on Saturday. Andrew Farah was there until 8.00 p.m. on
8 Saturday. Dexter Guerra was there until 8.00 p.m. returning on
9 Sunday. Michael was there until midday on Saturday returning at a
10 later time. They had available to them scuba-diving equipment and
11 then later commercial diving equipment.

12 In response to the alleged reports by LMCS workers of
13 knocking at Berth 5 at about 6.15 p.m. on Friday, Kazim Ali Sr.
14 requested permission from Paria to connect the riser extension at
15 Berth 6 for the habitat to be removed and for the blank at Berth 5 riser
16 to be removed in the event the divers were at Berth 5. It is not in
17 dispute that the riser was connected at about 10.00 p.m. on Friday, the
18 25th of February, 2022 after permission was given.

19 However, permission to remove the blank at Berth 5 was
20 not given until Saturday, the 26th of February, 2022 at about 3.00 a.m.
21 According to Paria, this is because the incident command team of
22 Paria was concerned that the removal of the flange would upset the
23 balance in the line. According to their evidence of Kazim Ali Sr., he
24 went to Paria's compound on the morning of Saturday, the 26th of
25 February, 2022 to discuss the rescue plan which LMCS were trying to
26 get permission to do at Berth 6. He discussed the rescue plan mostly
27 with Catherine Balkissoon. She seemed amenable to the plan but said

1 that she would have to run it by Mushtaq Mohammed.

2 Kazim Ali Sr. met with Mushtaq Mohammed in the
3 afternoon and Mushtaq Mohammed requested to speak with the diver,
4 Conan Beddoe, but Conan was in Sangre Grande at that time. The
5 meeting was postponed for the next day, Sunday. According to Paria,
6 Kazim Ali Sr. at this meeting advised that he wanted to send a diver
7 down at Berth 5 which the incident command team did not think was
8 feasible. The evidence of Paria is that Kazim Ali Sr. indicated that he
9 was a practical man and he knew by then that it was a recovery. It is
10 submitted that the question which arises is whether the decisions
11 and/or actions taken by LMCS to rescue the divers were reasonable
12 and whether the decisions and/or actions of Paria were also reasonable
13 and justifiable in the circumstances.

14 Mr. Chairman, I now go to Paria's responses on the 25th
15 and 26th February to the accident. The following is a summary of that
16 response of the rescue made before Christopher Boodram of Paria.

17 **Mr. Chairman:** Before, sorry, yes, before Boodram, you're going to
18 do it in the same way as you did—

19 **Mr. Maharaj SC:** In the same way.

20 **Mr. Chairman:** Do it slowly so that—

21 **Mr. Maharaj SC:** Okay.

22 **Mr. Chairman:** —Paria can—

23 **Mr. Maharaj SC:** Okay.

24 **Mr. Chairman:** —take it on board.

25 **Mr. Maharaj SC:** One second, Mr. Chairman. I'm just taking some
26 water. At about 3.06 p.m., it activated its incident command system
27 in response to the information that the divers were missing.

1 Following the activation of the incident command system, key Paria
2 personnel were informed of the accident and the incident command
3 team was convened at the designated incident command post, namely
4 Paria Shipping building. Personnel from Heritage were also stationed
5 at the incident command post from soon after the incident until at least
6 Saturday, the 26th of February and they were involved in the incident
7 command team meetings and discussions.

8 Paria commenced sea searches at around 3.10 p.m. to
9 search for the missing divers. Paria also notified the coast guard,
10 OSHA, the fire service and the Ministry of Energy and Energy
11 Industries of the accident. An emergency triage was also set up on the
12 Paria compound. At 3.23 p.m. the incident commander, Collin Piper,
13 spoke to Kazim Ali Sr. who confirmed that the divers were missing
14 and that they had removed the inflatable plug when the accident
15 occurred. Kazim and Collin had several conversations during the day.
16 LMCS was requested to send a representative to the incident
17 command team but it did not comply with this request. This was
18 denied by LMCS.

19 At 4.45 p.m., the coast guard arrived at Berth 6 and
20 commenced a search and rescue pattern in the sea in the vicinity of
21 Berth 6. Lieutenant Hargreaves indicated the coast guard did not have
22 the appropriate equipment on site to enter the water or habitat, but a
23 dive crew was on the way. It is to be noted that Lieutenant
24 Hargreaves in his statement provided to the Commission says that he
25 arrived at 8.43 p.m. but Paria was saying he arrived at 4.45 p.m. so I
26 put the both pieces of evidence.

27 At 4.55 p.m. Collin Piper arrived at the incident

1 command post where he was required to be in accordance with the
2 incident command system. However, he had Catherine Balkissoon
3 and Visham Harrichan deployed to Berth 6 to provide him with
4 information and to communicate his instructions. According to Collin
5 Piper at paragraph 79 of his witness statement, at about 5.00 p.m. he
6 passed instructions to LMCS that further diving inside the pipeline
7 was not allowed at the time.

8 It was reported to the incident command team by Paria's
9 representative at Berth 6 that they tried to get information from LMCS
10 personnel but they were not responsive. As a result, at approximately
11 5.00 p.m. Collin Piper requested that LMCS dive supervisor, Andrew
12 Farah, to come ashore to the incident command post. Andrew Farah
13 departed at about 5.50 p.m. but was instructed to return when it was
14 reported that knocking and shouting was heard in the habitat. That is
15 the summary of the evidence up to when Christopher Boodram. Now
16 I'll deal with summary of the evidence after Christopher Boodram
17 was rescued.

18 At approximately 5.36 p.m., Collin Piper was informed
19 that Christopher Boodram was rescued. Christopher had said that the
20 other divers were in the pipeline and Fyzal was right behind him.
21 After the rescue of Christopher, it was evident to the incident
22 command team that there was a real possibility that the missing divers
23 were trapped within the pipeline but it was critical for the incident
24 command team to first ascertain the conditions within the pipeline
25 before it could properly and safely plan a rescue of the divers. This
26 was the position taken by Collin Piper at WSB 1363 paragraph 90.

27 Paria stated in the evidence of Collin Piper that it did not

1 have the required knowledge of or access to competent, experienced
2 divers, diving contractors and a confined space entry specialist. It
3 stated that this experience was required to assist its incident command
4 team to assess the feasibility of a rescue of the divers from inside the
5 pipeline and to advise the incident command team on the most
6 appropriate rescue options, methods, risks and precautions associated
7 with any of the said options and methods.

8 Its incident command team, therefore, relied on experts
9 which Heritage made contact with and made available to assess the
10 incident command team, namely Eastern Emergency Response
11 Services Limited, Eastern; Hull Support Services, Hull; Offshore
12 Technologies Limited, OTSL; Mitchell's Professional Diving
13 Services Limited, Mitchell's; and Humming Bird Helicopter Services
14 Limited, HHSL. That is in Collin Piper's witness statement WSB
15 1356 at paragraph 53.

16 The action plan then devised was to get video footage of
17 the inside of the pipeline, determine the type of equipment to be used
18 and the method of insertion of same into the pipeline, determine the
19 exact location of the divers within the pipeline, get experts on site to
20 review the footage and advise, assess the risk involved in entering the
21 pipeline and the means of managing those risks. Collin Piper's
22 statement WSB 1363 at paragraph 91. The incident command team
23 was informed that the coast guard said it was too risky for their divers
24 to enter the habitat and the pipeline since they were unaware of the
25 conditions, and also the tide and life conditions were changing. Collin
26 Piper's evidence WSB 1363 paragraph 94.

27 After the rescue of Christopher Boodram, the incident

1 command team was informed by its personnel at Berth number 6 that
2 Michael Kurban went into the pipeline in search of the missing divers.
3 Collin Piper then discussed this information with the incident
4 command team. They discussed several factors including, one, the
5 event which caused the divers to be taken into the pipeline was
6 unknown, two, it was also unknown what caused that event to subside,
7 three, the conditions in the pipeline was unknown, four, the LMCS
8 divers were diving into the pipeline in an unplanned manner without a
9 Method Statement or a Risk Assessment having been produced.

10 Heritage: Heritage's dive expert, Rolph Seales, advised
11 Collin Piper that it was too risky and Paria's Randy Archbald also
12 advised that it was unsafe to enter without commercial air supply.
13 Collin Piper also considered the position which had to be taken by the
14 coast guard. Collin Piper instructed Paria's Visham Harrichan and
15 Catherine Balkissoon to tell LMCS that diving into the pipeline was
16 not allowed because it was too dangerous. See Collin Piper's witness
17 statement WSB 1363 to 1364. However, no decision was made by
18 Paria to physically intervene and LMCS personnel continued to dive
19 into the pipeline and LMCS personnel reacted in a hostile manner to
20 that decision.

21 After discussion between Collin Piper and Mushtaq
22 Mohammed about the hostility of the LMCS divers, they both agreed
23 that the coast guard should take control of the site and safeguard
24 Paria/Kenson personnel and to also take control of the ongoing rescue
25 operations. That would include preventing the LMCS divers from
26 entering the pipeline. Mushtaq made this request to the coast guard in
27 the presence of Collin Piper. See Collin Piper's statement WSB 1365

1 at paragraph 109.

2 At around 7.35 p.m., representatives of Professional
3 Inspection Services Limited arrived on the LMCS barge with a
4 borescope camera but it could not be used as it did not have the
5 required intensity of lighting and the tether line was only a hundred
6 feet. At approximately 8.55 p.m., the incident command team was
7 advised that the coast guard divers and diving equipment arrived on
8 site. Lieutenant Hargreaves from the coast guard advised that the
9 rescue dive into the pipeline was too risky and the coast guard was not
10 trained nor have equipment to perform commercial diving.

11 At approximately 10.00 p.m. the coast guard was able to
12 speak to Christopher Boodram on telephone by speaker. According to
13 Collin Piper, Christopher said the following. He didn't think the
14 divers made it, though he crossed two weld seams on the way out of
15 the pipeline. He crossed Blacks who was unresponsive, Rishi
16 Nagassar is also known as Blacks. He indicated that four of them
17 were making their way out of the pipeline and they were helping
18 Kazim Ali Jr. who had a broken arms and legs. He came across an air
19 pocket after which there was one person left. He came across a
20 second air pocket after which they lost Kazim Ali. Fyzie was with
21 them until he reached the elbow and Fyzie said he couldn't make it.
22 Then the coast guard, in the light of the new information from
23 Christopher, maintained their position that they would not dive.

24 Now, we could not, when I say we I meant the
25 investigate—at the investigative stage, interview the Paria witnesses
26 on what this was alleged and this was even after Christopher Boodram
27 was interviewed by us. So we didn't have an opportunity and all these

1 would be explored at the evidentiary hearing.

2 **Mr. Chairman:** We're going to get that opportunity—

3 **Mr. Maharaj SC:** Yes.

4 **Mr. Chairman:** —in due course?

5 **Mr. Maharaj SC:** Yes. The coast guard decided to mobilize pumps
6 to pump water out of the pipeline in the event that a dry rescue of the
7 divers was considered possible. At approximately 10.39 p.m. Hull
8 indicated they will not be performing any rescue attempt in the
9 pipeline because it was too risky. That evidence is in WSB 1370 at
10 paragraph 138.

11 Saturday the 26th of February, 2022. Around midnight
12 to 12.00 a.m. on the 26th of February, 2022 an Atlantic LNG camera
13 was inserted into the riser at Berth number 6 and it was stated that it
14 encountered a scuba tank on the horizontal section of the pipeline
15 which obstructed it. A second attempt was made at the request of
16 Collin Piper but it was unsuccessful. Around this time, Rolph Seales,
17 Heritage dive expert, along with OTSL and Mitchells, went to review
18 the borescope camera footage at berth number 5. They reviewed the
19 footage and they indicated that they would not send divers into the
20 pipeline because it was considered too risky to do so. Rolph Seales
21 also agreed. That is at WSB 1370 at paragraph 145. The coast guard
22 also reviewed the footage and maintained their position.

23 At around 1.30 a.m. the coast guard had discussions with
24 Eastern about the possibility of a confined space rescue if the pipeline
25 was pumped. Eastern visited the berths to explore the possibility of
26 such a rescue. Eastern then went to their base to obtain equipment for
27 a possible rescue attempt. And that can be found, Collin Piper, WSB

1 1371, paragraph 150. At approximately 3.00 a.m., the HHSL crawler
2 was sent down through the riser at berth number 6 and it reached the
3 horizontal portion of the pipeline but could not progress further as
4 there was equipment and gear stuck in the pipeline. See Collin
5 Piper's statement 1371 paragraph one five two.

6 At about 5.00 a.m. the flange at berth 5 was removed and
7 the crawler inserted into the riser at berth 5. The crawler went in
8 vertically but the camera went blank due to the presence of oil at the
9 bottom of the riser. Collin Piper's witness statement WSB 1372 at
10 paragraph one five seven. The Commission has obtained from Paria's
11 footage, which the HHSL crawler obtained after it was sent through
12 the riser at Berth 6. It appears that the crawler encountered an object
13 which had the appearance of a scuba tank at approximately 166.6 feet
14 bearing the identification number M4002 together with an object
15 which had the appearance of a rope.

16 During that footage, it appears that the crawler was able
17 to push the objects to 200.3 feet at which stage it could not proceed
18 further and the footage ended. We will now show excerpts of the
19 video showing the crawler entering the pipeline, the objects
20 encountered by the crawler at 166.6 feet and the crawler's attempts to
21 move it from 166 feet to 200.3 feet.

22 **Mr. Chairman:** Which end is this coming in from?

23 **Mr. Maharaj SC:** Berth six.

24 [*Video shown*]

25 **Mr. Chairman:** Just looking at that, Mr. Maharaj, am I right in
26 thinking that this distance includes going down the riser and then
27 along the bottom?

1 **Mr. Maharaj SC:** That's what we saw initially—

2 **Mr. Chairman:** Yes.

3 **Mr. Maharaj SC:** —but the point from the pushing of the tank was
4 just that short distance, but we have the—the whole footage shows
5 from going down in the riser.

6 **Mr. Chairman:** Yes. What I'm saying is that the 200 feet that we
7 can see written on there—

8 **Mr. Maharaj SC:** Yes, yes, yes.

9 **Mr. Chairman:** —includes the 30 feet or so that—

10 **Mr. Maharaj SC:** Yes.

11 **Mr. Chairman:** —it takes to get down to the elbow bend at the
12 bottom?

13 **Mr. Maharaj SC:** Yes.

14 **Mr. Chairman:** So the distance approximately along the bottom is
15 170 feet—

16 **Mr. Maharaj SC:** Around 170 feet.

17 **Mr. Chairman:** —before it stopped at the obstacle that we can see?

18 **Mr. Maharaj SC:** Yes.

19 **Mr. Chairman:** Thank you.

20 **Mr. Maharaj SC:** I'm still continuing with the response of Paria
21 after Boodram. Eastern thereafter informed the incident team
22 commander that they will not perform the confined space rescue
23 because they considered the exercise a recovery and would not risk
24 their personnel for such an exercise. See Collin Piper's evidence
25 WSB 1372 at paragraph one five seven. Despite the position taken by
26 Eastern, the incident command team had not given up upon the
27 possibility of a rescue attempt being conducted in a dry land.

1 Randall Archbald continued to try and persuade Eastern
2 to reconsider its position and Paria that a forward plan for the
3 Saturday the 25th of February, 2022 to determine whether such a
4 rescue plan could be accomplished. See Catherine Balkissoon's
5 evidence CB 1334 at paragraph eight and Randolph Archbald's
6 evidence CB 13 at paragraph 64. By Saturday evening none of the
7 dive companies contacted by Paria were willing to dive into Berth 6 to
8 attempt a rescue. It was also determined that an option of cutting the
9 pipeline to create an escape or hatch for the divers would be too risky
10 and it would have taken too long. The evidence of Collin Piper WSB
11 pages 1457, 1458 at paragraphs 82 to 83.

12 At 5.15 p.m. on Saturday the 26th of February, 2022 a
13 joint decision was made by Collin Piper and Mushtaq Mohammed for
14 Paria to transition to recovery. WSB 1377 paragraphs 80, 1462 at
15 paragraph 98. Mushtaq Mohammed informed the families of the
16 divers on the evening of Saturday the 26th of February, 2022 about
17 Paria's decision to transition from rescue to recovery. Mushtaq
18 Mohammed WSB 1463 at paragraphs 104 to 107. It is submitted that
19 the following issues arise in the context of the evidence of LMCS and
20 Paria in relation to the responses to the accident on Friday the 25th of
21 February, 2022.

22 1: Whether a Delta P hazard was identified in the development of the
23 scope of works, the method statement, the risk assessment and
24 emergency response plans.

25 2: Whether LMCS and/or Paria employed sufficient safeguards and
26 measures to ensure the safety of the divers and the prevention of the
27 accident.

1 3: Whether the efforts made by LMCS and/or Paria for rescue were
2 reasonable in the circumstances to effect a rescue of the divers from
3 the pipeline.

4 I want to deal with Sunday, the 27th of February, 2022.

5 **Mr. Chairman:** Thank you. Before you deal with that, am I right in
6 understanding this? From Paria's point of view as we have it at the
7 moment, they consulted widely with the experts in the field and
8 ultimately all of those experts said it's too dangerous?

9 **Mr. Maharaj SC:** Yes, My Lord.

10 **Mr. Chairman:** Only potential rescue available was that which was
11 being proposed by LMCS?

12 **Mr. Maharaj SC:** From the evidence.

13 **Mr. Chairman:** From the evidence that we have so far, is that the
14 position?

15 **Mr. Maharaj SC:** Yes.

16 **Mr. Chairman:** Thank you.

17 **Mr. Maharaj SC:** On Sunday the 27th of February, 2022 at about
18 3.38 a.m., while LMCS was attempting to remove the habitat after
19 having been given permission to do so, the habitat fell to the sea floor.
20 At around 10.00 a.m. there was a meeting between LMCS and Paria.
21 The evidence of Paria is that at this meeting Kazim Ali Sr. stated that
22 he accepts that his son was dead and wanted to recover the bodies of
23 the divers for the families. He proposed an exercise to remove the
24 scuba tanks from the line. The diver Conan Beddoe in attendance was
25 willing to perform the exercise.

26 Paria requested a method statement, a risk assessment
27 and an emergency response plan for the exercise. Evidence of

1 Mushtaq Mohammed WSB 1464 to 1466. The evidence of LMCS is
2 that Mr. Kazim Ali Sr. was still proposing a rescue plan which was to
3 enter the pipeline and remove the tanks to determine whether the
4 divers were still alive. He told Paria that the divers may be dead but
5 LMCS still wanted a rescue plan, because, until it was proven that
6 they were not alive, it would be a rescue. Kazim Ali Sr. was shown
7 the footage of the tank in the line but LMCS indicated to Paria that the
8 bottles were empty and floating. LMCS asked for the video footage
9 to be sent so they could take it into account in the preparation of the
10 documents requested by Paria but it was never sent. LMCS then left
11 the meeting to prepare the written document. Kazim Ali Sr. evidence
12 WSB supplemental 2880.

13 Around mid-afternoon Michael Wei and Collin Piper of
14 Paria visited the field operations at Berths 5 and 6 and where the
15 filling of the riser at berth 6 was in progress for the recovery
16 operation. LMCS emailed the method assessment and risk assessment
17 about 2.19 p.m. At around 5.00 p.m., at a meeting between LMCS
18 and Paria, dive experts Rolph Seales and Krishna Fuentes as well as
19 Lieutenant Hargreaves of the coast guard advised that LMCS'
20 proposals were too risky and the incident command team heeded their
21 advice. Mushtaq Mohammed's evidence WSB 1465 at paragraph one
22 one nine.

23 It is submitted that a question arises as to whether on
24 Saturday the 26th and the 27th of February, 2022 Paria and/or LMCS
25 were still considering a rescue operation. It is further submitted that
26 the question also arises as to whether the decisions and/or actions
27 made by Paria and/or LMCS on Saturday the 26th and Sunday the

1 27th of February were reasonable and/or justifiable in the
2 circumstances. And then, to give a complete picture, on Monday the
3 28th the bodies of Kazim Ali, Yusuf Henry and Fyzal Kurban were
4 recovered. On Wednesday the 2nd of March the body of Rishi
5 Nagassar was recovered from the pipelines by Paria.

6 I want now to give a summary of the evidence of the
7 diving companies contacted by Paria and Heritage. Mitchells.
8 Mitchells were contacted at 4.30 p.m. on Friday the 25th of February
9 by Rolph Seales who requested Mitchells to mobilize a team to rescue
10 some divers. The Mitchells team arrived at Badger Dock at Paria at
11 around 8.40 p.m. on Friday with surface air supply equipment.

12 Rolph Seales told them to remain on standby. After 1.00
13 a.m. on Saturday the 26th of February, 2022 Mr. Seales asked them to
14 come around to the shipping facility at Berth 6. They went there and
15 viewed the footage of the underwater camera which showed blockage
16 in the pipeline. Based on what was seen by Mitchells, they
17 determined it was unsafe to send in one of their divers. At 2.00 a.m.
18 Mitchells was told to prepare a decompression chamber for Paria.

19 Eastern evidence—evidence of Eastern. According to
20 Andy Johnson, Eastern was contacted at 11.41 p.m. on Friday, the
21 25th of February, 2022 by Heritage and informed that there were four
22 persons trapped in a pipeline. Eastern arrived on Saturday morning at
23 12.30 a.m. At approximately 1.25 a.m., the team was briefed by the
24 incident commander. The incident commander advised that at the
25 time that the incident occurred and the possibility that Paria may want
26 to engage Eastern for a rescue. He also advised that due to the
27 variables around the incident that Eastern should prepare themselves

1 for a retrieval and not a rescue due to the possibility that the divers
2 may have expired.

3 Andy Johnson of Eastern asked to be taken to the site to
4 conduct a visual and risk assessment. At about 2.35 a.m. on Saturday
5 the 26th of February, 2022 his team arrived at berth 6 and conducted
6 an assessment. When they returned to the incident command post,
7 Andy Johnson then told the incident commander that his team would
8 not be able to make an entry to perform the rescue operation as
9 approximately 120 feet of the 1,200 foot pipeline was filled with
10 water based on what was seen on the video footage, and that the
11 rescue required a diving team. Eastern remained on standby offsite
12 for the next 12 hours. There was no further communication with
13 Eastern.

14 Hull support. Heritage did contact Hull on the afternoon
15 of Friday, the 25th of February to see if they could provide emergency
16 subsea services but did not provide the details. Hull was unable to
17 mobilize a crew. Arrangements were made with Hull for the
18 provision of a decompression chamber at Hull's facility on the 26th of
19 February, 2022. Hull also advised that the cutting of the pipeline was
20 too risky.

21 OTSL: on Friday, the 25th of February, 2022 in the
22 afternoon OTSL was contacted by Paria to provide diving support for
23 the missing divers. OTSL arrived at Paria at about 8.30 p.m. on
24 Friday, the 25th of February, 2022 and remained on standby until 5.30
25 a.m. on Saturday and were not called upon by Paria. On Friday night,
26 Michael Wei contacted Antonio Donawa of OTSL to enquire as to
27 what he thought happened and put him on speaker with the incident

1 command team. Mr. Donawa told the incident command team that he
2 believed it was a Delta P and he explained what such an incident was
3 because the incident command team did not appear to understand it.
4 Before the recovery of the bodies, Mr. Donawa was contacted to
5 determine whether he would do a penetration dive to look for
6 survivors. He declined because of safety issues.

7 I think we owed a duty to draw to the Commission's
8 attention the communications which the families of the divers had
9 from Friday, 25th February to the recovery of the bodies and I give a
10 summary, a short summary. It is submitted that an issue arises on the
11 evidence as to the manner in which the families of the deceased divers
12 were supported and communicated with following the incident.

13 The families of Rishi Nagassar, Yusuf Henry and Fyzal
14 Kurban were in the car park outside Paria's compound from Friday,
15 25th February, 2022 to Friday the Sunday the 27th of February, 2022
16 sickening information on the rescue efforts. Both the families of Rishi
17 and Fyzal indicated that they were informed of the decision to
18 transition to recovery on the news on the evening of Sunday, the 27th
19 of February, 2022. The evidence of LMCS is that they had difficulty
20 in contacting Rishi and Yusuf families but they gave the contact
21 details which they had to Paria. Paria's evidence is that the families
22 were updated through a meeting at the staff club on Saturday, the 26th
23 of February 2022 and thereafter by way of WhatsApp. Mushtaq
24 Mohammed's evidence is that the families were informed of the
25 decision to move to recovery on the evening of the 26th of February.
26 They were informed by him.

27 And a short conclusion. It is submitted in conclusion that

1 the following are some of the main issues which arise for
2 determination by the Commissioners from the evidence that we have
3 so far before the Commission.

- 4 1. Whether the scope of works was planned to account for
5 Delta P hazards.
- 6 2. Whether the method statements and/or the risk assessments
7 and/or the job safety hazards prepared by LMCS and
8 reviewed and accepted by Paria recognized and addressed
9 the possibility of a Delta P hazard.
- 10 3. Whether LMCS' and/or Paria's emergency response plan
11 recognized and/or made provisions for an emergency
12 scenario arising from a Delta P hazard.
- 13 4. Whether LMCS and/or Paria considered or ought to have
14 considered the use of commercial surface supply air instead
15 of scuba air in the performance of the scope of works and in
16 development of an emergency response plan.
- 17 5. How much line content was removed from sealine 36
18 between berth 5 and Berth 6.
- 19 6. What was the contractual arrangement between Paria and
20 LMCS as to the quantity of the line content to be moved
21 from Berth 5 and Berth 6.
- 22 7. Was LMCS authorized by Paria to remove on Friday, the
23 25th of February, 2022 the inflatable plug which was
24 removed by the divers before the Delta P incident occurred.
- 25 8. Did Paria and/or LMCS employ sufficient safeguards and/or
26 measures to ensure the safety of the divers and to prevent the
27 accident and the deaths.

1 9. Did Paria and/or LMCS employ sufficient safeguards and/or
2 measures to rescue the divers?

3 10. Did Paria and/or LMCS communicate with the families of
4 the divers following the accident and did they do so in a
5 compassionate and supportive manner?

6 Thank you very much Commissioner, Mr. Chairman and
7 Commissioner Wilson.

8 **Mr. Chairman:** Thank you. Thank you very much, indeed. Forgive
9 me for allowing Mr. Maharaj to go on to conclude his address eating
10 into our lunch hour. I shall ensure everybody gets a full hour, all
11 right, but, when we come back, can we just be clear what's next to
12 happen? I think the first thing that's going to happen is that we will
13 hear from Mr. Peterson, correct?

14 **Mr. Peterson SC:** Yes.

15 **Mr. Chairman:** I indicated previously that each address should be an
16 hour or less. I note that Mr. Peterson's brevity is to be commended
17 and I have had an advance copy of what he proposes to say. I'm
18 grateful for that. I see from you, Mrs. Persaud -Maraj that it's a rather
19 compendious, if I could put it like that, statement that you're
20 proposing to make. I wonder if you can do a—spend a little of your
21 lunch hour culling it in such a way that we can conclude yours today?
22 Because it looked to me like it was a little bit more than an hour.

23 **Mrs. Persaud - Maraj:** Certainly, Mr. Chairman. That was prepared
24 for we would have heard Sr. for the Commission give his opening.

25 **Mr. Chairman:** Right.

26 **Mrs. Persaud- Maraj:** So in light of what has already been
27 presented, which has covered the gamut of this entirety, both pre-

1 contract, what happened during and then afterwards and then spent an
2 enormous amount of time on the evidence presenting it as it is, I think
3 certainly I will be much briefer than I had anticipated.

4 **Mr. Chairman:** I am very gratified to hear that. You can be assured
5 that been given a copy of it, it will be taken into account in any event.
6 All right? So I'm grateful for that. So, I'm hopeful then that we'll be
7 able to conclude both of your addresses this afternoon and then we'll
8 move to the remaining issues and then Mr. Gilbertson has an
9 application to make, so I'll be grateful for that, thank you very much
10 indeed. Thank you. So we'll come back at 20 past 2.00 please?
11 Twenty past 2.00.

12 **1.19 p.m.:** *Enquiry suspended.*

13 **2.20 p.m.:** *Enquiry resumed.*

14 **Mr. Chairman:**...either film it or, um, take stills or both, er, and I
15 have said that whoever does that would give an undertaking to, er,
16 Paria and their counsel, that, er, they will get it first, and if they have
17 any objections to it being put on the website, they will indicate them
18 to us and I'm sure we will come to an accommodation so that if there
19 is any issue about security and things like that, we can be sure that, er,
20 that we don't trespass in that particular area. So I'm very pleased to
21 say that's what we're going to do on Wednesday. We will then
22 resume the evidence again on Thursday. So what was scheduled to be
23 on Wednesday will now be on Thursday, and then what was
24 scheduled for Thursday will be put to the 5th of December. All right?
25 So thank you very much for that.

26 **Mr. Maharaj SC:** Just one matter. I spoke to Mr. Peterson and he
27 has agreed that he will see about drafting the undertaking.

1 **Mr. Chairman:** He's going to do it, is he?

2 **Mr. Maharaj SC:** Yes.

3 **Mr. Chairman:** Good. Well, that's even better. Saves you having to
4 do work. Right. Marvellous. Well then I do ask Mr. Peterson if he'd
5 like to address the Commissioners.

6 **Mr. Peterson SC:** Thank you very much Mr. Chairman and your
7 fellow Commissioner. I will do so not as extensively as I would like
8 to. I would be short, but I first want to put on record and commend
9 Mr. Maharaj for putting all sides out there in the national community.
10 I must express that I was a bit anxious when he was doing some, but I
11 know he will—eventually he came to all which is, at the end of the
12 day, what is important. And as I say the end of the day, it reminds
13 me, Sir, that at the end of this Commission I hope that you would have
14 been able to fully discharge your Terms of Reference and be able to
15 assist in uncovering how this incident happened and make
16 recommendations for it not to recur, reoccur.

17 This Commission, as you have said, Mr. Chairman, this
18 morning, it's not about ascribing blame, it is about finding out what
19 transpired and how it could be prevented in the future. This Enquiry
20 largely concerns an examination of the circumstances which led to the
21 tragic loss of life of four employees of LMCS Limited, namely Kazim
22 Ali Jr., Rishi Nagassar, Yusuf Henry and Fyzal Kurban who were
23 working on a line at Paria on the 25th of February, 2022. Whilst these
24 men were working they were working as employees and under the
25 direction and control of their employer, LMCS Limited on that sealine
26 riser which is a facility owned by Paria trading Company Limited.

27 Those who attend these proceedings today would no

1 doubt recall that from the time the men were first reported as missing
2 at sea on February 25th, 2022, up until the 3rd of March, when the last
3 bodies of the four men was recovered, stories about them and the
4 ongoing attempts to find them and rescue them dominated both the
5 print and electronic media. As events unfolded, much to the nation's
6 collective despair, initial feelings of hope dissipated and ultimately
7 gave way to an immense sense of loss as the true nature and extent of
8 the tragedy became apparent. This loss was felt across the national
9 community and the grief occasioned by it endures even to today, and
10 the video this morning I'm sure went a long way in reviving sad
11 memories.

12 The sense of loss experienced by the families of these
13 men, their loved ones and their colleagues is undoubtedly
14 immeasurable. Mr. Chairman and fellow Commissioner, it is for this
15 reason and in honour and recognition of the lives of these men and the
16 surviving diver, Mr. Christopher Boodram, that both Paria and
17 Heritage have voluntarily given their commitments to participate in
18 this Commission of Enquiry to assist the Commission in getting to the
19 root cause of these unfortunate events.

20 I must say that, as earlier indicated, the eventual
21 declining of participating in the additional process of interviews is not
22 intended in any way to frustrate the work of this Commission. In fact,
23 my clear instructions are to assist fully with the Terms of Reference of
24 this Commission, because, as part of our consideration in not taking
25 up that interview process is that we were of the view that what we did
26 not say in the statement we knew an opportunity would be given to
27 say it live under oath in the witness box for the whole nation to see so

1 that the nation can ascertain what did transpire.

2 As the Commission well knows, what happened on that
3 fateful day and the reason or it falls squarely in the Terms of
4 Reference of this Enquiry and those, I have no doubt, will be
5 determined. In this regard, and in keeping with the commitment of
6 Paria and Heritage, the management and staff of these organizations
7 have already provided this Commission with what we respectfully
8 think are extensive statements and materials relative to the Terms of
9 Reference under which this Enquiry is operating.

10 In addition, those persons from Paria and Heritage have
11 also voluntarily given statements and have offered to come to the
12 Commission and answer under oath questions, any questions, posed to
13 them by the Commissioner and any other interested party given
14 standing to pose those questions. It is hoped, and we've expected,
15 that the testimony of these persons would be illuminating and helpful.
16 Their testimony will demonstrate not only to the Commission but also
17 to the national community that many of the unfortunate and accurate
18 reports in the media to date which heaped blame, that word again,
19 upon Paria or Heritage for the death of these men were wholly not
20 justified.

21 The evidence which Paria has provided and which is
22 supported by contemporaneous documentation will disclose a clear
23 picture and will take those listening to the proceedings of this Enquiry
24 along a careful, structured journey to the truth and that truth is to be
25 determined by you, Mr. Chairman, and your fellow Commissioner at
26 the end of the day, but that journey will begin, as Mr. Maharaj has
27 started to set it out, and I was attracted to the order in which he did it,

1 would begin with the process by which LMCS, the employer of the
2 deceased men, and Christopher Boodram, were selected as the
3 contractor to execute certain works on the pipeline in question. Then
4 it will proceed to the award of the contracts for those works to LMCS.

5 A point to note, Mr. Chairman and fellow Commissioner,
6 LMCS is a contractor with competencies in this area, or at least held
7 themselves out so to be, which executed similar works for Paria, a
8 point that we'll wish to emphasize throughout this Commission, and
9 also a predecessor of Paria. The evidence would explain Paria's
10 mandatory permits to work system which contractors, all contractors,
11 including LMCS, are required to abide by.

12 The evidence will treat in detail with events of the 25th
13 of February, 2022, when the men were first reported as missing. The
14 evidence would reveal that LMCS wrongfully departed from the
15 Paria's permits to work system. It will also reveal that the—what we
16 consider, and I don't know the extent to which it falls within your
17 Terms of Reference, to find negligence on the part of LMCS and its
18 personnel in the execution of the works on the 25th of February, 2022.
19 Thereafter it will treat with the extensive and sustained efforts, the
20 evidence will treat with the extensive and sustained efforts of Paria
21 and Heritage under trying conditions to explore what feasible
22 solutions were available to rescue these men, against a ticking clock in
23 circumstances where the clear responsibility for the safety of these
24 men while undertaking the works in question were squarely that of
25 LMCS, not Paria. And finally, that root of evidence will take us to the
26 unfortunate stage of having to recover the bodies of these men.

27 Paria's evidence will also highlight critical facts

1 concerning the true nature and extent of the relationship between it
2 and LMCS and the responsibility for the safety of these men, about
3 which there has been little national comment or attention thus far.
4 That evidence will demonstrate, among other things, one, that Paria
5 did not have and did not need to have the expertise to undertake the
6 specialist works which the deceased men were undertaking on the
7 pipeline. That Paria in the knowledge of it that it lacked such
8 knowledge and expertise and such skill, engaged a tendering process
9 with a view to retaining the services of a suitable qualified contractor
10 to execute the required works.

11 The evidence would also show, that, pursuant to that
12 process and at the time it was undertaken by LMCS, LMCS emerged
13 as an experienced and qualified contractor with a proven track record
14 of carrying out that type of work which the deceased men had
15 undertaken. The evidence will also show, that, pursuant to Paria's
16 contractual relationship with LMCS, LMCS was contractually
17 responsible for providing an adequate system, supervision, labour and
18 material to undertake the said works.

19 The evidence will demonstrate that the responsibility for
20 the safety of the deceased men and Mr. Christopher Boodram, while
21 they were carrying out their works, rested squarely on the shoulders of
22 LMCS, pursuant to its contractual obligations to Paria, and,
23 accordingly, any attempt to impose such responsibility upon Paria, in
24 my respectful view, will be misplaced.

25 Paria's witnesses will also provide the Commission with
26 a detailed understanding of the permits to work regime at Paria which
27 is intended to control risks associated with works being carried out on

1 Paria's compound and the works in particular that were carried out by
2 LMCS. The evidence will be led by Paria would show—the evidence
3 to be led by Paria will show that each issued permit to work
4 specifically identified the tasks which LMCS were required to
5 undertake and LMCS was required to operate within the parameters of
6 the permits issued.

7 All told, there were five permits to work, three of which
8 pertained to berth 6, one pertained to berth 5 and one pertained to the
9 Pointe-a-Pierre harbour. On the morning of the 25th of February,
10 2022 the permit of focus, in my respectful view, is permit to work
11 number 9320. Mr. Maharaj had alluded in his opening, that being the
12 main permit in relation to berth number 6 where the incident occurred
13 and that permit had list specific tasks to be undertaken. Some were to
14 remove and install the 50-inch flange, remove and install the 30-inch
15 riser pipe, remove 30-inch solid blank and conduct pressure tests and
16 flank weld, remove chamber and blank on the top of the new riser.

17 Most notably, however, Mr. Chairman and fellow
18 Commissioner, there was no job or task described on permit to work
19 9320 issued on that morning of the 25th of February, 2022 that
20 required the removal of either the mechanical plug or an inflatable
21 plug, both of which were installed in the pipeline in the preceding
22 days—Mr. Maharaj gave the exact dates this morning—in order to
23 allow for the maintenance and repair works on the pipeline to be
24 safely conducted.

25 Such plugs, once securely placed, were intended to
26 prevent the development of a combustible environment since hot
27 works were authorized under that permit to work. The plugs also

1 were intended to prevent a toxic environment from developing which
2 could have been caused by the escape of gases from in the pipeline
3 into the area of the hyperbaric chamber where the LMCS employees
4 would have been engaged in works.

5 Glaringly, and I say glaringly, Section B 1 to the Paria's
6 said permits to work specifically required that a migration barrier was
7 to be used. This precautionary requirement was an expressed and
8 direct instruction inserted on the permits to work 9320 which was
9 issued to LMCS workers by Paria site authority. Accordingly, it was
10 plainly not in Paria's contemplation and could not, in my respectful
11 view, reasonably be within Paria's contemplation that the mechanical
12 plug and/or the inflatable plug was to be removed by LMCS on the
13 25th of February, 2022. No approval to do so had been applied for,
14 no approval to do so had been given under Paria's permits to work
15 system. Put differently, Paria was entirely in the dark as to the
16 intended removal of the mechanical plug and the inflatable plug on
17 that fateful day.

18 Further, and in any event, Paria's evidence will
19 demonstrate, and I hope clearly, that LMCS personnel removed the
20 mechanical plug at the wrong time out of the proper or correct
21 sequence and that fact, taken together with the additional fact that the
22 attempts to remove the inflatable plug was done in a manner which
23 was totally contrary to the manufacturer's specifications and/or
24 instructions. These combination of events in my respectful
25 submission amounted to the main or dominant cause of the tragic loss
26 of life which occurred on that day, as well as the injuries sustained by
27 Mr. Boodram.

1 The rescue operations: such loss of life brought into
2 sharp focus the emergency response of LMCS and Paria which would
3 naturally fall for consideration in this Enquiry when you are
4 discharging your Terms of Reference, Sir. In this connection, Paria
5 will demonstrate that its tender process required LMCS, along with all
6 other tenderers, to submit an emergency response plan or policy as
7 part of its tender submissions. The evidence will disclose that the
8 tender process envisaged by LMCS as the contractor undertaking the
9 work was directly responsible for any immediate emergency response
10 with appropriate follow-up support from Paria thereafter.

11 To this end LMCS was required to have, among other
12 things, divers and other diving support equipment to facilitate an
13 emergency response, an effective emergency response. Significantly,
14 Paria's evidence will reveal that LMCS failed to notify Paria of the
15 incident at the time it occurred and that Paria, upon learning of the
16 incident, actively pursued LMCS for information with a view to
17 providing the support and any resources that it could have deployed.

18 Paria's representatives will testify that because of LMCS'
19 failure and/or blatant refusal to provide information to Paria,
20 significantly impaired Paria's participation in the rescue process in the
21 initial stages. Nonetheless, Paria mobilized its resources based on the
22 limited information it had, convened its incident command team, ICT,
23 strategically deployed assets offshore and stationed personnel on site
24 to provide real time situation reported to feed its ICT team.

25 Mr. Chairman, I pause from what I have submitted to say
26 this. When I was listening to Mr. Maharaj's presentation this morning
27 it dawned on me, if LMCS has, as they claimed, been forthcoming

1 with information and all knew, now everyone knew that the men were
2 in the pipe when the incident occurred. Why would everybody be
3 searching out in the sea, because there's clear evidence
4 uncontroverted, uncontradicted that there was a wide sea search, if it
5 was all common knowledge that when the incident occurred that the
6 men were sucked into the pipe, then it will be a mystery to explain
7 why there would have been that extensive search at sea.

8 The evidence will also show, Mr. Chairman, that Paria,
9 acting responsibly, notified the relevant state agencies including the
10 coast guard, the fire services and the Occupational Safety and Health
11 Agency. Further, Paria's evidence will demonstrate that after it was
12 discovered, after it was discovered that the divers were in the pipe, its
13 personnel tirelessly worked around the clock with a view to
14 developing a plan with the assistance of relevant experts, and, Mr.
15 Maharaj fully chronicled the extensive consultation that Paria
16 deployed in trying to ascertain the advice as to what was the best
17 method in order to rescue these men.

18 But, Mr. Chairman, the efforts at that time had to be
19 executed without putting other lives at risk at that stage, and that
20 probably would explain the paragraph in officer Hargreaves'
21 statement that they did not know the existing conditions in the
22 pipeline at the material time. Had they just gone ahead and deployed
23 men into that pipeline without knowledge or intel as to the condition
24 of that pipeline, the Terms of Reference of this Enquiry may be wider.

25 Ultimately, despite the solicitation of expert advice from
26 multiple sources, no safe or workable plan emerged which would have
27 allowed for the extraction of the divers before their untimely demise.

1 I pause here to say, when we were preparing submission to the
2 Tribunal and looking at some of the material that had been—for the
3 Commission and some of the material posted on the sites, I asked
4 members of the team, do we have anyone indicating in any statement
5 that on the evening of the 25th of February, 2022 that someone from
6 any entity in Trinidad came up with a plan and say, “This plan, I am
7 aware that this plan is bound to work, I am aware of the conditions
8 inside that pipe, I have done this before, I have seen men being
9 rescued from a 30-inch pipe before and this is how we go about it”, I
10 could find no such reference or evidence. But we still have some
11 time, Mr. Chairman. It may come.

12 In examining the actions of Paria’s personnel, it is to be
13 expected that this honourable Commission and the public at large will
14 have at the forefront of their respective minds that difficult decisions
15 fell to be made in unprecedented circumstances on the limited
16 information in a compressed time frame and in this situation which
17 was dynamic on that Friday evening. If the Commission examines the
18 conduct of Paria’s personnel through these lenses, as we submit it
19 should, Paria is confident that its actions over the relevant period
20 would be found to be reasonable, appropriate, well-intentioned and
21 well meaningful criticism if such a standard is to be achieved.

22 It is useful to observe, Mr. Chairman and fellow
23 Commissioner, that although the Commission will be told, consistent
24 with earlier reports appearing in the press, that Paria actually
25 prevented LMCS from conducting its own rescue operations in the
26 pipeline, this simply is not true. Paria’s witnesses will testify that
27 although Paria, in an effort to guard against risk of injury or loss of

1 lives of additional personnel, not knowing the conditions within the
2 pipeline, those conditions being unknown, did advise that individuals
3 should not be entering the pipeline. The truth be told that those
4 instructions were disregarded and LMCS continued their efforts
5 uninterrupted until nightfall. Indeed, it was during the course of this
6 extremely high-risk activity that Christopher Boodram was found.

7 Mindful of its responsibility and having solicited expert
8 advice widely, a decision ultimately, and this is no decision that
9 would be made lightly, ultimately had to make a decision to move
10 from and to transition from rescue to recovery. That is a decision
11 which many people will not wish they would ever have to make but
12 it's one that fell on that occasion on members of Paria's staff to make.

13 Paria were provided full details of the recovery efforts
14 utilized by its employees, and, most respectfully, the mechanism that
15 was used to displace the contents of the pipe which resulted in the
16 recovery of the last deceased person and on the 3rd of March, 2022.

17 In conclusion, Mr. Chairman, and fellow Commissioner
18 Mr. Wilson, while Paria and Heritage appreciate that this Commission
19 of Enquiry brings little to no comfort to Christopher Boodram and the
20 families of the deceased, they recognize that it's an important
21 exercise, that the facts as to what caused that tragic loss of life must
22 be discovered, because, as a nation we need to know that we don't
23 make this mistake again.

24 Both Paria and Heritage are committed to this goal,
25 accordingly affirmed their commitment to assist in this exercise and to
26 attend and give evidence. They do so in the sincere hope that the
27 findings of this honourable Commission will go some way towards

1 avoiding any similar incident in the future and expect that the
2 Commissioners, with the assistance of Counsel to the Commission,
3 will ensure that the fact-finding process which they engage in would
4 approach this exercise with an open mind. I mean nothing when I say
5 that. I just reaffirm it.

6 I have utmost respect for Counsel for the Commission
7 and confidence in the Commission that it will approach it with an
8 open mind and resist the natural inclination, because of the
9 circumstances or temptation, to ascribe blame and rush to judgment. I
10 say this with the greatest respect and deference to you, Mr. Chairman
11 and your fellow Commissioner. I thank you.

12 **Mr. Chairman:** Thank you very much, Mr. Gilbertson. I wonder if I
13 could, please, just ask you a couple of questions about the evidence
14 you're proposing to call because you'll understand that we don't have
15 the full picture at the moment and I'm assuming that you do.

16 So, you said earlier that, and I quote, you said Paria was
17 entirely dark as to the intended removal of the mechanical plug and
18 the inflatable plug on that fateful day.

19 **Mr. Peterson SC:** On that morning.

20 **Mr. Chairman:** And I understand what you're saying, so that is
21 obviously an issue that we're going to have to determine. Can I ask
22 you this, though? Is it going to be part of your case, in respect to your
23 client, that Paria didn't or were not obliged to exercise any oversight
24 over that particular job at that particular time?

25 **Mr. Peterson SC:** Well, Sir, the difficulty with that—and that is a
26 fair question—the difficulty with that, Sir, is that this is a highly
27 specialized exercise and Paria, realizing that it did not have the

1 internal knowledge and skill to execute the work, that's why they
2 went to the market and that is why LMCS, having a track record of
3 similar works, was retained.

4 **Mr. Chairman:** I'm not sure that really answers my question. I just
5 want to know whether or not it is part of your case or will be part of
6 your case that Paria did or did not have direct oversight on whether
7 the plugs were removed or not removed. I just want to know whether
8 you said they did or they didn't or they—

9 **Mr. Peterson SC:** Well—

10 **Mr. Chairman:** —they didn't feel they need to because they had
11 somebody else doing the job. I just don't know.

12 **Mr. Peterson SC:** Well, Sir that the difficulty that I'm having. I
13 understand the question, I understand the nature of the question, but
14 the term, "direct oversight", is it—well I don't want to be asking the
15 Commissioner questions, but I don't have—

16 **Mr. Chairman:** Feel free. We're not in court. This is an Enquiry, so
17 feel free please.

18 **Mr. Peterson SC:** Well that's what—they will have general—
19 because it's on their compound they will have general supervisory
20 oversight.

21 **Mr. Chairman:** Right.

22 **Mr. Peterson SC:** But with respect to the technical stages of how a
23 plug to be removed and when it is to be removed, I think that that was
24 totally within the bosom of LMCS.

25 **Mr. Chairman:** Right.

26 **Mr. Peterson SC:** But to answer your question, there will be some
27 residual supervisory oversight.

1 **Mr. Chairman:** Residual supervisory oversight.

2 **Mr. Peterson SC:** And that will be of a general nature, not with
3 highly technical aspects of the job.

4 **Mr. Chairman:** General nature.

5 **Mr. Peterson SC:** That's why they went out.

6 **Mr. Chairman:** Of a general nature. But you said generally
7 oversight of a residual supervisory.

8 **Mr. Peterson SC:** Yes. That's why they went out for technical
9 assistance. Thank you very much, Mr. Chairman. Unless I could—

10 **Mr. Chairman:** Thank you. No, no, I think there was one other.
11 Just give me one second. Um—oh yes, only this. You also said that
12 nobody really knew what the position was inside the pipe because—
13 well, we've heard already evidence about putting down various
14 cameras and crawlers and things of that kind to see what the
15 conditions were, and we've seen some of the footage, haven't we, but,
16 in a sense, when Mr. Boodram came out of the pipe and was telling
17 everybody, "Look, they're alive", what was done at that stage to try
18 and find out from him what the condition of the pipe was? I mean,
19 there you had somebody who literally travelled the length of the pipe.

20 **Mr. Peterson SC:** Well, he could not have travelled the length of the
21 pipe.

22 **Mr. Chairman:** Well the length of the pipe where they were,
23 because as we've heard, they were all pretty much together to start
24 with.

25 **Mr. Peterson SC:** Well, Sir, I heard that. I heard that, um, that
26 recording, that video for the first for the first time this morning, so I
27 need to digest that, but, um, Mr. Boodram came out and he was taken

1 to the hospital and that's when he was contacted by phone to try to
2 give some information and I'm sure what he said would have been a
3 factor that would have been factored in in putting together the picture
4 as to what the condition in that pipe was. And, in fact, the footage
5 that was shown, the last set of footage to my mind was clearly
6 demonstrative of the conditions within that pipe.

7 We saw debris, we saw blockage, we saw—I think that
8 tape or that video will be viewed again in this Commission to
9 determine what the conditions were. But that tape which came after
10 Mr. Boodram came out, all of those pieces put together would then be
11 developing the intelligence as to what the condition in the pipe would
12 have been, and that is probably why the coast guard was advising that
13 we are not sending in the men, Eastern decided they're not sending in
14 their men, it's too risky.

15 **Mr. Chairman:** Well I think we could all understand that. Thank
16 you. Well, thank you very much. Thank you. Much obliged. Yes,
17 um, Ms. Persaud Maraj, have you managed to condense this?

18 **Mrs. Persaud -Maraj:** I have certainly done so—

19 **Mr. Chairman:** Oh, marvellous.

20 **Mrs. Persaud -Maraj:** —for the benefit of all.

21 **Mr. Chairman:** I see that it's five to 3.00 and do you think you'll be
22 able to conclude by 3.30?

23 **Mrs. Persaud -Maraj:** Certainly. I don't intend to spend too long.
24 My learned friend for the council has done an excellent job in
25 summarizing all of the relevant—

26 **Mr. Chairman:** Don't overflatter him, all right?

27 **Mrs. Persaud -Maraj:** [*Laughter*]—all of the relevant information

1 that inevitably is also before the public via the site. So that, to those
2 interested who would like to investigate the gamut and the extent and
3 the intricacies of what has been said, certainly any interested person
4 can so—

5 **Mr. Chairman:** They can wade through the 20,000 pages as well.

6 **Mrs. Persaud -Maraj:**—so do, which is why we are here—

7 **Mr. Chairman:** Right.

8 **Mrs. Persaud -Maraj:**—and which is why I know the esteemed
9 Chairman has allowed the opportunity to give an opening.

10 **Mr. Chairman:** Yes.

11 **Mrs. Persaud- Maraj:** And I thank you for that opportunity.

12 LMCS was one of 259 applicants who applied for
13 permanent registration with Paria, and that is for the purpose of being
14 able to perform, to be considered for the purposes of contract awards.
15 There is no contention in relation to the fact that LMCS has been
16 awarded the contract that we—part of which forms the incident which
17 took place on the 25th of February at berth number 6.

18 What we all would wish to have an appreciation of is the
19 process involved in the performance of the work by LMCS or any
20 other persons for that matter. An award of the contract is not the end
21 or the beginning or all that matters in this type of—in the oil and gas
22 industry at Paria. In fact, there is a mechanism that is enabled and
23 both of my friends would have touched on that when they talk about
24 the method statement or when they would have alluded to the fact that
25 LMCS has not provided something or the other or they have not had
26 some detail or the other in this method statement. And what really is
27 that?

1 The mechanism that comes—that is triggered by the
2 proposal in the tender is such that the contractor would present a
3 methodology as to what works are to be done. That methodology is
4 what is called the method statement. It is not a statement that is
5 incredibly detailed and fleshed out and that—there is a process that
6 occurs after the award of the contract. So at the stage where the
7 tender or the proposal has been made to the tender, there would be a
8 general and broad methodology of what works are going, or how the
9 works are going to be performed.

10 Thereafter, there is a collaborative effort in the
11 development and fleshing out, if I may say so, of the method
12 statement. And what does that process entail? Well, with—along
13 with Paria, by means of meetings and emails, telephone calls, the
14 method statement in relation to what and how the work is to be done
15 is finalized and then approved. I pause to say this very clearly. No
16 work can be done in Paria, notwithstanding a methodology presented
17 with the proposal and the acceptance of that contract, without an
18 approved method statement.

19 The method statement is one of many documents that are
20 required to be prepared in relation to performance of the contract.
21 Along with the method statement there is a job hazard analysis and a
22 risk assessment, and these essentially would be formulated as a result
23 of what it is that they're supposed to do in terms of the methodology
24 stipulated in the method statement.

25 In addition, and in support of the method statement and
26 JHAs, the job hazard analysis, written aspect of the job performance
27 is, if I may call, an ancillary arm of the performance of the contract in

1 the format of HSC, that's health safety and environment monitoring
2 and risk system. And what do I mean by that?

3 Chairman would have recalled this morning Mr.—Sr.
4 explaining about something called the toolbox. That's essentially part
5 and parcel of what the HSC department is responsible for in relation
6 to the performance of the work. So now we have, when we have
7 already settled on the methodology, method statement and all of the
8 risk has been understood, we have now the performance to be done
9 based on what it is that we have in front of us in relation to the work
10 that we're contracted for.

11 In this regard, before any worker proceeds to go on to do
12 what he or she is being called upon to do on any given day, there is a
13 system of checks and balances as well as a detailed discussion that
14 takes place amongst personnel performing the work for the day. The
15 evidence of all of this process or all of the details of this process have
16 been outlined in the evidence of Ahmad Ali, Victor Dhillpaul,
17 Andrew Farah and Beverly Howe from LMCS. Those statements
18 taken as a whole and together would give us a clear picture of the
19 entirety or the gamut of that process and how it happens.

20 The HSC department is not only from the contractor,
21 meaning LMCS, but there is also a countervailing department from
22 Paria which is also armed with the information in relation to job to be
23 performed. And they are also part and parcel of the monitoring
24 system in relation to the work to be done, and it's important that an
25 appreciation of that is had because there is something called a stop
26 policy and what is the stop policy?

27 Essentially if there is a derogation, there's some kind of

1 variation from what has to be done, what was discussed to be carried
2 out or what ought to be done, then Paria or their—through their HSC
3 officer, monitoring the works to be done, has the right to stop all
4 works.

5 **Mr. Chairman:** Can I ask you—

6 **Mrs. Persaud -Maraj:** Yes.

7 **Mr. Chairman:**—what are you saying about that in relation to whose
8 responsibility it was? Are you able to identify whose responsibility—

9 **Mrs. Persaud -Maraj:** Well there are two aspects.

10 **Mr. Chairman:**—you say they had?

11 **Mrs. Persaud -Maraj:** They had the responsibility to stop if it is that
12 Paria is saying to this Commission that LMCS was doing something
13 that it ought not to be doing by, that is, the removal of the plugs.
14 They were there, they were present or some member of Paria was
15 present observing the works that were being carried out.

16 **Mr. Chairman:** Fine, but—

17 **Mrs. Persaud- Maharaj:**—within the chamber—

18 **Mr. Chairman:**—whoever that person was is it your case, then—

19 **Mrs. Persaud -Maraj:** That person was Mr. Kirk Scott.

20 **Mr. Chairman:** Right.

21 **Mrs. Persaud- Maraj:** Kirk Scott.

22 **Mr. Chairman:** Kirk Scott.

23 **Mrs. Persaud -Maraj:** I don't believe he had provided a—

24 **Mr. Chairman:** He's from Hansen or Henson, isn't he?

25 **Mrs. Persaud -Maraj:** Kenson.

26 **Mr. Chairman:** Kenson, close.

27 **Mrs. Persaud- Maraj:** Which is a contacted party for the purpose of

1 HSC—

2 **Mr. Chairman:** Right.

3 **Mrs. Persaud- Maraj:**—on behalf of Paria.

4 **Mr. Chairman:** Okay. So that I understand what you're saying—

5 **Mrs. Persaud Maraj:** Yes.

6 **Mr. Chairman:**—you're saying, contrary to what we've just heard,
7 that the responsibility for ensuring the stages of work is being
8 overseen by somebody and you say that's this Kirk Scott character
9 from Henson—

10 **Mrs. Persaud- Maraj:** It falls on Paria.

11 **Mr. Chairman:**—employed by, well I don't think directly, indirectly
12 employed by Paria is that right? He's a subcontractor also.

13 **Mrs. Persaud- Maraj:** Well there would be a structure within his
14 employment with Kenson.

15 **Mr. Chairman:** Right. Which is—

16 **Mrs. Persaud- Maraj:** But ultimately it pulls back and the arrow
17 points to—

18 **Mr. Chairman:** However it was and however it works—

19 **Mrs. Persaud- Maraj:**—to Paria.

20 **Mr. Chairman:**—your case is—

21 **Mrs. Persaud -Maraj:** Yes.

22 **Mr. Chairman:**—that that was under the control of Paria.

23 **Mrs. Persaud- Maraj:** Certainly.

24 **Mr. Chairman:** And that they have the power and should have
25 exercised it to stop. Is that what you're saying?

26 **Mrs. Persaud -Maraj:** Certainly I'm saying that, and the evidence
27 that is before this Commission we would demonstrate that Paria had,

1 in fact, utilized its stop work policy at various points in time, well at
2 least on one occasion, and had gone into an investigation of the, this is
3 the incident alluded to by my learned friend in relation to the barge
4 being taken out to berth without having permit. So it is directly
5 demonstrating that incident that Paria has that control mechanism and
6 they have used it in this contract.

7 **Mr. Chairman:** And you are saying they should have and they
8 didn't?

9 **Mrs. Persaud- Maraj:** Well they are saying that we ought not to
10 have pulled the plug.

11 **Mr. Chairman:** Right.

12 **Mrs. Persaud- Maraj:** So if it is that we're not supposed to—there
13 were two plugs and I don't wish to go back through what my learned
14 friend has said.

15 **Mr. Chairman:** I think I get the point.

16 **Mrs. Persaud- Maraj:** But we're aware that there were two plugs
17 and it's not a simple plug that we can just simply pull. These things
18 take process. There is an unbolting process and it takes some time
19 and the evidence will that when somebody is observing that, they had
20 the moment to say this is not work that ought not to be carried out.
21 But not—no such, no such stop was made at the point in time. It is
22 only upon the second plug being taken out that the incident occurred.
23 So one plug was already out when the incident had occurred.

24 **Mr. Chairman:** Well both plugs were out.

25 **Mrs. Persaud -Maraj:** One plug was completely out and had gone to
26 the seabed and they were in the process of taking out the inflatable
27 plug which is the first and the lower—

1 **Mr. Chairman:** Right.

2 **Mrs. Persaud -Maraj:**—of the two.

3 **Mr. Chairman:** Right.

4 **Mrs. Persaud- Maraj:** Yes?

5 **Mr. Chairman:** Yeah. They had been deflated.

6 **Mrs. Persaud- Maraj:** Pardon?

7 **Mr. Chairman:** It had been deflated.

8 **Mrs. Persaud -Maraj:** It was in the process of being deflated if I—if
9 I can recall the evidence correctly, please.

10 **Mr. Chairman:** Yeah. Well I think it went down a lot.

11 **Mrs. Persaud -Maraj:** Yes.

12 **Mr. Chairman:** Yes.

13 **Mrs. Persaud- Maraj:** We will also hear in the evidence in relation
14 to the assumptions that were made on that plug later on.

15 **Mr. Chairman:** Okay.

16 **Mrs. Persaud- Maraj:** And this is perhaps going into the details of
17 the evidence that the Commission would have to—

18 **Mr. Chairman:** I don't want to get—I'm sorry, I side-tracked you
19 from—I just want—because obviously I was asking Mr. Gilbertson
20 what the position was, er, what he said about oversight and you were
21 touching on it. I just want—

22 **Mrs. Persaud -Maraj:** Yes.

23 **Mr. Chairman:**—to be clear—

24 **Mrs. Persaud- Maraj:** Yes.

25 **Mr. Chairman:**—about what you're saying and he's saying.

26 **Mrs. Persaud- Maraj:** Yes.

27 **Mr. Chairman:** Do you follow? All right, so please, carry on where

1 you were.

2 **Mrs. Persaud- Maraj:** Yes. So, in addition to the system that I've
3 just outlined, there is the Paria permit to work system that we've
4 heard about. The Paria permit to work system, the PTW system, is
5 inherent to Paria's structure and procedure. Before the company can
6 have that, er, a permit to work, their officers need to be trained in the
7 permit to work system, so—in order to co-sign or countersign the
8 permit that is issued to them. So, Paria has its own training in relation
9 to the permit, their permit to work system, and this permit to work
10 system now is secondary or a second or additional to the systems in
11 place in relation to the statements and the job hazard and the work—
12 stop work policies that are usually employed in this kind of—in these
13 kinds of contracts.

14 The permit to work system incorporates, however, the
15 method statement and the JHAs, so that this permit to work is a
16 document and it is part and parcel of the proceedings before this
17 honourable Commission where the method statement for the works
18 and the details of the work that has to be carried out is usually in that
19 document together with whatever hazards whatever risks are
20 associated with the job to be done on that day. That is important for
21 us to understand because Paria is saying, by the evidence that they
22 have put and what counsel has said today, that the permit to work
23 system that they have and the permit that was issued did not authorize
24 the work that was done and we will demonstrate differently.

25 As explained earlier, in relation to the—in relation to the
26 methodology or the method statement that was presented, a
27 comprehensive understanding of the steps was discussed. In addition

1 to a discussion and having the steps pointed out in a document
2 attached to the permit to work, we have email correspondence and
3 there would have been telephone conversations, et cetera, in relation
4 to the mechanisms or the steps that had had to have been employed on
5 that day. So to say now that they were not supposed to pull that plug
6 would indeed be a surprise to us, having regard to all of the stages and
7 checks and balances that LMCS would have gone through during the
8 performance of this contract.

9 The incident happened. If it didn't, this honourable
10 Commission would not have been commissioned, perhaps, but an
11 incident happened and unfortunately the cause of that incident has to
12 be probed. Much has been placed before the Commission in relation
13 to something called Delta P or the differential pressure. In the
14 statement of Kazim Ali Sr., who was the lead in engineer and who has
15 considered in his method, in the preparation of the method statement
16 the methodology to be employed, he explains and he goes into his
17 evidence and has also supplied to the Commission a picture diagram
18 of a model created by him in relation to the information supplied to
19 LMCS, and the—during the course of the invitation to bid which
20 formed the basis of his preparation of the method statement.

21 That is important because there are certain assumptions
22 that have been made in relation to the expert opinion and the expert
23 report that has found itself before this Commission for its
24 consideration. The sole survivor of the incident, upon being saved,
25 said clearly to the persons present that the men were alive in an air
26 pocket. There are variations of what was said but what we
27 understand, from the evidence that is before the Commission, was that

1 the men were alive and there was an air pocket.

2 In that model prepared by Mr. Kazim Ali Sr., the
3 Commission would be able to follow his train of thought in relation to
4 the advent of air pockets in circumstances where there ought not to
5 have been any, given the model and the information provided by
6 the—in the scope of works by Paria. So, in relation to what or how it
7 has happened, we have not put before this Commission a root cause to
8 say this is exactly how it has happened, but what we have done, which
9 the expert report has thus far failed to address, is the issue of the air
10 pocket, and I bring that to the attention of the Commission because
11 this is an issue that has to be looked at in detail, in considering and in
12 discharging the Terms of Reference that is before the Commission.

13 **Mr. Chairman:** In relation to those air pockets—

14 **Mrs. Persaud Maraj:** Yes.

15 **Mr. Chairman:**—Mr. Boodram makes it clear—

16 **Mrs. Persaud -Maraj:** Yes.

17 **Mr. Chairman:**—that there's one section of the pipe that he was in
18 that was completely dry.

19 **Mrs. Persaud- Maraj:** Yes, yes. And the expert report that we have
20 before us has not factored that in any meaningful way if at all. And
21 that is something that certainly needs further investigation and
22 inquiry.

23 **Mr. Chairman:** Well, I shall be interested to hear your theory on it.

24 **Mrs. Persaud -Maraj:** Well it wouldn't be my theory I assure you. I
25 have no expertise in the area, which is why I have pointed Mr.
26 Commissioner to what Mr. Kazim Ali has said and certainly at the
27 time of him giving his evidence which is to be had, I think that would

1 be Thursday now, Mr. Ali would be here. He was scheduled for
2 Wednesday so it should now be Thursday, certainly that can be
3 explored in relation to the air pockets, those issues.

4 I don't intend to go back through what my learned
5 friends have said. I think the Commission has—

6 **Mr. Chairman:** Good.

7 **Mrs. Persaud- Maraj:**—has had a clear understanding and I think—
8 I, I assume that the public has an understanding of the layout and the
9 construct within which this contract and these workers were subjected
10 to, and it was done beautifully in manner that we can appreciate
11 through actual pictures and videos, et cetera.

12 What I would like to say in closing, however, is that this
13 Commission is tasked with looking into all of the circumstances
14 leading to the death of Kazim Ali, Faizal Kurban, Rishi Nagassar and
15 Yusuf Henry. Sometimes in looking at all of the circumstances, it's a
16 mere moment of one question or one decision or indecision on which
17 all of those circumstances hang. I meant that that circumstance or that
18 decision was in relation to the rescue of these men.

19 I appreciate that the Commission understands and has a
20 clear picture of the fact that a survivor from this incident is here and
21 present and who will tomorrow take the stand to say what happened,
22 and I see no reason why and the evidence of all of LMCS' persons,
23 together with persons who would have assisted LMCS but who are
24 not necessarily LMCS' employees or LMCS' witnesses corroborate
25 and would say one thing, that the likelihood of these men being alive
26 is greater than we want to expect, meaning that they could have been
27 here as well. Unless there is any other question—

1 **Mr. Chairman:** There is actually one.

2 **Mrs. Persaud- Maraj:** Yes.

3 **Mr. Chairman:** Can you help me about this? Is it your position for
4 your clients that the issue of Delta P was raised and, if so, where is it?

5 **Mrs. Persaud- Maraj:** So, the Delta P consideration and the
6 methodology undertaken by Kazim Ali was addressed without being
7 addressed. And if I can explain that?

8 **Mr. Chairman:** Please do?

9 **Mrs. Persaud -Maraj:** So, earlier my learned friend would have
10 explained the line clearing process whereby the liquid in the sealine
11 was taken out, in the riser was taken out.

12 **Mr. Chairman:** I'm going to stop you if I may?

13 **Mrs. Persaud- Maraj:** Yes.

14 **Mr. Chairman:** As I don't know the—I just want to know really at
15 this stage, because we're going to hear all this evidence—

16 **Mrs. Persaud -Maraj:** Yes.

17 **Mr. Chairman:**—I just want to know at this stage whether there is
18 any document that you can point to where LMCS, as part of its bid for
19 the work, raised the issue of Delta P as an issue at all?

20 **Mrs. Persaud- Maraj:** No. It was never raised as an issue at all.

21 **Mr. Chairman:** Right, not by you. And was it raised, as far as
22 you're aware, in executing this work by Paria or Heritage?

23 **Mrs. Persaud -Maraj:** No, no please, Mr. Chairman.

24 **Mr. Chairman:** Right. Thank you. Thank you. I'll, I'll give Mr.
25 Gilbert an opportunity to say something about that if he wants to, but
26 that, that, that, that—so it's not your case that there is a document that
27 we can look at anywhere which suggests that this issue of Delta P was

1 ever considered by either LMCS or Paria? That's your position?

2 **Mrs. Persaud- Maraj:** Or specifically addressed, no please?

3 **Mr. Chairman:** Right, thank you very much. I don't know if you
4 want to say anything about that, Mr. Gilbertson.

5 **Mr. Peterson SC:** No.

6 **Mr. Chairman:** No. Thank you very much. All right, well, look, I
7 appreciate you truncating your very comprehensive opening in the
8 way in which you have and I do appreciate it, but, as I say, I will
9 consider it in any event, all right?

10 **Mrs. Persaud- Maraj:** I'm most grateful.

11 **Mr. Chairman:** Thank you. All right, that brings us to the end of
12 today, unless there's anyone who wants to raise anything in particular.
13 Can I just remind everybody that the transcripts of each days hearings
14 will appear on the website once they're done, so, forgive me I've
15 forgotten the name of the person who's doing it—[*Mr. Chairman*
16 *confers with Ms. Sinanan*—Kathleen Mohammed well she's taking
17 down the details and we will have the transcripts hopefully within a
18 few days of each hearing, so, that will all appear on the website and
19 one can go and have a look at it, see what they said what they didn't
20 say. If they forgot what they said they can remind themselves, all
21 right? So, um, thank you very much or that.

22 I'll ask everyone please now, except counsel, to clear the
23 room so that we can hear the application to be made by Mr.
24 Gilbertson. I'm afraid I'm going to ask the cameras to be switched off
25 as well please, but we do need to record what is said for the purposes
26 of the Commission. So cameras off, please, but—and obviously not
27 to be dispatched to the airwaves. All right? Thank you very much.

1 So please can we clear the public gallery and anybody not interested?

2 Thank you very much. I'll give it a few minutes. I'll rise for two
3 minutes while everyone gets a chance to clear away, all right?

4 **3.18 p.m.:** *Enquiry concluded.*

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COMMISSION OF ENQUIRY
TO EXAMINE AND ENQUIRE INTO ALL OF THE
CIRCUMSTANCES WHICH LED TO THE TRAGIC
INCIDENTS WHICH OCCURRED ON FRIDAY FEBRUARY
25TH 2022 AT FACILITIES OWNED BY PARIA FUEL
TRADING CO. LTD LOCATED AT NO. 36 SEALINE RISER
ON BERTH NO. 6, WHICH LED TO THE DEATHS OF THE
FOUR (4) EMPLOYEES OF LMCS LIMITED

International Waterfront Centre
Level 11 Tower D
One Wrightson Road
Port of Spain

MONDAY, NOVEMBER 21, 2022

Commissioners:
The Hon. Jerome Lynch KC
Mr. Gregory Wilson

Commission Counsel:
Mr. Ramesh Lawrence Maharaj SC
Mr. Ronnie Bissessar
Ms. Vijaya Maharaj

Secretary:
Ms. Sarah Sinanan

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IN CAMERA HEARING

3.28 p.m.: *In-Camera Hearing commenced.*

Mr. Chairman: Thank you. Yes, Mr. Gilbertson, I wonder if it will be helpful if I tell you what my thinking is first. It's this. Firstly, Mr. Rampersadsingh is, as far as this Commission is concerned, regarded as an important witness. He is someone who is basically in charge of overseeing the planning and scheduling of support for these sorts of jobs. I have seen, and I take it you have, a statement that he prepared in answer to questions by OSHA. I don't actually have a date for it. What I can say is that, reading it, it was completed a few days before the 15th of March of this year because that's when they asked him to make a more comprehensive statement by, which coincides with the date upon which he went to see his doctor.

Now, I don't know whether the two were related. They may well be. And as far as I'm aware he never did provide such a statement to OSHA. All we have is the question and answer session that he entered into with them where he answers to many of the questions. I want to suggest this, that you find out from your clients if it will be possible for one very sympathetic counsel, together with one from you, I was thinking of Ms. Vijaya Maharaj. She's particularly sympathetic I think. If we want—

Mr. Peterson SC: Yeah, I was, I was looking to see if Mr. Maharaj was still in the room.

Mr. Chairman: What, on the basis she's the only sympathetic counsel? Is that—*[Laughter]*. Well, I was just, I was thinking it might be possible if together, if necessary, with his psychologist or psychiatrist and one from your team perhaps to just have a word with

1 him. There aren't probably that many questions that we—because we
2 do have this [*Mr. Chairman raises a sheet of paper in the air*]. There
3 are some questions, obviously, which is why we've asked him to
4 come in for an interviewee. I don't want to put this man through any
5 more stress than he must be but I do regard it as important, and, if
6 there was any way at all in which we could do that without—I don't
7 want to have to drag him here if I can avoid that and I want to
8 minimize the stress to him, but he was clearly capable then to produce
9 not an incomprehensive document which says quite a lot. As I say,
10 there are a number of issues that arise that we would like to ask him
11 about. We could do it in the most gentle way in his own home if
12 necessary. You know, I wonder if you could make such inquiry—

13 **Mr. Peterson SC:** Yes, Sir.

14 **Mr. Chairman:**—rather than my just discharging it now or refusing
15 to discharge it now, can we see if any kind of accommodation can be
16 reached where he could be made to feel as comfortable as possible in
17 his own home, perhaps with a cup of tea, you know, with somebody
18 there to support him, and a very sympathetic and gentle asking of a
19 number of questions that he might be able to assist us with?

20 **Mr. Peterson SC:** That's a proposal that we are attracted to, Sir, and
21 we will explore it.

22 **Mr. Chairman:** If we could, if we could do that, I mean that
23 obviously puts some hearing in an application of this nature I'm not
24 anxious to take one course or the other in relation to it. I don't ask
25 him to attend as yet. We could make that inquiry.

26 **Mr. Peterson SC:** We would do that, Sir.

27 **Mr. Chairman:** Marvellous. All right, well, that was easy, wasn't

1 it? Thank you very much. We will resume tomorrow at ten o'clock.
2 Thank you.

3 **3.32 p.m.:** *In Camera Hearing adjourned.*

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1 **COMMISSION OF ENQUIRY**
2 **TO EXAMINE AND ENQUIRE INTO ALL OF THE**
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9
10 International Waterfront Centre
11 Level 11 Tower D
12 One Wrightson Road
13 Port of Spain
14

15 TUESDAY, NOVEMBER 22, 2022
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17
18

19 **Commissioners:**

20 The Hon. Jerome Lynch KC
21 Mr. Gregory Wilson
22

23
24 **Commission Counsel:**

25 Mr. Ramesh Lawrence Maharaj SC
26 Mr. Ronnie Bissessar
27 Ms. Vijaya Maharaj
28

29 **Secretary:**

30 Ms. Sarah Sinanan

1 **EVIDENTIARY HEARING DAY 2**

2 **10.05 a.m.:** *Enquiry commenced.*

3 **Mr. Chairman:** Good morning, all. Good morning. I spot a
4 change of personnel on the second row; not the same as it were
5 yesterday. Somebody own up.

6 **Mr. Pegus:** Good morning, Mr. Chairman—

7 **Mr. Chairman:** You need to put your microphone on. That's
8 it.

9 **Mr. Pegus:** Right. Morning, Mr. Chairman, I, Chase Pegus,
10 represent the interest of Kenson Operational Services
11 Limited—

12 **Mr. Chairman:** Ah, right. Okay. I thought you were a new
13 face I hadn't seen before. Okay. You weren't here yesterday,
14 were you?

15 **Mr. Pegus:** No, I was not.

16 **Mr. Chairman:** All right. Good. I'm not going mad, then.
17 Excellent. Well, I think—

18 **Mr. Dindial:** Sorry. Good morning, Mr. Chairman; Ché
19 Dindial with Mr. Boodram.

20 **Mr. Chairman:** Okay. Excellent. Thank you very much.
21 And I think, um, Mr. Maharaj, we're starting with Mr. Boodram
22 this morning, are we not?

23 **Mr. Maharaj SC:** Yes, Mr. Chairman.

24 **Mr. Chairman:** All right. Should we get on with it?

25 **Mr. Maharaj SC:** Yes, Mr. Chairman. Yes. Christopher
26 Boodram. Mr. Chairman, his evidence is in Volume IV of the
27 witness statement bundle, 1556, and that is statutory declaration

1 and witness statement taken from him at page 1565.

2 **Mr. Chairman:** Thank you. Just give me a minute to find
3 this. Thank you very much. Got it. All right. Thank you very
4 much.

5 **Mr. Maharaj SC:** Much obliged. [*Mr. Christopher Boodram*
6 *enters witness box*] You require him to be sworn in?

7 **Mr. Chairman:** Yes, please.

8 [*Mr. Christopher Boodram sworn*]

9 **Mr. Chairman:** Thank you very much. Mr. Boodram, please
10 feel free to sit now or stand, whichever you prefer; whichever
11 makes you feel more comfortable. We are all very conscious
12 here in this room—very big room with a lot of people, and
13 obviously, you're the focus of attention today, and we are
14 conscious of the fact this is not going to be easy for you. All
15 right? So you take your time. If at any stage you want to have
16 a break, just tell me, all right, and you will have a break. If you
17 need time to pause to think about what you're going to say,
18 please do so. I don't want you feel under any pressure at all.

19 We're very grateful for your being here this morning.
20 All right? So you take your time and you tell your story.
21 Answer the questions from Mr. Maharaj over there. All right?
22 And you just take your time. Any problem that you—you
23 speak to me, and I will deal with it. All right? Thank you very
24 much.

25 **Examination By Mr. Maharaj SC:**

26 Q. Okay, Mr. Boodram, you are an underwater diver.

27 A. Yeah.

1 Q. And for how long have you been an underwater diver?

2 A. Approximately 12 years.

3 Q. Approximately 12 years. And you are PADI certified as a
4 diver?

5 A. Yeah.

6 Q. That is a scuba-diver?

7 A. Yes.

8 Q. Do you have any experience in commercial diving?

9 A. Yeah; 12 years' experience.

10 Q. Twelve years' experience in commercial diving.

11 **Mr. Chairman:** Mr. Boodram, could I ask you, please, if you
12 bring your chair a little closer and bring that microphone a little
13 closer to you as well, then everybody in the room can hear what
14 you have to say, and you won't have to be asked twice, then.
15 You follow me?

16 **Mr. Boodram:** All right.

17 **Mr. Chairman:** Thank you very much.

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. In respect of what happened on the 25th February, 2022 you
20 swore to a statutory declaration?

21 A. Yeah.

22 Q. And that was dated the 28th March, 2022?

23 A. I would like tuh believe so.

24 Q. Yes, you could take it from me; the 28th March, 2022. And the
25 contents of that Statutory Declaration are true and correct?

26 A. As far as I can recollect.

27 Q. Yes. And you also were interviewed at SAPA by the

1 Commission in the presence of your lawyer?

2 A. Yeah.

3 Q. And you gave answers, and you signed a statement.

4 A. [*Nodding*]

5 Q. And that was on the 19th October, 2022?

6 A. [*Nodding*]

7 Q. Okay?

8 A. Okay, yeah.

9 Q. And the contents of that statement you signed are also true and
10 correct?

11 A. Yeah. Correct.

12 Q. Now, I want to ask you some questions about the 25th
13 February, 2022, and I want to do this in a way that I would lead
14 you on, but I will give you the opportunity of saying it as you
15 remember it. Okay? Take your time and don't be afraid, and as
16 the Chairman of the Commission said, if at any time you want a
17 little break he will permit you to have that break. Okay?

18 A. [*Nodding*]

19 Q. On the 25th February, 2022, you were employed with LMCS
20 Limited.

21 A. Yeah.

22 Q. And you were employed as a diver.

23 A. Yeah.

24 Q. On that date, could you tell us what happened?

25 A. Um, how far you want it back? From de beginning or from
26 de—

27 Q. No, no. At the time when you went to work that day, could you

1 tell us what happened?

2 A. On de 25th?

3 Q. Yes. You remember on the morning of the 25th?

4 A. So—so, yeah, um—

5 Q. And you went to work?

6 A. Ah reach tuh work early because we was requested tuh reach
7 tuh work early.

8 Q. And you attended a meeting on that morning?

9 A. Ah believe so. We had a lil, um.

10 Q. Can I try to recall? You had a toolbox meeting that day about a
11 job?

12 A. Right. Dah is—yeah; dah is when we reach on de barge. Yeah.
13 Dah is when we was on de barge out on de job site.

14 **Mr. Chairman:** I'm going to ask the camera people, to be a
15 little more prudent in the number of pictures they take. There is
16 a limit to how many times that clattering should be proceeding.
17 Thank you very much.

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. So you went to the toolbox meeting that day and that was in
20 respect of a job that had to be done.

21 A. Yeah. So de—we had de toolbox meeting concerning, um, this
22 riser job that was in—that in question. We gather round at that
23 toolbox meeting; toolbox meeting is more or less of de job
24 entails, wha' we going tuh do fuh de day, um, in de stages ah
25 how we going tuh do it. Um, de safety officer go also, um, talk
26 tuh us, ah lil safety, um, briefing, yuh know, de hazards ah de
27 job, and whatnot.

1 Q. Okay. Let me see if I could, um—and the job was to change a
2 riser, not so?

3 A. Yeah, yeah.

4 Q. What you had to do with the—

5 A. We actually—de job dat day was actually tuh—de job dat day
6 was actually to go—wha' we had tuh do dat day boy? Ah
7 apologize. Sometimes ah, um—

8 Q. No. I understand. You had to put in place a new riser, not so?

9 A. Right. Yeah, but it was in stages. Um, before puhing in de
10 riser, we had tuh unbolt de blank. Right? We had tuh take out
11 de mechanical plug, right, do a CARBER test, right, and after
12 de CARBER test was cleared or passed or however dey wanna
13 term it, then we would proceed, take out de plug, de inflatable
14 plug and install de riser. This is how dey—this is de steps in
15 how dey told us we had tuh, um, to do it.

16 **Examination By Mr. Chairman:**

17 Q. I wonder, can you just tell me. We know that there was a
18 habitat or a chamber over the top of this riser.

19 A. Right. Yes.

20 Q. And you your work colleagues were working inside that
21 chamber.

22 A. Right. Yes.

23 Q. And the first thing that you had to do on that day from what you
24 said is to remove the blank plug. Is that right?

25 A. Yeah.

26 Q. Not plug, but—

27 A. De blank. Yeah.

1 Q. Yes. That's like a cap—a top?

2 A. Right. Yeah.

3 Q. So that was the first thing you had to do, was it?

4 A. Yeah.

5 Q. All right. Well, you take it from there. After you'd done that—
6 who is it that did that?

7 A. Me—Yusuf and I. Yusuf and I, um—well, all of us was in de
8 chamber. Well, de habitat was Fyzie Kurban; he was like de
9 most experienced out ah all of us, so dah is like we lead diver;
10 um, Fyzie Kurban. Um, Rishi Nagassar, Blacks.

11 Q. That's his nickname? Blacks is—

12 A. Yeah. Yeah.

13 Q. Yes.

14 A. Yusuf Henry, myself. Kazim Ali was on de barge as a standby
15 rescue diver fuh in case something was to go wrong.

16 Q. Yes. So he was supposed to stay on the barge, and the four of
17 you were working, were you?

18 A. Yeah, yeah.

19 Q. Inside the chamber. Did it need all four of you?

20 A. Um, yeah, tuh ah sense. Yeah.

21 Q. Right. All right.

22 A. Um—

23 Q. So tell us, you've taken off the blanking then, then what
24 happened?

25 A. De blank is nuh like something dat yuh could just lift off. Yuh
26 know. De blank is—by itself, it may be about a hundred and
27 fifty pounds, because yuh talking about ah 30-inch diameter

1 pipe, yuh know, with, um, half-inch thick sheet plate wha' dey
2 go use tuh make the blank with.

3 Q. Right.

4 A. So dat by itself is nuh ah easy task. Yuh hah tuh hook up chain
5 blocks. Chain blocks is something like a manual crane. Right?
6 Um, yuh hah to hook up chain blocks stoffers [*Phonetic*] to
7 manoeuvre these heavy equipments, these heavy things tuh geh
8 it off. Yuh hah tuh take off; puh it down so. Fuh it tuh be done
9 safe, yuh need more than two men.

10 Q. Right.

11 A. Because yuh actually need two men tuh guide de flange—he
12 supposed tuh know wha' ah talking 'bout—tuh guide de flange
13 down while one man operate de chain block and ah next man
14 overview dat nobody doh puh dey hand in any pinch areas, dah
15 kinda—we, we—dey is not de first time we do dis job. We
16 never encounter no hazard on dis job—when I mean no hazard,
17 sorry, no—we never geh into any complications because all ah
18 we competent and know wha' we doing. Forget about wha' all
19 yuh may think about de type ah equipment or de certs. I've
20 been doing dis fuh years.

21 Q. All right. Mr. Boodram, Mr. Maharaj is going to pick up the
22 sequence of events. I know you're very anxious to, obviously,
23 get this out the way, and tell us your story. But it's quite
24 important that we have the sequence of events. Do you follow?
25 And you've told us now, so Mr. Maharaj is going to take it
26 from there. Thank you.

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. Right. So after removing the blank, what is the next thing that
2 you all did?

3 A. After removing de blank, we had to remove de mechanical
4 plug. To remove de mechanical plug, yuh does have tuh use—
5 because it inside de pipe, right, you have to use a spanner. No
6 normal pipe wrench or crescent or spanner could work, because
7 ah de confined space inside de pipe—in de diameter ah de pipe.
8 So we made a tool with a socket, ah extension on it and ah cross
9 piece on top ah it; something resembling ah capital T, um, to
10 slacken de, de bolt. The mechanical plug does work that when
11 yuh tighten de bolts in series around it, it does expand and hug
12 de inside of de diameter ah de pipe, and cause a seal.

13 Q. Right. But in order to remove it, you—

14 A. Yuh hah to slacken out all those bolts. Hook up the chain block
15 on it.

16 Q. Okay.

17 A. Right? Take it out, jack it up with de chain block, bring it at de
18 side. Right? After taking dat out we didn't drop it tuh de
19 seabed, we went and shackle it up on de outside of de, um—we
20 fasten it to de outside of de, um, habitat. Right? And after
21 fastening it there, we came back and then Fyzie instructed mih
22 tuh, um, go and find out if dey finish de CARBER testing at
23 Berth 5.

24 Q. Okay, one second. So yuh came back. So yuh went fuh lunch
25 and then came back?

26 A. No.

27 Q. No. Okay.

1 A. No. This is before ah take lunch.

2 Q. Okay. So yuh came back, and what happened?

3 A. After going out—out ah de habitat, ah, um, ah ask Dexter if,
4 um, dey finish de CARBER test. Dexter tell mih, yes, de
5 CARBER test was done. At de same time ah saw de boat
6 coming back across—de pirogue coming back across. And ah
7 ask de guys dey self who did de job if de CARBER testing
8 finish, and dey confirmed it. Ah went back down. Ah confirm
9 with Fyzie, de CARBER test was finish over dey. Right? So
10 he say, well awright leh we take out de, um, de mechanical
11 plug. We take out de mechanical plug; we bolt it up. Right?

12 Q. When you say take out the—you then take out the mechanical
13 plug?

14 A. Yeah. Before we take out de mechanical plug, ah went and geh
15 dis information from outside tuh make sure we coulda do this.
16 Right?

17 Q. Okay. Okay. And what happened?

18 A. After we get de clearance, we take it out, right, we came out fuh
19 dey to do de CARBER testing, right, because ah, um, ah
20 external contractor or team or wha'ever was suppose tuh
21 oversee de CARBER testing. Um, Fyzie and I and de rest ah
22 team was suppose tuh just puh de equipment in place, and dem
23 woulda do de, um, de testing, right, since we are de divers.

24 Um, when we came I came out, I deliver de message dat
25 we ready fuh de CARBER testing, dey send down de, um,
26 thing; I was on de barge. Yusuf came back out and tell us that
27 it can't work; it too small. Fyzie and everybody come back out

1 and tell dem dat it not fitting; it cyah work. Dey ask fuh ah,
2 um, ah bigger one. When dey check it, notten bigger couldn'
3 work; is de pipe had a lil deformity. Paria and LMCS had some
4 discussions on whether or not they should go forward or wha'
5 ever. They tell us take lunch. We took lunch from there.

6 Q. Okay. You said the CARBER testing couldn't work. Could
7 you help us what it is couldn't work?

8 A. Tuh do de CARBER testing, yuh need a proper seal, right, and
9 because de pipe was deformed it couldn' geh a proper seal.
10 Correct?

11 Q. Okay. Right. So you all went for lunch, and you all came back
12 after lunch?

13 A. Well, yeah, we take lunch right on de, um—

14 Q. Now, I want you to take your time and tell us as far as you
15 remember when you came back from lunch what happened?
16 What was the first thing when you came back from lunch that
17 happened? [*Pause*] I could help you a little bit. You
18 remember about the mechanical plug what you said? What
19 happened?

20 A. So after we, um, after we take lunch—I doh know. Fuh some
21 reason mih mind just going blank. Um, after we take lunch we
22 came back out, um, Kazim Ali Jr. tell we that we geh de, um, de
23 clearance tuh continue de job without de CARBER testing.

24 Q. Correct.

25 A. We, um, we, awright, we had we lil talk with each other. We
26 say, well, awright, we just need tuh take out this inflatable plug,
27 install de riser, dah is a wrap fuh de day. We say, right, dah is

1 wha' we going and do. We went in—we went in de, um, de
2 habitat. As we went in, we, um, as we went in the habitat we
3 had tuh, um, then deflate de inflatable plug. Awright?

4 So because I wasn't there fuh de inflatable—fuh while
5 dey install it and all dem kinda ting, I took like a backseat while
6 dey was, um, deflating it and ting like dat. And, um, dey ask
7 fuh a spanner; dey ask fuh a spanner tuh—because apparently
8 the lever was jammed, or something like that, that dey couldn'
9 just, um, release de, de air. So at de same time, Kazim Ali Jr.
10 came in and we tell him we needed a spanner. He went out;
11 collect de spanner; bring it back in; give mih de spanner; I give
12 it to dem, and as he come back in and I turn—after I do dat and
13 I turn around—I ain even sure if ah collect de spanner—after ah
14 turn around, I saw de water in de chamber start to rise, and I say
15 like, all yuh wha' going on here? Look dis ting fulling up. Leh
16 we geh outta here.

17 And I jump; and when I jump tuh come out de, de
18 habitat, I feel like instead ah sinking in water, ah feel like ah
19 was floating; like it had no gravity. Yuh know, ah feel like—
20 and den after within a second it was like a tornado; everything
21 just spinning and beating yuh up and—it happen so fas', yuh
22 couldn' react. The onlies' ting ah remember able to do was
23 cover mih head like in the foetal position. After dat all ah
24 remember—ah didn' even remember actually getting pulled in
25 de pipe.

26 Ah just remember being hurled through de pipe at
27 unbelievable speeds. It does feel like if when yuh, yuh diving

1 ah car and yuh doing ah hundred or 120 on de highway, yuh
2 feel like if yuh was going through dah kind ah speed. Every
3 time ah try—after ah realize ah in de pipe and ah going through
4 de pipe, every time ah try tuh, tuh stop mihsel jamming de
5 walls ah de pipe, ah woulda feel mih hands burning through de
6 wetsuit. While going down yuh woulda feel lil debris hitting
7 yuh.

8 When, um, when um, when we kind ah stop—when de
9 water kind ah slow down and ah was able tuh stop mih self, at
10 dis time ah couldn' hold mih breath no longer. Mih throat—
11 when yuh holding yuh breath, when yuh holding yuh breath fuh
12 too long, after a while yuh body, yuh lungs does fight to try to
13 gasp fuh breath, and when yuh forcing yuh airways close, yuh
14 does hear ah noise. Ah was actually—dah is wha' I was
15 hearing. [*Gurgling sound made by Mr. Boodram*] Yuh body
16 suffering tuh pull air. And at dah point I tell mihsel ah was
17 going and dead. I tell my—I say, God, ah coming; ma, look out
18 fuh mih. Ah was expecting to be dead dey.

19 And all ah a sudden ah just out ah de water and ketch ah
20 breath. Ah was in ah, ah state ah panic, realizing dat, awright,
21 ah in de pipe. Ah just now nearly dead. Ah not sure if ah alive,
22 as ah matter ah fact. I ain sure whay ah is; if ah in hell; if ah in
23 heaven; if ah in ah pipe. It may sound funny tuh ah lot ah
24 people but dah is how I was going through my mind fuh ah
25 brief moment. And den ah heard, ah believe it was Kazim Ali
26 calling out tuh me. Dah was de first person ah hear calling, and
27 I assumed he was outside de pipe and calling me. I thinking dat

1 I fall down de pipe. And ah was like—well all yuh hear de
2 audio.

3 Yeah, boy, who is dat, boy? Yeah, boy, who is dat, boy?
4 Ah inside de pipe. Ah inside de pipe, boy. Yeah, boy, yeah
5 boy, I inside de pipe too. And from dey is when ah realize that
6 ah hah tuh go into survival mode here now; ah still living,
7 because ah hearing somebody talking, unless he dead too, ah
8 hah to find out. And ah start going tuh de voice closer and
9 closer. Ah still didn' actually make out who it was until ah
10 reach on him. When ah reach on him ah touch him—mih foot
11 touch him, because ah was going backwards, because ah geh
12 sucked in de pipe, and in my head I thought that ah geh sucked
13 in headfirst, because ah try jumping out foot first.

14 So de pipe up here, right, and if I jump here and ah end
15 up in the pipe, so I thought I geh sucked in headfirst. At least
16 dah is de maths I did at de time in my mind. Yuh know? And
17 ah tell mih self dat if ah geh sucked in headfirst, well foot first
18 is de way out. Yuh know? And Kazim Ali and whoever—well
19 whoever else was that—dey was closer tuh de riser, and it was
20 like right dey, right dey, because dah is how it soun'in. Yuh
21 know?

22 So when ah reach across now, and ah—mih foot touch
23 something soft and ah pull it back so because ah was in ah state
24 ah fright. Ah say, "Who is dah, boy?" He say, "Boy me, boy,
25 me, boy." Ah say, "Me who, boy?" He say, "Boy, Kaz boy."
26 Ah say, "Kaz, yuh awright?" He say, "No, boy; ah in real pain;
27 ah in real pain. I mash up; I mash up bad." I hear somebody

1 else bawling in the background. Ah say, “Who is dat?” Yusuf
2 answer. Ah say, “Who is dat, boy?” He say, “Boy me, boy,
3 Chris, boy, Yusuf boy.” Ah say, “Yusuf, you awright, boy?”
4 He say, “No, boy, bredda boy. My foot break, boy.” Ah say,
5 “Awright, boy, bredda, boy. I feel my hand and foot break too,
6 but we hah tuh geh out ah dis. We hah tuh come together and
7 we hah tuh geh out ah dis.”

8 I hear bawling in de background. Ah say, who is dat
9 now? Who is dat? The person ain’ answer. Ah say, “Who is
10 dat?” Yusuf say, “Boy, dah is Fyzie, boy.” Ah say, “Fyzie,
11 Fyzie.” He say, “Yeah, yeah.” Ah say, “Yuh awright?” He
12 say, yeah. Ah say, anyting wrong with yuh? He say, “No.”
13 “So wha’ yuh bawling for?” He say, “Ah doh know.” Ah say,
14 awright, watch mih. We hah tuh geh out ah dis. God is good.
15 We go come out ah dis. Leh we pray. Ah pray. Ah ask
16 Kazim—ah ask Kazim Jr. ah say, “Kaz, how we could come
17 out ah here? Wha’ we could do boy? Think. Wha’ we could
18 do? Wha’ we could do?” Kazim say, boy, we going and dead.
19 Ah say, no. Doh say dat. We nuh going and dead in here. Leh
20 we come out ah here, boy. We nuh going and dead in here,
21 boy. We coming out ah here.

22 Ah say awright, awright. Ah say, “All yuh, whay
23 Blacks?” Yusuf tell mih, boy, he di pass over Blacks lower
24 down when he was coming across. He say he ain sure wha’
25 going on with he. Ah say, “Boy, hear wha’ going on. We cyah
26 stay and wait fuh he. We hah tuh go and come back. Who
27 could move, leh we move. Ah say, “Fyze, you push. Yusuf,

1 Yusuf, you push Kaz and I go pull.”

2 Now, before dat, ah ask him, ah say I think we hah tuh go
3 backwards so, because I think I come in foot first. Kazim say,
4 no, we come in foot first. No. We come in foot—I think we
5 come in headfirst. Kazim say, no, we come in foot first. Ah
6 say, no we didn’ come in foot first. He say, yes. Yusuf say,
7 “Yes, boy, Chris, boy. I sure, I sure, I sure we come in foot
8 first Chris.” Fyzie say, yeah. Ah say, well awright boy, well
9 we done in dis, so I cyah fight all yuh. If all yuh say dah is it,
10 dah is it. If we hah tuh dead, we hah tuh dead. Leh we go. Ah
11 hah tuh go with wha’ all yuh say. If dem didn’t know what
12 direction we had tuh go, I woulda be dead today too.

13 We, um, we, we form a chain like. Ah tell dem, ah say,
14 listen, ah will puh mih foot underneath Kaz shoulder. Kaz, see
15 if you could lock on tuh Yusuf. Yusuf see if you could push—
16 Kaz—um, Fyze, see if you could push everybody. And we
17 going. Now, mind all yuh, inside dey was like an unbelievable
18 nightmare, eh. Yuh eyes burning. Every time yuh try tuh open
19 yuh eyes, it burning. Yuh pitch black, yuh can’t see notten.
20 Yuh throat burning. Yuh ears ringing. Yuh body sore.

21 Inside dey wasn’ no just crawl through ah pipe like wha’
22 plenty people might be thinking, eh. And me and dem fellas,
23 with all de pain we had, we link up together and we drag and
24 pull, drag and push and pull, and every now and again small
25 Kaz would ask fuh ah rest, because he apparently was in de
26 most amount ah pain. He was saying Chris, Chris, Chris, we
27 hah tuh rest, and ah hah tuh stop.

1 Ah could geh a minute to, um—

2 **Mr. Chairman:** Do you want to rise or you're happy to sit for
3 a moment? What you like to do?

4 **Mr. Boodram:** Ah want to walk outside for a minute, please.

5 **Mr. Chairman:** Of course, you can. Please, take him out for a
6 moment, please, somebody? We'll rise for a few minutes,
7 please. Thank you.

8 **10.39 a.m.:** *Enquiry suspended.*

9 **10.45 a.m.:** *Enquiry resumed.*

10 **Mr. Chairman:** Are you as all right as you're going to be, Mr.
11 Boodram? Don't feel inhibited in asking again if you need
12 another break, all right, at any point. All right? We don't mind
13 taking a few minutes. All right? So if you need it, you ask. All
14 right? Take your time.

15 **Mr. Boodram:** Ah owe dem men dat at least ah could be here
16 and do wha' ah hah to do fuh dem. I owe dem dat, because ah
17 fail dem in every other way. [*Mr. Boodram sobs*] Ah
18 apologize. Ah apologize.

19 **Mr. Chairman:** There is no need for an apology; absolutely
20 none at all. Do you think you need a little more time, Mr.
21 Boodram?

22 **Mr. Boodram:** No, leh we just geh over with it.

23 **Mr. Chairman:** Of course. Well, then take a moment. It's got
24 water there.

25 **Mr. Boodram:** Leh we geh over with it. Leh we geh over
26 with it. [*Mr. Boodram continues sobbing*]

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. Okay. Mr. Boodram, what I will do, I will let you continue
2 from what you were saying. But then, with leave of the
3 Commission, I would show you your statements and ask you
4 whether what you said in those contents of the statements are
5 true and correct. Okay?

6 A. Uh-huh. Uh-huh.

7 Q. Okay. So the last thing you told us just before the break—take
8 your time—you said that there was—you all formed a human
9 chain, and Kazim was ill. Could you tell us what happened
10 after that as far as you can recall?

11 A. We was pulling and dragging through the—[*Mr. Boodram*
12 *sniffing*] we was pulling and dragging through the, um, the air
13 pocket.

14 **Examination By Mr. Chairman:**

15 Q. Could I ask you, this stage, was there any water or fluid in the
16 pipe at all, or were you in a dry area of the pipe?

17 A. Where I ended up, now I know dis, dat I was closer to de riser
18 than they was. Right?

19 Q. Right.

20 A. Wey I was—

21 Q. So you were at the front, effectively?

22 A. Right.

23 Q. So you must have been the last person to be sucked into the
24 pipe?

25 A. Correct.

26 Q. All right.

27 A. While I was there, there were some water; maybe, um, like

1 about 8 to 10 inches ah water.

2 Q. Right. And we're talking about a 30-inch pipe. We had a hoop
3 here somewhere I think; yeah.

4 A. Yeah.

5 Q. So it's not a great big amount of space. Do we still have the
6 hoop? [*Hoop held up for Mr. Boodram to view*] That is about
7 an inch smaller on either side for the sort of pipe that you were
8 in. That's the—so that we can get a visual, that's the diameter,
9 approximately, of the pipe that you were in. All right? So we
10 can now picture the situation. You're down there; it's
11 completely dark so you can't see anything, but you can hear, all
12 right, and you can touch. There is about, did you say, 8 inches
13 or so of water? Something like fluid.

14 A. Eight to six inches of, well, liquid.

15 Q. Yes, a mixture. Right.

16 A. Yeah. We couldn't really tell exactly if it was pure oil or—it
17 was mixed.

18 Q. Right.

19 A. Because ah understand wha' it was now. Yuh know?

20 Q. Right. And the walls of the inside of the pipe, were they
21 slippery? How did it feel?

22 A. They were thickened with oil.

23 Q. Right.

24 A. Oil residue.

25 Q. Right.

26 A. Was totally—

27 Q. They're quite old pipes, so obviously they will build up of that

1 material on the inside.

2 A. Yeah.

3 Q. So was it slippery as you were trying to crawl along?

4 A. Yeah, it was—it—every time yuh dragging, yuh feeling like
5 yuh nuh going no whay.

6 Q. Yes. Did you have any idea about how far away you were from
7 the vertical pipe? Any sense of that at all?

8 A. [*Shaking head from left to right*]

9 Q. No.

10 A. Ah could tell yuh it wasn' ah—I doh think it was ah short way.

11 Q. No. All right.

12 A. 'cause I feel like was fuh ever inside dey.

13 Q. Anyway, you were telling Mr. Maharaj and us what were you
14 doing; pushing and pulling and making your way along the
15 pipe. All right—

16 A. Yeah—

17 Q. And did you encounter any more fluid?

18 A. While going back to them, where I was, was like about six to
19 eight inches. When I reach back to dem, de pipe was totally
20 dry.

21 Q. Right.

22 A. Well, other than de gunk on de—

23 Q. Inside.

24 A. Inside; yeah.

25 Q. Right.

26 A. Right? So—

27 Q. So you'd gone backwards, first of all, shuffling backwards with

1 your feet first, as it were.

2 A. Um-hmm.

3 Q. Yes?

4 A. Yeah.

5 Q. And now you've made your chain, you've told us you're now
6 making your way forward again. All right?

7 A. Right.

8 Q. They'd persuaded you that that was the right way to go.

9 A. Yeah. Thank God.

10 Q. Okay. And then—and so off you did. Off you went.

11 A. Yeah.

12 Q. As you're going forward, you start going back into the fluid,
13 and then—then tell us—take it from there and tell—Mr.
14 Maharaj will help you along.

15 A. It wasn't like as just back into de fluid eh, dah is like de short
16 version of it. Yuh know in-between that we had a lot ah stops
17 and breaks and ah was praying with de guys; ah ask dem tuh
18 pray too. Yusuf prayed with mih; Fyzie say he praying. Kaz—
19 ah tell Kaz tuh pray. Kaz say, "Boy, my wife is a Catholic."
20 Ah say, "She nuh here, boy. She nuh here boy bredda boy, you
21 have tuh pray fuh yuhself boy. Nobody cyah help we here but
22 God, boy."

23 Q. All right.

24 A. Ah tell dem, well, leh we go again. He was constantly asking
25 for breaks and stops. I know that we couldn' inhale dis fuh
26 long, yuh know. I found a tank—

27 Q. Right.

1 A. While going back, ah find ah tank.

2 Q. Did the tank have the spiders on them still?

3 A. Yeah.

4 Q. You know the spider is the pipework, isn't it?

5 A. Yeah, yeah; the regulator.

6 Q. Yes. And the regulator, and the pressure gauge, and all of those
7 sort of things.

8 A. Yeah.

9 Q. You had all—that was still attached to the tank, was it?

10 A. Yeah.

11 Q. Right.

12 A. I found that—Fyzie found one while he was coming up earlier
13 on, because ah ask if anybody had any tank with dem or
14 anything like dat, and Fyzie told me he had one. Ah say,
15 “Awright, we go need it. Keep it with yuh.”

16 Q. Pausing there for a minute, when you were in the habitat,
17 everyone had taken their tanks off, hadn't they?

18 A. Yes, we—

19 Q. So you were all working, as it were, in the semi-dry?

20 A. So remember—so remember that—remember that these
21 equipment—ah tank is about 30 pounds. Right? You in this
22 dry space here now, right, you come out de water and climb up
23 on de scaffling; yuh on a dry space on de platform. Right?
24 You wouldn' have all ah dis weight on you.

25 Q. Right.

26 A. Even if yuh had an umbilical cord with a SuperLite, ah Kirby
27 Morgan SuperLite, right—dah is, um, de latest, de latest one; ah

1 think is 22 or 23 or something like dat; dat by itself is about 30
2 pounds too.

3 Q. Right.

4 A. So even if yuh had dat on, right, yuh cannot function; yuh can't
5 do pipe fitting work; yuh can't do no kind ah work with dah hat
6 on yuh. When yuh on a commercial job as this one and yuh
7 using surface supply, de rescue diver who on standby doh even
8 hah dah hat on. He would have wha' we call de toilet seat on
9 him.

10 Q. A what?

11 A. It's called de toilet seat—

12 Q. Okay.

13 A. Right—on him; and he would have dis hat on his—

14 Q. Lap.

15 A. —yeah, lap, because ah de sheer weight ah it out ah water, out
16 ah buoyancy, this—is a lot ah weight on yuh neck.

17 Q. Right.

18 A. Yuh understand?

19 Q. I got you; yes.

20 A. So even if yuh was using surface supply, when yuh enter inside
21 dey, is like a decompression chamber. When yuh come in a
22 decompression chamber and yuh take off all yuh gears and yuh
23 relax and yuh decompress. Right? Because yuh nuh going and
24 hah dat. Yuh hah breathable air in dis space.

25 Q. Right.

26 A. Right? So we take off we gears and was doing de job.

27 Q. But all of these tanks with the spiders attached to them, were

1 sucked in—

2 A. Everything—

3 Q. With you—yes.

4 A. Everything get sucked in.

5 Q. All right. So you found—so you're telling us, you found these
6 two tanks; Fyzie's got one and you come across one as you
7 were making your way out.

8 A. Right.

9 Q. Right? Take it from there, please. Mr. Maharaj will help you
10 there.

11 **Continued Examination By Mr. Maharaj SC:**

12 Q. Yes. You found the tanks, and you're making your way back.
13 Tell us what happened.

14 A. After ah find de tank, ah tell dem ah say yeow, watch mih,
15 breathing this air fuh long could geh we delirious and geh we
16 nauseous, and hah we start thinking all kine ah shit. We need
17 tuh start taking interval sips ah air from we tank tuh keep clear
18 oxygen in we system, and we cyah breathe it right through,
19 'cause we go need it, so we cyah just hold it and breathe it. So
20 ah tell dem, ah say I would give buddy breathe with Kazim.
21 Every now and again, after pulling and pushing and we
22 exhausted, we take two three pull ah de fresh air, right, de air in
23 de tank, not much, and we share it. So we doh know how long
24 we would need these tanks for. Yuh know? We doh even
25 know if it hah more inside, because at this stage it was in my
26 mindset, not knowing what going on outside, wha' cause this
27 incident. I not sure if was ah explosion. I not sure if de whole

1 Berth on fire. We doh know. Yuh know? And I understanding
2 and thinking all ah dat, and trying tuh stay calm tuh keep dem
3 fellas calm, was one ah de hardest thing I had tuh do in dis life.

4 Q. I could imagine. I could imagine.

5 A. Well, when I, um, ah tell dem well, awright, we go buddy
6 breathe a lil bit, and go. We cyah take long res' Kaz. Ah keep
7 telling Kaz dat. Yusuf was in pain, buh Yusuf was in fighter.
8 Yusuf had resiliency tuh a whole different level. He in pain and
9 he with mih. He say, "Chris, leh we go; ah with yuh; ah with
10 yuh." And he pushing; and he pushing. Well Fyzie as normal,
11 he strong and silent. He is nuh no big set a words, but yuh
12 know he there. Kazim was in a lot ah pain. He tell mih he
13 break up bad. Ah assume he was—ah assume he was cripple,
14 because every time ah try to move him, he couldn't move. He
15 say, Chris, ah cyah move; ah cyah move. And ah would be
16 dragging and ah was using one hand, because dis hand was
17 pinned [*Mr. Boodram indicates with his left hand*]; dis hand
18 was pinned behind mih back, and every time ah try bringing it
19 forward, it was in excruciating pain, so dah is why ah thought it
20 was broken.

21 So it was using one leg, cause mih ankle—mih ankle and
22 all too was damaged. Ah thought dah was broken too. I doh
23 know. And we was pulling and dragging and Kaz was trying
24 all he could try too but he is only human, and he was asking for
25 res', and sometimes ah wasn' giving him the res'; sometimes ah
26 was stopping fuh him. Sometimes ah feel dat nobody was
27 helping mih. Sometimes ah was telling dem—ah was bawling

1 at dem and say, “All yuh push, push, all yuh push; leh we go.
2 All yuh hah tuh help mih. All yuh nuh helping mih.” Ah was
3 feeling like dat.

4 Ah gi’ing dem words ah encouragement, telling dem,
5 “Yeow, God is good. He go take we out ah dis. All ah we
6 coming out ah dis, boy. We coming out ah here.” Ah say, boy,
7 who knows. “I sure Andrew Farah may be done inside dis pipe
8 halfway coming fuh we boy. So all yuh doh worry allyuh self,
9 we going and geh rescue, we going and come out ah here.”
10 And pulling and pushing, and pulling and pushing. Ah come
11 higher up ah found—ah found the GoPro. Dah is wha’ the
12 audio you all hear.

13 Q. Yes.

14 A. Ah found that and ah say well, boy, dey is de GoPro here boy.
15 I pick up de GoPro and ah was—within a res’ ah was thinking
16 ‘bout leaving ah message fuh mih family, because ah a’ready—
17 ah a’ready start to realize what was the outcome ah dis, and
18 with dah GoPro in mih hand something just tell mih, boy, doh
19 proclaim death on yuh life, boy. Trust in Jesus and just do wha’
20 yuh hah tuh do. And ah pray again. Ah tell dem, “Ey, all yuh,
21 ah find de GoPro.” Ah found one ah mih torchlight. Ah puh it
22 on. It on but yuh still cyah see notten. Yuh cyah open yuh eye
23 to watch anything.

24 Ah puh de torchlight on mih hand. Kaz tell mih, doh
25 take off de light. Doh take off the light. Ah say, Kaz, yuh
26 could see anything? He say, no, he cyah open he eye, but he
27 feeling de brightness. Leave de light on. Ah say, Kaz, I didn’t

1 take off de light; de light on. He say, “Chris, we going and
2 dead.” Ah say no, boy, we nuh going and dead boy. Leh we
3 go. We going.

4 **Examination By Mr. Chairman:**

5 Q. Move a little closer to the microphone, please? Thank you.

6 A. He say—ah apologize. To see a big man crying; I just—

7 Q. So you moved forward; you carried on moving forward with
8 your breaks. Did you come across any more fluid?

9 A. Yeah. We, um, when we bounce up, we bounce up water, we
10 keep going in de water. As de water start to full up, it geh a lil
11 easier to move, yuh know, so, ah was a bit relieved, too. But
12 knowing what coming up ahead would ah be more water
13 because ah realize de water start gehing higher and higher. So I
14 take a measurement from top ah mih nose to de top ah de pipe,
15 and I had six inches. Ah say Fyze, take a measurement from de
16 top ah de water to de top ah de pipe. Fyze tell me he had eight.
17 Ah say, awright. He say, wha’ happen? Ah say, boy, water
18 gehing higher and higher, boy.

19 It had a lil silence, because after ah saying dat like
20 everybody start to understand dat we going into water and we
21 only hah two tanks; doh know how much dey have in dem.
22 That survival situation is a real different one too. Yuh doh
23 know who going and panic on yuh. Yuh doh know if yuh pass
24 yuh regulator if dey go pass it back.

25 Q. Yes.

26 A. Yuh just hah to trust each other and say, well—

27 Q. Anyway, did you enter the water then together?

1 A. I went forward. I tell dem hold on. Ah need tuh go and check
2 tuh see how far dis water is tuh know if ah could pass dem
3 through. Ah didn't tell dem dat. So ah tell dem ah need tuh go
4 forward and check tuh see how far de water going. Ah coming
5 back now. Small Kaz was kine ah reluctant tuh leh go mih, and
6 ah tell small Kaz, ah say, "Kaz, doh worry. I not coming out
7 dis pipe without you. Ah not coming out dis pipe without none
8 ah all yuh. Ah guarantee sure ah coming out dis pipe with all
9 yuh. Ah will never leave all yuh." [*Mr. Boodram sobs*] Ah
10 went forward, maybe swim about maybe 15 feet, and as ah
11 went in more into the water, de whole pipe was totally—

12 Q. Filled?

13 A. Yeah, filled.

14 Q. Right. So did you take one of the tanks and the regulator with
15 you?

16 A. Yeah. Ah went in; a swim about 15 feet inwards, and ah realize
17 that ah can't drag dem with the pace we moving in 15 feet ah
18 water, and still ah ain find no access. I can't drag dem with dah
19 pace we moving. Dem fellas going to die there if I try to pull
20 dem through dat, and they may kill me too, because in panic
21 everybody go be fighting and—so I understand I had to go and
22 get help and come back fuh dem. So ah come back, prepare
23 mih mind mentally, because at this stage I still not sure if we
24 going in the correct direction.

25 Q. Right.

26 A. I still not sure if I going and swim to Berth 5 and bounce up a
27 blank, or if I swimming further away from the rescue, because

1 everything inside mih hoping a rescue going on. [*Mr. Boodram*
2 *sobs*] Everything inside me hoping a rescue was going on.
3 Nobody was making attempt to rescue we. Yuh know how dat
4 feel? [*Mr. Boodram sobs*] Sorry. I understand dat. I nuh sure
5 how far dis water going, and I done tell mih self I may not
6 come back from this swim, but ah had to know; ah hah tuh try,
7 because staying here is just as good as dying, and it doh make
8 sense ah just stay one place and dead. I would just be killing de
9 men and dem too, staying dey—[*Mr. Boodram sobs*]

10 Q. All right. Take a moment. Can we—

11 A. I always somebody who does know wha' going on, and I was
12 always somebody who could control and see things through,
13 and ah fail; ah fail dem. Ah tell dem ah was coming back fuh
14 dem and ah fail dem—[*Mr. Boodram sobs*]

15 Q. Mr. Boodram, you told us that you went back to where the
16 others were.

17 A. Yeah.

18 Q. And you are steeling yourself to tell them what you are going to
19 do.

20 A. Yeah.

21 Q. And could you do that?

22 A. So ah come back and after preparing myself mentally of wha'
23 ah had tuh do, I told them dat, “Yeow, we cyah go no more
24 further like this. There is a lot ah water ahead. We only have
25 two tanks. We not sure if the tanks full.” Ah make dem
26 understand de situation. Ah told dem dat I'd be there.
27 Somewhere in-between dat conversation, we heard knocking,

1 and ah was like, who knocking? Who knocking? Because
2 before that I ask dem to knock too. I was knocking and all too,
3 fuh somebody tuh hear. Ah say anybody knocking? Dey say,
4 no, nobody ain knocking. Ah say who knocking. Dey say boy
5 dey hear dat coming from by Blacks, boy. Dey ain sure. Buh
6 boy we cyah go back fuh he, boy. When we coming back fuh
7 rescue, we go come back. Ah tell dem fellas go back a little bit
8 whay dey go be comfortable, because how we in so much ah
9 water everybody hah to keep dey nose jammed on the—on de
10 top ah de pipes.

11 Q. So you were upside down? I'd say on your back, rather.

12 A. Yes; yeah.

13 Q. So you're all on your back at this stage.

14 A. Uh-huh.

15 Q. And, um, so you were saying to them go back to where there is
16 more air—a larger air pocket, where it's dry actually, where
17 they were?

18 A. Yeah.

19 Q. And you were going to go forward and get help.

20 A. And geh help.

21 Q. All right. So you've taken one of the tanks. What about Kazim
22 Ali; what happened to him?

23 A. Kazim Ali ask mih, he say, "Chris, doh go nah boy, doh go nah
24 boy." "Ah boy Kaz, boy, ah hah to go boy bredda, boy."

25 Q. He said to you not to go?

26 A. Yeah. He ask mih not tuh go. He ask mih tuh stay with him.

27 Q. Right.

1 A. He say, “Doh leave we here. Doh leave we here.” Ah say,
2 “Kaz, ah nuh leaving yuh boy. Ah just going tuh geh help and
3 ah coming back boy bredda, boy; coming back fuh yuh.” Yusuf
4 say, “Oh God, Chris, doh leave we.” Ah say, “Bredda, ah not
5 leaving yuh boy. All yuh know when I say something is dat,
6 boy. I not—I doh just talk ting boy. I coming back fuh all yuh,
7 boy.” Yusuf say, “Awright, nah bredda. Awright, nah bredda.”
8 Ah tell dem, ah say, “Ey, Fyzie hah to come too.” Ah say,
9 “Fyze, you hah to come too with dah tank, boy.” Ah say,
10 “Fyze, you know wha’ yuh hah to do.” And I tell dem ah gone.
11 Kazim tell mih, yeah, but he couldn’t leh go mih foot.

12 Q. So you left?

13 A. Ah hah to pull mih foot off ah Kazim.

14 Q. Right.

15 A. Kine ah kick it off ah him fuh him tuh leh go mih foot.
16 Because he telling mih, yeah, Chris, go ‘head, but he couldn’
17 leh go mih foot. Ah hah to yank it out; force it out ah him.
18 And I left. After I spin around—I spin around fuh mih hand—
19 mih hand was stretch out in the back so; I spin around and come
20 on mih belly.

21 Q. Right.

22 A. Ah hah de tank in front ah mih with de mouthpiece.

23 Q. So you’re pushing the tank—

24 A. Yeah.

25 Q. —with the regulator in your mouth?

26 A. Yeah.

27 Q. Right.

1 A. And as ah enter dah water—‘cause ah know ah doh hah much
2 air, or ah have a limited amount; ah doh know how far ah hah to
3 go. As ah enter dah water, ah muster up every piece ah
4 strength, everything in mih, to just push; just move as fast as ah
5 could move.

6 Q. Right.

7 A. Ah pray and ah ask God to gih mih de strength and ah just
8 gone, and ah start tuh just run through dah water, and ah start
9 tuh move through dah water. While going through, mih tank
10 start tuh go dry. Yuh does know, even if yuh doh have a gauge.
11 Ah experience diver does know when yuh regulator start tuh
12 geh hard on yuh.

13 Q. Yes.

14 A. Some regulator does make a lil singing noise. Mines—well, ah
15 doh even know if dah was mines. De tank dat I had wasn’
16 making any noise.

17 Q. Right.

18 A. But I know the tank was going. It was gehing hard. So when I
19 realize dat, I could ah only hope ah reaching into ah air pocket
20 or ah start feeling if ah could feel ah tank or anything like dat
21 too, so while I pushing, ah feeling, ah pushing, ah feeling, my
22 tank hit a next tank. Ah hear toong. At this stage ah forcing the
23 diaphragm. Ah know yuh does do recreational diving, so yuh
24 know wha’ yuh mean by forcing, if yuh ever do dat. Is like yuh
25 sucking out a bottle; like yuh wringing it dry; it does feel like
26 dat. [*Mr. Boodram demonstrates using his hand*] Ah forcing
27 the diaphragm to geh some air. The air done. Ah reach back in

1 a state and ah nearly drowning until ah hear ping. When ah
2 hear ping, ah leh go dis tank and ah run up and ah scramble dah
3 one, and ah feel, ah feel, ah feel fuh it. When ah feel and ah
4 geh de mouthpiece it had no—when ah get de second stage it
5 had no mouthpiece on it.

6 Q. Right.

7 A. Right? So ah push de whole thing in mih mouth. It was like
8 eating oil, pure oil inside. When ah purge it and ah geh air, yes;
9 thank you Lord. And ah just start to go again. Maybe about—

10 Q. Pause there for a minute. What did you do with the empty
11 tank? Did that pass by you?

12 A. Yeah, yeah, ah left it there and ah—

13 Q. There was enough room for it to pass by you?

14 A. Yeah, yeah.

15 Q. So you were able to leave it in the—and then carry on with this
16 new tank that you'd found?

17 A. Yeah. Now, remember, I looking tuh reach as fast as—where I
18 want to go as fast as possible. I doh need no extra baggage to
19 hold me back—

20 Q. No, quite. Yes, yes.

21 A. So just forward ah was going. Dah is all mih mind—dey have a
22 saying fuh fright or flight or something like dat; and was just
23 forward. And as ah keep going, ah enter ah air pocket. But dis
24 one wasn't totally dry like de last one. This one was like
25 halfway ah de pipe with water in it or liquid. Yuh know. And
26 ah hold up, ah saving mih air, and ah traversing through de
27 water now.

1 Q. Are you able to say how long that was for that there was this air
2 pocket?

3 A. At this stage, I'm being honest with yuh, after trying to use all
4 mih senses and understanding and wha'ever skill ah had tuh—
5 with dem fellas, at dis stage when I turn around and start tuh
6 move, it was like me running from a pit bull. Ah wasn't
7 thinking—

8 Q. How far it is.

9 A. How far or anything; ah was just—mih mind was just set on
10 forward, forward, forward.

11 Q. Yes.

12 A. So asking mih to judge de distance ah was in, apologize that ah
13 wasn't able tuh geh dah information, and ah only understand
14 how crucial it was only when ah outside de pipe. But fuh me
15 mentally it wasn't as easy as people might think.

16 Q. No, I understand. And so there was this air pocket. And did
17 that come to an end?

18 A. Yeah. So just before it came to ah end, ah heard Fyzie voice:
19 "Christopher, Christopher." "Yeah, Fyze. Is you?" Ah pause.
20 He say, "Whay yuh?" Ah say, "Ah right here, boy. Ah right
21 here." He say, "Right here whay?" Ah say, "Ah in de pipe,
22 horse. Ah right here. Ah some whay right here." He say,
23 "Wait fuh mih, nah." Ah say, Fyze, boy, ah cyah wait fuh yuh
24 boy, bredda boy. Ah breathing down here too long. We
25 staying down here too long. We need tuh move, boy, bredda
26 boy. We down here too long. If we hah to save anybody, we
27 hah tuh geh out ah here. Ah cyah stop. We cyah take no

1 breaks. If you need tuh take a break, stop and take ah break.
 2 Once I reach out and I geh rescue, ah coming back fuh all yuh.”
 3 He—“Chris, wait fuh mih nah, boy, Chris, wait fuh mih, nah
 4 boy?” And ah say, “Boy, Fyze, ah cyah wait, boy.”

5 Just before—when ah realize de pipeline flooding out at
 6 this stage Fyzie telling me dat: Boy, how dis thing happen,
 7 boy? And he talking and ah tell him, “Boy doh worry ‘bout dat
 8 nah boy, doh worry ‘bout dat.” He say, “Boy, we go come out
 9 ah dis; yeah boy we go come out ah dis boy; have faith, boy.”

10 Just before de pipe totally full ah water, ah stop and ah
 11 say, “Fyze, whay yuh?” He say, “Ah here.” Ah say, “Here
 12 whay?” He say, “Right here.” Ah say, “Fyze yuh coming?”
 13 He say, “Yeah, ah coming.” Ah say, “Fyze, buh me ain hearing
 14 water moving.” He say, “Yeah, ah coming. I coming.” Ah
 15 say, “Awright, good. Well, hear wha’ going on, I going.” He
 16 say, “Going whay?” Ah say, “Well, the pipe full here. I going
 17 underneath.” He say, “No, wait fuh mih, nah boy. Wait fuh
 18 me.” Ah say, “Bredda, I cyah wait fuh yuh, boy, horse boy.
 19 Ah need to go.”

20 Q. And did you?

21 A. I did.

22 Q. All right.

23 A. And as ah go, maybe about—fuh this one, because it was a
 24 short distance, ah could judge that it was maybe around 30 to
 25 40 feet, or what I may felt as 30 to 40 feet.

26 Q. No one’s going to hold you to it, Mr. Boodram. I understand.
 27 But anyway, you felt it was a lot shorter?

1 A. Yeah—from de bend. When I feel de bend, pause, cause now
2 ah going and face either death or life.

3 Q. Right.

4 A. Because remember ah still not sure if ah going to 5 or 6 here
5 now eh.

6 Q. Right. So it's either light above you or not?

7 A. Ah make up mih mind to die for the third time. And ah went
8 up. While going up—sorry, ah miss something. Ah found a
9 next tank while coming across, right, while we was in the
10 water. Dah is why ah ask Fyze—yeah, ah stop and ah ask Fyze:
11 “Fyze, yuh have air?” Fyze tell mih, yes, he have air. Ah say,
12 “Yuh sure?” He say, yes. Ah say, awright. I find ah next tank.
13 Ah keeping it. He say, “No, wait fuh mih, nah?” Boy, ah say,
14 “Fyze, ah cyah wait fuh yuh”; and ah went into the water.

15 Q. So is this a third tank, then?

16 A. Third. The first one wha' I had—excluding Fyzie own, right;
17 the third tank that I had in my possession, right, ah left dah one
18 in the—where de pipe was full ah water. The second one where
19 ah found, and then the third one whay ah found.

20 Q. So this was your third tank?

21 A. Yeah, dah is my third tank. So ah hold on to dah one, and ah
22 say, “Fyze, ah gone.” Now, dis is before ah meet the elbow.
23 Right? Ah swear to God if ah know the elbow was dey ah
24 would ah leave dah tank fuh somebody else. Ah didn't know.
25 Take the tank, and ah went in. Ah find the elbow, when ah find
26 the elbow, I still held on tuh de two tank because ah so much in
27 fear of that being a blank and ah may have to traverse back. So

1 when ah find dah tank ah was still in—okay, well ah have a
2 next tank. This might be a lifeline in case dat go wrong up dey.
3 So ah grab de next tank and ah went up. When ah reach up
4 dey—

5 Q. Did you see daylight?

6 A. Inside dey was pitch black.

7 Q. All right.

8 A. Ah feel like if ah coulda give up when ah reach up dey and ain
9 see nobody inside dey. None. None. None ah my—none ah
10 my, ah go call dem family was inside dey waiting fuh me;
11 Andrew, Dexter, no rescue diver, no nobody was inside dah
12 chamber. Boy, all yuh doh know, nah. When I see dat I wasn't
13 even sure if I was living still, because it was so unbelievable to
14 know dis happen and nobody here to assist we. Nobody. I
15 didn't see nobody inside de pipe trying tuh rescue we, nothing.
16 Every time ah open mih eyes, it burning. Ah cyah see anything.
17 Ah cyah hold up mih weight inside the pipe becor the pipe
18 gushy. Right?

19 Q. Yes; slippery.

20 A. One tank full. The next one maybe about half. Ah could tell
21 dat because ah de buoyancy. Ah experience diver would know
22 dat. So ah say, okay. Well, leh mih let down dis tank that
23 buoyant. Ah know it not going to drop hard, so even if Fyzie
24 behind me it not going to hit him. Right? It go take its time
25 and go down, or maybe just be neutrally buoyant. Right?

26 Q. Right.

27 A. So ah leh go dat and ah held on to the full one, and ah start to

1 feel around and ah felt a chain from on the chain block.

2 Q. It was hanging inside the pipe?

3 A. It was hanging inside the pipe. Ah use dat and ah wrap up mih
4 right hand on it here so. And ah say, awright, Chris, we hah to
5 geh out ah here. After ah trying to climb out several times, ah
6 realize ah couldn't climb out. Ah couldn't wedge mihself in—
7 the pipe was too small tuh try tuh wedge yuh self in de pipe tuh
8 climb up and it was too slippery. It was like about four to five
9 feet. Okay, so I in this and floating; the water reaching me
10 around neck height.

11 Q. So you were floating?

12 A. In the water; it will reach me around neck height. Dah is me
13 kicking and swimming, right; treading water.

14 Q. Treading water. Right. But could you see the top of the pipe?

15 A. Right. And that was like—

16 Q. Out of your reach?

17 A. Out ah my reach.

18 Q. Like the ceiling here?

19 A. Not dah high.

20 Q. Not even that high?

21 A. No, not dah high. Just barely out ah my reach; just barely. Yuh
22 understand the frustration?

23 Q. Yes, I can.

24 A. To reach this far and cyah come out. And ah hold on to de
25 chain and ah trying to pull up and ah forcing this arm to gih mih
26 some strength tuh try tuh hold on, so ah made three or four
27 attempts and when ah hold on and dis arm get the strain, it give

1 up on mih. So every time ah falling back down. So ah had no
2 strength to pull mihsself out of it. Ah take de chain, and ah
3 make ah knot on de chain with mih right hand where mih foot
4 could ah fit into it. Ah puh mih foot into it, and ah trying to
5 pull up on it now, and after all the attempts ah trying tuh climb
6 up without doing dat, like mih body now was too weak tuh
7 actually propel mihsself up dey now.

8 So from dey, the onlies' thing I realize I could do now is
9 just bawl and call and pray somebody upside dey, somebody; I
10 just and hope outside nah on fire; hope somebody actually care,
11 yuh know, to rescue we. And ah wrap de hook ah de chain, de
12 next end ah de chain on mih hand here so and ah was ponging
13 on de pipe and bawling and crying and bawling help, help, all
14 yuh help we. And ah ponging and ah ponging and den in-
15 between dat I hear a knock. After ah hear dah knock, a knock it
16 back once. Then the person like dey hear the knock and dey hit
17 mih two: dong, dong. Ah hit dem back two: tong, tong. So dey
18 could understand that is just not something swinging, is
19 somebody actually sending yuh a signal.

20 Q. Reacting to the knocks.

21 A. Right.

22 Q. Rather than just something loose hanging.

23 A. Yes.

24 Q. I got you.

25 A. And then ah start to hear a little sign ah bawling [*Sound made*
26 *by witness*] like humming. Yuh cyah really hear distinctively
27 wha' it is but ah understand dat, awright, dey hearing mih. And

1 ah hold on dey fuh mih dear life, feeling to faint, feeling to
2 black out, totally exhausted. And then all of a sudden I just see
3 a light—because every now and again ah pulling and ah raising
4 as far as ah could raise and gehing ah lil peep. But ah cyah see
5 down. Ah just seeing a lil over the—

6 Q. Uh-huh.

7 A. And ah start to see a lil light shadowing in the—

8 Q. In the habitat.

9 A. In the habitat.

10 Q. Yes.

11 A. Ah swear to God it was the angel ah death coming fuh me. Ah
12 tell mih self dis is the light people does be talking ‘bout. Ah
13 swear dis was death coming fuh mih. When the person come in
14 the chamber—now, I know Ronald Ramoutar personally. On
15 top ah he being a mentor to me in diving, he is my neighbour. I
16 grow up underneath him and I did not recognize him. He had
17 on his hoodie. Ah could ah barely see too. All ah seeing is just
18 like a lighted image. When I see him I drift back in the pipe
19 and I start to leh go de chain, because ah in fright and not
20 knowing what is this; if this is in my eyes; because, ah mean,
21 yuh could know ah is a strong Biblical person. I say is de angel
22 ah death or something.

23 Ah was like, who is dah boy? Who is dah, boy? He say,
24 “Boy, me, boy.” Ah say, “Boy me who, boy? Me who, boy?”
25 He say, “Rolly boy.” Ah say, “Rolly who, boy?” He say,
26 “Ramoutar, boy. Ramoutar boy.” Ah say, “Rolly, dah is you,
27 boy?” He say, “Yes, boy.” Ah say, “Boy, take out dah hoodie

1 leh mih see yuh, nah boy?” He take out he hoodie. Ah say,
2 “Boy, bredda, geh mih out ah here, nah boy? Save mih, nah
3 boy, please?” He say, “Yeah boy, yeah boy”, and he try pulling
4 mih up once or twice, but he alone couldn’t bring mih out,
5 because de height ah de, um, the pipe he didn’t have much
6 force from his height, because he not too tall neither. Yuh
7 know?

8 So he say, “Boy, I alone cyah do it, boy. Ah hah to go
9 and geh help. Ah say, “Oh gosh, doh leave mih, nah boy?” He
10 say, “Boy, ah hah to go and geh help and come back, boy.” Ah
11 say, “Boy, doh leave mih, boy. I doh know how long I could
12 hold on here again.” As ah tell him dat he say, “Awright, look
13 Corey coming.” Ah say, “Corey who?” He say, “Corey, boy.”
14 Ah say, “Awright, Corey.” Ah say, “Corey?” He say, “Yeah,
15 boy, Chris, boy.” Ah say, “Boy, save mih nah boy, horse? All
16 yuh geh mih out ah here, nah, boy, bredda, boy. Whay all yuh
17 was, boy? Geh mih out ah here, nah boy?” He say, “Awright.”
18 Corey hold mih with Rolly help and me trying to, wha’ ever
19 strength I had left to pull me out ah the pipe. Rolly ask mih if
20 ah awright. Ah say, yeah. Ah say, “Boy, dem fellas down dey,
21 boy. Dem fellas down dey, boy. Yuh hah to go down and help
22 dem.” He say, yeah, he just waiting fuh more equipment and
23 backup, buh we go geh dem. Ah say, “Boy, Fyzie not too far,
24 boy. Fyzie not too far, boy.”

25 Q. Pause there for a minute. Were you telling them that they were
26 alive still, when you left them?

27 A. Yes. I tell Rolly this. Rolly was the first person here that—

1 Ronald Ramoutar was the first person—

2 Q. Right.

3 A. —alongside Corey. Because when he came in he ask me, he
4 say, “Wha’ happen to dem fellas. Whay Fyzie?” Because
5 Fyzie is his brother-in-law also.

6 Q. Yeah.

7 A. Ah tell him Fyzie not too far from mih, boy. Everybody down
8 dey boy.

9 Q. Right.

10 A. “All yuh go fuh dem, nah boy?” He say, yeah, buh he just
11 waiting for equipment and backup, boy.

12 Q. All right.

13 A. Ah say, awright.

14 Q. All right.

15 **Mr. Chairman:** Mr. Boodram, what we’re going to do is have
16 a short break. All right? We’ll take a little break now. Just
17 have a cup of tea or something. Someone will look after you.
18 All right? And we’ll resume in about 20 minutes; 20 to, please;
19 20 to 12.00. Take your time. And then we’re going to deal
20 with the second phase. I’m going to let Mr. Maharaj deal with
21 the second phase. I’m really grateful for your evidence so far.
22 All right?. You take 20 minutes. All right? Thank you very
23 much. We’ll rise now. Thank you.

24 **11.27 a.m.:** *Enquiry suspended.*

25 **11.37 a.m.:** *Enquiry resumed.*

26 *[Audio breakdown]*

27 **Mr. Chairman:** I think we’re in business. Excellent. Thank

1 you very much. I was about to say, Mr. Maharaj, please don't
2 let me do your job for you anymore, will you?

3 **Mr. Maharaj SC:** Yes.

4 **Mr. Chairman:** You must interrupt me and tell me that you
5 are here for a reason—

6 **Mr. Maharaj SC:** Yeah—

7 **Mr. Chairman:**—so forgive me for taking over at one point,
8 but I, I just thought that Mr. Boodram and I seemed to have a
9 few comfortable moments together when I thought he might,
10 um, find it easier if I was asking him questions.

11 **Mr. Maharaj SC:** It may be because of the experience as a
12 diver also, I thought.

13 **Mr. Chairman:** Yes well, I—yes, mine is rather more limited
14 than his, but anyway, Mr. Maharaj will be asking you some
15 questions now. We got to the point, didn't we, where you're
16 out of the pipe, all right, so I hope that's the worst part—

17 **Mr. Maharaj SC:** Right.

18 **Mr. Chairman:**—of your ordeal. Thank you.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. Mr. Boodram, when you came out of the pipeline, you told all
21 around you that the men in the pipeline were alive?

22 A. Before that.

23 Q. Before that?

24 A. Before I reach out the chamber, before I reach out the chamber
25 I came out the habitat, um, I asked Corey to find out from
26 Andrew Farah how long I was down there for because, as a
27 diver, overstaying your time could lead to decompression

1 sickness. So, I was unaware of the time that I was down there
2 for. I asked Ronald Ramoutar at the time. I think he told me—
3 I believe I told me six o'clock, I'm not sure. Right? After he
4 told me that I asked him to ask, and I tell Corey to find out from
5 Andrew Farah what is the—how long I've been down here and
6 do I need a decompression chamber? Corey came back, told
7 me Andrew say come out. I say how long? He say he just say
8 come out. I say go and ask him again if I need to go into a
9 chamber. I ain't work so hard to reach out here then to reach on
10 the top ah de surface and have decompression sickness, to no
11 stages of it. He went back, Andrew Farah told him I good,
12 come out. Corey ask me if I could come out, I say yeah. I went
13 in the water and I swim out, Corey swim out, we reach up to the
14 top. As I reach up to the top, um, I saw Andrew was on
15 Petrotrin's—no, no, no, I lie. He was on top, Andrew was on
16 Adventurer I

17 Q. Which is the boat?

18 A. Yeah.

19 Q. Which is the boat?

20 A. Yeah, their small boat, a aluminium boat.

21 Q. Uh-huh.

22 A. Um, he and somebody else was there. I can't remember who
23 else—

24 Q. Okay.

25 A. —at the point ah time, and, um, they tried to pull me out the
26 water and I told them not dah hand, not dah hand. Dah hand
27 broken. And dey geh mih out and al tell—as, as dey pull mih

1 up on de boat mih eye fell on Nicholas Kurban and ah see
2 Nicholas Kurban. Ah say, “Nicholas, go and save yuh fadder.
3 Go and save yuh fadder. He not far down. He right behind
4 mih. Go and save your father” and Nicholas say all right. Ah
5 know Nicholas is ah diver.

6 Andrew ask mih, Andrew, um, ask mih to turn around, so
7 ah turn around and I lie dong on mih back now. I tell him, I
8 say, “Boy, dem fellas in dey. All yuh go and save dem. All
9 yuh go and save dem.” Andrew was like, “Awright, awright
10 buh you relax, you relax.” Ah say, doh tell mih to relax. Do
11 what—better all yuh leh me go back and save dem, yuh know,
12 becor like, all yuh, all yuh ain’t want to do nutten.” And he
13 say, “Ey, relax yuhself. You in shock.” I say I not in shock.
14 Dem fellas dong dey, boy. Leh we geh dem.”

15 And den mih eye fell on top ah de chamber, Michael
16 Kurban where, after I see Michael Kurban, I know he’s a very
17 competent diver and his father being there I know he’s a kind a
18 no-nonsense type a guy too. Knowing him personally he is
19 family to me too. Ah say, “Michael, go and save yuh father”,
20 and Michael say, “All right” and he start to pace back and forth
21 on, on, on the, on, on the habitat, on top the habitat and I like,
22 “Boy wha you doing, boy? Go and save yuh”, um, I used some
23 profanities, “yuh fadder. Now boy, now!” And den he, he run
24 off de, de ting.

25 At de same time dey transfer me. They wanted to
26 transfer me from, from one, from one, um, boat to the other. So
27 dey, dey, dey transfer me. I think I kinda like walk for mih self.

1 Q. Okay, I know it's difficult to remember everything but they
2 transferred you. Did anyone take you to any decompression
3 unit that afternoon?

4 A. No, boy.

5 Q. No?

6 A. Nobody didn't—I felt like nobody cared for me or, or my
7 diving buddies, nobody. I, I was supposed to see a dive
8 specialist first or at least while going through emergency see a
9 dive specialist and be treated into a chamber. Right? When,
10 when they take me and they puh me on de boat, I let dem know,
11 I say, “Ey” because like everybody was a set a headless
12 chicken. I say, “Ey, cut off this wet suit off a mih and check to
13 see if all yuh seeing any wounds, any lacerations, anything, any
14 blood anything bleeding becor my body numb, I doh know, and
15 if all yuh seeing it all yuh ha to stop de bleeding.” I can't—I, I
16 don't know, right?

17 After dey cut open de wet suit, they ain't see nothing. I
18 believe it was a, either a Paria official or a Kenson official,
19 somebody within Paria organization assisted with cutting out
20 de, um, de wet suit. I say, “Now check mih head. Look under
21 de oil. Look good to see all yuh ain't see no, no buss head, no,
22 no, nothing ain't bleeding. Check good, check good.” And dey
23 check, dey say, nah, you good. After dey cut mih out I in mih
24 drawers. Dey take out mih bootie, they had to cut out mih, mih
25 bootie and ah believe dey reach to the landing stage and when
26 we reach to the landing stage I hop off de, de boat and come on
27 to the landing stage. They tried to puh mih on a stretcher two,

1 three times, I was only sliding off because you could guess mih
2 whole body drench dong with, with oil, sludge.

3 Q. Okay. They told you, you—well, you, you were not taken to a
4 decompression unit but where were you taken to?

5 A. The ambulance—we wait for de ambulance a few minutes,
6 maybe about three, four minutes de ambulance reach on de
7 jetty, I had to hop up de stairs, went into de ambulance, they
8 fasten mih dong and dey carry mih to San Fernando General
9 Hospital.

10 While we was going there I say, um, before that, sorry,
11 before that, well after I talk to Andrew and I tell dem dat I ask
12 dem to call mih wife. Within all ah dis happening, how much
13 hours I was dong there, nobody find it, nobody find it proper to
14 call my wife and tell my wife dat I stuck in a pipeline or I
15 missing. Nobody. My wife had to get third-hand information
16 to, to know wha going on. Dem call mih wife, ah tell dem
17 meet, meet mih at San Fernando hospital. Dey say dey carrying
18 mih at San Fernando hospital.

19 When I reach San Fernando hospital, no preparation was
20 in place. I mean, San Fernando, SWRHA did a good job, right,
21 but they wasn't prep. They didn't know is a guy coming with
22 oil. They don't know what to treat him for if is a dive accident.
23 Dey didn't know anything. They didn't even know 'bout de
24 accident. I had oil on my skin for three days. Three days I
25 trying to take oil out a my skin. SWRHA doh have the, the, the
26 chemicals to take dem oil off a my skin. When I, I, I, I settle up
27 and thing I was able to tell my wife what to bring to get de oil

1 off ah me. Oil up inside my nostrils, all in my sinus. They had
2 nothing.

3 SWRHA, doh geh mih wrong, SWRHA did the best that
4 they could do but dey wasn't prep. They wasn't—it wasn't a
5 advance phone call stating a—well we have a emergency with a
6 diver in Paria, he coming in with oil, he coming in with
7 nothing, no information, nothing. Is like if, is like if I get
8 damage at home and getting rush to the hospital. I, I—

9 Q. And I—

10 A. I don't understand how, how—I doh understand how a accident
11 could happen in the biggest state-owned company in Trinidad
12 and Tobago and a phone call to the hospital at least wasn't
13 made. You know? It—I ha so much emotions to deal with and
14 anger is on top of it because ah dis. No rescue attempt. To me.
15 For me. That's how I felt. No rescue attempt. When coming
16 out, I, I was treated like a normal casualty patient. Right?
17 They didn't puh anything in place. I—this oil on my skin for
18 three days was sickening me.

19 Q. At the San Fernando General Hospital you spoke to the nurses
20 and they spoke to you?

21 A. I, I spoke to mih wife and—

22 Q. At the hospital?

23 A. —I, I—yeah, I saw mih wife and I felt, after seeing my wife is
24 when I felt, how to say it, is when I felt like I was rescued, after
25 speaking to mih wife. My mother recently passed and that
26 was—she was the closest thing to comfort, you know, to me.
27 So is only then I felt I was rescued after seeing my wife and I

1 just say, well, all right, ah reach. I say “Babe, take dong some
2 information from mih” and I explain to she, um, the time I was
3 inside the pipe, I told her to call a friend of mine, Brian
4 Lezama, he suffered from decompression sickness and, um,
5 went through all the stages so he have a lot a experience in it.

6 I told him—I told she to ask him for Dr. Combs number
7 to geh on to him and ask advice. I told her all the relevant
8 information that I coulda remembered. I say liaise with Brian
9 Lezama and Jerome—um, sorry, well Jerome, that’s ah next
10 friend, dah is a alias name he has, liaise with two ah dem. Dey
11 would give you all the advice that you could need, take it and
12 make sure I get to a chamber because I believe I might be
13 suffering from decompression sickness.

14 And decompression sickness could hit you from a
15 numerous—stages, it could hit you instantly, it could hit you
16 slowly, it could kill you, it could cripple you, it could just be a
17 short pain. You can’t tell unless yuh under de scope.

18 Q. How long did you stay in the hospital, at the hospital, at the San
19 Fernando hospital? How long they kept you?

20 A. I think it was six days.

21 Q. Six days.

22 A. Six or seven days, I, I, I, I, I stay dey and it was—

23 Q. Okay. Mr. Boodram, I want to ask you a very important
24 question. If when you were rescued either Paria or LMCS
25 wanted to find out from you the condition in the pipe in order to
26 effect a rescue, would—were, were you in a position to tell
27 them what the condition of the pipeline was inside the pipe?

1 A. Before I—while—when I now come out de pipe my mind and
2 everything was focused and tune een to everything to save dem
3 fellas. If they had debriefed me there and then, they would a
4 geh everything they coulda get from me.

5 Q. Including the condition in the pipe?

6 A. Everything ah coulda tell them.

7 Q. Right.

8 A. After seeing mih wife and reaching to the hospital and telling
9 she dat last bit ah information I say, “Babes, yuh ha to take it
10 from here now.” I saw mih brother I told mih brother de same
11 ting. I say I need to relax. My mind on, on, on, on overdrive
12 right now and after dat de doctors do dey ting. Dey give me
13 some painkillers, dey do some things, I can’t remember exactly.
14 I remember dey telling mih that I had COVID and then I start to
15 fight.

16 I tell dem how I could have COVID? I now recovered
17 roam from COVID? How could I have COVID? This is
18 stupidity. All yuh trying to kill me. I now come out ah pipe
19 and all yuh putting me in ah COVID room on top a dat to
20 reinfect me? Dey is madness, yuh know? And dey, dey, dey
21 puh me in ah COVID room next to a woman dying. A woman
22 die next to me that night, while in CO—I fight—I had to fight
23 my way outside a pipe, right, come out here, right, go in a
24 hospital and puh mih in COVID? What, what dey was trying to
25 do mih? They didn’t even—all right, if I had COVID was
26 quarantine. These, these, these where Paria or LMCS or
27 whoever it is supposed to put something in place for me to be

1 quarantined in a separate room. At least gih mih dat, if you
2 believe I had COVID. I—my—I had to fight. I try getting off
3 ah dah bed three time in dah COVID room and fall dong.

4 De doctors didn't want to be there. They had one doctor,
5 I cah remember his name right now, a African guy. He saw me
6 and he say, "Chris wha going on with you?" I say, "Boy, I
7 cannot stay in here. I now fight COVID and COVID was hard
8 for me. I nearly die off a COVID too. I not going to stay in
9 this room. And he say, "So what's de problem?" I say I—boy
10 I don't have COVID. I say all yuh have to do a next test. I doh
11 have COVID. I can't remember dey even doing a soft test on
12 me, eh, and dey tell mih ah had COVID. I can't remember that
13 part if they did it, right, but ah know ah didn't had COVID.

14 I quarrel, mih brother, mih wife quarrel, everybody
15 quarrel until dey say, "Well, all right do a external test. Mih
16 brother did it in Victoria Labs, I believe, nursing home or
17 something like that and it came back negative. I spent, I don't
18 know, 12 or 15 hours, nearly 18 hours I would say inside a
19 COVID room. All that time too I waiting for—because I get in
20 contact with Kazim Ali through mih wife phone and tell him
21 that I need to go in a chamber because mih wife get in contact
22 with Dr. Combs and Dr. Combs tell she that he need
23 decompression sickness treatment. You need to go in a
24 chamber and she go check up. Dr. Combs now come and tell
25 me that, um, Mr. Boodram I talking to you, talking to you and I
26 talking to you for free. Nobody not saying I have other clients
27 and thing to do. I trying to get advice buh ah ha odder things to

1 do. I say, all right, nobody ain't paying yuh nothing. He say
2 no. Ah say all right. Ah call Kazim Ali. Ah say, "Kazim, what
3 all yuh really doing me, boy? All yuh trying to kill me here or
4 wha? Why nobody, why nobody not organizing this? Kazim
5 say, "Well boy he didn't know, he didn't know" and he call
6 Combs, they settle the matter. I call back Combs. Combs tell
7 mih yes, he working on it, they prepare a chamber for me in, in,
8 in, um, in, um—

9 Q. In La Romain?

10 A. La Romain by, um, All Support, all right? Up to now, up to
11 today dah ambulance ain't reach to carry mih dey. When de
12 ambulance reach—ah lie. When the ambulance did reach,
13 when the ambulance did reach, is because Dr. Combs call and
14 said, tell the doctor that the time pass for something. If, if
15 something had to happen to me if I had to suffer from
16 decompression sickness if—I would have already been showing
17 signs and symptoms of it. That meaning I would a already die
18 if it was to that stage, or paralyzed or, or, or, or maybe—

19 Q. I understand. Okay. Okay.

20 A. And when the ambulance did reach, the ambulance refused to
21 take me when they hear I had COVID. They say, um, "Well,
22 well the patient have COVID, we, we wasn't aware ah dat",
23 right? Ah call back Randy because mih wife get Randy
24 number, that's a Petrotrin person.

25 Q. Mr. Randy Archbald?

26 A. I don't know he title. I, I call him back and I say, "Mr. Randy,
27 wha going on here? Wha going on? I thought yuh tell mih yuh

1 sending de ambulance? De ambulance say dey not picking mih
2 up. Right?” He say, “Awright, awright, ah go see wha ah
3 could do. Ah call him back and he phone went unanswered,
4 unanswered, unanswered. Must be a hundred times I try calling
5 him because I panicking in dey in COVID. After fighting fuh
6 mih life dey, ah ha to come and defend mihsel inside COVID
7 here too on a virus that ah cannot see, ah cannot fight.

8 Q. Okay. Whilst you were in the pipeline and you were coming
9 out and you had promised the men that they would be rescued,
10 did you see anything in that pipeline during the time you were
11 in that pipeline to obstruct anyone from coming into that
12 pipeline to rescue the men?

13 A. If it had anything to obstruct them, how I come out?

14 Q. Yes.

15 A. How I come out?

16 **Commissioner Wilson:** Chris, um, you know, first of all,
17 thank you for sharing your story for us. I think it’s a
18 remarkable story, but, building off of Ramesh’s, um—um, what
19 I’m hearing from Ramesh, what I want to ascertain is really,
20 when you came out, any person whether LCMS or Paria,
21 attempted to get a debrief of what happened in the pipeline?
22 That’s one.

23 **Mr. Boodram:** I was, I was begging them to stay, man. I
24 didn’t wanted to leave de site, boy. I was begging dem to stay,
25 boy. I say, boy, leh me go back for de men and mihsel. I tell
26 dem that. I—and I sure Fyzie woulda be here if I did go back,
27 at least, ah hundred percent sure about dat. Nobody cah tell me

1 about all dah shit about cah rescue people. I dive in ah pipe
2 before dat and puh on, inside de riser on same Berth six, I went
3 eenside dat under Piper self, Collin Piper, I went een dat an put
4 een a, a, a, a soft paper gasket becor we couldn't install it from
5 de outside because the surges was slamming against it. I went
6 in de pipe under scuba self. Paria talking all that talk about
7 scuba and scuba, scuba. For all de years we diving in dey is
8 scuba. Every company come in dey was scuba for all de years.

9 **Examination By Mr. Chairman:**

10 Q. Can you help me with this, please, and it follows on from what
11 Mr. Wilson was saying? When, when you were being ferried in
12 the ambulance to go to hospital, all right, did anybody
13 accompany you in the ambulance? Obviously there was the
14 ambulance staff but was there anybody from Paria or—

15 A. No, Sir.

16 Q. —or LMCS?

17 A. No, Sir.

18 Q. Or anybody?

19 A. Ah tell yuh dey was headless chickens out dey.

20 Q. Pause for a minute, please, because I understand you're angry
21 and you're emotional, I do understand. I just want to be clear
22 so that we, we know what—and we can take this into account,
23 all right? Have you got your napkin? Yes, good. So, I think
24 what we're after is to know whether or not there was an attempt
25 at trying to get from you as much information as possible as
26 soon as possible? And obviously people would have thought it
27 was necessary—

1 A. The only—

2 Q. Wait, just a minute. People would have thought it was
3 necessary to take you to hospital, but there was nothing to stop
4 someone going with you in the ambulance to speak to you. Do
5 you see what I mean?

6 A. I know that, Sir.

7 Q. Right. What I understand from what you're saying is that there
8 wasn't anybody to accompany you in the ambulance to take
9 you to hospital.

10 A. The only person ask me anything was Andrew.

11 Q. Andrew?

12 A. Andrew asked me.

13 Q. Right.

14 A. I believe Andrew asked me how far dey inside and ah tell him
15 Fyzie not too far. The rest a them I don't know.

16 Q. Right. And, that aside, do you remember if you were put on a
17 call with Mr. Collin Piper, a man called Randolph Archbald
18 and, um, Mushtaq Mohammed? Do you know if you were put
19 on a phone call with them later that night?

20 A. I have no recollection—

21 Q. No recollection. All right.

22 A. —of speaking to anybody from Paria. The onlies' person other
23 than Randy for the ambulance and Kazim Ali.

24 Q. All right.

25 A. My wife and my—my wife was filtering phone calls also while
26 I was in the hospital—

27 Q. Right.

1 A. —because a lot a media people and a set a—

2 Q. Of course. Of course. You have no recollection of having a
3 conversation at about ten o'clock that night?

4 A. And I, and I very, very much doubt—

5 Q. Right.

6 A. —I would say that dem fellas died because I come out and I tell
7 everybody they was living.

8 Q. Right.

9 A. In front a—it doh have nobody could deny that I said
10 everybody was living who was dey.

11 Q. I don't think that's—

12 A. You, you could ask de whole hospital staff because on—
13 throughout this whole period I was just breaking down in de
14 hospital. Ask de—any one a de doctors you see bout me, they
15 will tell you, any one ah de nurses everybody there would—
16 they want to know why was I crying—

17 Q. Mr. Boodram, I think everybody, everybody accepts that you
18 made that clear. I don't think that's a challenge. I just wanted
19 to be clear in my own mind about whether you were
20 approached, do you follow me, by anybody from LMCS or,
21 or—I mean after you were put in the ambulance, all right,
22 anybody from LMCS or from Paria to speak and to, and you
23 have no recollection of that?

24 A. No.

25 Q. I'm putting to you that there was—it's alleged that there was a
26 conversation at around ten o'clock that night, but you have no
27 recollection of that?

1 A. No.

2 Q. All right, thank you very much.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. I want to read something that Mr. Piper said in a conversation
5 he said he had with you at paragraph 131 of the witness
6 statement bundle at page 1368.

7 “I asked Boodram how he was doing. Mr. Boodram
8 responded by saying, ‘Mr. Piper, I want to say upfront I
9 ain’t think them fellas make it’, or words to that effect.
10 The phone was placed on speakerphone mode and Mr.
11 Boodram words were audible to persons around. Mr.
12 Boodram then indicated that he crossed two welded
13 sections on the way—sorry, two welded seams on the
14 way out of the pipeline. He said he then crossed Blacks
15 who was unresponsive. He indicated that four of them
16 were making their way out of the pipeline and they were
17 helping Kazim Ali Jr. who had a broken leg and arm. He
18 then said they came across an air pocket after which there
19 was one person left. He then said they came across a
20 second air pocket, after which they lost Kazim Jr.. He
21 further stated that Fyzie was with him until he reached
22 the elbow and then Fyzie said he couldn’t make it. Mr.
23 Boodram did not ask during that conversation whether
24 anyone else was rescued from the pipeline.”

25 Did you, did you tell Mr. Piper that?

26 A. I did not, at least to my recollection and I—not to my
27 recollection. I would not say something like that. You could

1 even—how—the series ah how he say it, it, it happened, I—
2 when I cross Blacks? When I cross Blacks? At no point a
3 time—I was in front a Blacks all the time. At no point a time I
4 felt Blacks body, I saw Blacks while inside dah pipe.

5 Q. So specifically you didn't tell Mr. Piper, "Mr. Piper, I want to
6 say upfront I ain't think dem fellas make it"?

7 A. That not making sense, Mr. Ramesh.

8 Q. Okay. Okay. Now—

9 A. Why I would just call Piper and say just so, "Ey, upfront boy,
10 dem fellas dead, boy"? Dah wha he trying to say I say?

11 Q. Okay. All right, I want to ask you another question. Now, this
12 must have been a very harrowing experience for you but I want
13 you to try and help us, okay? You—according to your account,
14 you promised your colleagues, your friends, that you would
15 come back or you would get help for them to come back to be
16 rescued. If when you came out you had the energy and the
17 strength from what you saw in that pipeline, would you have
18 gone into the pipeline to rescue them?

19 A. Yes. And I will tell you this from my experience. Even if I
20 was not in the situation and I was a diver outside the situation,
21 inside the pipeline you're safer than outside the pipeline. Inside
22 the pipeline there is no predators, there is no currents, there is
23 nothing to fall on you. Yuh inside a pipeline. You understand?
24 I have been inside a pipeline before as I just stated, and, going
25 in there, all the—all you need to do is take your tank off your
26 back and you're going in there. You carry down a rope or if
27 you could even—if you could get a hooker, you cannot use a

1 hat. You cannot use a hat. If you had tried to use a hat when
2 you end up in dey you would a end up in difficulties because
3 the weight ah de hat, when you reach in the air pocket you
4 wouldn't ah be able to raise up yuh head to assist or help
5 anybody.

6 Q. What is a hat?

7 A. The, er, surface supply hat to put on your head and—

8 Q. Okay.

9 A. —um, with communications and thing because I was reading
10 that they say you needed that to do the rescue. I challenge
11 anyone to do it out of water, in a pipe or in water to lie dong in
12 dah pipe with a hat on, with hose on, and communication to go
13 dong dey and try to perform a rescue. I challenge anyone to do
14 that and I could show I would, I—

15 Q. And, and, Mr. Boodram, Mr. Boodram, if you had gone in the
16 pipe to do the rescue, after the events, and if you had gone in to
17 do the rescue and you met a tank blocking, what would you
18 have done?

19 A. I would have done what I did while I was coming out damaged
20 and bruised, passed over de tank.

21 Q. Passed over the tank. Now, where is my—where is—I
22 borrowed that exhibit. Assuming this [*Demonstrating with a*
23 *striped hula hoop*] represents the pipeline, right, there is a tank,
24 okay?

25 A. A tank is approximately 6 inches in diameter. So if you have
26 something around 6 inches you could put it there and you could
27 see anybody, up to the biggest man in this courtroom could pass

1 through there with a tank there.

2 Q. So you could, you could go over the tank or you could go on
3 the side of the tank?

4 A. You could.

5 Q. Now, I want to show you on the screen the mechanical plug and
6 the inflatable plug and I want to ask you a few questions about
7 it. Is that okay?

8 **Mr. Chairman:** Can you see the screen all right?

9 **Mr. Boodram:** Yeah.

10 **Mr. Chairman:** Or do you want us to tilt it towards you a little
11 more?

12 **Mr. Boodram:** No, I could see.

13 **Mr. Maharaj:** You probably have to tilt it. I don't know.

14 **Mr. Chairman:** You can see it all right?

15 **Mr. Boodram:** Yeah, I think I could see it, yeah.

16 **Mr. Chairman:** All right.

17 **Mr. Maharaj SC:** I think there's one above there. It might be
18 easier for him.

19 **Mr. Boodram:** I'm seeing this one just fine.

20 **Mr. Maharaj SC:** Okay.

21 **Mr. Boodram:** I'm very familiar with the plug. I don't even
22 need a diagram. Ask me your question.

23 **Mr. Chairman:** Well, I think the idea is that everybody can
24 see. We're not all as familiar with that. For me it's a complete
25 novelty to see this plug, and it would help me to be able to see
26 it when you're giving your evidence, do you see?

27 **Mr. Boodram:** I understand.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. You see, Mr. Boodram, when you talk about a plug, one would
3 normally think it's something just to pull out and it could be
4 done quickly, so I want you to explain something to us, right?
5 This is a photograph of the mechanical plug that you talked
6 about.

7 A. Correct.

8 Q. If you had to take at that plug, as you all did it that day, right, as
9 you saw it was taken out, how—about how long will it take to
10 take out the plug? Because you said you have to unbolt and
11 you have to spanner or whatever it is. How long would it take
12 you?

13 A. Yusuf and I did it about—well I don't want to say Yusuf and I,
14 it was a team effort. The four of us did it in approximately 30
15 minutes give or take.

16 Q. Thirty minutes?

17 A. Yeah, yeah.

18 **Examination By Mr. Chairman:**

19 Q. Thirty, right?

20 A. Yeah.

21 Q. How many bolts were on there?

22 A. Sorry?

23 Q. How many bolts were on it?

24 A. Bolts?

25 Q. Yes.

26 A. I think it had 22, somewhere around there—1, 2, 3, 4, 5, 6, 7, 8,
27 9, 10, 11, 12, 13, 14, 15, I checking.

1 Q. All right.

2 A. Fifteen I checking. Depend on what size this plug is too, eh.
3 The bigger the plug is the more bolts you go have.

4 Q. Right. I have no idea whether this is the—this is just an
5 example as I understand it.

6 **Mr. Chairman:** Is that right, Mr. Maharaj?

7 **Mr. Maharaj SC:** I understand as it, it—

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Is this the, is this the type of plug that was—

10 A. It's the same type but what I'm saying, the bigger diameter the
11 pipe is—

12 Q. Oh, I see.

13 A. —is—the plug, the plug is, is the more bolts it would have on
14 it.

15 Q. I see. I see.

16 **Examination By Mr. Chairman:**

17 Q. Yeah. I mean, I get that, you know, the wider—obviously, the
18 wider the plug the more bolts there are around it.

19 A. Ummm.

20 Q. And do I understand you right, if you, if you tighten those bolts,
21 the rubber between the two metal plates spreads out?

22 A. Correct. So the bolt compress the two metal plates and cause
23 the rubber to spread—

24 Q. Yeah.

25 A. —and cause a sealing.

26 Q. A seal?

27 A. Yeah.

1 Q. Right. And, um, and you'd have to—in order to release that
2 from the pipe, you have to undo each bolt, do you?

3 A. Correct.

4 Q. And how—

5 A. You have to do it in sequence too.

6 Q. You say that in sequence. You said that would take about 30
7 minutes?

8 A. Or maybe a lil longer but yeah.

9 Q. All right.

10 A. Yeah, nothing less than that.

11 Q. Nothing less, so 30 minutes plus anyway?

12 A. Uh-huh.

13 **Mr. Chairman:** All right, thank you very much. Thank you,
14 Mr. Maharaj.

15 **Mr. Maharaj:** Thank you.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. The inflatable plug, which is the plug which is under the
18 mechanical plug, I know when it was started to be deflated then
19 the accident occurred?

20 A. Yes.

21 Q. What I wanted to ask you, if the accident did not occur, how
22 long would it have taken for that plug to be deflated? About?

23 A. That wouldn't take long because dah is air, so, as you open the
24 valve, as you, as you press it is shhhhhh and it slack enough. It
25 may not go—it doh need to go right down to be extracted.
26 Once it, it come off the walls of the pipe it would be extracted,
27 you know? So that wouldn't take long to take off the—

1 **Examination By Mr. Chairman:**

2 Q. I want to ask you about that if I may, please? You see on the
3 example that we have on the screen—

4 A. Uh-huh.

5 Q. —that there are two rings that protrude from what would be the
6 top of the plug. Am I right?

7 A. Yeah, and dah is for—

8 Q. So when you're de—and in the middle there's like what might
9 be described as a nipple or a bow?

10 A. Insect, yeah, yes.

11 Q. And is that—if you activate that in some way, does that release
12 the air?

13 A. Right so—

14 Q. Those of us who are familiar perhaps with inflating a car tyre—

15 A. Correct, yeah.

16 Q. —if you take the—if you—

17 A. Yeah.

18 Q. —let the air out of the tyre, that would be the same—

19 A. Correct.

20 Q. —sort of effect?

21 A. Correct, yeah.

22 Q. So it's, it's—once it's put in place it's inflated, that creates the
23 seal—

24 A. Right.

25 Q. —and then to break the seal you deflate it?

26 A. Correct, so—

27 Q. But is it quite heavy?

1 A. It have some weight. It have some weight because it, it, it, it
2 large and then the, the rubber is something like the same
3 material as a tyre.

4 Q. Yeah.

5 A. You know?

6 Q. So, like a tyre—

7 A. Yeah.

8 Q. —it would be quite heavy to handle?

9 A. Yeah.

10 Q. So those rings on the top, do they—I mean, did you have to
11 connect those rings to something—

12 A. Correct.

13 Q. —in order to pull the plug out?

14 A. Correct. So we had the, the, what we call a dead man. It's just
15 a cable connected to those rings and connected to under the
16 mechanical plug. Right?

17 Q. So it's connected to the mechanical plug?

18 A. Correct. So—

19 Q. All right.

20 A. —it's like a, a, a dead man. It—when we call a dead man
21 something that you chain down.

22 Q. Right.

23 A. It's just like a, um, how to put it, um—

24 Q. A sort of lever?

25 A. No, it's a cable. It's a wire rope—

26 Q. Right.

27 A. —connected from there to the underneath in case of you

1 slacken it dong, it doh fall out, so when you take out the
2 mechanical plug we take that out, right, and we'll hook it up.

3 Q. The mechanical plug?

4 A. No. After taking out the mechanical plug.

5 Q. Right.

6 A. You will take that cable now—

7 Q. Right.

8 A. —right, and hook it up on top we head.

9 Q. And is that what you did?

10 A. So you air it down and it become—and, and, it, it deflates, it
11 don't fall down.

12 Q. Yes, but is that what you did?

13 A. Yes, yes we did. We did that and—

14 Q. So, let me—I just need to understand. It's quite important, you
15 see? You've taken the mechanical plug out, right, you told us
16 earlier that you put that on the outside of the habitat?

17 A. Correct.

18 Q. There's a cable that's attached to those two eyes on the top of
19 this plug, correct?

20 A. Right.

21 Q. On those eyes—

22 A. Yeah, yeah.

23 Q. —that we can see the little eyelets, so there's a cable that passes
24 through both of them or two separate cables?

25 A. In, in this instance, I think they had one.

26 Q. Right.

27 A. They had one.

1 Q. Passing through both—

2 A. Yeah.

3 Q. —or just through one?

4 A. Just through one.

5 Q. One side, all right.

6 Q. Right?

7 A. It came up and it was hooked on to the mechanical.

8 Q. Right.

9 A. When we take out the mechanical plug now, as a safety feature
10 so this don't fall down while it's deflating and we take it and
11 we connect it overhead.

12 Q. Right.

13 A. All right? After connecting it overhead on a shackle to one of
14 the eyes welded into the habitat, right, we—there is now, which
15 part yuh seeing that place dey for a inset or whatever you want
16 to term it as—

17 Q. Uh-huh.

18 A. There was a hose, we had a hose connected to it with a gauge
19 on top, all right? The gauge telling you how much—

20 Q. Pressure?

21 A. —pressure we have in it, right.

22 Q. In the, in the—

23 A. In the tube, right? And there were also a, a valve to open and
24 close which they, as I understand, because I didn't install it, as I
25 understand as Blacks—um, Rishi Nagassar told me, they take
26 off the lever because they didn't wanted the lever to get damage
27 or, or opened by mistake. So we then needed a crescent wrench

1 to, or a spanner to open dah lever, right?

2 Q. Uh-huh.

3 A. In between that on dah same thing there's a next insect on dah
4 gauge where you could press—

5 Q. An insect, you mean like a valve?

6 A. Like a valve on a tyre—

7 Q. Right.

8 A. —to, to, to press and deflate it also. I wasn't aware a that and
9 dah is when, um, Kazim went for the spanner and bringing back
10 the spanner to me, right, is when I think is Blacks start to
11 deflate it—

12 Q. Right.

13 A. —the thing, but, is, it'll take a way longer period to, like,
14 releasing air from in a tyre.

15 Q. Um.

16 A. It will take a long period to do that than just using a valve and
17 opening it fully.

18 Q. Right, I understand. But when this happened, just before this
19 vortex was created, when you were all dragged into the pipe,
20 was that plug held up by a cable and attached to one of the eyes
21 inside—

22 A. Yes, Sir.

23 Q. —the, the habitat?

24 A. Yes, Sir.

25 Q. So were you aware whether that plug went into the pipe or was
26 still there?

27 A. It couldn't be still there. When I came out it wasn't there, and,

1 for, for there to have a vortex, a suction, it, it couldn't come out
2 so it had to go forward.

3 Q. So, so that I'm clear about this—

4 A. The wire rope failed.

5 Q. —is it your understanding that the cable must have broken—

6 A. Correct.

7 Q. —and that it pushed the plug in?

8 A. Correct.

9 Q. Well so there's—we're talking about some—what kind of cable
10 are we talking about? Something—a small wire or is it—

11 A. It, it's, it—I think it was a, um, either a quarter inch, quarter
12 inch or three-eighths because it wasn't—it's, it's not there for
13 more—strength, really.

14 Q. Right.

15 A. It's there just to keep—

16 Q. Stop it falling in?

17 A. For, yeah, from falling. So I think it was like quarter inch or
18 three-eighths. Ah—

19 Q. Right.

20 A. —ah not sure.

21 Q. All right.

22 **Mr. Chairman:** Yes, thank you. Thanks—

23 **Mr. Maharaj SC:** Much obliged.

24 **Mr. Chairman:**—Mr. Maharaj.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. Mr. Boodram, you said in your statement that whilst you all
27 were doing the works, Paria had a representative topside

1 monitoring the works?

2 A. Yes. He, he were—they had more than one.

3 Q. They had more than one?

4 A. Yes. One person was frequently monitoring the air quality that
5 we were breathing in the chamber also, in the habitat.

6 Q. And monitoring that and monitoring to ensure that you all
7 complied with the method of work and what was approved?

8 A. Correct, correct.

9 Q. Right.

10 A. Correct.

11 Q. And—

12 A. At all times we had to apply with Paria's, er—because we
13 working in their compound and we doing their job. Over all the
14 years at any point a time Paria see something, they stop the
15 work and they have their conversation, whatever is de plan and
16 we geh back on to it. Just like how when we had to stop de
17 work to do the CARBER testing to get, to get permission from
18 Paria to go forward or to cancel the job. You understand?

19 Q. So, from your experience, if you were working there for LMCS
20 doing works and you were doing works which not accordance
21 with what they agreed to, they would stop the work?

22 A. Of course.

23 Q. Yeah.

24 A. Undoubtedly.

25 **Examination By Mr. Chairman:**

26 Q. When you first started to remove that mechanical plug, to the
27 point in time when the vortex then dragged you all in, what sort

1 of time are we talking about from start to finish of that, that part
2 of the project?

3 A. From the period a time we start unbolting—

4 Q. Yeah.

5 A. —de mechanical plug from the—

6 Q. From, from right from the beginning to when you start to unbolt
7 the mechanical plug to the point in time when the waters come
8 up and drags you into the pipe, how long are we talking about?
9 I'm not going to hold you to it but give me some idea if you
10 will?

11 A. At least a hour and a half to two hours. At least a hour and a
12 half I would say, because, remember we—when, when we take
13 out de plug, ah came out and ask, ah came out to ask if the, the,
14 the CARBER testing was done on Berth 5. Right? And then
15 we come back in and we was doing we thing, but, while taking
16 out a mechanical plug, right, after we unbolt it and release it
17 and thing, right, we had to jack it up, right. It's not a light
18 thing.

19 Q. No.

20 A. The mechanical plug was rather heavy. Right? We had to Jack
21 it up, guide it down, move we scaffolding, bring it between the
22 pipe and the chamber, right and then fasten it to the outside of
23 the, the habitat.

24 Q. So did you have to put your scuba gear back on?

25 A. Correct. Right.

26 Q. Crawl out through the bottom?

27 A. Fyzie and I did that.

1 Q. With the, with this thing that weighs a lot?

2 A. Yeah.

3 Q. It didn't drag you down to the bottom?

4 A. Well we had—no, well had it hook up on to the, the chain
5 block.

6 Q. Already?

7 A. Right?

8 Q. Right.

9 A. So after we just tie it on to the—

10 Q. Got you.

11 A. —tie on to—

12 Q. But between an hour and a half and two hours from start to
13 conclusion of that start of the project—

14 A. Estimatedly [*sic*], yeah.

15 Q. Yeah. Estimated. I appreciate.

16 **Mr. Chairman:** Thank you very much indeed. I—again, I'm
17 sorry, Mr. Maharaj.

18 **Mr. Maharaj SC:** That's all right, My Lord.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. I want to show you your statement signed on the 19th of
21 October, 2022. It's at page 1569, particular at page 1569,
22 paragraph 22. It's Volume IV, 12—it's 12, in Volume IV.
23 Okay; 1569. I wonder if the orderly would—paper bundle.

24 A. Go ahead, I have a good memory a mih statement too. Nothing
25 fabricated in it.

26 Q. I know.

27 A. I don't need it.

1 Q. I know. I just want to show it to you. And you said in that
2 statement, “We were told the following jobs would be done that
3 morning.”

4 **Mr. Chairman:** Which paragraph are we on, please?

5 **Mr. Maharaj SC:** At paragraph 22.

6 **Mr. Chairman:** Paragraph 22. All right.

7 **Mr. Maharaj SC:** At page 1569.

8 **Mr. Chairman:** Yes. Do you have that, Mr. Boodram?

9 **Continued Examination By Mr. Maharaj SC:**

10 A. “We were told the following jobs would be done...”.

11 Q. “We were told the following jobs would be done that
12 morning on the 25th of February, 2022 by Kazim Ali Jr.
13 in the presence of the Paria officials.”

14 A. Yes.

15 Q. “Extract the pipe from the top of the habitat. Install the
16 new one into the habitat. Add air to the habitat to remove
17 water. All the divers would enter the habitat. The divers
18 would take off the blank flange. The divers would unbolt
19 the mechanical plug. The divers would wait for
20 CARBER testing to be done on Berth 5. CARBER
21 testing would then be done on Berth 6. After testing the
22 weld, the divers would extract the inflatable plug and
23 install the new riser. Then the job would be done.”

24 A. Correct.

25 Q. Are those true and correct?

26 A. Correct. The onlies’—er, when I—when I meant by all the
27 divers, we were talking about the four of us.

1 Q. Right.

2 A. Kazim Ali Jr.—

3 Q. That's what we were trying to get—

4 A. —were always to—

5 Q. Yes, before that.

6 A. —to stay on the outside and, um, into, in, in conveniently check
7 on us to make sure none of us, because it's a confined space we
8 working in, to make sure none of us overfatigued or moving
9 any way unusual.

10 Q. Yeah. I think it is my mistake, we said the—you said the divers
11 so I'm glad you explained it. At paragraph 24, on that same
12 page:

13 “In terms of safety briefing, we were told by LMCS
14 safety officer in the presence of Paria's safety officer,
15 Mr. Dopson, that the hazard was malfunction of
16 equipment, our tanks had air and our gauges were
17 working. We were also warned about slips and trips and
18 the system for fatigue which was that anyone who
19 became fatigued whilst working in the habitat would be
20 taken out to get some rest.”

21 Next paragraph:

22 “The safety briefing which we were given did not
23 identify any hazard of entry into the pipe. We were
24 briefed on potential hazards of cutting. We did not use
25 any torches or grinders. There was a fire extinguisher in
26 the habitat. There is a gas monitor and a Paria official
27 who was regularly testing the air quality to make sure

1 that the air was safe and breathable.”

2 Are those matters correct in your—what you said in your
3 statement?

4 A. Correct.

5 Q. True and correct?

6 A. They are true and correct. They could also have, um, have
7 been, um, a few more details into the safety briefing that I may
8 have left out.

9 Q. Or.

10 A. Or not remembered in the safety briefing.

11 Q. All right. You, you want to tell us about any other thing that
12 they may have told you and you now remember?

13 A. I—after—to be honest, after that event happening there, my
14 mind on recollecting every little detail before the incident, it’s
15 hard. What I could recollect is to every detail because I’ve
16 been living it every single night since, every single hour since,
17 is inside the pipe, and coming out the pipe.

18 Q. Well I think I owe a duty to ask you specifically, did they ever
19 tell you anything of a risk of you being sucked into the
20 pipeline?

21 A. No.

22 Q. No.

23 A. They did not.

24 **Mr. Maharaj SC:** Much obliged, Chairman. I have no further
25 questions.

26 **Mr. Chairman:** Thank you. I’ll now permit any cross-
27 examination anyone wants to, um, undertake. Can I have some

1 idea, please, as to how long do you think you might be, Mr.
2 Gilbertson?

3 **Mr. Peterson SC:** About half an hour or just over that,
4 depending on, of course, the answers.

5 **Mr. Chairman:** Of course. Yes. Well, I'll ask others to think
6 about how long they're going to be before, once you're
7 concluded. I would like, if we can, to conclude this evidence
8 before we break for lunch. I appreciate that that's a tall order at
9 the moment but I would be willing to sit and will sit for an extra
10 half an hour so that Mr. Boodram could go, and rather than
11 having to have lunch and then having to come back again. So,
12 can I ask you all please to be as brief as you feel you can be? I
13 appreciate you will have questions, but, please be as brief as
14 you can be with an eye to the clock in the hope that we might
15 be able to achieve that? If we can't, we can't, but I appreciate
16 your go operation where we can.

17 **Mr. Peterson SC:** Thank you, Mr. Chairman.

18 **Mr. Chairman:** Thank you.

19 **Mr. Peterson SC:** Could I remain seated, at least for this
20 witness?

21 **Mr. Chairman:** Of course you can. Yes. Anyone's entitled to
22 remain seated if they wish. I know Mr. Maharaj likes to stand
23 but anybody else can remain seated of course.

24 **Cross-Examination By Mr. Peterson SC:**

25 Q. Morning , Mr. Boodram.

26 A. Morning, Sir.

27 Q. Thank you for being here. Could you help us as to what is

1 described as the CARBER test? What is that? I've been
2 hearing the term.

3 A. To my knowledge it's a test to check if the weld is done
4 properly—

5 Q. All right.

6 A. —and to make sure the weld itself has no leaks or cracks or—

7 Q. It had no leaks or cracks. That's the weld, in this case, in the
8 habitat, the weld that you all did to receive the new riser?

9 A. Correct, the flange, yeah.

10 Q. Flange.

11 A. Yeah.

12 Q. Yes. And that test was—when it could not be done they
13 dispensed with it and decided to proceed?

14 A. Correct.

15 Q. Yeah. When you bring the riser on to that flange, it's metal on
16 to metal, isn't it?

17 A. With a gasket between.

18 Q. But is there a need to exercise caution that there may be sparks
19 when the two metal, metal meets metal?

20 A. When they're installing it?

21 Q. Yes.

22 A. Um, not really. The, the, the spark is very irrelevant. It, it have
23 no sparks, is no—no, you didn't get any sparks.

24 Q. Is there a—there's a precaution that if you're using metal tools
25 or you're installing metal against metal that the likely—

26 A. Right, that's for a, that's for a—that's if they using a active gas
27 line and all these kind a things.

1 Q. Right.

2 A. Right? This is oil, right, and this is a—in this term this was a
3 condemned line for a certain amount a years.

4 Q. Right.

5 A. And what I believe, I not sure because—anyhow I shouldn't
6 talk what I not sure about, so—

7 Q. Okay, thanks for that. What's the purpose of installing the two
8 barriers, the mechanical and the inflatable?

9 A. Okay. So the mechanical plug is there to prevent debris when
10 doing hot work or any type a work to fall on the, the inflatable
11 because the inflatable as we say is like a tyre, it's a more
12 vulnerable plug but it's there to give you a proper seal for the,
13 for the—the inflatable plug is to prevent any gas or residual gas
14 from escaping, and the mechanical plug is there to keep the
15 debris, when cutting or using any hot work, from falling in to
16 damage the inflatable.

17 Q. The inflatable plug. And the inflatable plug is to also prevent
18 hydrocarbons from coming up in the line into the habitat?

19 A. Correct. But mind you, um, when you're on—even if you're, if
20 you take at the plug, usually, right—

21 Q. Which plug, when you say the plug?

22 A. The both a them.

23 Q. Yeah.

24 A. Right? Usually we put the plug against liquid. Right? So you
25 pump out up to just what you need and where the liquid stop
26 you put the inflatable, right?

27 Q. Yeah.

1 A. So even if you take out the inflatable plug, because the habitat
2 in a positive pressure, right, it's very unlikely for anything to
3 come up because there's a pressure on it.

4 Q. Right.

5 A. You understand what I saying to you?

6 Q. Yes. Right. You're familiar with the permission to work
7 permit, permit to work, PTW—

8 A. Yes.

9 Q. —that Paria had?

10 A. Yes.

11 Q. Because you had been recently trained in that?

12 A. Correct.

13 Q. Shortly before this job?

14 A. Correct.

15 Q. Right. The PTW is—well you understand it to be the permit to
16 work and that tells you what you are carded to do for that day?

17 A. Correct. Um, it, it, it don't tell you what you're carded to do. It
18 permits you—

19 Q. It permits you?

20 A. —to what you—what, what you have to do.

21 Q. What you're supposed to do?

22 A. Correct.

23 Q. Right.

24 A. The, the, the toolbox form or the JSA, dem kind a thing may
25 have steps, you know, what you're going to do.

26 Q. Right. So the—

27 A. But the permit to work is only something to permit you to go

1 and do the job.

2 Q. This allows you to work?

3 A. Correct.

4 Q. And what guides you is the toolbox form?

5 A. Correct. And—sorry.

6 Q. Or what you may call the toolbox meeting, meeting minutes.

7 Did you sign the toolbox—

8 A. Yes, Sir.

9 Q. —um, for that day?

10 A. Yes, Sir.

11 Q. Twenty-fifth of February—

12 A. Yes, Sir.

13 Q. —2022 at 9.15 a.m.?

14 A. Yes, Sir. At 9.15? Er, er, um, earlier than that we sign that I
15 believe.

16 Q. Earlier than that?

17 A. Uh-huh.

18 Q. Sure, yeah. Uh-huh.

19 **Mr. Peterson SC:** Mr. Chairman, in fairness, could I ask that
20 the witness be shown 10—1070 in the core bundle?

21 **Mr. Chairman:** One seven?

22 **Mr. Peterson SC:** One zero seven zero.

23 **Mr. Chairman:** Yes, of course.

24 **Mr. Peterson SC:** That's the toolbox meeting form.

25 **Mr. Maharaj SC:** Which bundle please?

26 **Mr. Peterson SC:** Core bundle. The core bundle. Core
27 bundle one. Core bundle one. [*Crosstalk*] All right, it's on the

1 screen, Sir.

2 **Mr. Chairman:** Yes.

3 **Continued Examination By Mr. Peterson SC:**

4 Q. At number five, that's your signature? Well I don't know if
5 you could see it from there.

6 A. I'm seeing the signature. I can't recognize the number it's on
7 though.

8 Q. Okay, it's the first—yes.

9 A. Yes.

10 Q. That's your signature?

11 A. Correct.

12 Q. Right. And if you could go up to the line of topics discussed?
13 No, next direction, thank you. I see COVID-19 protocols,
14 communication, choppy water, weather condition, slips
15 awareness or slippery awareness. Right.

16 A. Okay.

17 Q. There was never any discussion about, um—well in fairness to
18 you, do you know what Delta P is?

19 A. I do.

20 Q. There was no discussions surrounding Delta P?

21 A. No, Sir.

22 Q. Right.

23 A. The, the idea of, of—okay, go ahead. I apologize.

24 Q. A Delta P would arise if those plugs were removed at the
25 wrongs time, wouldn't it? Or is that outside your knowledge?

26 A. To my knowledge, again, I not supposed to say what I don't
27 know but to my knowledge usually how we do the job is that

1 we put the plug against liquid, so there's a force behind it. You
2 understand? So a Delta P was unable to happen because the
3 conditions would not have been correct if the line were filled
4 with liquid.

5 Q. All right.

6 A. That's how we usually do it.

7 Q. But in fair—

8 A. I—

9 Q. Or, sorry.

10 A. I wasn't there when—

11 Q. All right, that—

12 A. —the plugs was installed.

13 Q. Yeah. That's what I was taking in fairness, because you did say
14 that you weren't there days before because you were on
15 COVID, um—

16 A. Correct.

17 Q. —quarantine. So you can't help us as to the condition at the
18 time when the plugs were installed, whether they were installed,
19 as you say they ought to be installed in a particular way?

20 A. Correct.

21 Q. Did they have any discussions about the removal of the plugs at
22 that toolbox meeting?

23 A. Yes we did.

24 Q. Right.

25 A. On the toolbox—the toolbox meeting is also to address the
26 stages in how we would do the job.

27 Q. Right.

1 A. And if anybody in the team had any concerns, we'd a bring it
2 forward and to make the job easier if you had a idea in doing
3 something or somebody else had a idea, we would a navigate it
4 an explored it.

5 Q. But those discussions with respect to the removal of the plugs, I
6 cannot find it in the toolbox meeting minutes.

7 A. I can't account for that. I is not the person fulling out the form,
8 Sir.

9 Q. Right. Can you—you don't know who filled out this form?
10 Well if a—who presented it to you to sign, do you recall?

11 A. Sir, it would be all of us standing in a circle or a similar form.

12 Q. Yes.

13 A. And the safety officer would say what he have to say, the
14 supervisor will say what he have to say and after the meeting
15 they will pass the form around for somebody to sign it. To say
16 who was the person take it out de folder and pass it around, I
17 can't say that. I know it was passed around and I read it and
18 signed it.

19 Q. Okay. Who was giving the instructions as to the steps to be
20 taken to remove those plugs?

21 A. Kazim Ali Jr.

22 Q. He is the one who was telling you, I think, to use your words,
23 "What we are going to do and how we are going to do it"? I
24 think that's what you said this morning?

25 A. Where, when, in the toolbox meeting? Yes.

26 Q. Yes.

27 A. Yes.

1 Q. Is it the first time you were doing a job like this?

2 A. No, Sir.

3 Q. How long before this, if you can recall, that you did something
4 similar?

5 A. I, I did a job like this twice before and I can't recall how long
6 ago, maybe about three—two, three years. I'm not sure. And
7 then one like about six or seven years ago and—

8 Q. Was it with LMCS?

9 A. Both jobs with LMCS. Previous to this one, both a them with
10 LMCS.

11 Q. And was Delta P ever discussed in any of those tool meetings
12 on those jobs?

13 A. No, Sir. Not to my recollection.

14 Q. But Delta P is a serious risk—well, sorry to—

15 A. Well again it's, it's a risk if you, you don't do the proper steps.
16 If, if the line was empty, there's a risk for Delta P. If the line
17 was full, to my knowledge and understanding though—

18 Q. Right.

19 A. —if the line was full, it would not have the differential a
20 pressure because it's, it's water is like a type a solid gas—dah
21 level. Is liquid, but, you know, it, it dense.

22 Q. All right. I'm interested in the—a tool you described this
23 morning, I think you described it as a T—

24 A. A capital T.

25 Q. —capital T. How long is that tool, approximately?

26 A. I think it was about, about 2 feet, about 2 feet long.

27 Q. Two feet long. And that is to remove the bolts on the

1 mechanical plug?

2 A. Correct.

3 Q. Right.

4 A. Remember yuh in a confined space in the pipe.

5 Q. I appreciate that. I appreciate that.

6 **Mr. Peterson SC:** Mr. Chairman, that document could be
7 taken down. I wish to have document 1073 of the core bundle
8 again.

9 **Mr. Chairman:** Just before you take that document down
10 rather than having to come back to it again, would you mind if
11 I—I just want to know who Victor Dhillpaul is. Did you know
12 who that was?

13 **Mr. Boodram:** That's our safety.

14 **Mr. Chairman:** He's your safety officer?

15 **Mr. Boodram:** Yes.

16 **Mr. Chairman:** Works for LMCS, does he?

17 **Mr. Boodram:** Yes.

18 **Mr. Chairman:** Yes, thank you very much. Yes, thank you.

19 **Mr. Peterson SC:** Yes.

20 **Mr. Boodram:** Can I ask for, um, a quick washroom break?

21 **Mr. Chairman:** Yes, of course you can. Yes. Please, would
22 you mind taking him for a quick break? I shan't rise. We can
23 wait for a few minutes. Please go.

24 **12.44 p.m.:** *Mr. Christopher Boodram leaves Enquiry*
25 *room.*

26 **12.45 p.m.:** *Mr. Christopher Boodram re-enters enquiry*
27 *room.*

1 **Mr. Chairman:** All right. Mr. Gilbertson, apparently we need
2 a minute or two for the technician to get this system working.
3 *[Pause]* Is this resolvable in the next few minutes or not?
4 *[Pause]* Right, I think we're ready to go. Thank you.

5 **Mr. Peterson SC:** One zero seven four, please, Mr. Chairman,
6 core bundle.

7 **Mr. Chairman:** One zero?

8 **Mr. Peterson SC:** Seven four. *[Pause]*

9 **Mr. Chairman:** Is this going to work now? Yeah, thank you.

10 **Mr. Peterson SC:** Thank you, Mr. Chairman.

11 **Continued Examination By Mr. Peterson SC:**

12 Q. Mr. Boodram, could you look at the screen? You said in your
13 statement that you had seen the permits to work at the toolbox
14 meeting on the 25th of February, 2022. It's gone again.

15 **Mr. Chairman:** We're going to work from the hard copy
16 bundles now and I apologize to the public because they will not
17 be able to see these documents. Can we have a hard copy so
18 that we can get on, please? And could someone fix this
19 system? It was down yesterday as well, so can we get it
20 working, please?

21 **Mr. Peterson SC:** Proceed?

22 **Mr. Chairman:** Please, Mr. Gilbertson. I apologize—

23 **Mr. Peterson SC:** Sure.

24 **Mr. Chairman:**—that it's not working properly, but we all
25 have hard copies and, er, if the public want to look they can
26 access it via the Internet and they can find it there.

27 **Continued Examination By Mr. Peterson SC:**

1 Q. Mr. Boodram, right, do you recognize that permits to work or
2 work permits for the 25th of February, 2022?

3 A. Um—

4 Q. As you said in your statement that you had seen on the toolbox
5 meeting?

6 A. Yeah, this—yeah, this looking like it.

7 Q. Right. And you saw that there is a—there are specific tasks set
8 out in that—

9 A. Yeah, but, um, remember—I understand where yuh coming
10 at—but remember that, remember that I working under
11 instructions. I am a employer—

12 Q. Right.

13 A. —a employee, sorry.

14 Q. Yes.

15 A. You understand? And if my employer give me instructions, we
16 go about doing it with dah instructions, right? And what we
17 did, and why we didn't hear, we didn't deviate no way or the
18 other from the plans.

19 Q. You didn't deviate from?

20 A. The plans.

21 Q. When you say the plan you mean this permit to work?

22 A. Well, yeah. But, the, the permit to work as I tell you does give
23 you—it doh be detailed in, in every task, every kind of task, but
24 it's just guidelines in what you're about to do.

25 Q. But you agree it would deal with the main tasks, the main
26 things?

27 A. Yeah.

1 Q. Now, can you look under the section requirements for
2 equipment installation and clearance?

3 A. Requirement in—yeah, right.

4 Q. That's the section 1.

5 A. Right, yes.

6 Q. Yes. You see "Isolated by blind, flanges, blanks, spool
7 removal, no"? You see that there?

8 A. "Isolated by blanks, flanges. Right?"

9 Q. Yes.

10 A. "Spool removal."

11 Q. Yeah.

12 A. "No."

13 Q. Right.

14 A. Right, but—

15 Q. Right. And across in the next column the comment you see
16 "line drained"?

17 A. Before we go to that, yeah, but ent on the—look on the permit,
18 Sir, it say removing of solid blanks.

19 Q. Yes, yes. I'll, I'll come back to that. Yes.

20 A. Okay.

21 Q. Right under that you see, "Cleared of process, hazardous
22 material", yes"?

23 A. "Cleared process hazardous materials".

24 Q. Yes.

25 A. Yeah.

26 Q. And across in the comments "Migration barrier—

27 A. "Migration barrier", yeah.

1 Q. —to be used”?

2 A. Uh-huh.

3 Q. And migration barriers is another term for the mechanical plug
4 and the inflatable plug?

5 A. Right.

6 Q. Those are referred to commonly as migration barriers?

7 A. Right, we did use it, yeah.

8 Q. Right. But I now agree with you to take you up further that you
9 were taking me to earlier—

10 A. Right.

11 Q. —with respect to specific tasks that speaks about removing the
12 flange and to install the riser.

13 A. Uh-huh.

14 Q. You see that?

15 A. Yes.

16 Q. But you would agree with me that you took me to that there is
17 nothing there with respect to removing the barriers, otherwise
18 called mechanical inflatable plugs? You agree with that?

19 A. So, answer me this? If we—if—

20 Q. No, and I just want to deal with what is here first.

21 A. But if we install the riser how would we get out the inflatable
22 plug at that depth?

23 *[Male Voice: From on top]*

24 Q. Yeah.

25 A. So, yeah, from on top. How we'd a get that out? Because
26 remember going into the pipe, remember going into the pipe—

27 Q. Yes.

1 A. —is not part a we scopes. It—you're not supposed to go in the
2 pipe unless you get special clearance to do that.

3 Q. Right.

4 A. So how we'd a remove that?

5 Q. Yes. Maybe we'll have technical people coming who would
6 answer that. I just a law—I'm just a lawyer.

7 A. Okay.

8 Q. Only.

9 A. Okay.

10 Q. The—but what I was dealing with is where you had taken me
11 earlier—

12 A. But we ha to read between the lines too, eh. Sorry.

13 Q. Yeah, we go do that. I just was dealing with where you had
14 taken me to, that there is nothing there in the tasks to be
15 performed that instructed the barriers to be removed. You
16 agree with that?

17 A. Well as far as I reading. I don't know if this is the original
18 document or as far as I reading, yeah.

19 Q. The Commission will ensure that, because I got it—right.
20 And—but you agree that the migration barriers that they're
21 referring to there to be used are the two barriers, right? We call
22 it barriers but it's the mechanical plugs and the—

23 A. So, so you understand, you understand this permit don't be
24 revised every day? They does make a permit for the job and
25 every day they does have a signing in the back for every other
26 day?

27 Q. Yeah.

1 A. So this permit is the general permit for the whole job.

2 Q. Yeah. But this permit is dated the 25th? You realize up on
3 the—

4 A. Because dah is when we went back to start the job, right?

5 Q. Yeah.

6 A. But now this permit, right, does come with a next document in
7 the back with signatures for days and it to have all the
8 managery [*sic*] signatures out. All the signatures who give
9 permission to do the job—

10 Q. Yes.

11 A. —and in the back ah it every day, while you're on this job, they
12 giving you the same permit and you're signing it.

13 Q. Right.

14 A. Right? So, so, this being used, using the mechanical plug and
15 the thing plug—

16 Q. Right.

17 A. —right, is for all the same work prior.

18 Q. Yes.

19 A. Prior.

20 Q. But the permits you're speaking about where every day they
21 will have signatures, would e—have a earlier date than the
22 25th?

23 A. Sir, if I explain to you how Paria does work or Petrotrin or
24 whatever, right, honestly, they pull this permit for when they
25 start the job before and they just bring it—

26 Q. Uh-huh.

27 A. —update the date and give them to sign it.

1 Q. Uh-huh.

2 A. Right? This is how they does work.

3 Q. But a permit is issued, because remember you underwent the
4 training?

5 A. Yes, Sir. I—

6 Q. Permit is issued every day for that day to allow you to work?

7 A. The same permit. The same permit—

8 Q. I know.

9 A. —for the job does be issued every day and as the day go by—

10 Q. Yes.

11 A. —they just have—if they have any changes or alteration on it,
12 they may have a note or they may add something on to it, or—
13 but most of the time—

14 Q. It's the same permits that—

15 A. —same permit—

16 Q. —they just keep printing?

17 A. —that they just printing, regurgitating and you sign it.

18 Q. Okay. Well then could, could you turn the page to ten seven
19 five?

20 A. Ten seven five.

21 Q. The 13th of February, 2022.

22 A. Uh-huh.

23 Q. That is for the same job, isn't it?

24 A. I was—

25 Q. As you told us?

26 A. I was not working, er, I don't, I don't have no recollection of
27 working on the 13th a February—

1 Q. Yeah, I know. No.

2 A. —so—I cannot.

3 Q. I just—no, sorry. Don't misunderstand me. I'm not saying that
4 you were there because we know you had COVID and all of
5 that.

6 A. So then I can't say it's for the same job.

7 Q. Well, let's look at, let's look at the permit. To install migration
8 barriers, hyperbaric chamber, cut and remove some section.
9 You realize this is the same job we are talking about?

10 A. Correct.

11 Q. And this is the permit—

12 A. But because of the pause—I apologize.

13 Q. This is the permit that was used to install the barriers?

14 A. Right.

15 Q. All right?

16 A. Now if the job was continuous, we'd a seen everything on this
17 permit, but because the job had a pause between it, is where
18 they would change the permit and update if so.

19 Q. Right.

20 A. But if the job was continuous, it woulda been the same permit
21 in the back signed behind it to the date.

22 Q. Right. So fortunate for us it wasn't continuous. This permit,
23 you agree, provided for the installation of the migration
24 barriers, as you see highlighted there, the reddish part?

25 A. I can't agree to this. I don't know this. I didn't sign this
26 permit.

27 Q. I know. You don't sign permits, I know, but you agree that this

1 is for the installation of the barriers that you spoke about that
2 was—that were installed before you came back on the job, is
3 that so?

4 A. Pos—possibly and the course I did with Paria allows me to sign
5 permits.

6 Q. Okay. Right. But you didn't sign any on this job?

7 A. No, Sir.

8 Q. Right. I want to go back up to the page before, 1074, under
9 section 3, "Certificates/Checklist Required". You see that
10 heading?

11 A. Yes, Sir. Yes, Sir.

12 Q. "Hot works certificates, what are those?"

13 A. It's a permit.

14 Q. A permit that permits you—

15 A. To, to, to do hot work in itself. So everything, every—there's a
16 general permit, right, and then for certain specifications of work
17 like confined space, hot works, these kind a things will have a
18 separate permit for it.

19 Q. Right.

20 A. So it will be—if, if you're doing hot work with this permit you
21 will have permit with the general permit. You will have hot
22 work with the general permit.

23 Q. Right. So they have a general permit and if you—hot works as
24 part of the work to be done, they will issue a separate—

25 A. Correct.

26 Q. —one for hot—

27 A. Or confined space or height, or anything to deal with height,

1 that kind a thing, yeah.

2 Q. A hot works certificate.

3 A. Correct.

4 Q. And hot work certificate would require certain precautionary
5 steps to be employed because it's hot works?

6 A. Correct.

7 Q. And one such step would be to take precaution to eliminate the
8 presence of hydrocarbons?

9 A. Correct.

10 Q. And one way of eliminating—

11 A. Or, or if not eliminating, maybe, um, um, controlling to a safe,
12 to a safe—

13 Q. [*Inaudible*]

14 A. —working environment, yeah.

15 Q. All right. And one way of controlling hydrocarbons entering,
16 for example, the habitat, would be barriers, wouldn't that be so?

17 A. Yes, Sir.

18 Q. Right.

19 A. But that day we were not doing any hot works, Sir.

20 Q. I ain't get there yet. But—I dealing with the procedure,
21 because you could help us with this.

22 A. Okay.

23 Q. One way of keeping out hydrocarbons from the chamber would
24 be to keep the barriers in place?

25 A. Correct. The inflatable plug is for that reason.

26 Q. Right. This permit to work, you agree it had a hot works
27 certificate 2634 issued on this job?

1 A. Yeah.

2 Q. Right. And you also agree that one of the precautionary steps
3 inserted on this permit would be keeping the barriers in place?

4 A. No, Sir.

5 Q. Well, isn't it there?

6 A. The permit is there for a wide variety a reasons, right, in terms
7 as I explained to you—

8 Q. Which permit?

9 A. This permit, the general permit, right? They would add hot
10 work on it because they know ah—it have hot works to do on
11 the job, right, not meaning hot works to do in the, in the, in the,
12 in the, in the habitat. Right? It could have hot works to do on
13 the barge. It could have hot works to do on the boat—n the
14 Berth. You understand? So in relation for the job, the job is
15 not only in the hyperbaric chamber, in the, in the, in the habitat,
16 the job is entail the whole thing.

17 Q. Yes.

18 A. You understand?

19 Q. Yes, Mr. Boodram, I understand that. But we already accept
20 that this permit was for the 25th. At least this permit was for
21 the 25th of February?

22 A. Correct.

23 Q. But you said to us in your statement, and I think you said it
24 earlier, is that once the CARBER test has been done and the
25 riser installed, well, that—the job is done, isn't that so? You
26 said that.

27 A. To do so, we had to take out the plugs. That's part of the job.

1 Yeah.

2 Q. That's what, that's what I'm getting to.

3 A. Uh-huh.

4 Q. But when you install the riser, the job is done, according to
5 your statement?

6 A. Well, for that day, because you still have to come back the next
7 day and take out the habitat.

8 Q. Yes. Well, take out the habitat is removing your equipment that
9 you had used?

10 A. Well, that's—

11 Q. Yeah, sure.

12 A. —that's part a the job. Yeah you ha to have permit to do all
13 those sort a things.

14 Q. Okay.

15 A. Dah is part ah de job.

16 Q. So next day there will be a permit issued to remove the habitat?

17 A. The—this same permit will be renewed. I just tell you. They
18 does just renew the permit.

19 Q. But it will have on that permit the added task of removing the
20 habitat?

21 A. The permit will just be removed—renewed. Just what you're
22 seeing here, they will just renew it. It may be what they're
23 supposed to do but what they practice and what they do is
24 different. The permit will just be renewed.

25 Q. But it would have the following day's date so it will have the
26 26th?

27 A. Correct. They will just—on the permit, if you see the original, I

1 don't know if dey is de whole permit right, if you move to it,
2 right, look to the back ah de page number 1076—

3 Q. Yes.

4 A. —right, you go see contractor, dey signatures, the dates on top,
5 authorized signatures and all the dates it have there.

6 Q. Yes.

7 A. Right? So these days will just be updated. The same permit
8 will just be updated. If, if every permit was changed every day
9 they wouldn't have this space for different dates.

10 Q. Right. Well the only difference here is that you have one for
11 the 13th and one for the 25th?

12 A. Because there was a gap—

13 Q. Because there's a gap in—

14 A. —in doing the job.

15 Q. Right.

16 A. And on the day of this job now the reason why this permit stop
17 was because of the incident.

18 Q. Because of the incident. I accept that. So when the riser is
19 installed, don't you have to cut off the top of the riser to put
20 back a flange? When the—

21 A. Sorry?

22 Q. When the riser is attached—

23 A. Uh-huh.

24 Q. —do you have to cut the top of it—

25 A. No, no.

26 Q. —to connect the pipe?

27 A. No, no. You would, you would, you would have to, um, install

1 a elbow on it.

2 Q. Right. By welding that elbow on to it?

3 A. Bolting. Again, I wasn't there in the, in the beginning stages a
4 the job so I don't know what angle they, they, they—if they
5 prefab the whole spool and all these kind a things. I can't
6 remember if the top of the spool was prefab with a flange
7 already—

8 Q. Or if it was rough?

9 A. —or if it was rough and you had to do grinding and welding.
10 Right?

11 Q. He doesn't know. And if it's—right, and if it's rough, I agree
12 with you—

13 A. Uh-huh.

14 Q. —you have to do grinding and welding?

15 A. Correct.

16 Q. Which will require a hot work certificate?

17 A. Correct.

18 Q. Right. And after the—this permit on the resump—when the
19 work broke and resume on the 25th, you know of any hot works
20 that—

21 A. Sir, because of the, because of the length a time dah job was
22 being stalled for, right, those plugs would of had to come out
23 and reinstalled because of the time it was there.

24 Q. Just now, I didn't, I didn't go there yet, Mr. Boodram.

25 A. Well I know where yuh coming from, Sir.

26 Q. Oh, I didn't realize that. But let's just stick with the permit for
27 a minute?

1 A. Okay.

2 Q. Right. The permit—the resumption of the works that resulted
3 in this second permit being issued, you were involved in any
4 hot works pursuant to certificate two six three four?

5 A. Sorry?

6 Q. Hot works permit two six three four.

7 A. Two six three four?

8 Q. Yeah the—remember I took you and show you that we—there's
9 the certificate for hot works?

10 A. Right. Yeah.

11 Q. When you joined the work that day, the 25th, did you engage in
12 any hot works up to that stage?

13 A. No, Sir.

14 Q. But this—but there was certificate for hot works which would
15 have been either be welding or grinding I think it is?

16 A. As I explained for you, it would have on the type a job because
17 they could have welding going on on the barge, on the—

18 Q. Right.

19 A. —on the top, you understand?

20 Q. Right.

21 A. And on that day we had no welding to do in the—all the
22 welding and the, the cutting and any hot works was completed
23 inside the habitat—

24 Q. All right.

25 A. —already prior to that day.

26 Q. I was just interested in something you were taking us to which I
27 wasn't aware of. You said the, because of the break in the work

1 the plugs had to be removed and replaced?

2 A. Huh?

3 Q. Did you start to tell us—

4 A. No, no, no, no. You're presuming dey. I—what I told you, if
5 after that period a time, right, had passed, right—

6 Q. What period is that?

7 A. From the length a time they install the plugs, right, to installing
8 the flange, to installing the spools, right, to do works on top, the
9 length a time the, the plug was inside there, right, safe practice
10 is to check the plugs, make sure the plugs still to good quality,
11 right, and reinstall it. That is the practice because the job was
12 postponed on more than one occasion.

13 Q. All right. And the spool at that stage on the morning of the
14 25th had not yet been installed. Were you tasked to check those
15 plugs to see if they needed to be replaced?

16 A. At that point a time we could not disconnect the plugs as yet.
17 We had to do the process and the process was taking it out.

18 Q. When you say pro—well, sorry.

19 A. Well we had to unbolt the, the CARBER—

20 Q. No, I didn't follow you when you say you didn't do, didn't do
21 the—

22 A. Well remember the, the part a de job that day was to take out
23 the plugs.

24 Q. All right.

25 A. You understand? And after taking out the plugs, right—

26 Q. Yes.

27 A. —and installing the spool, they would have gone under

1 inspection. More than likely it would be just visual inspection.

2 Q. Yes.

3 A. Right?

4 Q. Yes.

5 A. And reinstall if needed.

6 Q. So if they were go—all right, because if you're going to do the
7 grinding and the cutting—

8 A. Correct they would, they would build scaffolding around it,
9 because the scaffolding at—the chamber ha' to remove,
10 scaffolding had to be built round it and then they would a
11 reinstall the plug in a reachable manner and then continue if
12 they had any more hot works to do on top.

13 Q. Right. And the instructions you got to remove those plugs
14 came from—what's the name of the person?

15 A. Kazim Ali Jr.

16 Q. Kazim Ali Jr.

17 **Mr. Chairman:** It doesn't appear to me that we're going to be
18 able to complete, um, this man's evidence before our lunch
19 break.

20 **Mr. Peterson SC:** We wouldn't, Sir. Yeah, my junior has
21 taken me to something else, Sir.

22 **Mr. Chairman:** Would, would you—I mean, do you think
23 you'll be able to finish in the next 5 minutes or do you think
24 you'll take—going to be a little longer?

25 **Mr. Peterson SC:** A little longer.

26 **Mr. Chairman:** All right, well I think perhaps if that's a
27 convenient moment—

1 **Mr. Peterson SC:** Yes, Sir.

2 **Mr. Chairman:**—we will take our break. I'm sorry, Mr.
3 Boodram, but you're, you're—we're going to have to break for
4 an hour for lunch then you're going to have to come back
5 afterwards, all right?

6 **Mr. Boodram:** I don't have a problem with this. I here for all
7 a my soldiers in that pipe.

8 **Mr. Chairman:** All right. One thing I can guarantee you is we
9 will not conclude today without finishing your evidence, all
10 right? Whatever happens.

11 **Mr. Boodram:** Thank you.

12 **Mr. Chairman:** All right? We'll make sure that that happens.
13 You won't have to return, as it were, to give evidence on
14 another day. All right, thank you very much. We're going to
15 take a lunch break now and we will return at ten past 2.00,
16 please? Ten past 2.00.

17 **1.11 p.m.:** *Enquiry suspended.*

18 **2.18 p.m.:** *Enquiry resumed.*

19 **Mr. Chairman:** Thank you very much. I'm sorry to have kept
20 everyone. It's my fault entirely. Sorry about that. You all
21 right?

22 **Mr. Boodram:** Yeah.

23 **Mr. Chairman:** Sure? Ready? We'll get you done today. All
24 right? I promise you. Please.

25 **Mr. Peterson SC:** Thank you, Mr. Chairman. Mr. Boodram, I
26 wouldn't be long with you again. Just bear with us.

27 **Continued Cross-Examination By Mr. Peterson SC:**

1 Q. Just tell me something, the riser that was being repaired and
2 replaced, could you tell us how long was that replacement riser?

3 A. I would say approximately 20 to 25 feet.

4 Q. Twenty to 25?

5 A. In length. The piece that going to replace?

6 Q. Yes.

7 A. Right?

8 Q. Yes.

9 A. Yes.

10 Q. But you're not aware of the size of the piece that was removed?

11 A. The length?

12 Q. Yes.

13 A. Or the piece removed? Yeah, approximately the same length
14 too, yes.

15 Q. Of the same thing. I thought so. How was that piece removed?
16 Is it cut?

17 A. Yes, Sir.

18 Q. And that would be a hot work certificate issued?

19 A. Yes, Sir.

20 Q. Right. So that cutting to remove it, the barriers would have
21 been placed—put in place before that cutting took place?

22 A. Yes, Sir.

23 Q. Right. What tool would have been used to—before the cutting
24 and removing of the old riser, if you could call it that, what tool
25 would be used to insert and protect—and install the inflatable
26 plug and the mechanical plug?

27 A. I would be assuming if I can answer that. I wasn't there.

1 Q. Yeah, I know, but—

2 A. If you'd like me to—

3 Q. —from exper—I leaning on your experience.

4 A. Okay, they, they would lower down the plug and they would
5 hook up a—if you bring back up a picture on the inflatable plug
6 you'd see there they'll hook up a hose—

7 Q. Yes.

8 A. —on to the nipple—

9 Q. Yes.

10 A. —and they would inflate it from—

11 Q. The air. Right.

12 A. Yeah.

13 Q. That's the other plug. That's the inflatable. I think we got that.

14 A. Right.

15 Q. Then the mechanical comes after that?

16 A. Right.

17 Q. And then the bolts—

18 A. They would—they—

19 Q. —the 20 or 15 or 22 bolts would be—

20 A. They, they would, they would lower it down using, um, the
21 crane—

22 Q. Yeah.

23 A. —or a chain block.

24 Q. Right.

25 A. They would have to make a—some apparatus to hold up the
26 crane block in the air if they're not using the crane—

27 Q. Not, right.

1 A. —um, they lower it down—

2 Q. Right.

3 A. —and they would have used a or makeshift longer T tool to—

4 Q. To tighten the 15 or 22 bolts, it doesn't matter whether it's 15
5 or 22?

6 A. Yeah, correct, Sir.

7 Q. And that's so the—those—that T tool, let's call it that—

8 A. Uh-huh.

9 Q. —it will vary depending on the length you need for a particular
10 job?

11 A. Well, yeah, if you, if you need it for longer you fabricate it.

12 Q. Right.

13 A. You would do some, um, modifications.

14 Q. Thank you very much. That's what I wanted. So, just to
15 summarize, so the inflatable plug is placed, the mechanical plug
16 is placed, the bolts are tightened and then you cut the old riser?

17 A. Yes, Sir. I understand where yuh coming from.

18 Q. I don't know where I going either, so where you know where I
19 coming from? I don't know where I am going.

20 A. If you say so.

21 Q. So—and then you bring the new riser to be installed?

22 A. Nah, you're mixing up yourself dey.

23 Q. The new? Sorry, you see?

24 A. We, we, we—

25 Q. I tell you I don't know.

26 A. We dealing with the old riser—

27 Q. No, we move that.

1 A. You remove that?

2 Q. You do all your work and all of that, the, um, the CARBER test
3 was to take place or—

4 A. We take out—

5 Q. —did take place.

6 A. —we take it out and then we install the new one.

7 Q. You bring in the new, you do the CARBER test or you waive
8 the CARBER test and you now bring in the new one?

9 A. Right.

10 Q. Right. The new one is to be installed?

11 A. Correct.

12 Q. And then—

13 A. But there's a—okay, go ahead.

14 Q. —the plugs are to be removed?

15 A. There's a easy way—there's, there's actually more than one
16 way to skin a goose, right? There's the easy way and then
17 there's the hard way and anybody with any sort a intelligence
18 would look to do the easy way.

19 Q. If it's safe?

20 A. Correct.

21 Q. Right. So let's go with the hard way. What you will suggest
22 from your experience is the hard way of skinning the goose?

23 Yes.

24 A. In my experience—

25 Q. Uh-huh.

26 A. —there wouldn't be any—there isn't a issue to worry about
27 sparks and thing by joining this next one because, remember—

1 Q. I not there yet.

2 A. Huh?

3 Q. I not, I not dealing with that yet. The hard way—well, let me
4 be—

5 A. Well, well dey is what I telling you.

6 Q. —wouldn't the hard way be—

7 A. So it wouldn't, it wouldn't be a issue to, to me, right, so it
8 wouldn't even be considered.

9 Q. Okay.

10 A. You understand? It wouldn't, it wouldn't be considered to have
11 to leave the plug for you to come back from on top to, in, in, in
12 my thoughts.

13 Q. Right. So removing the plugs before you do that where you
14 were going on top, that's the easy way, right, that you told us
15 about?

16 A. Right. That's what they—that was—that—dah is how they
17 planned it in this job.

18 Q. I didn't think—I just want the easy and hard. I want a
19 description—I trying to understand, because remember I don't
20 know, all right?

21 A. Well as a, as a employee, right I could use a term as easy and
22 hard as they—

23 Q. Yes, so that—

24 A. —use it, right, but if they tell me to do a job—

25 Q. Yeah.

26 A. —I going to do mih job. It's something that I love. So it don't
27 have ah easy and hard for me. If they tell me, boy, dah is how

1 you want to do it, dah how you have to do it—

2 Q. Right.

3 A. —I cah—I not a—at managery level in LMCS or in Paria to say
4 no—

5 Q. All right.

6 A. —leh we do this. I could maybe put across a idea, but—so if
7 they tell me they wha it like dat, dey wha it like that.

8 Q. All right. We got that. You were telling me about two ways to
9 do it, to use your colloquial expression, to skin the goose.

10 A. Uh-huh.

11 Q. The easy way is to, before you bring the new riser, is to remove
12 the plugs and then bring the new riser?

13 A. Right.

14 Q. That's the easy way?

15 A. Correct.

16 Q. And the hard less intelligent way, to use your term, would be to
17 bring the new riser and then seek to remove the plugs from on
18 top?

19 A. I didn't—

20 Q. That's the hard way?

21 A. I did not directly tell you it's the less intelligent way.

22 Q. No, I'm—I know that. I know that.

23 A. So, please don't assume.

24 Q. No. All right, you said the smart way. So the next way, the
25 hard way—

26 A. Uh-huh.

27 Q. —right? Don't hold me to the intelligent and so on.

1 A. Well, remember you holding me to everything I say. So—

2 Q. The Commission. The hard way—

3 A. Uh-huh.

4 Q. —would be to install the new riser and then seek to remove the
5 plugs from on top. That's the hard way?

6 A. To my discretion.

7 Q. Yes. And the same tool, help me here, the same tool that was
8 used to remove, to re—to in—to insert the plugs before the
9 cutting of the old riser, would be the same tool to use to remove
10 it after putting the new riser, isn't that so?

11 A. If they, if they choose to go—

12 Q. The hard way?

13 A. —the, um, yeah, I guess.

14 Q. That's because both pieces are approximately the same length?

15 A. Yeah, yes, correct.

16 Q. And the new riser, I think we may have gotten this before we
17 took the break, there may be or may not be welding to do at the
18 top of the new riser, because, if it's finished and fabricated
19 there's no welding to be done? If it's rough there's welding
20 and cutting to be done?

21 A. I, I am not even sure if that was part of LMCS' scope of work.

22 Q. That's a different thing. So I just want your experience.

23 A. Uh-huh.

24 Q. The new riser could either have cutting and welding to do?

25 A. Yeah, yeah, yeah.

26 Q. Or it may have been polished and finished—

27 A. Correct, yeah.

1 Q. —to connect to the elbow up on top.

2 A. Yeah.

3 Q. All right. But you can't help us as to the condition of the new
4 piece that was to be installed?

5 A. I cannot recall.

6 Q. Right. That, that's good enough, Mr. Boodram. [*Crosstalk*]
7 Dopson, you know someone called Dopson who was at the—

8 A. Yes, Sir.

9 Q. —the toolbox meeting. He—you said he's a, well, a Paria
10 official or a Kenson—well, in fact, he was a Kenson official but
11 enough to say that he was a Paria person?

12 A. Right.

13 Q. He was not an LMCS person?

14 A. Correct.

15 Q. He has given a report as to the—what was discussed at that
16 toolbox meeting on the morning of the 25th of February, 2022.
17 I'm not holding you to it. I just want to alert you to the fact
18 that—

19 **Mr. Peterson SC:** And, Mr. Chairman, that could be found at
20 electronic page 1022, core bundle one. [*Crosstalk*] We have it
21 as electronic Volume I, page 1022. It's on the screen? Is that?

22 **Mr. Chairman:** Yeah, I got that.

23 **Mr. Peterson SC:** Right. Could you scroll down a bit?

24 **Continued Examination By Mr. Peterson SC:**

25 Q. Mr. Boodram, this is not your document but I'm not holding
26 you to it, but what I wanted to show you is the list of activities
27 as reported at that toolbox meeting. So take a few minutes and

1 look at it and then we might understand. [*Crosstalk*] There are
2 10 items there and what was—

3 A. I understand what I am reading here and I—

4 Q. Right.

5 A. —understand what you're coming at, but, Mr. Dopson could
6 have stopped proceedings if he found that this was at any time
7 off protocol.

8 Q. That's not what I was coming with. What I was coming with is
9 this. In that list, in that list of 16—

10 A. Uh-huh.

11 Q. —there's no mention of any activity involving the removing of
12 the barriers, the mechanical plug or the deflatable plug.

13 A. So why Mr. Dopson didn't stop the job?

14 Q. Mr.—all I'm saying is that that's a report at—in fairness to you,
15 I'm just showing you.

16 A. Okay, I understand, I understand, but—

17 Q. There is a record of—

18 A. All right, so like I—

19 Q. —although from Mr. Dopson.

20 A. You know I wasn't—

21 Q. There's a report—

22 A. —privy to this document—

23 Q. I know. That's—

24 A. —so, in—

25 Q. That's what I told you.

26 A. —in reference to that I not at a managerial level again, so—

27 Q. I—

1 A. —whatever they tell us on the safety meeting in the toolbox
2 meeting is what we go with. I'm just a diver and they told me
3 this is what we have to do and that's we went and, and do.

4 Q. Yes.

5 A. You understand?

6 Q. That—Mr. Boodram, in fairness to you, all I'm doing is, is—I
7 accept that.

8 A. Uh-huh.

9 Q. All I'm saying is that there are two records, documentary
10 evidence—

11 A. Uh-huh.

12 Q. —as to what was discussed at that toolbox meeting, one that
13 you signed that doesn't speak to the removal of the barriers—

14 A. Yeah.

15 Q. —and there's another record which appears to be in more detail
16 by a person who was there, I'm not saying that you're supposed
17 to know of this, but a person who was there, also separately
18 recording what was discussed at that meeting, and all I'm
19 pointing out to you is this again does not cover an activity for
20 the removal of the plugs. Okay?

21 A. Could I, could I draw a reference to you in, in—

22 Q. Um, I don't know if Mr.—

23 **Mr. Boodram:** Could I draw a reference?

24 **Mr. Chairman:** A reference to what?

25 **Mr. Boodram:** This situation where I trying to show him that
26 what on document and what they—we—does be done on the
27 job site doh always be what they want us to do—

1 **Mr. Chairman:** Well—

2 **Mr. Boodram:**—but—

3 **Mr. Chairman:**—I, I think, I think what I can ask you to do,
4 please, is to, is to answer each question that he has asked of
5 you, all right? You'll appreciate that we have a lot more
6 material than, than—

7 **Mr. Boodram:** Yes.

8 **Mr. Chairman:**—everything that's been gone through with
9 you, all right? And we'll see where we get to today. I've got
10 some other questions perhaps, depending on what others ask.
11 All right?

12 **Mr. Boodram:** Yes, Sir.

13 **Mr. Chairman:** But if you, if you just answer the questions,
14 that way I think we'll at least get on, you know? Thank you.

15 **Continued Examination By Mr. Peterson SC:**

16 Q. And I have one more question for you. Do you know one Sham
17 Balkissoon from Paria, HSC, HSC technician? Well,
18 Paria/Kenson.

19 A. A lot of, um, the employees I may not know by—

20 Q. By name?

21 A. —their name but by face and maybe a nickname.

22 Q. In, in fairness to you. Mr. Maharaj had taken you to a
23 conversation that was alleged that you had from the San
24 Fernando hospital with Mr. Piper with a speakerphone.

25 A. Yes.

26 Q. There is also—so I wouldn't go to that conversation but I just
27 want to point out there's a second person, Mr. Paul Yearwood,

1 who is also alleging that there was a conversation with you on
2 the 25th from the San Fernando hospital through a call coming
3 from Sham Balkissoon of Paria/Kenson, to—back to Paria
4 where you had said certain things.

5 A. Okay, so, let me make mihsself clear.

6 **Mr. Chairman:** Are you suggesting that was a different time
7 or the same?

8 **Mr. Peterson SC:** No, the same time.

9 **Mr. Chairman:** Same call.

10 **Mr. Peterson SC:** Yes.

11 **Mr. Chairman:** Right. Because there's another thing.

12 **Mr. Peterson SC:** There's a second person—

13 **Mr. Boodram:** So, let me make myself clear on that situation.
14 I have no recollection of the call. I not denying the call. What I
15 am sure that I would not say is those divers are dead, because I
16 told everyone from the beginning, my friends are alive. So I
17 am not denying—if there was a call I'm not sure, because I—
18 there's a lot a things while I was in hospital after I reach, my
19 wife I, I give up on trying to control what was going around and
20 everything like that. I felt that comfort when I, when, when I
21 reach and I saw my wife. So, while going through with the
22 painkillers and all these kind a things I was maybe in and out, I
23 not denying. I don't have any recollection, but I sure I will not
24 tell him that those divers died.

25 **Mr. Peterson SC:** Thank you, Mr. Boodram, for your time and
26 answering the questions. Thank you, Mr. Chairman. That's all
27 we have.

1 **Mr. Chairman:** Yes.

2 **Cross-Examination By Mrs. Persaud Maraj:**

3 Q. Good afternoon, Mr. Boodram.

4 A. Good afternoon.

5 Q. I would just like to ask you a few questions to clarify some
6 things.

7 **Mr. Chairman:** Can you introduce yourself—

8 **Mrs. Persaud Maraj:** Oh.

9 **Mr. Chairman:**—too, Miss, so that he knows who's asking
10 questions?

11 **Mrs. Persaud Maraj:** Certainly. My name is Kamini
12 Persaud-Maraj so I am representing LMCS—

13 **Mr. Boodram:** Okay.

14 **Mrs. Persaud-Maraj:**—at this Commission.

15 **Mr. Boodram:** Okay.

16 **Continued Cross-Examination By Mrs. Persaud-Maraj:**

17 Q. Mr. Peterson showed you some documents, the permit to work
18 documents. You recall that?

19 A. Uh-huh.

20 Q. And he also showed you the document that you signed which
21 was the toolbox document?

22 A. Yeah.

23 Q. You recall that. Can you confirm that there were other
24 documents that would have been together with the toolbox
25 and—document and the permit to work document?

26 A. Yeah, there were the, um, JSA.

27 Q. JSA?

1 A. Um, job safety analysis.

2 Q. Or—

3 A. Or JSA—

4 Q. JHA?

5 A. JH, JHA, yeah.

6 Q. Right.

7 A. Um—

8 Q. Method statement?

9 A. Right, yeah.

10 Q. All right.

11 A. But again, remember, as a employee, they may or may not run
12 through it with us, you know, um, and at our level we can't
13 demand or maybe we could but we, we don't demand to see all
14 documents. What I know, um, I need to see, is to know that
15 there's a permit, there is a toolbox meeting that I need to sign
16 and there is a JSA I need to sign. From every other experience
17 on a job, these are the important things that a employee should
18 review and sign. And not all the time we do fully review it, you
19 know? Sometimes we just sign it just to get things going.

20 Q. Just, just, right, just to hone in a little bit, the JHA is a
21 document that would say what the risks are in relation to the job
22 that you're doing?

23 A. Correct.

24 Q. Right.

25 A. And the mediation in it, in the risk.

26 Q. Mitigation?

27 A. Mitigation.

1 Q. Right. And the method statement would be what it is that the
2 job entails in terms of a [*Inaudible*]*—detailed—*

3 A. The steps, er, the steps in how they are carrying about the job.

4 Q. All right. I thank you for your clarification.

5 **Mrs. Persaud-Maraj:** I really don't have any other question
6 that I would like to ask of Mr. Boodram, Mr. Commissioner.

7 **Mr. Chairman:** I'm going to take him through this bit first, if
8 I may. Is there—before we move on, are there any other
9 questions from any other party? Yes, Sir. I think it might help
10 him if you just stand for a—just because I don't see you back
11 there? Um, you are?

12 **Mr. Hosein-Shah:** My name is Asif Hosein-Shah. With me is
13 Ms. Nyree Alfonso.

14 **Mr. Chairman:** Right. You need to put your microphone on
15 and I am happy for you to sit once you've introduced
16 yourself—

17 **Mr. Hosein-Shah:** Yes.

18 **Mr. Chairman:**—so that we can all hear.

19 **Mr. Hosein-Shah:** Yes, Sir.

20 **Mr. Chairman:** You can speak into the microphone. All
21 right.

22 **Mr. Hosein-Shah:** Should it please, should it please you, I am
23 Asif Hosein-Shah.

24 **Mr. Chairman:** Right.

25 **Mr. Hosein-Shah:** With me is Ms. Nyree Alfonso and we
26 represent the SWWTU.

27 **Mr. Chairman:** All right. Please take a seat and make sure

1 you speak into that microphone.

2 **Mr. Hosein-Shah:** Yes.

3 **Cross-Examination By Mr. Hosein-Shah:**

4 Q. Good afternoon, Mr. Boodram.

5 A. Good afternoon.

6 Q. I have a few brief questions for you before passing you over to
7 Ms. Alfonso. At your statutory declaration, I'm not sure if you
8 have a copy of it in front of you—

9 A. Go ahead, I don't think I need one.

10 Q. Okay. Well at paragraph two of your statutory declaration, just
11 to be fair to you, you mentioned that you became qualified with
12 PADI, the Professional Association of Diving Instructors, since
13 2009 and that you have 12 years' experience in diving
14 commercially.

15 A. Correct.

16 Q. Do you recall that?

17 A. Yes.

18 Q. So prior to your PADI certification, how long were you diving
19 or conducting dives?

20 A. Maybe about a year, if so much, in commercial—that
21 commercial level?

22 Q. At any level.

23 A. Er, well, maybe about five years before that.

24 Q. And at a commercial level?

25 A. Maybe about a year to six months before obtaining the cert.

26 Q. Sure. And you go further in stating that you conducted
27 underwater welding as well?

1 A. Yes, Sir.

2 Q. Would that have been included in the time prior to your PADI
3 certification?

4 A. No.

5 Q. All right. Did you undergo any sort of training, prior to PADI,
6 with respect to diving?

7 A. No, Sir.

8 Q. So I want to talk to you a little bit about your PADI certification
9 now. At your statutory declaration, also at paragraph two, and
10 also at your witness statement at paragraphs five and six to the
11 Commission, you say that you were qualified with PADI or you
12 are qualified with PADI. What does that mean?

13 A. Exactly what it say.

14 Q. Is it that you were granted a certification or a licence?

15 A. Yes, Sir.

16 Q. Is it a certification?

17 A. Yes, Sir.

18 Q. Are you aware that PADI offers different levels of certification?

19 A. I do.

20 Q. And are you able to recall what your level of certification is?

21 A. Open-water diver.

22 Q. Open-water diver. Is it at a particular depth?

23 A. Um, yeah, you shouldn't cross more than 200 feet on scuba.

24 Q. And what is involved 200 feet in scuba, just for clarification?

25 A. Sorry?

26 Q. Two hundred feet with scuba equipment?

27 A. Yeah.

1 Q. And what is involved in the training for that certification?

2 A. Um, learning how to tread waters, learning the various—um,
3 learning how to check your dive time, um, learning how to use
4 a dive chart, um, learning how to, um, be comfortable in the
5 water, taking off your equipment, putting it back on, um,
6 learning to tread wa—well, you know, learning to tread water,
7 um, practice, um, in the water without causing harm to the
8 marine environment, and a number of other things too with it.

9 Q. Did it involve or did—your training with PADI, did it involve
10 any sort of commercial training?

11 A. Well, the, the term commercial is, is kind a wide here, you
12 know, because while I was doing PADI training and all these
13 kind a thing it didn't had a demand to be, it had—and, and there
14 is no law that I am aware of in Trinidad stating that I have to
15 be, um, IMCA qualified or any other courses. The, the standard
16 is once you're certified. Right? So, as far as, as far as I—once
17 I, I was a skilled person, right, and I acquire diving skills, one
18 and one is two and a lot a people before me, a lot a IMCA
19 qualified people before me also was, um, PADI qualified and
20 after certain years of—in the industry and being able to make
21 money to go abroad to do the—to do that course to open, you
22 know, more work to them internationally, then they went and
23 do it.

24 Dah is more or less how Trinidad was in operation
25 because to do a IMCA, um, diving course is like 150,000 TT,
26 maybe more, right? So for me to get 150,000 just so without
27 having a purse or having a rich daddy or mummy, which I

1 don't, how would I have been able to, you know, obtain that?

2 So—

3 Q. But you would have at least gotten some training from those
4 you would have conducted dives with?

5 A. Well yeah, I was—um, I start off as a dive trainee. In most jobs
6 you will start off as a tender and come in as a trainee and, you
7 know, you go, you go be like observing. It's like a understudy
8 of any profession.

9 Q. So you would have been an understudy of someone who would
10 have been experienced in conducting commercial dives?

11 A. Correct.

12 Q. And what time period would you say, in a matter of years,
13 months, would you say you served as an understudy to such—

14 A. I was advantaged in that system. I did that for merely maybe
15 five years.

16 Q. I'm sure under various persons as well?

17 A. Correct. For the lowest amount of money.

18 Q. Hmm. Yeah, I, I entirely understand that. I want to take you
19 to, and I'm not sure if it could be put on screen, it's the exhibit
20 to your statutory declaration. It's at page 1564 of the witness
21 statement bundle. Now, this card—I—well, I'm sorry, is this a
22 card or is it some sort of piece of paper or something else?

23 A. That's a card.

24 Q. Right.

25 A. At the, at the time of my certification they stopped doing, um,
26 paper certification and they upgrade it to a card.

27 Q. And this card was issued by PADI?

1 A. Correct.

2 Q. Now, my eyes are particularly terrible but from what I can
3 make out or what I think I can make out, at the foot of that card,
4 the following words appear. “This diver has satisfactorily met
5 the standards for this certification level as set forth”, and then I
6 believe there’s PADI or whichever branch of PADI it is.
7 When—the words, “this certification level”, to the best of your
8 knowledge, does that relate to the open-water diving
9 certification of 200 feet?

10 A. Correct.

11 Q. Sure. Have you ever done any further courses, formal courses
12 that is, with respect to diving?

13 A. Um, I did some, um, I did some dive rescue training that a
14 company called Soliton’s [*Phonetic*] Battery Sea Mask, that’s a
15 international company provided for us but, um, I did not, um, I
16 did not collect the certification, you know, in my hands
17 personally. They just needed it for, um, the job to know that
18 their divers were, um, rescue trained.

19 Q. Sure. Now I want to take you to two things before I pass you to
20 Ms. Alfonso. Earlier in your testimony you stated that you
21 conducted dives inside Paria’s pipelines before, and if I recall
22 correctly you said you actually went inside the pipeline at Berth
23 six?

24 A. On one occasion before, yeah.

25 Q. Was that a formal operation or a job?

26 A. Yes, Sir.

27 Q. And prior to that operation—well, before I go there, could you

1 give us some details as to what that operation entails, what job?

2 A. It was a reinstallation of a riser from the elbow. Um, we just
3 had to, er, unbolt the flange on the seabed but first we had to do
4 some air lifting. Air lifting is like, um, vacuuming the floor,
5 the, the materials on the floor, the seabed, right, to go down,
6 excavating with a vacuum more or less, right?

7 Q. Yes.

8 A. Um, to clear the flange. After doing that, we had to unbolt the
9 flange, change out the old riser with a new prefabricated riser,
10 bolt it up. The issue we had on that job is because we had, um,
11 something called ground swells, that's where the sea does be
12 rolling at the ground level. It were causing rough and
13 unsuitable weather for diving, more or less, but because of the
14 urgency of the job, Paria always put urgency in front of
15 anything else with my experience. Right?

16 Q. Yeah.

17 A. Because of the urgency of the job they insisted that we get the
18 riser installed. Right?

19 Q. Yes.

20 A. We—it was paper gasket at that time we was using, not Paria,
21 sorry, I apologize. Back then was Petrotrin. I apologize. But it
22 was—

23 Q. [*Inaudible*]

24 A. —more or less the same managers. Mr. Collin Piper was the
25 man in charge of the job at that time too.

26 Q. Yes. And just, just for confirmation, even though it's a pretty
27 obvious question, this job required you to go inside the

1 pipeline?

2 A. Because of the, the rough weather and using a soft paper gasket,
3 right, the surges were very dangerous to put your hands and get
4 it from outside.

5 Q. Yes.

6 A. So we came up with a solution, a diver going from inside and
7 inserting the, the gasket from inside, keeping his fingers and
8 everything inside the diameter of the pipe while somebody tries
9 sketching a bolt and bringing it in. This was—this went to
10 Petrotrin and whoever had to make the certain clearance to say,
11 okay, it safe to do and whatever they had to do, that was passed
12 for we to go ahead and do it. I was the diver who, um, I would
13 say, um, the word, I lost my mind on the word. I apologize.
14 Sorry. Um, I was the diver that, um—

15 **Mr. Chairman:** Volunteered?

16 **Mr. Boodram:** Yeah, yeah, that.

17 **Continued Cross-Examination By Mr. Hosein-Shah:**

18 A. To go in, um, so I volunteered and went in, put the gasket in
19 place while two other divers bolted it on and came back out
20 safely.

21 Q. Sure. And prior to this dive, were you required to attend a
22 toolbox meeting?

23 A. No, Sir.

24 Q. Was there a safety briefing?

25 A. In—to the beginning of the day, yes, we safety meeting but for
26 this adjustment—

27 Q. Yeah.

1 A. —um, it wasn't a official toolbox talk but the—we, we were—
2 we had a talk, you know, concerning the—how to go about
3 doing it and to try and be safe and dah is it. You know? It
4 wasn't official toolbox because the toolbox meeting was, er, to
5 the morning period—

6 Q. Yeah.

7 A. —of the day.

8 Q. Was, was the topic of ever becoming stuck inside the pipeline
9 ever addressed for that operation?

10 A. No. I couldn't get stuck in the pipeline.

11 Q. Well, becoming trapped or otherwise trapped?

12 A. No because we was using a cord, a rope that was attached, um,
13 to me—

14 Q. Yeah.

15 A. —um, and to my right hand, my, um, breathing apparatus was
16 of course off mih back into mih left hand and when I reached
17 down to the—which part the flange was inside the riser where
18 the crane was holding up, I put the tank between my leg and I
19 put it, but I always had a rope connected to mih hand knowing
20 which way is out and if in case a any emergency, somebody
21 could have, um, maybe retrieved me.

22 Q. Yeah, and—well this is a question of opinion and I hope, I hope
23 the Chair allows it. Arguably, you just said that a rope was
24 used when you went inside the pipeline. So, if it is—and I'm
25 talking about this—

26 A. Yes, yes.

27 Q. —specific incident now.

1 A. Yes, yes. Yes.

2 Q. If it is that a rescue operation was to be conducted—

3 A. Yes.

4 Q. —would it be the case, that—I appreciate that, but would it be
5 the case that any person entering the pipeline would also be
6 similarly connected via a rope—

7 A. Yes.

8 Q. —to enter the pipeline and to find anyone stuck or otherwise
9 trapped in the pipeline and to assist them in getting out?

10 A. Yes, Sir.

11 Q. I've got one more question of opinion and I hope I'm not
12 overstaying my welcome. You gave a passionate answer to a
13 question asked by Mr. Maharaj earlier today and the topic was
14 the use of commercial diving equipment as opposed to the
15 scuba equipment used for this particular operation on the 25th
16 of February.

17 A. Yes, Sir.

18 Q. Are you in a position to expand on why you are of the view that
19 the scuba equipment was more appropriate for this particular
20 operation?

21 A. Yeah because, because all you need the diving equipment for is
22 to enter the chamber. After entering the chamber you have to
23 dis mount of diving equipment to execute the job. I, I challenge
24 any diver or any supervisor to say that they could have on that
25 hat in a clear atmosphere without buoyancy and do any type a
26 pipe-fitting work. So, diving equipment was irrelevant, and if I
27 had on this diving equipment and that suction had happened, for

1 some reason I have a hulk neck and I get suck in that pipe, my
2 head woulda stay in the helmet and my body woulda be in the
3 pipe.

4 Q. And is it that—I remember you also mentioned a vortex. Is it
5 that in the event—now these commercial diving masks, sorry,
6 they are also connected to something called surface air via a
7 cord?

8 A. Yes.

9 Q. And if you were trapped in a vortex—

10 A. The umbilical cord, that's what I saying. If my umbilical cord,
11 right, and that vortex pull me down inside there with that
12 umbilical cord, my head would have—with the force that was
13 there, my head would have been ripped off or neck would have
14 been broken. There were no—if I at—and it is impossible,
15 remember what I telling you it is impossible to wear a hat
16 inside there and do that work, right, the weight a dah hat.
17 When I get pull in dey there would a be no chance of survival
18 for none of us.

19 Q. Fair enough. Thank you, Mr. Boodram.

20 A. The onlies' difference, I may not have suffered any skull
21 fractures.

22 Q. Yeah, and I, I saw the details of your injuries and it's truly
23 miraculous and we're all very blessed to have you here alive
24 with us.

25 A. I don't feel so.

26 Q. Well those are my questions, so I'll pass you on to Ms. Alfonso
27 now who also has a few questions for you. Thank you.

1 **Cross-Examination By Ms. Alfonso:**

2 Q. Good afternoon, Mr. Boodram.

3 A. Good afternoon.

4 Q. Good afternoon. I just—in case I'm short you and you can't
5 see me and the Chair can't see me?

6 **Mr. Chairman:** Hello. You're representing the same union,
7 right?

8 **Ms. Alfonso:** The same, yes, indeed. It's myself and Mr.
9 Hosein.

10 **Mr. Chairman:** Is there a reason why you can't—one person
11 can't ask the question or—

12 **Ms. Alfonso:** Or, um, different prep. I, I—Mr. Hosein-Shah
13 says it here, different prep. Different prep.

14 **Mr. Chairman:** All right, how long are you going to be?

15 **Ms. Alfonso:** Very few questions.

16 **Mr. Chairman:** All right, [*Inaudible*].

17 **Ms. Alfonso:** Only one small aspect.

18 **Mr. Chairman:** All right.

19 **Ms. Alfonso:** So I hope the Chair will indulge me.

20 **Continued Cross-Examination By Ms. Alfonso:**

21 Q. Good afternoon, Mr. Boodram.

22 A. Yeah.

23 Q. My name is Nyree Alfonso and I just have a few questions to
24 ask you with regard—and I'll tell you specifically where it is so
25 it's not wide-ranging. From my reading of your statutory
26 declaration that you gave on the 22nd of October, no, sorry, the
27 other way around, the 19th of October, 2022, I can count three

1 tanks, three air tanks that you came across while traversing or
2 trying to make your way out of the pipeline. Am I correct?

3 A. That I came across.

4 Q. That you came across. So you didn't have one on you and—but
5 yet you—traversing the pipe you came across one, you used
6 it—

7 A. [*Inaudible*]

8 Q. —then you came across two from my reading.

9 A. Right, in the pipe.

10 Q. Am I correct?

11 A. Yeah. Faizal Kurban had one also.

12 Q. Okay. So the first one that you found, I believe that you said—
13 well, you reached a point where all of the air had been utilized?

14 A. Yes, Ma'am.

15 Q. And you dropped that tank.

16 A. Yes, Ma'am.

17 Q. Okay. Or you stopped using that tank. Let me not say dropped.

18 A. No, no, no, it was out.

19 Q. It was completely clean?

20 A. Clean, clean out.

21 Q. Okay. Could you tell me, Mr. Boodram, when you stopped
22 using that tank and you discarded it in some way or the other,
23 was it floating? Did it drop to the bottom of the pipe? Did it
24 float to the top of the pipe?

25 A. So when the tank is empty it will be, um, buoyant.

26 Q. Okay.

27 A. Right? So it wouldn't float level.

1 Q. Okay.

2 A. It float in a angle like that [*Indicating with hand pointing*
3 *downwards*]

4 Q. Okay.

5 A. So the—it could float either or because remember there would
6 be some level a air, it's just not be able—not usable, so it
7 wouldn't be floating like that, [*Indicating with hand flat*] it will
8 have a small amount. So however, whichever direction was
9 pointed up first—

10 Q. Okay.

11 A. —right, buoyancy go tend to be like that, so it could be either
12 by the head—

13 Q. Okay.

14 A. —or the bottom but it will be floating like that.

15 Q. Okay. And could you tell me the average tank that was utilized
16 on this job, oxygen tank, what was its length?

17 A. The specifics on the length could be about three feet, 6 inches
18 in diameter and it holding 3,000 PSI.

19 Q. Okay. So the tank is actually bigger than the actual pipeline
20 then?

21 A. Yeah. It is.

22 Q. Longer. Let me be clear, longer.

23 A. It is.

24 Q. Okay. So because it was at an angle it could fit in the pipeline?

25 A. Yeah. Yeah.

26 Q. If it was bigger than the pipeline then it should be lodged in
27 some way, yes?

1 A. There were no tanks lodged—

2 Q. Okay.

3 A. —anywhere.

4 Q. Thank you very much. That's what I wanted to hear. So, how
5 you—you couldn't have this tank on your back and you said
6 that, so you were pushing it or you were pulling it?

7 A. I were pushing it. The tank was in front of me, I had the tank in
8 front ah me and I was swimming because the length of the, the,
9 the length of the second stage to, to, the mouthpiece that
10 coming into your mouth, right—

11 Q. Regulator.

12 A. —if I had it to the back of me I wouldn't be able to reach it to
13 mih mouth.

14 Q. I see. I got you. So—

15 A. You understand? So I had to have it close by here in mih
16 mouth and traversing.

17 Q. So when that tank finished, you were able to swim past that
18 empty tank or swim over or swim around?

19 A. Correct.

20 Q. Which—could you help us out if you recall which one you did?

21 A. I went over.

22 Q. Under, over?

23 A. I went over.

24 Q. You went over the tank?

25 A. Yes, correct.

26 Q. And you were able to—and you were able to swim past that
27 tank and eventually go on to find two other tanks?

1 A. Yes.

2 Q. Yes, thank you. So that I think by now I will just put to you
3 that, you know, that, you, you would have seen some, some
4 information coming out from the early part or the opening day
5 of the Commission's hearings or sittings that the—there was
6 some cameras, a borescope first and then a crawler camera put
7 down in the pipeline, yes?

8 A. Yes, Ma'am.

9 Q. Okay. And you would have heard perhaps that there was a
10 report that there was a blockage?

11 A. Yeah. I don't believe—I, I, I do not believe that that camera
12 footage was real and if that was real it wasn't a real attempt to
13 see what was inside the pipe. Or maybe because of the
14 environment the cam—the, the, the camera maybe went and
15 jam something and there are—

16 **Mr. Chairman:** I'm going to stop this—

17 **Ms. Alfonso:** Okay.

18 **Mr. Chairman:**—line of inquiry, please. This is all
19 speculation.

20 **Ms. Alfonso:** Okay. I'm sorry, Chair.

21 **Continued Cross-Examination By Ms. Alfonso:**

22 Q. So—but you were able—that is your final thing, you were able
23 to swim past that, that, that oxygen tank?

24 A. Yes, Ma'am.

25 **Ms. Alfonso:** Thank you, Mr. Boodram. Thank you for your
26 time.

27 **Mr. Boodram:** Thank you.

1 **Mr. Chairman:** I think that's it, is it, from counsel? Thank
2 you. I think Mr. Wilson has a few questions. Please, Mr.
3 Boodram?

4 **Examination By Commissioner Wilson:**

5 Q. Afternoon again, Mr. Boodram.

6 A. Good afternoon, Sir.

7 Q. Again, thank you for coming and participating in this exercise.
8 I just want to ask you in terms of a standard, not in contention
9 of scuba diver or commercial diver—

10 A. Uh-huh.

11 Q. —but to the best of your knowledge, does LMCS practice their
12 dive operations to any known standard whether it be IMCA
13 ADCI, Trinidad and Tobago Bureau of Standard?

14 A. Um, a fraction IMCA. Not really to the full extent that it
15 should be, but—

16 Q. Okay. So you implement some safety measures and stuff and
17 take some of the good parts of IMCA and implement it into the
18 management system and stuff, so that's fine so, but, the answer
19 would be not really? There's—you don't know of any standard
20 that you guys operate to or dive to?

21 A. Correct.

22 Q. Okay, no problem. Earlier in your statement I heard that you—
23 um, one of the guys remained on the barge as a standby diver?

24 A. Yeah.

25 Q. At the commencement of the job or any did—throughout the
26 project cycle did you guys or do you know of—because I
27 understand you were absent some days—

1 A. Uh-huh.

2 Q. —would a sort of employ any drills where this standby driver
3 would have drilled to get back any—

4 A. No, Sir.

5 Q. Okay. No problem. The other one I want to go to is with the
6 permit to work. Hearing that you've had permit to work
7 training and stuff, in terms of raising the permit, did you have
8 any roles and responsibilities like a performing authority or
9 anything—

10 A. Not—

11 Q. —at the point in time?

12 A. Not on that job, no, Sir.

13 Q. No problem. So you have the training and you're aware and
14 stuff—

15 A. Yeah.

16 Q. —all of that? With your training, just the permit to work
17 process, are you aware if the permit to work is a component of
18 any other processes, of a larger process or you're just familiar
19 with the permit to work?

20 A. I'm aware that it's to a larger process.

21 Q. Got you.

22 A. It's a legal binding document and, um, in order to issue a
23 permit, you need to get signatories from, er, managers in
24 different positions and the last signatory would be the
25 supervisor or the job manager on the document and all these
26 things is to implement and to make sure the job is to a
27 satisfactory, safe level.

1 Q. Yeah, fair enough. By chance if you push, can you recall the
2 name of the larger process that the permit to work is part of?

3 A. Um—

4 Q. No problem.

5 A. A court, a court system, er, er—

6 Q. Control of work?

7 A. Control, yeah.

8 Q. Yes, COW. I hear you pronouncing it there.

9 A. Yes, please.

10 Q. All right. The last question would be, under the control of work
11 system or the permit to work system that you, um—that the
12 toolbox might be part of, are you aware of any supplementary
13 certificates or documents that's supposed to be attached to that
14 permit?

15 A. Repeat the question for me please?

16 Q. So, um, any awareness when a permit to work is being raised—

17 A. Uh-huh.

18 Q. —and then it's issued, when it's issued, um, are you aware or
19 did it—was it practised, put into practice, any time throughout
20 the cycle of the project that supplementary documents—

21 A. Yes, Sir.

22 Q. —were attached?

23 A. Yes, Sir. The JSA and the toolbox form and the method
24 statement should be there too.

25 Q. Got ya. Got ya. Mr. Boodram, thank you.

26 A. Okay, Sir.

27 **Examination By Mr. Chairman:**

1 Q. Your ordeal is nearly over but I'm afraid I am going to ask you
2 a few questions that arise from that which Mr. Gilbertson asked
3 you, and, to a lesser extent, Ms. Persaud Maraj. Can I first of
4 all ask for the document and our page 1074 be put up on the
5 screen, please? That's not it. Yeah, well, no, I think this is a
6 different document to that which I want, which is 1074 in my
7 core bundle Volume III. It's the, um, work permit. Yes.
8 Thank you very much. Can you have a hard copy as well of
9 that please? It's page 1074.

10 A. On this?

11 Q. What volume do you have there?

12 A. Volume II. I have Volume II.

13 Q. No, you need III. [*Commission orderly hands document to Mr.*
14 *Boodram*] You were asked about this document.

15 A. Yes, Sir.

16 Q. And you'll remember it was read to you. This is the work
17 permit, isn't it?

18 A. Yes, Sir.

19 Q. This is what permits you to do the job?

20 A. Yes, Sir.

21 Q. We can see that at the top it has a few lines where it says
22 "Specific Tasks". Can you see that?

23 A. Yes, Sir. Yes, Sir.

24 Q. And it was pointed out to you that nothing about the removal of
25 any plugs was contained there, correct?

26 A. Correct.

27 Q. Thank you. And then you were taken to the third section which

1 is “Certificates/Checklists Required”. Do you see that? Right.

2 A. Yeah, yeah, yeah.

3 Q. And there you can see this, the first document that’s attached to
4 this, right, this is a—this work permit has attached to it these
5 documents that are identified in that box, do you see?

6 A. Yes, Sir.

7 Q. Right. The first one is 2634 which is a hot work certificate.

8 A. Yes, Sir.

9 Q. All right? Can we, just so that we’re clear about this, if you
10 would turn please on in the bundle to 1079 please?

11 A. One oh seven nine. Yes.

12 Q. Just coming up on the screen now. You see right at the top it
13 says “Paria Fuel Trading Company Limited Hot Work
14 Certificate”.

15 A. Yes, Sir.

16 Q. And it gives, doesn’t it, the certificate number 2634 which is
17 what we’d just seen on the previous page, isn’t it?

18 A. Uh-huh.

19 Q. Right, so that’s—this is the document that is attached to the
20 work permit?

21 A. Right.

22 Q. Now, you told us that you did no hot work on that day, the
23 25th?

24 A. Uh-huh.

25 Q. Nonetheless this document was attached to it, was that right?

26 A. Yes, yes, Sir.

27 Q. I don’t think anyone is suggesting that you were doing any hot

1 work on that day, certainly not least me?

2 A. But, again, I—we were not doing hot work in the habitat but
3 there may have been hot work on top of which I was not aware
4 of.

5 Q. You were not part of it?

6 A. Yeah.

7 Q. Right. So far as you were concerned, your work permit
8 permitted you to do what you've told us, all right?

9 A. Yeah.

10 Q. You did not expect to be doing any hot work or be party to any
11 hot work on that day, correct?

12 A. Yeah, correct.

13 Q. Right. So, um, that document that we're looking at now, we
14 can just scroll up, please, it gives a whole list of things that are
15 conditions or precautions for hot work. Do you see the first 10
16 there are printed on the document and they're sort of safety
17 issues, aren't they?

18 A. Uh-huh.

19 Q. And then somebody has added 11, 12, 13, 14, 15 and 16. Do
20 you see that?

21 A. Yes, Sir.

22 Q. We needn't go through them but they—somebody has added
23 those and they're all to do with safety?

24 A. Yeah.

25 Q. Yes, thank you. All right. In addition, so can we go back now
26 to 1074, please? So we're back to the work permit. The next
27 document that's identified in our box number three—

1 A. Checklist—

2 Q. —1074 please? To box number three, please?

3 A. Uh-huh.

4 Q. There we go. The next document that's identified is the safe
5 work method statement. Do you see that?

6 A. Yes, Sir.

7 Q. Right? Because the other two there's not—it's either not
8 available or not applicable, do you see above that?

9 A. Yes, yes, Sir.

10 Q. So that document, the safe work method statement it says, "See
11 attached", correct?

12 A. Yes, Sir.

13 Q. Right. And was there such a document attached as far as you
14 can remember? Let me take you to it and you'll see if you can
15 identify or something—

16 A. I don't have any recollection of it.

17 Q. All right. Let's have a look. If you turn, please, to our page
18 1062, please? No, sorry, it's, um, 116.

19 A. One one six.

20 Q. One oh four eight. Forgive me, 1048 right at the front of the
21 bundle, 1048. Yes, scroll down a little further, please? Do you
22 see that? It says, "Method Statement"—

23 A. Yeah.

24 Q. —1048 at the bottom.

25 A. Yeah.

26 Q. Right. You see it's described as a method statement. Do you
27 see that?

1 A. Correct, Sir.

2 Q. And it sets out the steps for this job, doesn't it?

3 A. Yes, Sir.

4 Q. This, I suggest, is the document that was attached to the work
5 permit. I say that because Mr. Wei says that and he was
6 apparently a senior officer at Paria, all right?

7 A. Okay.

8 Q. So I just want to understand from you whether you remember
9 seeing this document attached to the work permit?

10 A. No, Sir.

11 Q. I'm sorry?

12 A. No, Sir.

13 Q. No you can't remember or no it wasn't attached?

14 A. I can't remember.

15 Q. Can't remember, all right. Well, be that as it may, can I take
16 you nonetheless please to page 1051?

17 A. One oh five two, one oh five one, yeah.

18 Q. Just go back one page if you would, please? Do you see at the
19 top of 1050 it says: "To remove leaking section of the riser"?
20 That's what the job was essentially about, wasn't it—

21 A. Uh-huh.

22 Q. —replacing that leaking section?

23 A. Yes.

24 Q. And then it gives, from 37 to 55 on that page, a list and I
25 suggest order in which the job was to be performed?

26 A. Yes, Sir.

27 Q. Can you just cast your eye over it, please? Does that help you

1 at all? Did you see any such document?

2 A. Not to my recollection, Sir.

3 Q. Very well.

4 A. Remember, um, I wasn't there every day.

5 Q. I understand. I just want to understand from you whether or not
6 this—you have no recollection of seeing this document at all?

7 A. No.

8 Q. The only reason I'm asking you about it is because Mr. Wei
9 says it was attached, do you see?

10 A. Okay.

11 Q. I just want to turn then to paragraphs 56 and 57. Do you see at
12 paragraph 56 it says: "Manually remove the migration barrier
13 from the line"? Do you see where it says that?

14 A. Um—

15 Q. Right at the top?

16 A. Uh-huh, yeah, yeah manually.

17 Q. Now that's 56. "Manually remove the migration barrier from
18 the line." The migration barrier is what?

19 A. It's the plug.

20 Q. The plug?

21 A. Yeah.

22 Q. The metal one?

23 A. Yeah.

24 Q. With the bolts on it?

25 A. Yeah.

26 Q. That's the first one that you removed?

27 A. Correct.

1 Q. And did it say after that at 57, “Manually deflate the line plug
2 and remove from the line”?

3 A. Yes, Sir.

4 Q. Right. Do you see that the next entry, 58, “Manually install the
5 blind flange on the riser by positioning end flange on the newly
6 installed slip-on flange and securing with fasteners”?

7 A. Yes, Sir.

8 Q. Go back to the previous page, please? Right at the bottom of
9 55 does it say: “On acceptance remove the test hardware”, and
10 before that at 54: “On completion of the weld conduct pressure
11 test”? This is the CARBER test, isn't it?

12 A. Yes, Sir.

13 Q. Which was abandoned in the end, wasn't it?

14 A. Yes, Sir.

15 Q. So CARBER test, then over the page, next page please,
16 manually remove the migration barrier, then manually deflate
17 the line plug and remove the line, and then the next thing is
18 manually install the blind flange, yes?

19 A. Yes, Sir.

20 Q. Do you see the next thing it says is 59, “Chamber crew to
21 demobilize and return to the exterior”?

22 A. Exactly.

23 Q. That's what you understood to happen, is it?

24 A. Yes, Sir. This was our two—

25 Q. Then you see the next one which says 60: “Disengage air
26 supply and allow the chamber to flood”?

27 A. Yes.

1 Q. Do you see the next one it says, 61 it says: “Unbolt the 50-inch
2 flange at the top of the chamber, stovepipe”?

3 A. Yes, Sir. This is what the topic we had on that day excluding
4 the flooding. Well we had to flood the chamber when we
5 leaving, um, so including the flooding of the chamber but the
6 removal of the chamber and thing would have been done,
7 providing the 25th went smoothly, on the 26th.

8 Q. All right. So when was the plug to be removed, according to
9 this document and according to your recollection?

10 A. On the 25th as we did.

11 Q. Right. And when was the chamber that was over it, this habitat,
12 when was that to be removed?

13 A. To be removed?

14 Q. Yes, when? In other words when was that to come off?

15 A. Well, we—it would have been removed the next day.

16 Q. Right, after the removal of plugs?

17 A. Yes, Sir.

18 Q. Just returning, if we may please, to our page 1074 whatever
19 the—scroll to box three, please? Whatever the position is,
20 whoever was responsible ultimately, this document that we’ve
21 just been looking at in part, the method statement, was attached
22 to this document according to Mr. Wei, all right? Did anybody
23 say to you that under no circumstances must the plug be
24 removed from LMCS or from Paria?

25 A. No, Sir. On, on—

26 Q. At any stage?

27 A. No, Sir. On the contrary, that was the plan to remove the plug.

1 Q. You've told us earlier in answer I think to a question from me
2 that it took about an hour and a half to two hours for that
3 process to occur.

4 A. Yeah.

5 Q. During that two-hour period, did anybody from LMCS or from
6 Paria say, "Do not remove that plug"?

7 A. No, Sir.

8 Q. That document also attaches, does it not, a lift plan and
9 something called a job safety analysis document. All of them
10 were together in a—

11 A. In a binder, folder of whatever.

12 Q. Yes, they were all together, weren't they, in a series of
13 documents supplied by Mr. Wei, or at least Paria, which have—
14 which put them and set them out in that way. Do you
15 remember if the document, this document, this work permit at
16 all was shown to you on the day that you were going to carry
17 out this work?

18 A. It was not shown to me but was read. The safety officer went
19 through the work permit with the JSA.

20 Q. Is that Mr., um—

21 A. Um—

22 Q. Sorry?

23 A. Dhillpaul, Mr. Dhillpaul, our safety officer.

24 Q. All right, your safety officer?

25 A. Yeah.

26 Q. All right. Do you know, if you look back to the—section A
27 please at the top of that document—do you know the man there

1 who says, described as the applicant, Mr. Houston Marjadsingh,
2 do you know him?

3 A. Yes, Sir.

4 Q. Who is he?

5 A. I know him to be I think a Paria official but I know him—I
6 know the individual.

7 Q. Somebody from Paria?

8 A. Yeah.

9 Q. All right. An official?

10 A. Yeah.

11 Q. Does this appear to be the document from him? It says he's the
12 applicant for this work.

13 A. Yeah, he's the applicant.

14 Q. All right. So whether he is the person who actually authored it
15 or not, this bundle of documents formed the substance of the
16 work permit?

17 A. Yes, Sir.

18 **Mr. Chairman:** Thank you very much. I'll permit anybody
19 else to ask any questions arising from that if they wish to.

20 **Mr. Peterson SC:** I have one question, Sir.

21 **Further Cross-Examination By Mr. Peterson SC:**

22 Q. Mr. Boodram, sorry, at—Mr. Boodram, right, at paragraph 28
23 of your statement, you said that you saw the permits to work at
24 the toolbox meeting, you actually saw it?

25 A. Yeah, because we was at the toolbox meeting, yes.

26 Q. And you were taken to the method statement attached to the
27 permit to work that you were just taken to by the Chairman

1 where you were taken to number 55, 56 and—

2 A. Yeah, yeah.

3 Q. —that sets out an order?

4 A. Uh-huh.

5 Q. But at the beginning of that method statement, it says—

6 A. What's the number again, sorry?

7 Q. It's attached to—

8 **Mr. Chairman:** Ten forty-eight.

9 **Mr. Peterson SC:** Ten forty-eight. Thank you, Mr. Chairman.

10 **Continued Further Cross-Examination By Mr. Peterson SC:**

11 Q. Ten forty-eight.

12 A. Ten forty-eight. Right, yeah. Yeah.

13 Q. There is a—in bold print it says after—and we're not dealing
14 with the list of—it says: "All steps below shall only", in blocks
15 and bold, "be carried out in full compliance with Paria's PTW
16 system". You saw—you see that there?

17 A. Correct.

18 Q. Right. And this was the method statement that you said was
19 referred—well it was attached to the PTW on the 25th?

20 **Mr. Chairman:** Well, apparently he's not saying that.

21 **Mr. Boodram:** I believe so.

22 **Mr. Chairman:** He says he didn't see it.

23 **Mr. Boodram:** I think I—

24 **Mr. Chairman:** It's your Mr. Wei who says that.

25 **Mr. Boodram:** Uh-huh.

26 **Mr. Peterson SC:** Yes, all right. Well, he said he didn't see
27 it—

1 **Mr. Boodram:** Yeah.

2 **Continued Further Examination By Mr. Peterson SC:**

3 Q. But you're not doubting that it may have been attached?

4 A. I can't doubt it. It in the files here, so I—

5 Q. Thank you. Right. We'll get—do you know which—between
6 this and the PTW for the day, do you know which one actually
7 dictates what you're supposed to do on the day notwithstanding
8 this list?

9 A. The method statement is the, in my view/

10 Q. In your view?

11 A. In the method statement is the one you would work with and go
12 to—

13 Q. Even though—

14 A. —because the method statement is what you would use to
15 obtain the contract.

16 Q. Yes. But you would accept the sentence that says that this, the
17 steps in the method statement, which you just referred to, shall
18 only be carried out in compliance with the PTW system?

19 A. Uh-huh.

20 Q. Do you understand that this is subject to the PTW?

21 A. Which part in the PTW say that you could not in—um, take out
22 the, the, couldn't take at the plugs? There were nowhere stating
23 that you should not have done it. If there was a must not do
24 something it would a been bold as it is here bold in writing that
25 all steps below shall be carried out to full compliance with
26 Paria's PTW system.

27 Q. But you did accept that the PTW at least has the phrase

1 “barriers to”, “migration barrier to be used”? You accept that?
2 We’ve been over that.

3 A. Well, that’s, that’s what it saying here.

4 Q. All right, thank you. That’s what you [*Inaudible*] say.

5 A. But, again, when Paria at any point a time found that the job
6 was going out of their PTW, they would have stopped the job.
7 That’s what they had officials there for.

8 Q. We’ve heard that before, thanks.

9 **Mr. Peterson SC:** Thank you, Mr. Chairman. No further
10 questions.

11 **Mr. Chairman:** Anybody else? No? All right.

12 **Examination By Commissioner Wilson:**

13 Q. Mr. Boodram, again, just at that point of the permit to work
14 system, and I emphasize system, all right, on the permit to
15 work, as far as you—because I saw right there they said that
16 they’re supposed to have the JHA attached, right, as far as you
17 can recollect, was the JSA attached and also do you remember
18 what mitigations the JSA, JHA attached addressed?

19 A. It was attached because I recall our safety officer going through
20 it. I do not fully recall the mitigation and I don’t want to
21 assume.

22 **Commissioner Wilson:** I understand, thank you.

23 **Mr. Chairman:** Mr. Maharaj, but before I ask you if you have
24 anything further, so apparently I’ve been addressing Mr.
25 Peterson as Mr. Gilbertson and I apologize. I’m sorry if I’ve
26 been doing that and you’re too kind not to correct me so I’ve
27 been corrected by my own team and I’m happy to apologize.

1 **Mr. Peterson SC:** [*Inaudible*] was laughing every time you
2 say it. Well, you provided him with entertainment this week.

3 **Mr. Chairman:** Well, forgive me, Mr. Peterson.

4 **Mr. Peterson SC:** And he could have corrected you before but
5 he just love, he just loved you being in error.

6 **Mr. Chairman:** All right, well, I apologize for that. Mr.
7 Maharaj, is there anything else that needs to be added?

8 **Mr. Maharaj SC:** No, Chairman.

9 **Mr. Chairman:** I want to extend our thanks to you, Mr.
10 Boodram. It has, I'm sure, been difficult for you. We have
11 learned much from what you've had to say and I am grateful, as
12 is Mr. Wilson is, for your contribution today. It's taken rather
13 longer than we had hoped. It's probably my fault because I
14 keep interrupting everybody, but I am truly grateful. Thank
15 you very much for coming and you're free to go. And you can
16 stay and come and go as you please now. I know you made a
17 request to give your evidence so that you could do that and
18 you're more than welcome to stay at any point in the
19 proceedings.

20 **Mr. Boodram:** Thank you, Sir.

21 **Mr. Chairman:** Thank you. All right, you're free to go. Well
22 we didn't get as much done as I'd hoped we would today but
23 I'm not surprised. It's important evidence and we will not sit
24 tomorrow. Please feel free to [*Inaudible*]. We'll not sit
25 tomorrow because we are on a view of the locus in quo
26 arranged by Mr. Peterson and his clients. So I'm grateful for
27 that. We will resume on Thursday at ten o'clock promptly.

1 Thank you very much indeed. Feel free to pack up and go. I'm
2 going to grab my own papers so don't stand on ceremony.
3 Thank you.

4 **3.28 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 3**

2 **10.05 a.m.: Enquiry Commenced.**

3 **Mr. Chairman:** Good morning, everybody. Can I start,
4 please, with, um, Mr. Peterson, a few things. First of all,
5 yesterday, as you know, the Commissioners—myself and Mr.
6 Wilson—and a limited number of counsel and the press were
7 able to view the facilities at Paria. We saw berths 6 and 5
8 together with other points of interests including the riser that
9 was actually removed by the personnel from LMCS onto their
10 barge.

11 I want to express our gratitude to Paria and its staff who
12 looked after us extremely well yesterday. We got to see all the
13 things we wanted to see, and I'm very grateful, and I can extend
14 that gratitude to LMCS, if I may, for allowing us on their barge
15 and to see the pipework that was actually removed. The whole
16 exercise was well worthwhile and allowed us to get a sense of
17 scale and some of the logistic issues facing everybody on the
18 25th February.

19 I want to say at this time that when one looks at the
20 actual piece of pipe that was removed, the hoop that I had
21 brought into this court does no justice to what must have been a
22 most horrifying ordeal for somebody in that pipe. It looks so
23 small when you look down the tube. Photographs were taken
24 of our enterprise, and they will be posted on the website once
25 they've been vetted by you and your team, which we've given
26 an undertaking to provide them to you first so that there's
27 nothing that might compromise the activities of Paria. So I'm

1 very grateful and I hope you'll take that back to your clients.

2 Secondly, I understand, again—I'm grateful for this—
3 that Mr. Rampersadsingh is going to make himself available at
4 SAPA's base and that Ms. Maharaj, with her best smiling face,
5 will interview him. And I understand one of your team is going
6 to come to assist him. With that in mind, what we're planning
7 to do is to have it recorded; that is to say that there'll be a
8 transcript of both questions and answers. I'm anxious that there
9 isn't a phalanx of lawyers in the room for someone who need
10 not be embarrassed or cause him any additional difficulties.

11 I wouldn't say any more than that, but the position is, as I
12 understand it, for the moment at any rate, you're withdrawing
13 your application to have the subpoena lifted. We don't need to
14 exercise it. He's going to voluntarily appear at SAPA, and I'm
15 grateful for the arrangements that have been made for that.

16 Next, the video and audio recording of the GoPro footage
17 that we received on the Friday before these hearings began, it
18 will not be made available on the website for obvious reasons.
19 And whilst we will make copies available for those who need to
20 have it—and I emphasize “need to have it”—it is really on the
21 basis that they can justify it, which in your case, certainly, you
22 can, LMCS, and in my view, the family representatives are
23 entitled to have a copy if they wish. It could be put on a
24 memory stick, and if you provide us with one we'll give it to
25 you. Anybody else who wants it will need to justify why they
26 should have it and, of course, I can rely on you all to exercise
27 sensitivity about disseminating it to anybody other than those

1 who need to know for the purposes of this Enquiry. So thank
2 you for that.

3 Lastly, this. Mr. Lawrence, Mr. Loorkhoor from OSHA,
4 are they here? No. Right. I just want to say that they're not
5 here but it can, perhaps, be passed on to them, that, um, I
6 understand the report from OSHA has been finalized and their
7 counsel are examining it as we speak. I want to emphasize that,
8 obviously, we want it and we want it as soon as possible, and it
9 should be made available to everybody as soon as possible from
10 all out points of view. I hope it is not going to be necessary to
11 do anything draconian in making sure that we get it, but it is of
12 no use handing it to me at Easter of next year. I want it. If I
13 may say so, we need it next week, and we'll do everything we
14 can to ensure that we get it, and once we've got it, you'll have
15 it.

16 All right. Those are the preliminary matters that I wanted
17 to deal with. Is there anything else that—

18 **Mr. Peterson SC:** Yes, Mr. Chairman. There's one matter I
19 wish to raise. Since you conducted the site visit yesterday
20 [*Microphone turned off*] if you can get permission to bring the
21 chamber, the habitat, to the surface for two reasons: so that
22 you'll be able to have access to inspect it, and also that it's
23 sitting on the line, so to speak, and I think Paria would prefer if
24 they can move it. But we did not want to do so until you had
25 the opportunity to visit the scene and then grant leave for us to
26 bring it up. But, of course, it would require LMCS' consent,
27 because it's their asset, so to speak. But in the event that they

1 may not be inclined to expend the resources to bring it up, Paria
2 is prepared to do it and make it available to the Commission for
3 viewing and after to be handed back to LMCS, as the case may
4 be. But it is not desirable to have it sit where it's at now.

5 **Mr. Chairman:** Can I say, for my part, that seems to me an
6 eminently sensible idea, and I would encourage it. It's not
7 within my authority, as you'll appreciate, but it does seem to
8 me wise and useful. I, for my part, would wish to see it. I
9 know you're determined to put me back into PPE, with hardhats
10 and boots, but I think it would make some sense. I see no
11 reason why LMCS would wish to keep it at the bottom of the
12 ocean, and I can see no reason why you'd want to keep it there
13 either. So if between you, you can agree its extraction, I would
14 have thought that that was the ideal thing to do, and I encourage
15 it. I dare say you might feel it wise to at least inform OSHA—

16 **Mr. Peterson SC:** Yes, Sir.

17 **Mr. Chairman:**—so they're aware that that's what you're
18 going to do.

19 **Mr. Peterson SC:** We planned to take all those steps. We just
20 wanted to ensure that there was no objection from the
21 Commission's perspective.

22 **Mr. Chairman:** Certainly not; not from me; on the contrary.
23 Thank you for that. Anything else from anyone else? No?
24 Good. Well, then, we will get on. Mr. Maharaj.

25 **Mr. Maharaj SC:** Mr. Chairman and Commissioners, the first
26 witness for this morning would be Hassan Mohammed. Ms.
27 Vijaya Maharaj will do the summary of the evidence, and then I

1 will question him.

2 **Mr. Chairman:** Okay. Where can we find the statement,
3 please?

4 **Mr. Maharaj SC:** The statement is at Volume II, page 1261.
5 It's the witness statement bundle.

6 **Mr. Chairman:** Sorry, bear with me a moment. I got the
7 wrong bundle. It would be here somewhere. Just give me a
8 moment. Page—I've got it. Thank you very much. Sorry to
9 keep you.

10 [*Mr. Hassan Mohammed sworn*]

11 **Mr. Chairman:** Yes, do sit down. Make yourself
12 comfortable. I think you got some water there if you need it. If
13 there's any point in time when you feel you need a break or
14 anything like that, just let us know. All right?

15 First of all, we're going to summarize your evidence and
16 Ms. Maharaj is going to summarize your evidence that you've
17 given either by statement or in interview, and once that's done
18 and you've confirmed that that is accurate, there'll be a few
19 other questions from Mr. Maharaj, all right, and then the other
20 counsel will have some questions, I suspect, for you.

21 **Mr. Mohammed:** Okay.

22 **Mr. Chairman:** And as I understand it, your name Hassan
23 Mohammed, and you were the Facilities Engineer at Paria. Is
24 that right?

25 **Mr. Mohammed:** Correct.

26 **Mr. Chairman:** Okay. Thank you very much. I'll leave you
27 to Ms. Maharaj.

1 **Ms. Maharaj:** Thank you.

2 **Examination By Ms. Maharaj:**

3 Q. Good morning, Mr. Mohammed.

4 A. Good morning.

5 Q. Do you recall signing a witness statement on the 16th August,
6 2022?

7 A. Yes, I do.

8 Q. Yes. And can you confirm that that witness statement, the
9 contents are true and correct?

10 A. Yes, they were.

11 Q. I'll just read a summary of your statement.

12 Mr. Mohammed was the Facilities Engineer at Paria and reported to
13 Catherine Balkissoon who is Paria's technical lead. He did
14 preliminary work into the development of Paria scope of works
15 for the repairs at berth No. 6 which were being carried out by
16 LMCS' divers on the 25th February, 2022 when the incident
17 occurred. He reviewed the draft scope of works which had
18 been prepared utilizing the scope of works for a similar project
19 done by LMCS in 2022 with some adjustments where
20 appropriate. After reviewing the scope of works for the project,
21 Mr. Mohammed passed it on to Mr. Manmohan Balkaran,
22 Maintenance Lead in charge of the project.

23 Mr. Mohammed says that one of the tasks permitted by Paria under
24 permit to work No. 9320 issued on the 25th February, 2022 was
25 to conduct a pressure test on flange weld in order to ensure that
26 the line does not leak under pressure and that the weld was of
27 sound quality.

1 On the 25th February, 2022 at about 12.30 p.m. that is before the
2 incident occurred, Mr. Mohammed who was at home at the
3 time was contacted by telephone by one Mr. Adesh Ramlogan
4 and told that LMCS was having challenges with pressure
5 testing the flange due to the out of roundness of the line which
6 prevented a seal from forming between the line and a CARBER
7 plug to perform the pressure test. Accordingly, the pressure test
8 could not be done on the flange.

9 Mr. Mohammed says that he discussed the testing with Mr. Ramlogan
10 who was on the site witnessing the CARBER plug testing
11 attempt being done by LMCS through their subcontractor,
12 Isotech. Mr. Ramlogan and Mr. Mohammed discussed all of
13 the testing which had been done prior to and during the welding
14 of the flange on a previous day. The testing included a 100 per
15 cent VT being a Visual Test, and a 100 per cent PT, being a
16 Penetrant Test both of which were witnessed by Mr. Ramlogan.

17 The penetrant test is a test in which a solvent is used to clean the weld
18 to be inspected then a dye penetrant is applied to the weld and
19 allowed to set for a while. The dye is then wiped off and a
20 developer is then sprayed onto the weld. If there are any
21 defects in the weld it would show up as a different colour. Mr.
22 Mohammed told Mr. Ramlogan that in lieu of the CARBER test
23 and in consultation with Paria Inspector, Mr. Sharaz Hosein, a
24 service test would be carried once the repairs were completed
25 together with a dive test.

26 On Friday, 25th February, 2022 after the incident occurred, Mr.
27 Mohammed was contacted by Mr. Michael Wei at

1 approximately 6.00 p.m. and instructed to arrange for a
2 borescope inspection of the line. He was later advised that the
3 inspection was unsuccessful as the light on top of the borescope
4 probe was insufficient.

5 On Saturday, 26th February, 2022 at about 5.40 p.m. Mr. Mohammed
6 arranged for two IOCL rental pumps to be loaded at berth 6 but
7 they were replaced on Sunday 27th February, at 8:00 a.m. with
8 two Laing pumps as a letter were better suited for the intended
9 purpose on that day. Mr. Mohammed said that the intended
10 operation of the pumps was for the recovery of the bodies of the
11 four missing divers. Mr. Mohammed was also present at the
12 berths during the discovery of the bodies of the four divers on
13 Monday the 28th February 2022 and Wednesday the 2nd
14 March, 2022.

15 Mr. Mohammed, Mr. Maharaj will now ask you a few
16 questions.

17 A. Okay.

18 **Mr. Chairman:** Can we at least confirm that you're content
19 with that summary of your evidence?

20 **Mr. Mohammed:** Yes, I am.

21 **Mr. Chairman:** There's nothing inaccurate that you detected?

22 **Mr. Mohammed:** No.

23 **Mr. Chairman:** Thank you very much.

24 **Examination By Mr. Maharaj SC:**

25 Q. Mr. Mohammed, I want you to help us with a few answers. At
26 paragraph six of your witness statement you stated that prior to
27 the incident on the 25th February, 2022, you did some

1 preliminary work in the development of Paria's scope of works
2 dated the 29th April, 2021, et cetera, et cetera. What I want to
3 ask you is that you reviewed the scope of works before it was
4 passed to Mr. Balkaran—Mr. Manmohan Balkaran. Am I
5 correct?

6 A. I did a partial review for the components of the scope in which I
7 would have had an involvement.

8 Q. I'm sorry. I didn't hear the—

9 A. I did a partial review for sections of the scope in which I was
10 involved.

11 Q. And what section of the scope was that?

12 A. Within the scope of works my function would have been to
13 engage in technical discussions related to understanding the
14 integrity of the pipeline and what repairs were required. So I
15 would have had discussions with the Paria's Inspector Zahir
16 Hosein and the Planner who was developing the scope to
17 ascertain what repairs should be done. So my involvement is to
18 determine what sections of the line should be changed, and also
19 the inspection requirements, the technical requirements as it
20 relates to welding, pressure testing, and coating. Those were
21 my involvement.

22 Q. Okay. Um, do you have any—or did you at the time have any
23 experience in subsea maintenance work?

24 A. Prior to this, I would have done a scope—had same
25 involvement in a scope similar, the scope referred to in 2020.
26 Yes, so I am familiar with repairs of—involving fabrication and
27 repairs.

1 Q. Okay, okay. I want to show you the scope of works. It's in
2 volume 2 of the core bundle at page 564. Have you seen it?
3 All right. I want you to look at—you see a heading "Isolation
4 List"?

5 A. Correct.

6 Q. Right. Now, if you could help us—you see something written
7 there, "Estimated Volume of Product Between Isolation Points
8 2,000 Barrels"?

9 A. Correct.

10 Q. Could you help us whether that was an estimate of the volume
11 in Sealine 36?

12 A. It was an estimate.

13 Q. Of the contents between berths 5 and 6?

14 A. Correct. It was just an estimate at the scope of works
15 development phase.

16 **Mr. Chairman:** I'm sorry. I'm struggling to hear you. I
17 wonder if you just keep your voice up a little bit.

18 **Mr. Mohammed:** Okay. Yes, it was an estimate based on the
19 length of the line at the scope of works development phase. At
20 that time, a verification wasn't done of the volume, but, yes, an
21 estimate.

22 **Continued Examination By Mr. Maharaj SC:**

23 Q. Right. And that would have included the topside piping and the
24 underwater piping?

25 A. No, the riser sections and the subsea.

26 Q. Okay. You said the riser section?

27 A. The both riser sections and the subsea section as well.

1 Q. Okay. As far as you know, was the scope of works for Sealine
2 36, did it require the line to be drained?

3 A. It required the line to be drained to a point where the repair can
4 be carried out, not fully drained necessarily.

5 Q. Okay. I want to show you the same Volume, page 564 at
6 paragraph 3.1.5; at page 564, 3.1.5. You see that?

7 A. Yes, I do.

8 Q. Right. I'll read it slowly for you.

9 "Properly coordinate works with Paria Operations
10 Maintenance and HSE Personnel to perform the
11 following activities including but not limited to isolation,
12 de-isolation, depressurization, pressurization, and
13 draining/filling product from line SL 36 at berth 6 and
14 berth 5."

15 Okay? So the works included draining of the line, but do you
16 know how much draining?

17 A. At the scope of works development phase, no. It was meant to
18 provide guidance that at whatever level the repair is to be
19 carried out, the production—remove to and below that level;
20 that level at least.

21 Q. But a quantity was not mentioned?

22 A. It was not defined, no.

23 Q. At page—I want you to also look at page 598. Addendum No.
24 1; you see Addendum No. 1?

25 A. Correct.

26 Q. And that is a document from Paria. Okay?

27 A. Yes.

1 Q. Correct. And you see a query:

2 “Who is responsible for pumping back from berths to
3 clear the lines with water?”

4 Response: The contractor is responsible for the safe
5 removal of hydrocarbon contents from the line and to
6 ensure that the line is clear and dry.”

7 Is that what you understood the works to be?

8 A. This addendum wasn't prepared by myself.

9 Q. Oh, I see.

10 A. Yes.

11 Q. But it's headed, “Paria Fuel Trading Company Limited”?

12 A. It does.

13 Q. It does?

14 A. Yes.

15 **Mr. Chairman:** Even if it wasn't your responsibility, is it—
16 could you answer the question—is it what you understood the
17 position to be?

18 **Mr. Mohammed:** What I would understand is that the
19 company is asking for the line to be clear and dry. I don't know
20 if they mean up to the point where the repair is to be carried out
21 safely. It depends on the methodology to be used to repair the
22 line. I am unsure.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. In the works you did on the scope of works in the services you
25 performed, did you, at any time, recognize that the scope of
26 works could have created a differential pressure situation or
27 Delta P hazard?

1 A. At the scope of works development plain and obvious risks
2 were considered.

3 Q. I'm sorry?

4 A. At the scope of works development phase for my involvement
5 plain and obvious risks associated with the job were considered,
6 hence the use of a migration barrier; that was included. Right?
7 That would have been looking at potential for occupants in the
8 chamber being exposed to toxic gases and also a fire. Risks
9 associated with this job being a specialist job were not
10 considered as this job was, for all intent and purposes, was to be
11 considered as a turnkey project.

12 Q. As a?

13 A. Turnkey project, where Paria Fuel Trading will define what is
14 to be done, identify any plain and obvious risks that we would
15 face on a day-to-day basis at our facility, which is, example,
16 fire, exposure to toxic gases similar to the refinery, and we
17 would have relied at the—our Paria safe system of work, which
18 is our permit to work at the execution phase to identify all risks
19 associated with the tasks to be done. Because at the scope of
20 works development phase, we would not know which method
21 the vendor will be using to carry out the repair. So all the risks
22 would not be known.

23 Q. Okay. So, Mr. Mohammed, as I understand it, you are familiar
24 with the contents of the scope of works. Not so?

25 A. Yes.

26 Q. Right. The contents of the scope of works included the
27 draining of the line?

1 A. Yes.

2 Q. Right. The contents of the scope of works also included
3 installation of a migration barrier—these plugs. Correct?

4 A. A migration barrier, correct.

5 Q. Yes. And the migration barrier was the mechanical plug and
6 the inflatable plug?

7 A. No. Migration barrier is a barrier alone. The migration barrier
8 in this context is referring to the mechanical plug.

9 Q. The mechanical plug?

10 A. No reference was made to use of inflatable plugs. And, again,
11 the migration barrier was put there for the plain and obvious
12 risk.

13 Q. So you are telling us today that the scope of works did not
14 envisage the insertion of an inflatable plug?

15 A. At that time, no.

16 Q. When you mean “at that time”, what you mean?

17 A. At the scope of works development phase, because we would
18 not know how the contractor is going to execute the works, we
19 were not—I was not aware of that.

20 Q. Okay. So it involved a mechanical plug?

21 A. Correct.

22 Q. It involved the Sealine 36?

23 A. Correct.

24 Q. And the plug was to cover Sealine 36—that mechanical plug?

25 A. The mechanical plug, correct—the migration barrier, correct.

26 Q. And it involved a habitat going over Sealine 36?

27 A. Correct.

1 Q. And you are—are you aware that that would have created a
2 differential pressure from the pipe and the habitat?

3 A. At that time, no.

4 Q. At that time you were not aware?

5 A. No.

6 Q. Are you aware now on reflection?

7 A. It will be dependent on how much product was drained from the
8 line if the condition exists. I am unsure how much was drained.

9 Q. If the line was clear and dry—assuming the line was clear and
10 dry, would you agree, on reflection, would have been a latent
11 hazardous differential pressure situation?

12 A. Yes.

13 **Commissioner Wilson:** Ramesh, I would just like to ask a
14 question here.

15 **Examination By Commissioner Wilson:**

16 Q. Good morning, Sir. In listening to you there, what I want to
17 ascertain is, coming up with the scope of work in the planning
18 phases of the scope of work, were you part of any risk
19 assessment team, hazard identification, and/or equivalent
20 exercise?

21 A. No. I was involved more towards the technical side, which is
22 understanding the line integrity, the repair to be done, and the
23 requirements for the repair as it relates to inspection and
24 quality. I did not have no involvement, any risk assessment at
25 that phase.

26 Q. At which phase? Planning?

27 A. The planning phase.

1 Q. Okay. Just clarify for me, because how I'm hearing it is that
2 you were quite integral in the planning or the development of
3 the scope of work. Isn't the development of the scope of work
4 in the planning phase?

5 A. There's different aspects of the development of the scope of
6 works. Like in my case, I was involved in what repair was to
7 be done and why it should be done. That is the role I played—a
8 technical role in that regard.

9 Q. Okay. So one last question and taking off from Mr. Maharaj is
10 you indicated that you were involved in the previous scope of
11 work with LMCS, but you indicated that there were just several
12 adjustments. The scope of work was similar but there were
13 adjustments. Was a lessons-learned exercise and/or equivalent
14 driving that sort of difference or adjustments that had to be
15 made from the previous scope of work that you were involved
16 in?

17 A. So I would just like to explain how it was similar. Right?
18 Sealine 36 goes from the onshore Paria to berth 5, then it goes
19 from berth 5 to berth 6. The section that goes from onshore to
20 berth 5, there's a riser there. That riser had a clamp just below
21 mean sea level. That is the repair that was done successfully by
22 LMCS in 2020.

23 Sealine 36 in 2021 had a clamp approximately 8 to 10
24 feet below mean sea level. Both repairs required the use of a
25 hyperbaric chamber and working below the sea level. The
26 adjustments that were made to the scope was where the repair
27 was to be conducted and improvements to the technical and

1 inspection requirements as it relates to quality.

2 Q. All right. Thank you for that. Just one last part. So at the end
3 of project—washups and stuff—do you guys implement a
4 lessons-learned or have a lessons-learned exercise so there are
5 learnings from the previous scope to take into the new scope,
6 regardless of the minute changes or anything? How is that
7 captured and how are those lessons-learned transferred on to
8 similar scopes?

9 A. There would be learnings within the group who formulates the
10 scope of works, and adjustments will be made where necessary.

11 Q. Okay, thank you. Where is that documented? So it's an
12 exercise or is it just by experience?

13 A. It's by experience within the deep at that phase of the project,
14 for that particular project being referred to.

15 Q. All right. Thank you.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. I want to ask you a few questions on the waiving of the
18 CARBER test. Okay? Would you agree that the waiving of the
19 CARBER test was a change in the method of works which had
20 been approved?

21 A. Okay. I would just like to correct that. Technically speaking,
22 Paria did not waive the CARBER test.

23 Q. What happened?

24 A. Paria was informed by the inspector that was there representing
25 Paria that the test could not be done because of the outer
26 roundness of the pipe. So Paria would have acknowledged that
27 the test could not be done.

1 Q. But Paria was monitoring the works for compliance—

2 A. Correct.

3 Q. —with what was agreed to be done?

4 A. Correct.

5 Q. And Paria had someone topside monitoring what had to be
6 done?

7 A. Correct.

8 Q. And Paria wanted to ensure that the works which were
9 approved to be done were done?

10 A. Correct.

11 Q. So Paria knew that the CARBER test was not going to be done?

12 A. Could not be done, yes.

13 Q. And Paria agreed for the CARBER test not to be done?

14 A. At that time, Paria acknowledged the test would not be done—

15 Q. But Paria did not object to the CARBER test not being done?

16 A. No, we did not.

17 Q. No. Paria did not stop the works at that stage?

18 A. No, we did not.

19 Q. No. Am I—could you help us? When a method of work is
20 approved and it has to be changed, is there a procedure that
21 Paria utilize for that method of work to be changed? What has
22 to happen?

23 A. Typically the contractor will send official correspondence to
24 Paria of the change via an RFI process. So in this case, the
25 contractor being that on that day, the only activity scheduled
26 was for the test to be done, Paria being informed that the test
27 could not be done, the contractor is supposed to follow up with

1 the Paria representative via official correspondence indicating
2 the test cannot be done.

3 **Commissioner Wilson:** Just excuse. Just for the knowledge of
4 people who are not familiar with the acronyms, can you clarify
5 what an RFI is?

6 **Mr. Mohammed:** Oh, my apologies. Like a Request For
7 Information; so that is like a clarification from the vendor
8 saying their concerns and Paria will respond.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. You are familiar with the permit to work procedure. Not so?
11 Are you familiar with Paria's permit to work procedure?

12 A. To an extent, yes.

13 **Mr. Maharaj SC:** And for the Commission's information,
14 there is a CB1 at page 28 and 29. It starts at page 26. It's core
15 bundle 1.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. I want to read the relevant parts to you and tell me if you're
18 familiar with it. Look at page 29 and look at bullet point four:

19 "Continually monitor the job to ensure that it is
20 performed in a safe manner and within the conditions
21 prescribed in the Work Permit, Certificates and JHA/Risk
22 Assessment."

23 You see that?

24 A. Yes, I do.

25 Q. "Stop the work if there are changes in site conditions that
26 increase the risk or if new hazards are identified; and
27 promptly notify the Site Authority of these changes."

1 So would you agree that Paria had a duty, if the job was not
2 being done in accordance with what was approved, to stop the
3 job?

4 A. The role that I would have played, the information from the test
5 would have been shared with me and I would have had to
6 communicate it with the Paria supervisor who would then
7 communicate with the contractor. I do not stop the work on
8 that project as I am not the supervisor. I provide technical
9 support.

10 Q. But would you agree with me that in a job like this, Paria
11 manages any change of policy to be done to the job?

12 A. Yes, it does.

13 Q. Yes. Tell me if you could answer this question. What risks
14 could have been exposed to the divers by the waiving of the
15 CARBER test?

16 A. From my understanding, none.

17 Q. None. So if the—if there was a plug on the pipeline and there
18 was a leak on the riser, could there have been any risk?

19 A. The weld that was to be inspected—

20 Q. I'm sorry?

21 A. The weld that was to be CARBER tested is above the inflatable
22 plug and mechanical plug.

23 Q. So on that basis you said there could have been no risk?

24 A. There's no risk.

25 Q. Okay, all right. On the morning of Saturday, 26th February,
26 you were given instructions to assist in the mobilization of two
27 rental pumps for berth 5 and berth 6. Correct? And that was at

1 about 5.40 p.m.?

2 A. Correct.

3 Q. Were you told—were you given instructions what those pumps
4 were to be used for?

5 A. At that time, no.

6 Q. No. You had no instructions whatsoever as to what those
7 pumps were to be used for?

8 A. I was just told to walk through the process to have the pumps
9 mobilized safely to the site.

10 **Mr. Maharaj SC:** No further questions.

11 **Mr. Chairman:** Before I pass you on to the other counsel, we
12 may want to ask you some—

13 **Examination By Mr. Chairman:**

14 Q. Can I just take you back briefly, please, to page 598, please?
15 It's in the core bundle, volume 2, page 598. It's the addendum
16 that you were asked about in the—addendum to the works,
17 “Miscellaneous Repairs and Refurbishment Works”.

18 Could you just scroll down so that we include in that,
19 lines 1 to 2, please? Yes, thank you. Can you just explain to
20 us, please, what the purpose of this document is? It's described
21 as a “Miscellaneous Repairs and Refurbishment Works at #5 &
22 #6” and Addendum 1”. What's the point of it?

23 A. Okay. So when a tender like in the case of—

24 Q. Try and keep your voice up.

25 A. Okay, my apologies.

26 Q. No, it's all right.

27 A. In the case of this job, for all intent and purposes, it was to be a

1 turnkey project where Paria will specify what repairs are to be
2 done.

3 Q. Yeah.

4 A. Not how the repairs are to be done. So vendors are to come up
5 with their own methodology and ask any questions related—

6 Q. Who's asking the questions?

7 A. Vendors. So when the tenders—

8 Q. Who?

9 A. The vendors—the contractors.

10 Q. Right.

11 A. So when this tendered document is prepared it is sent to the
12 contractors and they will have an opportunity to ask any
13 questions about the works to be done or anything related to how
14 they plan to do it, they can ask.

15 Q. I got it.

16 A. This is the response document to the questions that are
17 compiled.

18 Q. Right. So if I can answer my own question, I hope, in this way,
19 this is intended to sort out any queries?

20 A. Correct.

21 Q. And so, the contractor can ask the query and Paria, the
22 contractee, can answer them?

23 A. Correct.

24 Q. So the question in No. 1 is:

25 "1. Query - Who is responsible for pumping
26 back from the berths to 'clear' the lines with
27 water?"

1 That's the first question. Isn't it?

2 A. Yes.

3 Q. And the answer to that is from Paria:

4 "Response: The Contractor is responsible for the safe
5 removal of hydrocarbon contents from the line..."

6 A. Correct.

7 Q. "...and to ensure that the line is clear and dry."

8 A. Correct.

9 Q. That's what it says, isn't it?

10 A. Correct, that's what it says, yes.

11 Q. I appreciate that. Now, and you told us that this is not your
12 responsibility. But you can help us, perhaps, because it seems,
13 on the face of it at any rate, a line—when we're talking about a
14 line, we're talking about the pipe, aren't we?

15 A. But this particular line is like a "U". So it has two risers and a
16 horizontal, yes.

17 Q. Well, I don't really care which shape it is, right. It's a line; it's
18 the pipe, isn't it? When we talk about a line in your terms, it's
19 a piece of piping?

20 A. Correct.

21 Q. Right. And if the piping has to be clear and dry, what do you
22 understand that to mean?

23 A. Clear and dry.

24 Q. In other words, nothing in it.

25 A. Correct.

26 Q. Is that what it means?

27 A. Correct.

1 Q. To you; it means nothing in it, doesn't it?

2 A. Correct.

3 Q. I mean, tell me if I've got this wrong. I don't want to away
4 with the wrong—

5 A. No, it depends—

6 Q. Just a minute. I don't want to go away with the wrong
7 impression. All right? I need to understand precisely what it
8 means to you. What it means to me maybe I may have got it
9 wrong, so you need to help me. All right? If you are saying
10 that the line needs to be clear and dry—this is you, Paria, not
11 you personally, all right—needs to be clear and dry, what do I
12 take from that?

13 A. I would interpret it that wherever the repairs are to be carried
14 out, the line is to be product free. Working in the hydrocarbon
15 industry, I would understand that as the line needs to be
16 hydrocarbon-free at that point at its minimum—as a minimum.

17 Q. No, no, no. You're saying that it means just a little bit above
18 the plug? Is that what that's supposed to mean? Are you really
19 saying that that's what it's supposed to mean?

20 A. I understand what you mean by clear and dry, but I would
21 interpret it as, as a minimum at least that area needs to clear.

22 Q. This document is supposed to sort out queries, isn't it?

23 A. Correct, yes.

24 Q. It's supposed to clear up any ambiguities, isn't it?

25 A. Yeah.

26 Q. Is that at the very best ambiguous and at worst misleading?

27 A. Well, it says "clear and dry", so you're correct. You could

1 interpret it as clear and dry. It depends; yeah.

2 Q. It wasn't, was it?

3 A. Sorry?

4 Q. It wasn't clear and dry, was it?

5 A. I do not know.

6 Q. You don't know? You don't know what happened? Have you
7 not read the papers?

8 A. If the line was clear and dry?

9 Q. Yes.

10 A. I don't know how much product was remaining in the line to
11 answer that. I can't say if it was clear and dry.

12 Q. All right. Very well. Thank you very much.

13 **Mr. Peterson SC:** Mr. Chairman, I just want to indicate that
14 we did discharge your directive and advised the witnesses not
15 to read the papers and try not to follow anything on the media.

16 **Mr. Chairman:** I'm sure you did. But long before this
17 Commission was conceived of, there was very considerable
18 press tension, as you will no doubt recall. I've had the
19 opportunity of reading it in more recent times. I dare say the
20 public were reading it at the time. Be that as it may, I've heard
21 your answers, and I'm grateful for those. Thank you very
22 much. I pass you over now to counsel.

23 **Mrs. Persaud Maraj:** I am with LMCS, Kamini Persaud
24 Maharaj.

25 **Mr. Mohammed:** Okay.

26 **Mrs. Persaud Maraj:** Mr. Mohammed, I—

27 **Mr. Chairman:** There are questions.

1 **Mr. Peterson SC:** I thought the order, Mr. Chairman, was we
2 would re-examine last; he's our witness, so in case we have
3 anything to clarify at the end. I thought that was the order.

4 **Mr. Chairman:** Mr. Peterson, he's not your witness, he's our
5 witness, and we've asked him questions. I thought I'd made it
6 clear that I expected people to cross-examine any questions that
7 they had in the order as I set it out on Monday. If you are
8 saying to me you would like to go last, last means, in my book,
9 before any re-examination from Mr. Maharaj. If you would
10 prefer to hear what other questions there are since he is a
11 witness employed by your client, I would have no objection to
12 that.

13 **Mr. Peterson SC:** Well, that's what I—well, it's my
14 understanding, Sir. I thought the understanding was that a
15 witness that was called by my client, other lawyers would ask
16 questions then we will ask, and then Commission Counsel
17 would have the last say, so to speak. But that's my
18 misunderstanding, Sir.

19 **Mr. Chairman:** Then I thought I had made our position clear
20 as to how we were going to approach it. But I don't have a
21 particular objection to that course—

22 **Mr. Peterson SC:** Thank you, Sir.

23 **Mr. Chairman:**—if that helps you help us, which is why we're
24 all here. So if you're saying you would like to go after all other
25 Counsel of interest ask him any questions, then I have no
26 difficulty with that.

27 **Mr. Peterson SC:** Thank you, Sir. I thought that was the—

1 only with respect to witnesses that we were calling.

2 **Mr. Chairman:** Well, why don't we set that as the process
3 here on in after?

4 **Mr. Peterson SC:** Thank you, Sir.

5 **Mr. Chairman:** And those who have got witnesses who are
6 employed by their clients can do the same.

7 **Mr. Peterson SC:** Thank you, Sir.

8 **Mr. Chairman:** All right. Very well. I'll pass him over to
9 you.

10 **Mrs. Persaud Maraj:** I'm grateful, I'm grateful.

11 **Cross-Examination By Mrs. Persaud Maraj:**

12 Q. Mr. Mohammed, in your witness statement you have said at
13 your paragraph 5, No. 7, that as part of your duties you
14 maintain updated key engineering data including the process
15 and instrumentation diagrams, drawings, technical
16 specifications and area classification maps of terminal
17 operations. Correct?

18 A. Correct.

19 Q. In your answer to Counsel for the Commission you used the
20 terminology "Line Integrity" in relation to how the scope of
21 works was developed in terms of what your contribution was in
22 its development?

23 A. Correct.

24 Q. All right. So can you say in determining the line integrity—and
25 being that you are saying part of your duty is to maintain
26 updated key data and drawings—whether any particular
27 drawing was used by you?

1 A. Yes, there were drawings that were taken from Petrotrin that
2 were considered.

3 Q. Taken from Petrotrin?

4 A. Yes, as built drawings and the build-up materials for the
5 pipeline, yes, to understand the design.

6 Q. All right. And were those drawings disclosed to the vendors,
7 meaning the contractors that the invitation went out to?

8 A. At that time, it was not required. A sketch was provided.

9 Q. A sketch was provided?

10 A. Yes.

11 Q. And from those drawings, you would have been able to
12 determine exactly what in the line needed to be repaired?

13 A. I would have determined what needed to be repaired from the
14 inspection data, not from the drawings.

15 Q. So inspection data is something separate?

16 A. Inspection data. That is—yes—collecting thickness data on the
17 pipeline and understanding where the defects are.

18 Q. So you would have had—would you have had to read the
19 inspection data in collaboration with the drawings?

20 A. The inspection data guided the process.

21 Q. That alone?

22 A. Yes—where the repairs were to be carried out, correct; the
23 inspection data.

24 Q. All right. So you had no reference at that point in the
25 development of the scope to drawings?

26 A. The drawings were used to understand the materials of
27 construction of the pipeline for the section to be replaced.

1 Q. Just the materials?

2 A. Of construction, correct.

3 Q. Not layout?

4 A. No.

5 Q. Not configuration?

6 A. For the riser section, no.

7 **Mrs. Persaud Maraj:** Can I have page 2922 of the bundle of
8 submissions shown to Mr. Mohammed?

9 **Mr. Chairman:** Where are we going?

10 **Mrs. Persaud Maraj:** The bundle of submissions, page 2922.

11 **Mr. Chairman:** What is it you're asking to look at?

12 **Mrs. Persaud Maraj:** There is a drawing, please, Mr.
13 Chairman.

14 **Mr. Chairman:** It's a drawing?

15 **Mrs. Persaud Maraj:** It's a drawing. It's up on the screen
16 now.

17 **Mr. Chairman:** All right. There it is. I don't think it's being
18 copied into our individual printed bundles. It's just on the
19 entirety of the bundles, which is the—you'll appreciate we
20 didn't print 20,000 pages for each Counsel.

21 **Mrs. Persaud Maraj:** Same here, please.

22 **Continued Cross-Examination By Mrs. Persaud Maraj:**

23 Q. So you're seeing—are you seeing that drawing?

24 A. Yes, I am.

25 Q. All right. Can you give me the date of that drawing?

26 A. There are a few dates I see there.

27 Q. I am seeing the 10th January, 2022 to the bottom of the—in

1 blue. Below the words “Approved by J. Beckles” on the
2 7/1/2022?

3 A. Okay, yeah.

4 Q. So this would have been—can you tell me what we’re looking
5 at?

6 A. I did not prepare this drawing or was part of this.

7 Q. You did not prepare this drawing?

8 A. I did not.

9 Q. And you have no idea what this drawing is of?

10 A. No. At this time, no, I do not.

11 **Mrs. Persaud Maraj:** All right. I have no further questions
12 on it.

13 **Mr. Chairman:** Have you seen that before—that drawing?

14 **The Witness:** No.

15 **Mr. Chairman:** Thank you. You can take that down. Anyone
16 else? Yes, Sir. Introduce yourself again, please, so everyone
17 knows who you are and who you represent.

18 **Mr. Ramadhar:** Thank you very much, Chairman. Prakash
19 Ramadhar on behalf of the Kurban family and Yusuf Henry.

20 **Cross-Examination By Mr. Ramadhar:**

21 Q. Good day, Mr. Mohammed. Had there ever been, in the
22 process, a meeting with all of the stakeholders before the work
23 actually started, including yourself, all those who would have
24 helped design and implement, oversee, to ensure a successful
25 completion of the project?

26 A. There would have been a kick-off meeting.

27 Q. I didn’t ask you whether there would have been. Were you in

1 such a meeting?

2 A. No, I was not.

3 Q. Thank you. In relation to the addendum to which you have
4 spoken earlier about the need to clear the line, did you ever see
5 that addendum before today? Yes or no.

6 A. Yes.

7 Q. Yes. Did you sign off on that at all?

8 A. No.

9 Q. Could you tell us the date that that addendum was introduced?

10 A. Introduced to me?

11 Q. No, to the entire proceedings?

12 A. I am not sure.

13 **Mr. Chairman:** What do you mean by “entire proceedings”?

14 **Mr. Ramadhar:** I’m sorry. Chairman, to be fair to the
15 witness, let me put it like this.

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. When was the first time you actually saw this addendum?

18 A. On going through the submissions online, on the COE website.

19 Q. When?

20 A. Approximately a month ago.

21 Q. A month ago?

22 A. Yeah.

23 Q. You would consider the contents of that addendum to be
24 critically important, wouldn’t you?

25 A. Yes.

26 Q. Yes. Was that addendum ever discussed in a meeting with all
27 of the stakeholders? Yes or no.

1 A. I was not involved in a discussion.

2 Q. Thank you very much.

3 **Mr. Ramadhar:** If you could, with your kind leave, Mr.
4 Chairman, have the addendum brought up, please? And if you
5 could scroll to the lower part where there would be an area for
6 signature.

7 **Continued Cross-Examination By Mr. Ramadhar:**

8 Q. Is that addendum signed, Sir, by anyone from either Paria or a
9 contractor representative?

10 A. This one, no.

11 Q. Thank you very much.

12 **Mr. Ramadhar:** That would be all. Thank you very much.

13 **Mr. Chairman:** Thank you. Anyone else? Yes. Can we have
14 one of you ask questions rather than both, please? Can you
15 introduce yourselves so that the public know who you are and
16 who you're representing?

17 **Ms. Alfonso:** Good morning. My name is Nyree Alfonso and
18 I represent the interest of the Seamen and Waterfront Trade
19 Union, SWWTU.

20 **Mr. Chairman:** Is your microphone on?

21 **Ms. Alfonso:** Yes. I'll bring it closer, so I'll just repeat that.
22 My name is Nyree Alfonso, and I represent the interest of the
23 Seamen and Waterfront Trade Union.

24 **Cross-Examination By Ms. Alfonso:**

25 Q. Good morning, Mr. Mohammed. I just have one or two
26 questions for you, please. I notice you say that you are
27 Facilities Engineer, Mechanical, at Paria. Yes?

1 A. Correct.

2 Q. Could you help us out with what—if you have any
3 qualifications, any qualifications of any nature, degrees,
4 anything?

5 A. I'm a Mechanical Engineer from UWI; I have my Master's in
6 Engineering; API Pipeline Inspector Certification; Pressure
7 Vessel Certification; Certified Quality Engineer.

8 Q. Okay. Thank you. And how long have you worked with Paria?

9 A. Approximately seven years, and I would have worked in total
10 approximately 11 years as an engineer.

11 Q. Mr. Mohammed, would that mean that you worked with
12 Petrotrin before then?

13 A. Correct.

14 Q. Thank you. You mentioned when you were being questioned
15 this morning and in your paragraph 6 of your witness statement
16 as well that basically you piggybacked—not you, not you, the
17 corporate you—Paria would have used a similar scope of works
18 used in a previous job in 2020. Yes?

19 A. Paria used the previous scope of works as a starting point.

20 Q. As a starting point, okay. And you mentioned, I believe,
21 something about lessons, you know, you would have
22 reviewed—when you using it at a starting point you would have
23 reviewed any lessons learnt from the 2020 project. Did you say
24 that earlier this morning?

25 A. The group working on the scope would have, yes.

26 Q. The group, okay. Could you tell us anything about any lessons
27 learnt?

1 A. At this time I can't remember.

2 Q. You can't remember?

3 A. At this time, no.

4 Q. At this time?

5 A. No.

6 Q. Okay. In relation to the 2020 job which was on Sealine 36—
7 yes?

8 A. Correct.

9 Q. Was any aspect of that job involved draining of a pipeline?

10 A. I am not sure. I am not involved in the execution of the works;
11 more so the planning phase.

12 Q. But you—okay. So you reviewed the scope of works in
13 relation to the 2020 plan as well?

14 A. Correct.

15 Q. Okay. And you can't recall whether any line in relation to that
16 project required draining or removing the contents, or lessening
17 the contents, or completely clearing the contents?

18 A. I can't recall.

19 Q. You can't recall. Thank you very much, Mr. Mohammed. I
20 beg your pardon. I'll just ask again, because I have an insistent
21 junior. You don't recall any lessons learned in that—so this
22 was a team effort in 2020 to do the scope of works. Yes?

23 A. Okay, so let me explain. The scope of works goes through
24 different groups within the company. There's a technical group
25 that will create the scope of works based on the works to be
26 done. Like I would have said previously, for all intents and
27 purposes, this job was to be done as a turnkey project where the

1 company would understand the integrity of the asset and where
2 the repairs are to be done, solely that, where the repairs are to
3 done, and the material specification. This was included in the
4 scope of works along with contractors' requirements and
5 Paria's—sorry, contractors' responsibility and Paria's
6 responsibilities. When this is done, this would be tendered out
7 and there would be an execution team which is the Maintenance
8 Department which will execute the works. I am not part of the
9 maintenance team. I am part of the technical team.

10 Q. Was there—I got you, Mr. Mohammed. In relation to the
11 2020—so I've left 2020 alone; 2022, which is the subject
12 matter of this Enquiry, was there any debriefing, any post—and
13 I want to be careful, post-mortem type meeting after this
14 incident in which lessons learnt in terms of methodology of the
15 work, or scope of work, or what went wrong? Is there anything
16 like that? Anything like that happened that you were a
17 participant in?

18 A. There would have been internal discussions and opinions.

19 Q. There would have been or there were?

20 A. There were internal discussions and opinions about what could
21 have been the possible scenarios.

22 Q. Maybe what could have been done differently?

23 A. What could have been done—not necessarily differently but
24 what could have been the cause.

25 Q. Okay. What could have been the cause of what transpired in
26 February this year?

27 A. Correct.

1 Q. Okay. Were you a participant in that meeting—in those
2 meetings? As you said internal discussions; it could be more
3 than one meeting.

4 A. I can't recall.

5 Q. You can't recall from February or March that you were in a
6 meeting?

7 A. There would have been passing conversations with colleagues.
8 It wasn't specific, like, sit down meetings where minutes were
9 taken, and these things.

10 Q. Were there meetings, Mr. Mohammed?

11 A. Official meeting that I am aware of, no.

12 Q. There were no official meetings that you were aware of?

13 A. No.

14 Q. Thank you, Mr. Mohammed?

15 **Mr. Chairman:** It follows from that, that you didn't attend any
16 such meeting even if there were any?

17 **Mr. Mohammed:** Correct.

18 **Mr. Chairman:** Thank you. Yes, Mr. Peterson?

19 **Mr. Peterson SC:** Thank you very much, Mr. Chairman. Mr.
20 Mootoo will question this witness. He has to do some of the
21 lifting.

22 **Mr. Chairman:** Very well; sharing the burden.

23 **Mr. Peterson SC:** Yes.

24 **Mr. Mootoo:** Good morning, Chairman and other members.

25 **Examination By Mr. Mootoo:**

26 Q. Mr. Mohammed, you were asked a series of questions about the
27 addendum which followed the tender process. I want to put

1 that in context, and I would like you to help me. Is it correct to
2 say that this project was a project that invited a competitive
3 tendering process?

4 A. Yes, it did.

5 Q. Good. And you told us you were involved in the development
6 of the scope of works for that project. Is that correct? In some
7 aspects of it.

8 A. The technical requirements, yes.

9 Q. Yes. And is it correct to say that when you have a competitive
10 tender process the employer sets out the work that it wants done
11 and goes into the marketplace to invite contractors to bid for
12 those works?

13 A. Correct.

14 Q. Yes. Would it be also fair to say that the employer expects
15 contractors to submit bids saying the manner in which they
16 intend to execute those works?

17 A. Correct.

18 Q. Good. And would it also be correct to say that the bids for
19 contractors come in after questions are answered by way of the
20 addendum process?

21 A. Correct.

22 Q. Good. So when the addendum you were shown this morning
23 was issued—that's the addendum at page 598—would it also be
24 correct to say that no contractor had submitted a bid at that
25 point in time?

26 A. Correct.

27 Q. Good. And you will accept, will you not, that when the

1 contractor received the scope it is incumbent upon the
2 contractor to decide how it executes the works?

3 A. Correct.

4 Q. Yes. And is it not also true that even if an employer
5 contemplates the performance of the scope of works in a
6 particular manner, it is open to a contractor to bid, to carry out
7 the scope by virtue of a different method of performance than
8 that envisaged by the employer?

9 A. Correct.

10 Q. Yes. And is it not the fact that in this case that is precisely—if
11 we are to accept that the addendum is to be construed in a way
12 that the line is to be emptied in its entirety, if we are to accept
13 that, is it not correct that when the contractor submitted his bid
14 he suggested a different method of performance? I'd like to
15 take you to document 6 or page 659 which forms part of
16 LMCS' project execution plan.

17 **Mr. Mootoo:** Page 659. It's now on the screen, Chairman.

18 **Mr. Chairman:** 659; I just need to find it in my bundle first.
19 Thank you.

20 **Continued Examination By Mr. Mootoo:**

21 Q. I'd like to take you to the bottom half of that page, Mr.
22 Mohammed. You would see a heading "Procedure for
23 Removal of Line Content between berth 5 and berth 6". You
24 see that?

25 A. Correct.

26 Q. Good. So let's just find ourselves back in context again.
27 Would you accept this document came after the addendum at

1 page 598?

2 A. Correct.

3 Q. Good. So would you also accept that this is the contractor
4 saying to the employer this is how I intend to execute the
5 works?

6 A. Yes.

7 Q. Good. And let's go to the last bullet point on that page. And
8 let's read it together.

9 "Once level in the riser has dropped to 35 feet below sea level, a line
10 plug will be installed."

11 You see that?

12 A. Yes.

13 Q. Would you, therefore, agree with me that what the contractor is
14 saying to the employer is whatever you have invited in your
15 tender documents or you've said in your appendix or
16 addendum, the scope of works that you want done this is how I
17 propose to do it?

18 A. Yes.

19 Q. Yes. And this is a—would you also agree with me that this is a
20 different method than simply emptying the line?

21 A. Correct.

22 Q. Good. Would you also agree with me that Paria was open—it
23 was open to Paria to reject that or accept it?

24 A. Correct.

25 Q. Good. And in this case, you'll also agree that the contractor,
26 LMCS, was the one possessing all the specialist knowledge and
27 expertise to carry out the works?

1 A. Considering that it was to be executed as a turnkey project, yes,
2 it is expected.

3 Q. Yes. And is it not also correct to say that Paria would have
4 known of this document?

5 A. Yes.

6 Q. And is it also not correct to say that Paria accepted the
7 contractor's works, the contractor's bid, in the full knowledge
8 that the contractor was saying that it will execute the works in a
9 manner not by the full emptying of the line, but that only if the
10 line is empty to 35 feet below sea level?

11 A. Yes.

12 Q. And this is what the contractor was representing it could do as
13 the specialist contractor. Correct?

14 A. Correct.

15 Q. And there was no reason to believe that the contractor couldn't
16 do the works in this manner as far as you are aware?

17 A. It goes back to where I said depending on where the repairs are
18 to be carried out, once the line is suitably drained at or below
19 that level—

20 Q. Yes.

21 A. Yes, it can be done.

22 Q. And this was the same contractor who had successfully
23 executed works of this nature one year before for Paria?

24 A. Correct.

25 **Mr. Mootoo:** Mr. Chairman, I have no further questions for
26 this witness. Thank you.

27 **Mr. Chairman:** Thank you. Mr. Maharaj.

1 **Further Examination By Mr. Maharaj SC:**

2 Q. Yes. In the documents you were shown by Mr. Mootoo at page
3 659, and you were shown about—it was pointed out to the last
4 bullet on that point.

5 “Once level in the riser has dropped to 35 feet below sea
6 level, a line plug will be installed.”

7 Okay? And you answered that. Okay? If you look above that,
8 the one just above that:

9 “Using air driven pump, pump out approximately 300
10 barrels of line content.”

11 You see that?

12 A. Yes, correct.

13 Q. And what that means? What you understand that to mean?

14 A. An approximate volume of 300 barrels.

15 Q. To pump out?

16 A. Correct.

17 Q. Correct. Now, you were asked about the contractual process.
18 The contractual process in this case—and you are experienced
19 in this because you work at Paria—you had a scope of works
20 developed by Paria. Correct?

21 A. Correct.

22 Q. Then that was put out; then you would have had questions
23 asked about the scope of work by LMCS?

24 A. Correct.

25 Q. Then you would have method statements submitted to Paria in
26 relation to how to do the work. Am I correct?

27 A. Correct.

1 Q. Then you would have Paria approve the method statements in
2 this case?

3 A. From my understanding, the review that Paria does for method
4 statements, because we don't have the specialist knowledge of
5 how to do the works, is if the methods capture the works to be
6 done and the inspection and quality requirements—

7 Q. So are you saying that Paria approved the method statements
8 without having the expertise?

9 A. Specific to subsea repairs, correct.

10 Q. In respect of this contract, are you saying that Paria did not
11 approve the method statements?

12 A. Paria approved the method statement as it relates to the
13 inspection in quality requirements and the list of works to be
14 completed at the end of the project.

15 Q. I am asking you, the method of how the work was to be done,
16 didn't Paria approve the method statements in this case? Mr.
17 Mohammed—

18 A. For this job I was not involved in the review of the method
19 statement.

20 Q. Okay. I'm suggesting to you, Paria approved the method
21 statements that was submitted by LMCS.

22 A. Okay.

23 Q. I am also putting to you that Paria approved the risk
24 assessments done by LMCS.

25 A. Okay.

26 Q. Paria also approved the emergency response done by LMCS.

27 A. Okay.

1 Q. And that was how Paria awarded the contract to LMCS. What
2 you have to say about that?

3 A. I am unsure if this particular method statement used for
4 execution was the method statement which it was awarded on,
5 because the method statement is a live document that could
6 change. Right? So I just want to be clear about that.

7 Q. Okay. But Paria—apart from approving the contract, Mr.
8 Mohammed, Paria monitored the implementation of the
9 contract.

10 A. Correct.

11 Q. Paria held out itself as having the expertise through Kenson to
12 monitor this project. Isn't that so?

13 A. Paria would have had their roles and responsibilities outlined in
14 the contract clearly.

15 Q. Why would Paria have two persons or one person topside while
16 these works were being done in the hyperbaric chamber in the
17 habitat monitoring, taking a video? Wasn't Paria monitoring
18 compliance of this job?

19 A. At this exact—the moment when the incident occurred?

20 Q. Yes, yes.

21 A. I am unsure who was on site and monitoring. I do not know the
22 details.

23 Q. Oh, you're unsure. But you know about the procedure that
24 Paria used to monitor works?

25 A. Okay. So there's—

26 Q. You have answered a lot of questions to Mr. Mootoo.

27 A. Okay. So—

1 Q. You know of the procedure?

2 A. Right, so—

3 Q. Isn't one of the procedures that Paria—

4 **Mr. Peterson SC:** Could the witness be allowed to answer at
5 least one of the questions?

6 **Mr. Chairman:** I think that's a fair observation.

7 **Mr. Maharaj SC:** Much obliged, Mr. Chairman; much
8 obliged.

9 **Mr. Mohammed:** Okay, so let me explain—

10 **Mr. Mootoo:** And also, Mr. Chairman, if I may, the witness is
11 here. He's indicated what his role is. I asked him about the
12 tendering process. Mr. Maharaj is asking him to commit to a
13 whole range of activities well beyond his job description. We
14 have other witnesses who will be coming.

15 **Mr. Chairman:** I think that's a fair point as well, Mr.
16 Maharaj. We have coming after this witness, Mr. Wei, who,
17 perhaps, can deal with some of these questions for you.

18 **Mr. Maharaj SC:** Okay. Okay.

19 **Mr. Mohammed:** So just to add, just to maybe help you. In
20 the scope of works, because this is a turnkey project, Paria's
21 responsibility and the contractor's responsibilities were
22 outlined. I don't know if you all want to refer to that, maybe
23 we could answer what was Paria's responsibility related to this
24 project.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. Okay. Mr. Mohammed, I will accept what the Chairman said,
27 and I'll wait for the other witness.

1 A. Okay.

2 **Mr. Maharaj SC:** Thank you very much.

3 **Mr. Chairman:** I just have one question arising from what
4 we've been looking at.

5 **Examination By Mr. Chairman:**

6 Q. Could you have a look—put back up page 659, please. Thank
7 you. You were taken by Mr. Maharaj to the second bullet
8 point. Do you see that?

9 “Using air driven pump, pump out approximately 300
10 barrels of line content.”

11 Do you see that?

12 A. Correct.

13 Q. “Content to be pumped in Paria Fuel Trading Company
14 Limited slops barge and ferried over to Lube Oil Jetty
15 where it, line content, will be removed by Paria Fuel
16 Trading Company Limited supplied Vacuum Truck.”

17 I don't claim to understand all of that, but what I get from that
18 is that 300 barrels or whatever was in this pipe was to be
19 pumped out and put somewhere safe and taken away rather than
20 pumped into the ocean. Am I right about that?

21 A. Correct.

22 Q. Right. So they're saying, according to what you've told us and
23 what Mr. Mootoo was asking you, that 300 barrels, in effect,
24 were to be taken from this pipeline.

25 A. Approximately 300 barrels, correct; approximately.

26 Q. Do you know whose—first of all, whose responsibility was it to
27 do that? Was that LMCS' responsibility or was it Paria's?

1 A. I am unsure. I'll have to refer to the scope of works
2 requirements.

3 Q. Right.

4 A. But I know Paria would have access to a slops barge and a
5 vacuum truck.

6 Q. Well, it says so, doesn't it? It's there.

7 A. Yes, correct. Paria will provide a slops barge and a vacuum
8 truck to carry it to a storage tank.

9 Q. Do you know if there is some method by which you can
10 measure how much is coming out of the pipe?

11 A. I don't know, but I will speculate they do. I don't know.

12 Q. If you don't know then don't—don't speculate. We have other
13 witnesses. I'm just asking if you knew. You don't?

14 A. I don't know.

15 Q. All right. Well, I'll ask somebody else. Thank you very much.

16 A. Yes.

17 **Mr. Chairman:** Does anybody else have anything they want
18 to ask arising? I hope not.

19 **Mr. Peterson SC:** No, Mr. Chairman.

20 **Mr. Chairman:** Good. And that means we'll probably take
21 our break now, a little bit earlier than we would otherwise, but
22 it's probably a convenient point at which to do so. Thank you
23 very much, indeed, for coming; appreciate your efforts. Thank
24 you, and you're free to go. You can stay or leave as you
25 choose. Mr. Peterson, you looked exercised by something?

26 **Mr. Peterson SC:** No, Sir. I was just telling him we'll take
27 the break now and then we'll call Wei after. He's present.

1 **Mr. Chairman:** How do we pronounce his name? I'm not
2 quite sure. Is it "We" or "Why"?

3 **Mr. Peterson SC:** We have been struggling with that for a
4 while, Sir. We have versions. It is not Gilbertson, though.

5 **Mr. Chairman:** One thing is for sure, it's not, is it? I think
6 it's because you introduced me—you told me that your son is
7 here.

8 **Mr. Peterson SC:** Yes, he is. The amount of heckle I've
9 gotten over that. But I think it's "We", Michael Wei.

10 **Mr. Chairman:** All right, lovely, thanks. Thank you very
11 much, indeed. Thank you, Mr. Peterson.

12 **11.23 a.m.:** *Enquiry suspended.*

13 **11.34 a.m.:** *Enquiry resumed.*

14 **Mr. Chairman:** Yes, Mr. Maharaj

15 **Mr. Maharaj SC:** The next witness, Mr. Chairman and
16 Commissioner, is Mr. Michael Wei and the summary would be
17 given by Mr. Ronnie Bissessar and then I'll follow Mr.
18 Bissessar.

19 **Mr. Chairman:** Thank you very much.

20 *[Pause]*

21 *[Mr. Michael Wei sworn]*

22 **Mr. Wei:** I, Michael Wei, solemnly swear that the evidence I
23 shall give to the court in this case shall be the truth, the whole
24 truth and nothing but the truth.

25 **Mr. Chairman:** Yes. Thank you for coming. Do I pronounce
26 your name "we" or "why"?

27 **Mr. Wei:** "We".

1 **Mr. Chairman:** “We”. Well, thank you for coming. There’s
2 water there for you if you want it. If you need a break at any
3 point, just let me know and we’ll see what we can do, all right?

4 **Mr. Wei:** Sure, thanks.

5 **Mr. Chairman:** We’re going to start with a procedure where
6 your statement is going to be summarized rather than having to
7 go through the entirety of it. You follow? That summary is
8 going to be given by Mr. Bissessar who sits at the end of the
9 row there. Listen carefully to it. If you disagree with anything,
10 let us know once we get to the end. All right? And then you’ll
11 be asked some questions by Mr. Maharaj and other counsel who
12 have an interest. All right? Okay. Thank you. Mr. Bissessar.

13 **Mr. Bissessar:** Thank you, Chair.

14 **Examination By Mr. Bissessar:**

15 Q. Mr. Wei, do you recall signing a witness statement dated 16th
16 August, 2022?

17 A. Yes.

18 Q. And the contents of that witness statement, are they true and
19 correct?

20 A. Yes.

21 Q. I will now summarize your witness statement which is at WB
22 1271. While I’m doing so, on the screen a schematic
23 representation of Sealine 36 and the two risers at berths 5 and 6
24 will be displayed.

25 Sealine 36 was out of service as its risers at berths 5 and
26 6 had clamped leaks. To return Sealine 36 to service, the
27 approach undertaken was to first repair Sealine 36 between pile

1 bent 80 and berth 5 and that was done in November 2020 and to
2 then repair the section between berths 5 and 6. The scope of
3 works for the works at berths 5 and 6 were prepared by Paria
4 and then a tender package for the project was submitted to
5 registered vendors of Paria which included LMCS Limited.

6 A. I think this doesn't really represent what the first repair was,
7 eh? There was a second loop. The risers are fixed at 5 first as
8 mentioned in 2020 would be a separate loop not this loop,
9 okay?

10 Q. Thank you, Mr. Wei. This is just merely for illustration
11 purposes.

12 A. Yes.

13 Q. It's not related to specifically what we are summarizing. The
14 scope of works for the works at berths 5 and 6 were prepared by
15 Paria and then a tender package for the project was submitted to
16 registered vendors of Paria which included LMCS Limited,
17 LMCS for short. LMCS was the only bidder that was
18 technically compliant with all of the requirements for the
19 contract and Paria's manage management tenders committee
20 approved the award of the contract for the repairs and
21 refurbishment works at berths 5 and 6 to LMCS and that was on
22 27 May, 2021.

23 A purchase order was issued, and, apart from the terms
24 and conditions contained in the invitation to bid, the works are
25 also governed by Paria's general conditions of contract dated
26 10th May, 2021. LMCS had previously successfully completed
27 a similar subsea repair job at berth number 5. Its performance

1 on that job had been assessed by Paria as either very good or
2 excellent in various categories.

3 After this project commenced in June 2021, there was an
4 accident at the offshore services dock resulting in an injury to
5 an LMCS worker. OSHA issued a prohibition notice
6 suspending all works on the Sealine number 36. Works
7 resumed in January 2022 after OSHA lifted the prohibition
8 notice upon being satisfied that Paria satisfied the requirements
9 for a safe resumption of works.

10 There was a meeting on 24th February, 2022 between
11 Paria and LMCS representatives where the planned schedule of
12 works for Friday, 25th February, 2022 and the weekend were
13 outlined and discussed. Mr. Wei, yourself, lists the specific
14 tasks which were to be completed and the sequence of the said
15 tasks to be completed from Friday, 25th February, 2022 up until
16 the completion of the works. Notably, according to you, Mr.
17 Wei, at paragraph 56 of your witness statement, the plugs were
18 not to be removed from within the hyperbaric habitat, rather,
19 they were to be removed from the topside after the habitat had
20 been removed.

21 Permits to work were issued on 25th February, 2022.
22 The main permit to work was PTW 9320 for various
23 maintenance works. Attached to that PTW was a revised
24 method statement dated 4th January, 2022 and a job safety
25 analysis dated 10th December, 2021. LMCS' method
26 statements JHAs, risk assessments and dive plan documents
27 were all reviewed and accepted by Paria. The revised method

1 statement dated 4th January, 2022 was subject to Paria's permit
2 to work system.

3 LMCS did not identify drowning, suffocating in the
4 pipeline as credible scenarios in its documents. In its dive plan,
5 it stated that the likelihood of entrapment or entanglement in
6 the pipeline was no. Paria accepted this assessment because no
7 one could enter the pipeline while the mechanical and inflatable
8 plugs, collectively known as the migration barrier, were in
9 place. The configuration of the work area in the pipeline was
10 such that the top of the riser would pass the waist of the divers
11 standing in the chamber and it was not credible or reasonable to
12 expect that any of the divers would enter the pipeline
13 voluntarily.

14 There was no job or task described in PTW 9320 for the
15 removal of either the mechanical plug or the inflatable plug.
16 The removal of the plugs by LMCS without express approval
17 by way of permit to work would have constituted a serious
18 breach of Paria's PTW—PTW's procedure and constitute work
19 which was not authorized. The removal of the plugs would
20 have caused a dangerous disturbance of the atmospheric
21 conditions inside the chamber and the differential pressure
22 between inside the pipeline and inside the chamber. This would
23 have allowed the hydrocarbon fumes from the pipeline to enter
24 the chamber which would have contaminated the breathing air
25 in the chamber and would have created a combustible
26 environment and would have created as well a fire hazard.

27 In your witness statement, you say that the removal of the

1 plugs by LMCS opened the differential pressure between the
2 pipeline and the chamber which is likely to have caused a
3 powerful and immediate suction effect which pulled and
4 entrapped the divers inside the pipeline and ultimately caused
5 the deaths of four of them. You were a member of Paria's
6 incident command team and you gave in your witness statement
7 an account of the response of that team to the incident.

8 In your witness statement, you say that at 6.00 p.m., this
9 is on Friday, the 25th of February, 2022 the IMT, that's the
10 incident command team or the incident management team, got
11 information that Christopher Boodram was rescued. The IMT
12 then made a decision that the remaining divers were in the
13 pipeline and the IMT decided that it was critical to ascertain the
14 conditions in the pipeline for any rescue efforts to be safely
15 planned and executed.

16 In your witness statement, you say, that, based on that
17 decision, at 6.10 p.m., the IMT took steps to source cameras to
18 provide internal visuals of the pipeline. You say that it first
19 made efforts to obtain a borescope but this could not be used
20 because the borescope's light intensity was inadequate. In your
21 witness statement you say that the IMT made efforts to obtain a
22 push rod camera which was used at about midnight to conduct
23 an inspection of the pipeline but encountered an obstruction in
24 the horizontal section.

25 You say that at 10.00 p.m. the IMT had a telephone call
26 with Christopher Boodram. He is the survivor. At around
27 10.50 p.m., you say in your witness statement that you made

1 arrangements to obtain a pipeline crawler. That crawler also
2 encountered an obstruction in the horizontal section of the
3 pipeline. You then discussed the works of the IMT and the ICT
4 and you say that during the meetings and discussions of the
5 ICT, several search and rescue options were discussed and you
6 identified four of them.

7 Firstly, open water search. This was immediately after
8 the incident. Secondly, a dive rescue into the pipeline and dry
9 hyperbaric chamber, and you say that this, once the first diver
10 was recovered, and it was therefore known that the divers were
11 in the pipeline. Thirdly, a confined space rescue in the pipeline
12 in a dry environment and you say that seawater had to be
13 pumped out of the line prior to this rescue effort, and finally,
14 fourthly, cutting of the pipeline. You say that, however, neither
15 the coast guard or the expert diving companies or the rescue
16 company which Paria contacted could be persuaded to enter the
17 pipeline to conduct a rescue. You say that, further, the cutting
18 of the pipeline was deemed too inefficient and too risky due to
19 the estimated time it would take to plan and execute the works.

20 Mr. Wei, can you please stay where you are as Mr.
21 Maharaj has several questions for you following any statements
22 from the Commission?

23 **Examination By Mr. Maharaj SC:**

24 Q. Good morning, Mr. Wei. Good morning to you.

25 A. Good morning to you, too, Sir.

26 Q. I just want to ask you some questions. I'm sure you'll be able
27 to assist us, whatever—

1 **Mr. Chairman:** One second. Microphone.

2 **Mr. Maharaj SC:** Sorry.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. Sorry, I just want to ask you a few questions because I'm sure
5 you'll be able to assist us in the task which the Commissioners
6 have to decide. You said in your witness statement that you
7 were a member of the incident command team of Paria. Could
8 you explain to us what is the duty? What is the duty and
9 functions of that team? Just a summary of it.

10 A. Okay. The incident command team is a team responsible for
11 the management of any major incidents on the site or
12 emergencies. Right? It's headed by the incident commander.
13 And another function—other functional people in the Group
14 would be a logistics coordinator which would have been me,
15 you would have someone for the site, right, and any other
16 supporting that would be required. So it's basically a
17 management team that comes together to manage the incident.

18 Q. Okay. And on the 25th of February, 2022 when this accident
19 occurred, you were a functioning member of that team, am I
20 correct?

21 A. Yes.

22 Q. And according to your witness statement, at about three 3.13
23 p.m. on that date, you first heard of the accident?

24 A. Yes.

25 Q. Yes. Now, I want to deal first with the rescue aspect of your, of
26 your statement, okay? It was mentioned a short while ago that
27 at, um—you got information that Christopher Boodram was

1 rescued, and, am I correct you got that information at around
2 6.00 p.m. on the 25th of February?

3 A. That is correct.

4 Q. Correct. Would I be correct to say that prior to the rescue of
5 Christopher Boodram, the efforts of Paria to rescue was—well,
6 constituted mainly searching in the open waters for the divers?

7 A. Based on the information provided by LMCS, Paria focused on
8 sea and search. Let me explain a little bit. Under the contract,
9 LMCS as our independent contractor, expert contractor, is
10 required to provide an emergency rescue plan and the
11 respective people to execute the emergency plan. This being a
12 job of diving, Paria doesn't have divers, neither the competency
13 with diving in this instance. So that would have relied on the
14 contractor to provide that. At the time of the incident, the
15 information reaching to the IMT was limited, only that it was
16 reported by Mr. Andrew Farah that an incident occurred about
17 2.45.

18 Subsequent to that, he put on his gear and entered the
19 water and about 15 minutes later thereafter he reported that in
20 the chamber there were no divers, though it was dry. That
21 information related back to the IM—there was, there was a
22 report back to the incident command team that an incident
23 occurred in the chamber and Paria, on its own accord, started
24 sea search because that is what we're capable of. We have
25 boats, we have tugs, and we were able to such the open water
26 while LMCS would have been responsible for the execution of
27 their rescue plan within the chamber.

1 Q. Okay. I'll come later to about responsibility. I'm just trying to
2 get the facts from you.

3 A. Yeah.

4 Q. It is therefore correct that prior to the rescue of Christopher
5 Boodram, Paria's rescue efforts were confined to searching the
6 open waters?

7 A. Correct.

8 Q. Correct. And, in fairness to you, contacting some of the
9 agencies like the coast guard and the fire service?

10 A. Yes.

11 Q. Correct? Before you—well, put it this way. I want to ask you,
12 so after, after Paria and the incident command team found out
13 that Christopher Boodram was rescued, according to your
14 statement, you all started to make efforts to get cameras,
15 crawlers, borescope and et cetera to get information of what
16 was in the pipeline, the condition in the pipeline?

17 A. Yes.

18 Q. And, according to your statement, you would have known that
19 Christopher Boodram was rescued, he was taken to the San
20 Fernando hospital, right?

21 A. Yes.

22 Q. And it was not until about 10.00 p.m. that the incident
23 command team had a virtual meeting with him?

24 A. That is correct.

25 Q. Correct. So during the period 6.00 p.m. to 10.00 p.m., um, the
26 efforts that Paria made to assist in rescuing was purely trying to
27 get diving teams to go into the pipeline and getting cameras to

1 see what was in the pipeline?

2 A. Okay. Trying with respect to assisting LMCS with the dive
3 rescue if they had a plan to do that. Right?

4 Q. Could you give us an explanation that you are in the incident
5 command team, divers were missing and you would have got
6 that information at about 3.00 p.m., before Christopher
7 Boodram was rescued, you all were doing rescuing in the open
8 waters, you knew that at six o'clock he was rescued, you
9 continued to try to find out what information you could get
10 from what is inside the pipeline, the condition of the pipeline
11 and not until ten o'clock you decided to talk to Boodram who
12 would have had first-hand information about what was in the
13 pipeline?

14 A. Okay. Let's put it in context. At six o'clock, Mr. Boodram was
15 pulled from the pipeline. Mr. Boodram came out from the
16 pipeline in a condition that the first thing you would try to do
17 was to ensure that his life is safe. Had we not done that,
18 Christopher Boodram may not have been here today. What we
19 did, we did a medical—quick medical check on the guy, on Mr.
20 Boodram. For example, he came up with bodily injuries, he
21 had, I don't know what oil or the throat, it was fully covered in
22 oil and the primary responsibility would have to be ensuring
23 that he is medi—he is properly taken care of before questioning
24 on every—in every, every condition inside the pipeline. Right?

25 Subsequent to that, he was moved to the hospital. At the
26 hospital, because of the, um, restrictions of COVID, we were
27 unable to get to him, to get information from him. I understand

1 from the IMT members a call needed to make within the
2 medical fraternity higher up to get information to at least get a
3 call to him and that was successful at ten o'clock. Additionally,
4 at the time to talk to him was limited. The doctor said, um,
5 you—they wasn't give much time to talk to him.

6 But also too, what you need to understand too is that the
7 information from Boodram is not only verbal. When Mr.
8 Boodram is pulled out from the chamber, there's also non-
9 verbal information that one can get. For example, he was
10 covered in oil. He had injuries, internal injuries, and both, um,
11 disoriented.

12 Q. Mr. Wei, according to the evidence we have so far from the
13 record, did you—did Paria make any effort to have a doctor to
14 meet Mr. Boodram when he was rescued? Was a doctor there?

15 A. I, I don't know.

16 Q. No. Was, was a decompression unit available for him to go in
17 when he was rescued at the sea, at the place of rescue?

18 A. The place of rescue the requirement for—the requirement for
19 any hyperbaric chamber would have been the supply of LMCS.
20 Right? Paria, again, is not in the diving business. Right? But
21 Paria did assist in trying to get a hyperbaric chamber in the
22 event that he required the use of a hyperbaric chamber.

23 Q. So I just want it clear from you, you were taking the position,
24 Paria was taking the position since, in your view, it was LMCS'
25 responsibility, you were not taking steps to have a DMO there?

26 A. Not at all. Paria—

27 Q. Did you make any, did you make any—did you take any steps

1 or any action to have a—

2 A. Specifically for me, I, I did not take any actions to call a DMO.

3 Q. Are you—well you were in the IMT?

4 A. Correct.

5 Q. Did the IMT take any steps?

6 A. I, I would not know.

7 Q. You would not know.

8 A. But we had called in all the other agencies, the fire services,
9 whoever, coast guard. I'm not too sure if we actually called a
10 DMO.

11 Q. Mr. Boodram told us that when he went to the hospital he was
12 conscious, he was talking, he talked to his wife, he talked to the
13 nurses. Would you doubt that?

14 A. No, I don't doubt that.

15 Q. You don't doubt that. Now, if he was in that condition, would
16 you agree with me that the IMT and you would have got
17 important information from him as to what was the condition in
18 the pipeline?

19 A. If he was—if we could have spoken to him, yes.

20 Q. Did you, did you make any effort to find out whether you could
21 have spoken to him?

22 A. Me personally or the IMT?

23 Q. You, you.

24 A. No, I didn't make—

25 Q. No.

26 A. —personal efforts to call him because I don't have his contact
27 numbers. I don't know the numbers for the hospital.

1 Q. But you were in the IMT.

2 A. [*Inaudible*]

3 Q. Correct? Did the I—what, what the IMT did that evening, did
4 you have records of it?

5 A. Yes, there should be records.

6 Q. So there are minutes of—that happened at that meeting?

7 A. There would be—the IMT would log—the IMT logs what, um,
8 not, or um, log, a live log of what's occurring.

9 Q. From what you know, have you seen any record of the IMT
10 making any effort to talk to Mr. Boodram before ten o'clock
11 that evening?

12 A. From what I know, we were attempting to talk to him but we
13 only got through at ten o'clock.

14 Q. So when, you, you—so what, you only got through, what, on
15 the telephone or what, what—

16 A. On the telephone.

17 Q. So when did you attempt to talk to him?

18 A. From as early as possible, I guess. From—

19 Q. Do you know or you assume?

20 A. I assume.

21 Q. You assume.

22 A. Because that would be the natural, that would be the natural
23 response.

24 Q. Well, from six o'clock to ten o'clock, four hours, did you
25 consider it was urgent to be able to get this information
26 because, according to your—

27 A. Yes.

1 Q. —according to your statement, that was important for you all—

2 A. Right.

3 Q. —to make a decision as what—

4 A. Right.

5 Q. —what to do to rescue?

6 A. Right. Personally, I did not go to the hospital but I understood
7 that we sent someone to the hospital in an event to—

8 Q. Who was that?

9 A. I don't recall his name.

10 Q. Do you have a record of the person's name?

11 A. We will have to talk to the HSC lead on the team.

12 Q. Mr. Wei, as a senior officer of Paria, would you not have
13 thought at the time, and a member of the incident command
14 team, would you not have thought at that time that you could
15 have had an official of Paria accompany Mr. Boodram in the
16 ambulance to get vital information that you were looking for
17 from cameras and borescope and et cetera?

18 A. Okay—

19 Q. At the time did you—

20 A. Okay—

21 Q. —did you think of that?

22 A. —the incident command team's structure has different
23 responsibilities for the individuals.

24 Q. I'm sorry?

25 A. The incident command team comprises different members who
26 have different responsibilities. At the time of the incident when
27 Christopher Boodram was retrieved, I would have then started

1 to focus on collect—on getting the, as you said, the cameras
2 and stuff to get the information on the line as part of the
3 logistics case. The part of the, the, um, stabilization and
4 transport of Mr. Boodram would have fallen on another
5 member of the team.

6 Q. Who is that member?

7 A. That would be Randy Archbald.

8 Q. Well, as a member of the incident command team, you're here
9 to help us.

10 A. Yeah.

11 Q. Would you agree that if someone from Paria or a member of the
12 incident command team had accompanied Mr. Boodram, they
13 could have got information from Mr. Boodram of the matters
14 you all were making attempts to get from the cameras and the
15 bore rose scope and et cetera?

16 A. That—no, no, no, no. Mr. Boodram—we would not know the
17 condition of Mr. Boodram or the information or the condition
18 of Mr. Boodram at that time. Right? As I said before, it was
19 trying to stabilize Mr. Boodram. Right? Also too, visual, the
20 visual information from Mr. Boodram, the pipeline is dark, full
21 of oil, Mr. Boodram would not give any visual information.
22 But Paria were making attempts to communicate with Mr.
23 Boodram to understand what information he could provide for
24 the internal of the pipe.

25 Q. Okay. Am I correct in saying that from six o'clock to ten
26 o'clock, and continuing, well let's say from 6,00 to 10.00—

27 A. Yeah.

1 Q. —the purpose, the IMT was trying to get the cameras and to get
2 information to see what was the condition inside the pipeline in
3 order to determine what rescue plan to devise?

4 A. To assist with the rescue plan to devise, yes.

5 Q. Yes. And would you agree with me that Mr. Boodram was
6 inside that pipeline, you would have known then that after he
7 was rescued he was rescued from the pipeline, from inside the
8 pipeline. Am I correct?

9 A. Yes.

10 Q. So the information which the IMT wanted to have was
11 information which Mr. Boodram could have given to you and
12 the IMT, am I correct?

13 A. Yes.

14 Q. Yes.

15 A. And we got that around ten o'clock.

16 Q. Yes. You gave evidence of a conversation the IMT had with
17 Mr. Boodram.

18 A. Yes.

19 Q. And the information you gave in your witness statement is
20 accurate?

21 A. To the best of my recollection, yes.

22 Q. Is accurate. I want to read what you said in your affidavit
23 about—no, no, no, about what—the information he had with
24 Mr. Boodram. The conversation. That conversation is at—I
25 wonder if the witness can be shown his witness statement? At
26 paragraph 106, page one two nine zero. Okay. You found it,
27 Mr. Wei?

1 A. Yes, Sir.

2 Q. You said:

3 “At around 10.00 p.m. the IMT”—and the names there—
4 “were on call with the rescue diver, Christopher
5 Boodram, who provided his recollection of the events
6 within the pipeline. He stated that on his way out of the
7 pipeline he crossed over Blacks, who was already gone,
8 he was assisting Kaz who had a broken leg. He
9 encountered an air pocket. They continued on the way
10 out but lost a diver along the way. He encountered
11 another air pocket and then lost Kaz. He recalled that he
12 felt and counted two pipe welds before he reached the
13 elbow. As he was coming up with Fyzie behind him,
14 Fyzie told him he could not make it and to leave him
15 behind.”

16 Do you, you said this was accurate of the conversation that you
17 had with him? Do you see—

18 A. My recollection of the conversation, yes.

19 Q. **Yes.** Do you see anything here of the—they asking him about
20 the condition in the pipeline, those conditions, what you wanted
21 to know?

22 A. He reported that there was a pocket. Remember I told you that
23 the time was limited and he wanted to recount with respect to
24 what conditions in the pipeline, the people in the pipeline and,
25 yes, he provided some information on the condition of the line.

26 Q. But you wanted to know about the air pocket or you wanted to
27 know whether there was any obstruction? In other words, you

1 wanted to know—the IMT wanted to know whether someone
2 could have gone into the pipeline to rescue the divers, so you
3 wanted to know what was preventing, if anything was
4 preventing persons to go into the pipeline?

5 A. This communication was to establish who would have been
6 alive in the pipeline and what else was in the pipeline.

7 Q. The question I'm asking you is that would you agree with me
8 that you could have got information from Mr. Boodram as to
9 whether, on his way out of the pipeline, there was any
10 obstruction to prevent any diver from going into the pipeline to
11 rescue the men?

12 A. Repeat the question, please?

13 Q. Would you agree with me that the information you could have
14 got from Mr. Boodram was to find out whether there was any
15 obstruction in the pipeline to prevent any divers from going into
16 the pipeline to rescue the men?

17 A. I, I would say no. Because I would—

18 Q. You would say no?

19 A. —I would not know what Boodram would have said or what he
20 would have encountered.

21 Q. But, but were you interested to find out as a member of the
22 incident command team?

23 A. Of course. That's why we got in touch with him.

24 Q. But if you were interested to find out, you had Mr. Boodram
25 who could have given you first-hand information, the best
26 evidence, and you spent hours trying to get cameras to go in to
27 find out what you could have got from Mr. Boodram.

1 A. Okay, remember I mentioned to you when we finally got
2 through to Mr. Boodram, Mr. Boodram started to recount the
3 events, the persons that's inside, and then we were informed by
4 the person on the other side that he cannot speak much longer.

5 Q. But would you agree with me that you did not take any steps,
6 you or the IMT, did not take any steps—

7 A. I disagree with you.

8 Q. —to interview Mr. Boodram before ten o'clock?

9 A. I disagree with you.

10 Q. What steps you took?

11 A. We said—I earlier said that we had someone from the HSC
12 team—

13 Q. But you cannot tell us who is that person. Did that person
14 report to the IMT?

15 A. That person reported to—into the HSC team who would, would
16 have provided that information.

17 Q. Mr. Wei, as a member of the IMT, were you interested in taking
18 steps to rescue Mr. Boodram?

19 A. Of course.

20 Q. According to your statement, it was important for the IMT to
21 make a decision to rescue, to find out what was the condition in
22 the pipeline in order to determine what action it will take
23 because, according to your statement, Mr. Wei, there were
24 several divers that you all contacted and contacted for the
25 purpose of going into the pipeline. Am I not correct?

26 A. Yes.

27 Q. Right. So, here it is you have a man who just came out of the

1 pipeline, he could give you all that information. Right? Why it
2 is, why it is that—I haven't seen any evidence that Paria or the
3 IMT got someone to go with him to the hospital to get
4 information whilst he was at the hospital to get information?
5 I'm saying all this thing to under—for you to understand my
6 question. Could you assist us—

7 **Mr. Mootoo:** Mr. Chairman, if I may object, I'm sorry, but
8 this is in order to assist. Mr. Ramesh Lawrence Maharaj just
9 said he hasn't seen any evidence that anyone from Paria was
10 there. At least that's what I understand him to be saying.
11 Perhaps he might want to consider, before pursuing the
12 question, considering the statement of Mr. Paul Yearwood and
13 paragraph 33 of that statement. I don't want to identify what
14 that evidence is at this stage because the witness is giving
15 evidence.

16 **Mr. Maharaj SC:** Paul Yearwood at paragraph 33 says.

17 **Mr. Mootoo:** And, of course, um, I understand that witness
18 statements from Kenson are yet to come.

19 **Mr. Maharaj SC:** Yes. Yes, at paragraph 33, at paragraph 33
20 it said of Mr. Paul Yearwood's statement, it says that at the
21 time he indicated he was in the San Fernan—at 9.53 p.m. he
22 indicated he was at the San—that Mr. Sham Balkissoon said
23 that he was in the San Fernando General Hospital with Mr.
24 Boodram. A person who identified himself as Boodram was
25 put on the line and spoke to Mr. Mushtaq Mohammed. What
26 I'm saying, I'm not disputing that someone spoke to him. What
27 I'm disputing, I have not seen any evidence so far that anyone

1 tried to find out from Mr. Boodram what was the condition of
2 the pipeline in—when he came out.

3 **Mr. Chairman:** Yes. I, I think, er, if the purpose of your
4 question is to try and establish what was said, as opposed to
5 when it was said, then I think you need to make that clear.

6 **Mr. Maharaj SC:** Yes.

7 **Mr. Chairman:** If you're suggesting that it was—that there
8 was no effort, as I understand you to be suggesting, there was
9 no effort made to contact Mr. Boodram at all for the better part
10 of four hours, then I think that's already been answered. He's
11 made it clear that he says there were efforts being made.
12 Whether that's borne out we'll see.

13 **Mr. Maharaj SC:** Yes.

14 **Mr. Chairman:** But, for the moment, that's what his evidence
15 is.

16 **Mr. Maharaj SC:** Yes.

17 **Mr. Chairman:** I think we don't need to pursue that any
18 further, but if you're looking to establish precisely what is said,
19 that is a different matter.

20 **Mr. Maharaj SC:** Yes.

21 **Mr. Chairman:** And I shall certainly, for my part, be
22 interested in what it was that he said.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. Mr. Wei—

25 **Mr. Chairman:** I think it might be particularly useful—
26 forgive me. I think what might be particularly useful is to know
27 whether anyone wrote any of this down.

1 **Mr. Maharaj SC:** Yes.

2 **Continued Examination By Mr. Maharaj SC:**

3 Q. In respect of what this—in respect of Mr. Sham Balkissoon's
4 conversation allegedly made with Mr. Christopher Boodram, do
5 you know whether that was written down,— that there was any
6 written record of that?

7 A. I, I wouldn't know because that would be Sham, Sham
8 Balkissoon, I would not have, um, interfaced with Sham
9 directly.

10 Q. But you would agree with me that Mr. Boodram could have
11 given you information as to whether there was any obstruction
12 in the pipeline to prevent any rescue being done?

13 A. Mr. Boodram provided that information physically that there
14 was oil in the line. He provided information there was as an air
15 pocket. He provided information that the men were in the line,
16 right? He provided in—and the rest would have been deduced
17 from that the divers would have had their tanks off of them and
18 everything. The chamber information from Farah reflected that
19 the chamber was empty, meaning that all the tools and the gear
20 was inside.

21 Q. Based on what you have told me, Mr. Boodram did not say that
22 there was any obstruction in the pipeline to prevent a diver from
23 going into the pipeline?

24 A. Based on from my statement here, it did not state that.

25 Q. No.

26 **Examination By Mr. Chairman:**

27 Q. May I ask, just so that I understand it, did you keep a

1 contemporaneous note of what he was telling you?

2 A. No.

3 Q. Did anyone, as far as you know, keep a contemporaneous note
4 of what he was saying at ten o'clock?

5 A. That would have been recorded by the IMT.

6 Q. Well, do you know that that was recorded by the IMT in a
7 separate note?

8 A. Yes.

9 Q. Well somebody had it. Thank you.

10 A. I don't, I don't know if it was submitted here.

11 Q. But let me be clear. I don't claim to have read every single
12 piece of paper in the 20,000 that's been provided and it may be
13 that someone can enlighten us in due course as to whether there
14 was such a separate note kept or whether it was recorded in the
15 IMT and I look forward to seeing it if it was, all right? But you,
16 at any rate, did not keep a note?

17 A. Yes, specific for me I did not—

18 Q. No.

19 A. —keep a note.

20 Q. And just to that end, did you, when you made your statement,
21 which I think you made on the 16th of August of this year, so
22 many months after the event, did you have the IMT notes with
23 you when you made that statement?

24 A. A time for getting a specific time, maybe yes.

25 Q. Say that again please?

26 A. The note basically would have taken when I needed a specific
27 time.

1 Q. Right.

2 A. So I put the time based upon what time would have been—

3 Q. So you would have used those notes, such as they might have
4 been, to assist you in recording the sequence of events and the
5 times? Is that—would that be fair?

6 A. In a way, yes.

7 Q. Than you. Thank you very much.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. And in your witness statement you would have, you would
10 have, you would have put in your witness statement all the
11 matters you considered important relating to the rescue of Mr.
12 Boodram?

13 A. Yes.

14 Q. Yes. Now at paragraph 102 of your witness statement, after
15 you—after it was found out that Mr. Boodram was rescued
16 within the pipeline, you stated at paragraph 102:

17 “Having heard that Mr. Boodram said that the remaining
18 divers were trapped in the pipeline, it was critical for the
19 IMT to ascertain the conditions within the pipeline for
20 any rescue effort to be properly planned and safely
21 executed.”

22 That is correct?

23 A. Yeah.

24 Q. And then what the IMT did was that at paragraph 107, at
25 around 10.50 p.m., a company was contacted to provide a
26 crawler with a camera, correct?

27 A. Yes.

1 Q. And what, what was that purpose? What that was to achieve?

2 A. To enter in the pipeline—

3 Q. Uh-huh.

4 A. —to establish—to identify the conditions inside the pipeline.

5 Q. Well, to identify whether there is any obstruction, because at
6 paragraph 107 you said, um:

7 “I contacted HHSL Systems Limited for the mobilization
8 of a pipeline crawler with camera. HHSL reported that
9 within the riser of berth number 6 they were able to
10 descend the riser unobstructed. On the horizontal scuba-
11 tank was obstructing the pipeline crawler from going
12 further.”

13 Correct?

14 A. Yes.

15 Q. So, would I be correct in saying that the IMT wanted to know,
16 through the crawler and the borescope, whether there was any
17 obstruction in the pipeline?

18 A. Yes.

19 Q. Yes. And the attempts were made by the IMT throughout that
20 night until, um, until, well, until 3.00 p.m. the next morning in
21 trying to get the crawler and getting the footage in order to
22 determine whether there was any obstruction in the pipeline?

23 A. Not only obstruction but the conditions inside the pipeline.

24 Q. What conditions, apart from obstruction?

25 A. Additional risk that is in the pipeline.

26 Q. Like what?

27 A. We were unaware of what caused the incident. Right? At this

1 time we know it was a Delta P incident. However, we did not
2 know if the incident created—would have created any
3 secondary, secondary condition which another Delta P incident
4 could have occurred—

5 Q. Another Delta P?

6 A. Yes—or another Delta P incident could have occurred or what
7 could disrupt the conditions in the line that would have, that
8 would have affected the air pockets.

9 Q. So, so, you formed an opinion or the IMT formed an opinion
10 there could be another Delta P?

11 A. There was—you would have—at this stage here we do not
12 know so we have to, we have to consider different scenarios.

13 Q. So the crawler photograph would have assisted you to find out
14 whether another Delta P would have occurred?

15 A. It would provide information that could have answered the
16 questions or provide clarity on where, where it was, where the
17 items were—

18 Q. Could you assist us? How would that have been able to assist,
19 assist to determine how, a—if a Del—another Delta P could
20 have occurred?

21 A. The camera would have been able to go into the line, if it was
22 able to go in freely to a hundred, to around I think it was about
23 600 plus feet the camera could have gone in. It would have
24 established the, the conditions inside the line because at that
25 stage we understood that the plug, the plug was removed, was
26 attempted to be removed and it could have been stuck
27 somewhere in the line, we don't know where, you don't know,

1 berth 5 was closed, the pressures are different. So the
2 conditions, we were unaware of the conditions, and the crawler
3 would allow you to see, allow you to pick up information.

4 Q. Well—

5 **Examination By Mr. Chairman:**

6 Q. Just a moment. I understand that. Of course, um, any camera
7 equipment into the pipe would give you information. But you
8 haven't really answered the question that Mr. Maharaj was
9 asking which was, how would that crawler help you identify if
10 there was a possibility of a second Delta P?

11 A. Okay. It could establish if the plug was deflated or infla—or
12 still inflated. Had it been inflated, you could have had a
13 different pressure on the berth 5 side and the berth 6 side. If it
14 was deflated, it would have said that then the pressures on both
15 sides would be equal and you can do a different strategy for
16 options. The plug itself would have created—if it blocked the
17 line one side would have a different pressure and the next side
18 would have a different pressure.

19 Q. Yes. I follow that. But, of all things that were in that pipeline,
20 the first thing that got sucked in, if it got sucked in, would have
21 been the plug?

22 A. Yes.

23 Q. So that would be the furthest thing away from all the other
24 things that were in the pipe, right?

25 A. Yes.

26 Q. So, by now you knew that the men were in the pipeline?

27 A. Correct.

1 Q. You presumably assumed, if not known, that the tanks were in
2 the pipeline?

3 A. Yes.

4 Q. And any other equipment that might have been in that
5 hyperbaric chamber, yes?

6 A. Yes.

7 Q. So how was your crawler going to go past all of those things to
8 a plug that would have been the furthest thing away, and how
9 would that have assisted you in knowing whether there was the
10 possibility of a second Delta P by identifying the plug was
11 inflated or not? How, how would, how would it be possible?

12 A. Because we don't know.

13 Q. Who is we don't know?

14 A. We, the team.

15 Q. Don't know what?

16 A. The conditions inside the pipeline.

17 Q. No, no, no, we've already—

18 A. The location.

19 Q. I don't want to go over that. Mr. Maharaj is doing that. I just
20 need to understand. Forgive me, Mr. Wei, I don't understand.
21 The question that was asked of you was whether or not this
22 particular piece of equipment, which I'm assuming has a
23 camera on the end of it—

24 A. Yeah.

25 Q. —is able to identify whether there was a possibility of a
26 secondary Delta P and your answer to that was, well, we would
27 want to look at the plug, whether it was inflated or deflated, and

1 I get that.

2 A. Right.

3 Q. I just don't understand how you could have got to the plug
4 without getting to the people first.

5 A. And that is why we would have gone from berth 5 late in the
6 night.

7 Q. Why you would have what, sorry?

8 A. That's why the camera would have come in from berth 5,
9 attempt to go in from berth 5, from the other side, inspect—

10 Q. Is that what happened?

11 A. The intention was to establish the condition inside the line.
12 You had access from berth 6 and you had access from berth 5.

13 Q. No, I follow that. So when you sent in the camera, this
14 crawler—

15 A. Right.

16 Q. —which end did it go in?

17 A. It went in on the berth 6 first.

18 Q. Right.

19 A. Because at that time—

20 Q. Did it go—

21 A. —that was the accessible area.

22 Q. Sorry.

23 A. At that time that was the accessible area.

24 Q. Yeah. Um, there came a time, didn't there, when you opened
25 the seal at the other end?

26 A. Yes.

27 Q. Yeah. Had there been a Delta P differential between the

1 pressure, one side of that seal and a different pressure on the
2 other side of the seal, if you opened that cap, would that have
3 caused a problem?

4 A. That could have caused a problem.

5 Q. Yes, so that was a risk as well?

6 A. Correct.

7 Q. Of course, the men were still in the pipe when you were
8 sending in this crawler?

9 A. Right. So, let me just step back a bit—

10 Q. Well no, no, no just before you go on—

11 A. —so I could answer that question—

12 Q. No—well, you have. You told me so they were still in the other
13 side, so I just want to—I need to be clear about this because I
14 think it's quite important. If you sent the camera at the other
15 end which you told me you did, when was that?

16 A. That would have, um—you have to refer to my statement.

17 Q. Please do? It's there for your use.

18 A. Yes.

19 Q. Perhaps someone can guide you as to which paragraph that
20 might be in.

21 A. [*Perusing document*] One oh eight.

22 “HHSL was subsequently instructed to relocate to berth 5
23 riser to conduct a pipeline internal inspection.”

24 Q. Right.

25 A. “HHSL reported that oil was encountered at the bottom
26 of the riser which covered the crawler and camera so they
27 could not continue.”

1 Q. What time was that, please?

2 A. That was—that would have been somewhere around five
3 o'clock in the morning.

4 Q. Five in the morning?

5 A. If I, if I recall. Um—

6 Q. Well, I don't want you to guess. If you can't recall now—

7 A. No, it would have been after, after the inspection at 6 and then
8 we went on to 5, so it would be somewhere around five o'clock.

9 Q. Five o'clock in the morning?

10 A. On the Saturday.

11 Q. On Saturday morning?

12 A. Yeah.

13 Q. All right. Yes. The, er—so that I understand as well, the—
14 when that was done, and the crawler sent in, what you came
15 across was oil?

16 A. Correct.

17 Q. And you couldn't see—

18 A. At the bottom of the pipe.

19 Q. Yes. And couldn't see anything?

20 A. Correct.

21 Q. And so that was abandoned presumably?

22 A. That was abandoned but it did provide information.

23 Q. Well, provided the information there was oil at the bottom of
24 the pipe?

25 A. And that the plug was—

26 Q. Uh-huh—

27 A. —was, um, sealing the line.

1 Q. Was what?

2 A. And the plug was sealing the line.

3 Q. Sealing the line?

4 A. Because one level on six was full of water.

5 Q. Right.

6 A. And on 5, was just oil at the bottom of the line.

7 Q. Right. Okay. Thank you very much.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. But Mr. Wei, are you aware that around 10.00 p.m. the topside
10 riser was above water?

11 A. The topside riser at 10.00 p.m. was above water.

12 Q. At berth 6?

13 A. Yes.

14 Q. That was above water?

15 A. Correct.

16 Q. So the camera went in above—from above water?

17 A. At six?

18 Q. Yes.

19 A. Yes.

20 Q. So both sides of the riser were above water?

21 A. Both sides of the riser?

22 Q. Were above water, at, at around 10.00 p.m.?

23 A. Both—explain that. I not seeing what you're talking about.

24 Q. Both risers were above water?

25 A. Above water, sea level?

26 Q. Yes.

27 A. Right, yes.

1 Q. Yes.

2 A. I am talking about the level inside the pipeline. Sorry, if I
3 didn't make myself clear, the level of water in berth 6 was
4 higher than the level of oil at berth 5.

5 Q. At ten o'clock in—at ten o'clock? How, how do you know
6 that?

7 A. At 1.00? Okay. Well I have to make an assumption here.

8 Q. You make an assumption?

9 A. That, that nothing occurred and that the plug did not move
10 between ten to five o'clock in the morning.

11 Q. Do you consider yourself an expert in Delta P?

12 A. No.

13 Q. Do you consider an ex—someone sufficient to give an opinion
14 on Delta P?

15 A. In this instance here with the, with the, um, with the U-tube?

16 Q. So you consider yourself sufficiently experienced and have the
17 expertise to give an opinion on Delta P?

18 A. On that issue with the, with the plug stuck in the line?

19 Q. Yeah. All right, Let's go on. So around—at some time during
20 the evening of the 25th of February—

21 A. Right.

22 Q. —you ascertained that there was an obstruction with a tank
23 inside the pipeline?

24 A. Yes.

25 Q. And were you—

26 A. No. At what time?

27 Q. I'm asking you, at some time?

1 A. At some time in the night we sent the camera down.

2 Q. Yes.

3 A. And the camera was obstructed from going further into the line
4 by a tank.

5 Q. By a scuba-tank?

6 A. Right.

7 Q. Obstructed by a tank?

8 A. The camera was obstructed by the tank.

9 Q. By a tank?

10 A. And it wasn't able to move the tank to go in further.

11 Q. Okay. Were you interested then to find out whether,
12 notwithstanding that obstruction, a diver could have gone into
13 the tank, um, sorry, could have gone into the pipeline to effect a
14 rescue?

15 A. Okay. To, to, to—for a diver to enter the rescue, a proper risk
16 assessment should be conducted before you send someone into
17 the line. Meaning that you need to know the conditions inside
18 the line, you need to know if there's obstructions, if there's
19 hazards, what hazards are in the line. Right? To send someone
20 inside that line without knowing that would be, would be
21 reckless.

22 Q. Okay. So, at some time in the night you all—you found out
23 that there was an obstruction with a tank?

24 A. We found out that there was a tank and around the elbow.

25 Q. Did you all do a risk assessment?

26 A. We did not have all the information to do a risk assessment.

27 Q. What information you want, more cameras to go inside?

1 A. We did not know the quantity of oil inside the line, we didn't
2 know the distance the divers are inside—

3 Q. So—

4 A. —if you wanted to send a diver down inside you needed to
5 know a lot more information. Right? Because then you put the
6 diver's life at risk.

7 Q. So this risk assessment would have taken a long time?

8 A. The risk assessment, it—

9 Q. The risk assessment took a long time, not so?

10 A. No, I don't—there was no risk assessment.

11 Q. Because, according to your evidence, several efforts were made
12 and crawlers went, borescope went?

13 A. Right, so—

14 Q. And at the—

15 A. So, so—

16 Q. And at the end of the risk assessment—

17 A. Let's step it back a bit because you're, you're going way ahead
18 and you're carrying the conversation away from what really
19 happened. At the time of the incident, LMCS were responsible
20 for executing the emergency rescue plan. They had lost their
21 standby divers and had no one to rescue anybody. Paria is
22 assisting because Paria is not equipped with rescue equipment
23 for diving, so with respect to the supply of boats and barges and
24 calling around for expert advice, stuff like that, Paria is
25 assisting that, so that LMCS—

26 Q. Mr., Mr. Wei—

27 A. —so LMCS can make a proper call with respect to not putting

1 people's lives at risk on retrieval of anybody.

2 Q. Okay.

3 Q. Putting someone inside that line without knowing the
4 conditions in the line is wanton recklessness.

5 Q. So, according to you—tell me, according to you then, that the
6 risk assessment would have necessitated getting full visual of
7 what was in the line?

8 A. Not for the full visual. You can get a risk assessment for a
9 certain section and that could provide information and you
10 could progress further. I'm not saying that can't be an option.

11 Q. So at the—

12 A. Unless you have information to make that first entry safely,
13 then it would be reckless.

14 Q. Okay. Could you assist us to tell us what time you finished,
15 well, Paria or IMT, complete their risk assessment to make a
16 decision whether they would go into the pipeline?

17 A. At that time LMCS were the ones responsible for coming up
18 with the risk assessment.

19 Q. We will deal with responsibility at some other time. What I'm
20 asking you, Paria was making efforts for diving teams to
21 establish—

22 A. For the option or diving into the line, yes.

23 Q. And according to your statement, they were making efforts to
24 have a rescue attempted, am I correct?

25 A. Correct.

26 Q. So all that I'm asking you, what time Paria made the risk
27 assessment that they could not go into the pipeline?

1 A. The risk assess—

2 Q. When?

3 A. The advice given from, from different divers, commercial
4 divers, were not advising that it was safe enough to enter the
5 line.

6 Q. Right.

7 A. At that stage, yeah—

8 **Examination By Mr. Chairman:**

9 Q. So, no, I'm sorry that's not an answer. I'm sorry, that's not an
10 answer to the question. It is important, yes. Did you ever make
11 an assessment of risk that it was too risky to enter into the
12 pipeline?

13 A. Okay. The advice given by the people that we spoke to, the
14 expert divers, advised that it was too risky to enter the line.

15 Q. Right, is that a yes, then?

16 A. So that first—so the first—

17 Q. Is that a yes?

18 A. So the first—yes, that's yes.

19 Q. Thank you.

20 A. The first part of the assessment was advice from experts.

21 **Continued Examination By Mr. Maharaj SC:**

22 Q. So you adopted what the diving team told—the various diving
23 teams told you?

24 A. We were guided by that.

25 Q. You were guided by that. And, around what day and what time
26 that was made, that decision was made?

27 A. Decision to?

1 Q. Decision not to send a diver into the pipeline to do the rescue.

2 A. Sometime in the af—after Christopher Boodram was rescued a
3 de—a decision was made not to enter the pipeline unless we
4 have more information to ascertain the condition in the line and
5 ascertain that the risks were acceptable to send someone into
6 the pipeline.

7 Q. I agree that is what you said but I'm asking you, at what day
8 and time you made the decision to send someone in the
9 pipeline?

10 **Mr. Chairman:** I'm not sure that's an entirely fair question
11 because I'm assuming, from what the witness has already said,
12 that they were constantly reviewing whether it was possible to
13 put anyone in the line.

14 **Mr. Maharaj SC:** Yes.

15 **Examination By Mr. Chairman:**

16 Q. And what as I understand what you're saying, Mr. Wei, is that
17 that review was an ongoing process which ultimately you
18 decided it was too risky to send anybody in the line.

19 A. Because we were advised by expert divers—

20 Q. Yeah, I understand that, but, I mean, I'm—we're not interested
21 for the moment in how you arrived at that decision, but you did
22 arrive at the decision that at no point in time were you given
23 sufficient information to allow you to say it was a risk worth
24 taking. That's what it comes to, isn't it?

25 A. Correct.

26 Q. Thank you. And it was an ongoing thing is what you're telling
27 us?

1 A. Right.

2 Q. The first minute Mr. Boodram comes out the line it obviously
3 was a very high risk to consider it. Hours later, days later, is a
4 different question because you'd had more information. That's
5 as I understand it?

6 A. Correct.

7 Q. And there never came a point in time when you, I don't mean
8 you personally, I mean the IMT, ever—were ever able to arrive
9 at a point where you thought the risk was worth taking. That's
10 what you're saying, as I understand it?

11 A. Yes.

12 **Mr. Chairman:** Right.

13 **Mr. Maharaj SC:** I'm much obliged, Mr. Chairman.

14 **Continued Examination By Mr. Maharaj SC:**

15 Q. Now, you would have, apart from Mr. Christopher Boodram
16 who had been in the pipeline, were you aware that Mr. Michael
17 Kurban had gone into the pipeline after Mr. Boodram was
18 rescued?

19 A. There were reports, alleged reports. We cannot confirm that he
20 entered the pipeline.

21 Q. Did you have reports that he entered the pipeline and he went
22 through on the vertical section and the horizontal section?

23 A. No confirmed reports. That's alleged. That's what he says.

24 Q. Well, if you were interested in getting information about the
25 condition in the pipeline, did you make efforts to contact Mr.
26 Boodram to see whether you could get information from—
27 sorry, Mr. Kurban, much obliged, Mr. Chairman—Mr. Kurban?

1 A. I did not personally make any communication with Mr. Kurban.

2 Q. Do you know whether the IMT made any decision to contact
3 him?

4 A. I don't know.

5 Q. Do you know whether the IMT made any efforts to contact him
6 to get information about the conditions in the pipeline from
7 him?

8 A. I don't know and I don't know if it would have been reliable.

9 **Examination By Mr. Chairman:**

10 Q. Sorry, I didn't catch your answer. I don't know if what?

11 A. We don't know if he entered the pipeline. We don't know
12 the—

13 Q. Well I think what Mr. Maharaj is asking is, did you ask him?

14 A. It was there in the—it was there in the, um, clips on what he
15 did. But all that is—

16 Q. Sorry, I'm not following.

17 A. We did not ask Mr.—I personally did not ask Mr. Boodram. If
18 I know the IMT asked Mr. Boodram, I do not know.

19 **Examination By Commissioner Wilson:**

20 Q. But Mr. Wei, I think earlier did you indicate that Paria had
21 officials at the site? Were those officials part of the IMT
22 construct in terms of an onsite commander or anybody relaying
23 information back to the IMT?

24 A. Yes, we would have someone on the berth itself who would
25 report back in to the IMT.

26 **Continued Examination By Mr. Maharaj SC:**

27 Q. Mr. Wei, it's correct, though, that you knew that divers from

1 LMCS were prevented from going into the pipeline to attempt a
2 rescue?

3 A. Were advised.

4 Q. Sorry?

5 A. Paria would have advised divers that it's unsafe to enter.

6 Q. Did Paria take steps to prevent divers from going into the
7 pipeline.

8 A. Elaborate on the word "prevent"?

9 **Mr. Chairman:** Do you really need advice on the word
10 "prevent"?

11 **Mr. Wei:** Yes.

12 **Mr. Chairman:** All right.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. Did—

15 A. Okay, let me explain. Prevent could either mean don't go,
16 prevent could mean, as is alluded in the newspaper, with coast
17 guard preventing. Paria did not prevent people from entering
18 the pipeline. Had they, had they done that, there would not
19 have been the continued divers diving without—past Paria's
20 request to not continue diving because it was unsafe.

21 Q. After Michael Kurban dived in the pipeline and came out—

22 A. Yes.

23 Q. —are you aware of any other diver who went into that pipeline?

24 A. We would be aware of divers entering the hyperbaric chamber.

25 Q. I'm not asking about the hyperbaric chamber. Entering the
26 pipeline.

27 A. You can't see.

1 Q. You can't see?

2 A. You can't see. The hyperbaric chamber—

3 Q. You are giving evidence on oath. I'm asking you a question.
4 Are you aware that Paria instructed the coast guard not to allow
5 persons to dive into the pipeline?

6 A. Paria advised coast guard to in—to take control of the site
7 because it was getting unru—when I say, what is the word to
8 use, I mean, it's uncontrollable.

9 Q. The question is—I want your answer. Are you aware that Paria
10 instructed the coast guard to prevent persons from diving into
11 the pipeline?

12 A. Paria requested a the coast guard to assist.

13 **Mr. Chairman:** Assist what?

14 **Mr. Wei:** To, to assist people from not entering the pipeline
15 but not prevent them.

16 **Mr. Chairman:** It's a little bit semantic, isn't it?

17 **Mr. Wei:** No.

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. I want you to read to you paragraph 109. Mr. Collin Piper is
20 the incident commander, not so?

21 A. Yes.

22 Q. And I want to read a paragraph of his witness statement and I
23 want you to tell me whether you agree with it. It's paragraph
24 109 of Mr. Collin Piper's statement 1365.

25 "After discussions between myself and the general
26 manager about apparently volatile situation developing at
27 the scene, he and I agreed that the TTCG should take

1 control of the site, safeguard Paria/Kenson personnel and
2 take control of the ongoing rescue operations. This
3 would include preventing the LMCS divers from entering
4 the pipeline. Mushtaq therefore made this request of the
5 TTCG in my presence.”

6 Would you agree with that?

7 A. That—Collin Piper asked the coast guard, which is—after
8 discussion between myself and the General Manager about the
9 apparently volatile situation developing at the scene, he and I
10 agreed that the Trinidad and Tobago Coast Guard should take
11 control of the site, safeguard Paria’s/Kenson personnel and take
12 control of ongoing rescue operations. This would, this would
13 include preventing the LMCS divers from entering the pipeline.
14 Right. This is Paria making a request to the coast guard to take
15 control of the site.

16 Q. And?

17 A. And, and prevent divers from entering the pipeline. That was a
18 request.

19 Q. Yes. Do you agree with that statement?

20 A. That’s what—I agree that was a request to the coast guard.

21 Q. Do you agree with the statement Mr. Collin Piper made there
22 that you’re reading?

23 A. Well I, I’m not too sure exactly what Collin Piper would have
24 read but I, I would say I agree with the intent.

25 Q. Okay. Mr. Wei, were you aware that there were divers
26 prepared to go into that pipeline to rescue the men during the
27 time you and Paria officials were looking for video and

1 borescope and crawler?

2 A. I knew there were divers on the site who could have been
3 available to dive.

4 Q. Into the pipeline?

5 A. Whether it was into the pipeline once it was safe to do so.

6 Q. No, but you know that they were willing to dive even without
7 having a risk assessment done?

8 A. Yes.

9 Q. By Paria?

10 A. Correct.

11 Q. Correct. Did you have any discussions with them?

12 A. No. I did not have any discussions with the divers.

13 Q. In order to determine whether it was safe, whether they—well
14 whether what they told you would have been considered to
15 determine whether it was safe for them to go in?

16 A. Neither that they communicate to the IMT.

17 Q. Sorry?

18 A. Neither that they communicate to the IMT.

19 Q. Oh, they didn't communicate with the IMT.

20 **Mr. Maharaj SC:** I wanted now to go to the scope of works. I
21 do not know whether you consider this might be—

22 **Mr. Chairman:** I think I will.

23 **Examination By Mr. Chairman:**

24 Q. Can I just ask one more question?

25 A. Sure.

26 Q. Before Mr. Maharaj—well, before he have lunch, I think, but,
27 um, were you aware that those who were missing were related

1 to divers who were on the surface and who had worked or were
2 working with LMCS?

3 A. Yes, they were.

4 Q. The father, for example, of one—

5 A. Well the fa—yes—

6 Q. Um, a cousin—

7 A. —the senior.

8 Q. —or I think a brother of another, were you aware of that?

9 A. Yes.

10 Q. Yes. And perhaps relatives would be more likely to take risks
11 to retrieve their own relatives than a stranger?

12 A. Yeah.

13 Q. Did that factor in to the risk assessment that you said you were
14 making? Did it factor in?

15 A. Yes.

16 Q. It did? All right. Well, thank you very much.

17 **Mr. Chairman:** I think what we'll do is we'll take an early
18 lunch today, come back at shall we say 10 to 2.00 with a view
19 to dealing with the first part of this. Thank you very much
20 indeed. Can I say this? I would like to try in every which way
21 we can to ensure that Mr. Wei does not have to return at some
22 stage on the 5th of December. It would be unfair on him and I
23 think we should do whatever we need to do—if that means
24 sitting on, we will sit on until we've concluded your evidence,
25 Mr. Wei, so that you can go and not have to worry about not
26 discussing it with others and so on all right? Especially since
27 we've got such a long break between now and when we sit

1 again. All right?

2 So it may mean that you'll sit longer than you might have
3 been told that it was going to finish at 3.30. It might be a bit
4 longer but I think everyone would be happier if we got it all
5 done with today.

6 **Mr. Wei:** Not a problem at all.

7 **Mr. Chairman:** All right, thank you very much. We'll come
8 back then at five to 2.00 please? We'll call it five to 2.00.

9 **12.52 p.m.:** *Enquiry suspended.*

10 **1.55 p.m.:** *Enquiry resumed.*

11 **Mr. Chairman:** Good afternoon. Yes, Mr. Maharaj.

12 **Mr. Maharaj SC:** Much obliged, Mr. Chairman. Mr.
13 Chairman, before I continue with the second aspect of my
14 questioning, I forgot to put about four paragraphs to the
15 witness. If you'll permit me to do that—

16 **Mr. Chairman:** Of course.

17 **Mr. Maharaj SC:**—just to get his answers?

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. Mr. Wei—

20 **Mr. Chairman:** “Way”.

21 Q. “Way”, sorry. I'm sorry, Mr. Wei.

22 A. No, it's okay, Mr. Wei.

23 Q. Can the witness have the witness statement? It's at page 1290
24 of the witness bundle.

25 A. Thank you. [*Document handed to Mr. Wei*]

26 Q. At paragraph 109 you said:

27 “From around 3.00 a.m. I started communication with

1 Ravie Seepersad of Inland and Offshore Contractors
2 Limited for delivery of two pumps with an estimated
3 time of arrival on site at 7.00 a.m.”

4 Now, what was the purpose for those pumps? Because it was
5 certainly not something that was urgent because it was a
6 conversation from round 3.00 a.m. for the pump to arrive at
7 7.00 a.m. What was the purpose for those pumps?

8 A. Okay. At that time, we were exploring other options which
9 could have been one of pumping down the line for dry rescue.
10 And your question about why wasn't it urgent, I don't
11 understand the question when you said—

12 Q. No I said that it obviously was not urgent because it was for
13 7.00 a.m. the next morning.

14 A. I don't understand how “Why”.

15 Q. If it was urgent, you would have asked for the pumps to come
16 earlier?

17 A. Okay. So—

18 Q. You were making the call from round 3.00 a.m.?

19 A. Yes but logistically, seven o'clock would have been a very
20 optimistic time for that pump to arrive.

21 Q. Okay.

22 A. These pumps are not like a water house pump that you could
23 put in the back of the car and drive.

24 Q. But did you make attempts to get the pump urgently?

25 A. Yes. And that is why at three o'clock in the morning I was
26 calling Ravie Seepersad.

27 Q. So you are saying that the pumps were for the rescue operation?

1 A. Correct.

2 Q. Okay. Look at the next—at paragraph 112.

3 “However the Eastern divers rescue team, who had
4 arrived earlier and were asked to develop a rescue plan,
5 advised that realistic this was no longer a rescue and they
6 would not attempt a confined space entry for the recovery
7 of the deceased persons.”

8 So Eastern was telling you that it was no longer a rescue as far
9 as they were concerned, it’s recovery of the deceased persons?

10 A. That was the opinion of the Eastern divers rescue team.

11 Q. All right. Were the pumps ordered the day before for a
12 recovery operation or a rescue operation?

13 A. A rescue operation.

14 Q. Let’s go. Then, at paragraph 113:

15 “Despite the IMT efforts the TTCG, Hull Support
16 Services Limited, Mitchells divers and OTSL could not
17 be persuaded to enter the pipeline to conduct any rescue
18 efforts. All four parties explained that there would be
19 significant risk to their own divers in attempting to rescue
20 the divers by entering the pipeline. However, IMT
21 continued to make efforts to get a diver to attempt a
22 rescue for the missing divers to collect and share
23 information, to make preparatory steps to facilitate
24 requests by LMCS.”

25 First question is that you would agree with me that these
26 companies would be reluctant to have gone into the pipeline to
27 rescue the divers if they believed that it was no longer a rescue

1 but a recovery of dead bodies?

2 A. Say that again?

3 Q. They were willing to enter the pipeline—

4 **Mr. Peterson SC:** Mr. Chairman, in fairness to the witness, I
5 don't know how the witness could answer what the other
6 companies would be thinking.

7 **Mr. Chairman:** Yes, well, I—my inclination is to think that
8 for them to calculate whether or not they were prepared to risk
9 their people, they would want to know whether there was any
10 realistic prospect of the people in the pipe being dead or alive.
11 Nobody wants to risk divers if they're ready dead. And I think
12 that's the purpose of the question that—

13 **Mr. Peterson SC:** Yes but I'm attracted to how you frame the
14 question, Mr. Chairman.

15 **Mr. Chairman:** Now you're trying to flatter me and that's
16 not—

17 **Mr. Peterson SC:** No you need to know, well, the way Mr.
18 Maharaj had framed it, it was calling on the—

19 **Mr. Chairman:** I think you need to put your mike on.

20 **Mr. Peterson SC:** Yeah, right. No, the way Mr. Maharaj had
21 framed it, it was asking the witness to explain the thinking of
22 the, of the diving companies but the way you framed it it's
23 based on the fact that it's a deduction to be drawn.

24 **Mr. Chairman:** All right. Well, perhaps you'll rephrase your
25 question, Mr. Maharaj. I think we understand where you're
26 going. I think Mr. Wei probably does now but you'll rephrase
27 the question.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. Mr. Wei, would you agree with me that divers, to go into that
3 pipeline, these companies to go into that pipeline, they would,
4 they would obviously want to consider whether it is realistic to
5 go into the pipeline and rescue a living person or a dead
6 person?

7 A. That would play into their consideration but, as I said, I
8 wouldn't know the exact, um, considerations at this time.

9 Q. Okay?

10 **Examination By Mr. Chairman:**

11 Q. Well, that's not entirely fair, is it, because you've just had read
12 to you paragraph 112. If you can scroll back the other way,
13 thank you. You've just had that paragraph read to you. Eastern
14 divers rescue team who presumably you called as experts to
15 advise you, am I right?

16 A. Someone else called them but—

17 Q. I don't mean you personally, forgive me, Mr. Wei. You, the
18 IMT—

19 A. Yes, the IMT, yes.

20 Q. —yes, called the Eastern divers rescue team—

21 A. Right.

22 Q. —for their expertise?

23 A. Yes.

24 Q. Presumably you placed some faith in their expertise?

25 A. Yes.

26 Q. And they were saying to you that they took the view at this
27 stage, by the look of what that paragraph says, they were saying

1 to you they believed there was no real prospect of these men
2 still being alive?

3 A. Yes, that was their—

4 Q. What time are we talking about?

5 A. This would have been somewhere around maybe 7.00, seven
6 o'clock, early hours of the morning.

7 Q. Seven o'clock or so in the morning?

8 A. Yes.

9 Q. All right, so, what are we—what's the time gap between Mr.
10 Boodram coming out of the pipe and seven o'clock in the
11 morning?

12 A. That would be about, that would be in the—

13 Q. Thirteen or 14 hours? Are we, we're talking about something
14 like that?

15 A. Yes.

16 Q. Something in that order, isn't it?

17 A. Yes.

18 Q. Did you regard it as being likely that these men were still going
19 to be alive 13 or 14 hours after Mr. Boodram, having been in
20 there for some hours himself, had come out?

21 A. Repeat that question?

22 Q. Yes. Did you regard it, you, the IMT, I don't mean you—

23 A. Yes.

24 Q. —personally, you, the IMT, did you regard it as being likely or
25 unlikely that these men had already died?

26 A. Let me answer this question. The IMT considered still rescue
27 options.

1 Q. Yes. Well—

2 A. It did not consider—

3 Q. I understand that's the question you want to answer, but I'd like
4 you to answer my question, and my question is whether or not
5 you, in the IMT, had considered, given that you'd just been
6 given the advice by people you placed faith in—

7 A. Right.

8 Q. —Eastern divers rescue team, that these men were already
9 dead?

10 A. No. We had considered that the guys may still be live.

11 Q. They might still be alive. All right. So notwithstanding what
12 you'd been told by Eastern divers team who said they were not
13 going to be prepared to risk their divers, the basis being that
14 they thought the other divers were already dead—

15 A. Yes.

16 Q. —you were still looking at options?

17 A. Correct.

18 Q. Thank you very much. And the paragraph that Mr. Maharaj
19 was asking about, at paragraph 113, you say this:

20 “Despite the IMT’s efforts, the coast guard, the Hull
21 Support Services Limited and Mitchells divers and
22 OTSL”—

23 What’s OTSL?

24 A. Offshore Technologies Services Limited.

25 Q. Did they have divers?

26 A. Yes.

27 Q. Add had you consulted with them?

1 A. The IMT consulted with them.

2 Q. Right. What about Mitchells divers?

3 A. The IMT—

4 Q. They obviously had divers?

5 A. I understand the IMT would have consulted with them.

6 Q. Right. Hull Support Services Limited, did they have divers?

7 A. Yes.

8 Q. And the coast guard, did they have divers?

9 A. Yes.

10 Q. Right. So all of those other organizations, other than the
11 Eastern divers, did they think that the men were still alive or
12 might be?

13 A. Well I don't know. What I know that they were considering
14 that the risk of diving into the line was high.

15 Q. Well, I dare say it would be. But you see the way you phrased
16 that, I just, I'm kind a anxious to understand you because your
17 paragraph says none of those people could be persuaded.

18 A. Correct.

19 Q. So, so that I understand it, are you saying that the IMT were
20 trying to persuade any one of these organizations, "Please go in
21 the pipe. Please rescue these men"? What am I to take take?—

22 A. Yes.

23 Q. —well, am I to understand that's the position?

24 A. Okay. So picture the scenario.

25 Q. I will.

26 A. At that stage a dive rescue was still being considered.

27 Q. Right.

1 A. So there are companies who responded that were readily
2 available.

3 Q. Yes.

4 A. So you're exploring all options. They are saying it was unsafe
5 and significant risk to put their divers to go in that pipeline
6 without knowing all the conditions that I explained before
7 and—well, we were trying to convince them in whatever way
8 we could have done and also continued looking for other
9 options—

10 Q. Right.

11 A. —of divers.

12 Q. Well then the last option might have been the LMCS?

13 A. That is true.

14 Q. Nowhere here do you say, do you, that you asked LMCS if they
15 had divers that were prepared to go in?

16 A. If we—the full—later on into the statement, LMCS on the
17 Sunday, on Sunday, came forward with a diver they said were
18 willing to enter the pipeline.

19 Q. All right. Let me see if I understand you. You are saying that
20 LMCS did not offer divers to dive into the pipeline until
21 Sunday is that—

22 A. Did not come forth with any rescue plan—

23 Q. No, my question please, forget the rescue plan. That comes
24 after. You're entitled of course to say, "We're not prepared to
25 let your divers go in without a rescue plan." I want to know
26 first of all, please, whether LMCS were offering divers to dive
27 into the pipe?

1 A. Yes.

2 Q. Right. Were they doing that at the same time as you say in
3 these two paragraphs here that all of the other companies that
4 you were considering using could not be persuaded to go into
5 the pipeline?

6 A. At that time I, I don't know because this would have—the
7 divers at that stage would be offshore and I would have been
8 onshore. But I would expect that there would still be divers
9 wanting to go into the pipeline.

10 Q. Right. You agree that—you knew that LMCS' divers or some
11 of them were prepared to go into the pipeline at this time? Do
12 you agree with that?

13 A. Wanted to.

14 Q. Yes.

15 A. Not—yeah.

16 Q. No, I understand that you may have good reasons why you
17 didn't want to let them.

18 A. Right.

19 Q. And that may be perfectly good.

20 A. No, no I'm taking the word prepared means—

21 Q. Yes.

22 A. —that had a rescue plan, everything prepared to enter the—

23 Q. No, well that's not what I mean.

24 A. Okay.

25 Q. I'm a diver, I work for LMCS, these are my buddies in that
26 pipeline or my relatives, I'm prepared to go in there. There—a
27 willingness to do so.

1 A. Yeah, I'm following it.

2 Q. Did you know that there was so many—there were a number of
3 divers who expressed a willingness to go into the pipeline?

4 A. Okay, I was not in direct communication, right but I only know
5 of LMCS suggesting that one diver was willing to go into the
6 line.

7 Q. Well, I had hoped you wouldn't be putting any more than one at
8 a time anyway. Can I just—I'm sorry if this is difficult, Mr.
9 Wei. I just want to understand whether you knew at the same
10 time as you're saying this was taking place on our paragraphs
11 112 and 113 there, were any divers from LMCS saying, "I am
12 willing to go in the pipeline"? It's a, it's a yes or no, isn't it?
13 Did you know about that?

14 A. I would not know about that. No, I did not know.

15 Q. Did not know? So are you saying then the IMT did not know?

16 A. No. Specific me.

17 Q. Well you're part of the IMT. Surely you would know that?

18 A. The IMT structure, there's the IMT leader who has more
19 information than me.

20 Q. All right.

21 A. Right?

22 Q. And who is the IMT leader, Mr. Piper, is it?

23 A. Collin Piper.

24 Q. Right.

25 A. Right?

26 Q. So I should ask him?

27 A. Yes. But I do know that LMCS came forward with one diver

1 who I met on the Sunday who was willing to go into the
2 pipeline.

3 Q. But you didn't know that until Sunday? Is that what I'm to
4 understand?

5 A. That's the only time it was confirmed to me that there was a
6 diver willing to go.

7 Q. That was when it was confirmed?

8 A. I, I heard comments and statements that divers wanted to enter
9 the water—

10 Q. Divers?

11 A. —by LMCS on the Friday. On the Saturday I think there was
12 not much talk of any diver going into the water and then in the
13 afternoon a diver would have been available from LMCS but he
14 was not able to come until Sunday. That's the information I
15 have.

16 Q. Right.

17 A. So I—

18 Q. So there were divers on the Friday who were prepared to enter
19 the water. You heard nothing much on the Saturday and then
20 on the Sunday you had it confirmed to you that there was a
21 diver who was prepared to come on the Sunday?

22 A. Correct.

23 Q. And whether that was on Saturday you heard it or the Sunday, it
24 doesn't really matter, he was not available until the Sunday?

25 A. Yes.

26 Q. That's really what you heard, is it? Who told you that?

27 A. I can't specifically recall.

1 Q. Was it someone from the IMT?

2 A. Someone from the IMT.

3 Q. All right. Would it have been Mr. Piper, do you think?

4 A. No, I don't think it was Mr. Piper.

5 Q. Oh, all right. Couldn't hazard a guess?

6 A. Maybe Catherine Balkissoon.

7 Q. Maybe Mr. Balkissoon.

8 A. Yeah.

9 Q. Er, Miss, it's miss, isn't it?

10 A. Miss.

11 Q. It's a miss. Yes, thank you. But on the Sunday they came with
12 the diver and that I know.

13 Q. Yes. All right. Thank you very much.

14 **Mr. Chairman:** I'm sorry, Mr. Maharaj.

15 **Mr. Wei:** Yes.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Mr. Wei, I'm suggesting to you that you and the IMT knew of
18 the request of LMCS for divers to go into the pipeline and I
19 refer you to paragraph 114 of your witness statement. I'll read
20 it for you. You want to look at it?

21 A. Yeah.

22 "However the IMT continued to make efforts to get a
23 diver to attempt to rescue the missing divers, to collect
24 and share information, to make preparatory steps and to
25 facilitate requests by LMCS."

26 Q. So you knew of LMCS' request to get divers to enter the
27 pipeline and the IMT was trying to facilitate those requests?

1 A. Um, I don't know if it's being read in the right way. Right?

2 "However the IMT continued to make efforts to get
3 divers to attempt to rescue missing divers, to collect and
4 share information, and to make preparatory steps and to
5 facilitate requests by LMCS."

6 It's all separate—if I read it I take it as separate actions. IMT
7 continued to make efforts to, one, get a diver to attempt to
8 rescue the missing divers, two, to collect and share information,
9 three, to make preparatory steps and, four, to facilitate requests
10 by LMCS.

11 Q. But what you think the request was for when you, when you,
12 when you wrote this witness statement?

13 A. Specifically there was a request by LMCS to remove the
14 hyperbaric chamber and there was a specific request by LMCS
15 to cut the, the, um, the lifting bar that was obstructing the top of
16 the new riser from entry of any personnel and equipment into
17 the pipeline.

18 Q. So you were doing—getting information for all of that but not
19 in respect of LMCS wanting to send their divers into the
20 pipeline?

21 A. Um, the request to remove those items by LMCS might most
22 likely, if I was to interpret, would have been to the process of
23 allowing a diver to go into the pipeline, because, at the top of—
24 the hyperbaric chamber height, at that time on the Saturday the
25 hyperbaric chamber height was maybe 6 or 8 feet above the
26 internal riser. Meaning that if you needed to enter the line for
27 any diving operation, you first had to build a scaffolding and

1 get yourself down 6 to 8 feet to the riser level and the riser had
2 an—LMCS design for lifting that riser in place had a bar,
3 meaning that a physical obstruction through the centre of the
4 pipe to send a diver down through there with equipment needed
5 that bar to be removed so in—I will agree with you that LMCS
6 was making—would have facilitated—would have requested to
7 remove the hyperbaric chamber and cut out that bar so that they
8 can send a personnel down and it—I could—I would say so.

9 Q. You remember you told us here this morning in your evidence
10 that LMCS was to have—supposed to have an emergency
11 response plan?

12 A. Yes.

13 Q. And that emergency response plan would have been in such
14 case to send divers in into the pipeline?

15 A. No.

16 Q. So emergency—an emergency response from LMCS would not
17 have—would—you didn't envisage that any such emergency
18 response plan would have had a plan to send in divers into the
19 pipeline with this kind of situation?

20 A. It was LMCS' responsibility to envisage that. Leh we step
21 back. LMCS would have done an emergency response plan to
22 cater for credible scenarios and in their emergency response
23 plan divers into the pipeline was not considered. So there was
24 no plan at that time or an emergency rescue plan for divers to
25 enter the pipeline to extract divers.

26 Q. But Mr. Wei, what I'm asking you now, final question on this
27 issue, what I'm asking you now, did you, at any time, from the

1 time you got the information at 6.00 p.m. that Boodram had
2 come out of that pipeline, you consulted with other dive
3 companies to get someone to go into the pipeline, did you
4 consult or did the IMT consult with LMCS to get any divers to
5 go into that pipeline?

6 A. I would say yes.

7 Q. Yes? Who you consulted with?

8 A. I would say Collin Piper would have definitely communi—tried
9 to communicate with LMCS.

10 Q. You have records of that in the IMT?

11 A. I would leave that to Collin Piper.

12 Q. Okay. I'm going to go to the other aspect of the—I see
13 Commissioner Wilson wants to ask some questions now.

14 **Examination By Commissioner Wilson:**

15 Q. Good afternoon, Mr. Wei. I'm going to—just from off of your
16 statements I'm going to try and interrogate the IMT philosophy
17 from what I heard from you if you don't mind. The first
18 question I'd like to ask is, with your experience and as a
19 member of the IMT, how often do you guys drill for any type of
20 response whether it be small, large—

21 A. Um, I can't recall.

22 Q. So it's not the practice of Paria to drill for emergency
23 responses?

24 A. No, Paria would have emergency drills, right, but I can't recall
25 the last time I would have been specifically involved in a site-
26 wide emergency response plan.

27 Q. Or an IMT drill? All right. So, um, one of the things I found

1 interesting is, when an IMT convenes, do they set out the
2 priorities of addressing an incident as an integrated team or
3 separately? That means do you guys come together and sit as a
4 team in any specified area that is committed to addressing
5 emergencies within your real estate?

6 A. Yes.

7 Q. All right. So—because that would speak to if you are
8 convening collectively, that you might be most likely aware of
9 all the priorities and all the information coming into the IMT.
10 So I would ask just a little when I heard, you know, your
11 responsibility of other probably, um, chief, section chiefs or
12 something like that but, um, I just wanted to know how the
13 updates come in and then, er, thirdly, I heard that it went on for
14 a sort of protracted period with the, meaning it started Friday,
15 Saturday and listening there, right? At any point in time did
16 you guys leave the IMT or did you have a handover to other
17 IMT members to manage the situation?

18 A. Okay, on the—yes, if we needed—if we left the IMT we'd hand
19 over to someone.

20 Q. Okay. So there's a back-to-back logistics section chief like
21 yourself who—

22 A. Okay. So we did not—because of the nature of this incident,
23 right, we were working, how you say, um, extra-long hours,
24 right, and in my statement I had called out Prakash Beharry—

25 Q. Okay.

26 A. —to be my, um—

27 Q. Okay.

1 A. —my backfill.

2 Q. Okay. And as I said, I'm trying to interrogate the IMT
3 practices. Is it a Paria practice to have an onsite commander,
4 meaning there's a designated person on behalf of Paria at the
5 site to relay information back into the IMT?

6 A. Yes.

7 Q. And—okay. So that would address some of your earlier
8 comments that you wasn't aware of what was coming in from
9 the site. How was that—you know, if you had a onsite
10 commander?

11 A. Right. The onsite commander—

12 Q. Uh-huh.

13 A. —would have relayed directly to Collin Piper, the incident
14 commander.

15 Q. Right.

16 A. Right? I would have had other people outside there too, right,
17 and they might have called and relayed certain things to me,
18 but, with the incident command structure, the instructions I
19 would take would come from the IMT leader.

20 Q. So—

21 A. And if there's information I thought I would feed back to him
22 that from—that the—

23 Q. But you would agree that the onsite commander is feeding
24 information back into the IMT which has to be disclosed
25 amongst the IMT members?

26 A. Yes.

27 Q. Because you all are not making decisions in silos?

1 A. Yes.

2 Q. All right.

3 A. But decisions—most of the decisions basically would—and
4 direction comes from the IMT leader.

5 Q. Understood. Right, I just have one last question, um, when it
6 comes to the coast guard and some of the other members that
7 you had there. Under your IMT philosophy practice, do you
8 have a unified command, meaning, is there someone that
9 manages all the conversations, all the information you're
10 getting from different bodies, coast guard, other contractors and
11 stuff, to make a decision or is it, how were those conversations
12 managed?

13 A. Okay so most of the conversations would have gone through,
14 through the incident commander, and also too the conversation
15 would—from information coming in would be scribed.

16 Q. Get through the ICS forms and stuff?

17 A. Yes.

18 Q. Yes. Okay, thank you. Thank you for your feedback.

19 **Mr. Maharaj SC:** Much obliged.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. At paragraph 75 of your witness statement, you stated that
22 LMCS method statements, JHA risk assessment and dive plan
23 documents submitted with the ITB proposal were reviewed and
24 accepted by the technical and maintenance department. Is that
25 correct?

26 A. LMCS method statement submitted with the ITB proposal were
27 reviewed and accepted by the technical and—as part of the

1 evaluation of the tender.

2 Q. Yes. So would it be correct to say then that Paria accepted
3 these documents?

4 A. The documents provided in the ITB proposal? Yes.

5 Q. All the documents you mention there, Paria accepted them?

6 A. Yes.

7 Q. And agreed to them?

8 A. Yes.

9 Q. In order for the contract to have been awarded to LMCS, Paria
10 had to agree to these documents? Without Paria's agreement
11 there could not have been a contract?

12 A. Yes.

13 Q. Yes. Now, in this scope of works which was developed by
14 Paria, did it, um, did it provide, as far as you can recall, for the
15 line content to be cleared, of Sealine 36?

16 A. There would be some clearing of the fuel oil in the line, yes.

17 Q. All right.

18 A. The oil in the line.

19 Q. And the system of the monitoring of the works that Paria had
20 was a control of work system, am I correct?

21 A. Yes.

22 Q. Yes. And that meant that Paria would monitor compliance with
23 the method statements and with the risk assessment?

24 A. Monitor.

25 Q. Monitor.

26 A. Which is not dedicated monitoring.

27 Q. And as far as you're concerned, Paria had the competence to

1 monitor?

2 A. Yes.

3 Q. Yes. And Paria did monitor?

4 A. Yes.

5 Q. Yes. Now, I want to—you are familiar with the method
6 statement, the risk assessment statement and the emergency
7 response plan? I don't want to go into all the names but you are
8 familiar with them?

9 A. I was provided with the ITB.

10 Q. Yes.

11 A. I'm familiar with it to a certain extent. If I need to ask
12 clarifca—if I need to see it I'll ask.

13 Q. How—I want to show you—can I show, CB—I want to show
14 the witness CB 659 Volume II Tab 21.

15 **Mr. Chairman:** Six?

16 **Mr. Maharaj SC:** Six five nine.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. And you see Section A, procedure for removal of line content
19 between berth 5 and berth 6, and then removal of liquid content,
20 and then you would have seen that and then you see it at
21 number four, there's not four there but if you check one, two,
22 three, four, remove, then you see, using air driven pump, you
23 could read that one, approximately 300 barrels of line content,
24 content to be pumped in Paria Fuel Trading Company Limited,
25 et cetera, et cetera, and once level in the riser has dropped to 35,
26 what's that, feet, feet below sea level, a line plug will be
27 installed. Now, this was accepted by Paria, this method

1 statement?

2 A. Yes. Removal of—the removal of line content between 65, yes.

3 Q. Could you give us an idea what you understand this to mean?

4 A. That the section that they needed to remove was some of the
5 line content between berth 5 and 6 so that a line plug will be
6 installed, which they estimated that to be 35 feet below sea
7 level and possibly approximately 300 barrels. But the intent of
8 this procedure would have been to remove sufficient content so
9 that they can install the line plug to con—this is all part of
10 preparation works so that they could conduct the maintenance
11 activities of cutting the line.

12 Q. Yes. But you're not telling us about the 300 barrels.

13 A. The 300 barrels? That's an estimation because—okay. The
14 line—what you are seeing on that drawing is basically the U,
15 right, which I don't know, you may have done a calculation and
16 estimated the amount of barrels there but the additional parts
17 for the elbows, for the line straight, and maybe that 300 is an
18 approximate number what they estimated that figure to be, but,
19 the intent of it all, if I read it at face value, once the level in the
20 riser has dropped to 35 feet below sea level, a line plug will be
21 installed. So their intent was to get the line plug installed.

22 Q. But when Paria looked at this, did Paria ask for any
23 explanation? Do you know?

24 A. What, explanation?

25 Q. As to 300 barrels and then 35 feet below sea level? Because
26 what you are telling us, it could give the impression that 300
27 barrels had to be removed and also 35 levels had to be shown at

1 another part of the line.

2 A. No. This is saying that once the level in the riser has dropped
3 to 35 feet below sea level, which is an actual number, a line
4 plug will be installed. And they estimate the amount might be
5 about 300 barrels. The 300 barrels could be, for all intents,
6 maybe 200 and they just say well round it up to 300. But the
7 intent here, permit me if I read it wrong, but procedure for
8 removal of line content between berth 5 and 6, removal of
9 liquid content from Sealine 36 diameter 30-inch line sufficient
10 removal, sufficient removal to allow replacement of crowded
11 section and the last line is what they're trying to achieve, which
12 is, once level in riser has dropped to 35 feet below sea level, a
13 line plug will be installed.

14 Q. Okay.

15 A. You see, um, I understand what you're saying but certain things
16 inside this would change during the process. For example, the
17 remove [*Inaudible*] completely once drained but the intent at
18 the end of the day is a clear, clear objective.

19 Q. But the purpose of approval of the method statement by Paria is
20 to ensure—

21 A. Okay.

22 Q. —the work is done safely?

23 A. Right. So, let us step back a bit because these documents were
24 created at the time of tender. At the time of tender the
25 contractor is not—has all the information required to make a
26 detailed, detailed, um, method statement or procedure for the—
27 so they would put what they best see, right, so, but, they know

1 that they want to go 35 feet to install the line plug.

2 Q. Okay. But Paria—

3 A. So when, when they would have done—when—after the award
4 of tender and then they have the specific site visits and they are
5 able to measure and estimate properly, they might have come
6 back and say it's not 300 barrels. But they were clear in saying,
7 if I read this again, I mean, I mean, I—35 feet below sea level,
8 a line plug will be installed.

9 Q. But Paria accepted this method statement and awarded the
10 contract?

11 A. Yes.

12 Q. Would you agree with me that Paria had a duty in, in, in
13 assessing the risk to assess the risk to ensure that a Delta P
14 situation would not arise?

15 A. No.

16 Q. No.

17 A. I would not agree with you on that. Paria, if you step back in
18 this scope, let me see—spare me the time because I'm not very
19 familiar with this, eh, but basically Paria—

20 **Examination By Mr. Chairman:**

21 Q. What is it you're looking for? Let me see if we can help you.

22 A. Or, I mean, you'll get the time to look for it.

23 Q. No, no, turn to—

24 A. Paria was looking for an expert contractor, an experienced
25 expert contractor, to execute this work. So they sent out this
26 tender. These documents are to demonstrate that the contractor
27 has a good understanding of the job and the requirements of the

1 scope. It is understood after acceptance and award additional
2 information will be provided to the contractor at which time he
3 with his technical expertise will be bringing forward the
4 hazards associated with his specific specialized tasks.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. Yes, Mr. Wei.

7 A. Paria would look at the general risks, for example, those with
8 respect to operational but not, not expected to know the—all the
9 risks of what the specialist contractor is to do.

10 Q. Well, well, I—let's assume that I accept everything you say.

11 A. Well thank you.

12 Q. The point about it is that Paria, Paria undertook to assess the
13 risk also, and, based on that assessment awarded the contract.
14 So do you think that Paria had a duty of care in ensuring that
15 the risk assessment for the job and the method statement were
16 safe?

17 A. Right. So again, in the tender evaluation stage, it is done more
18 from a higher level in the sense that all the nitty-gritty details,
19 you would expect that to be ironed out later on the award of
20 contract when the contractor is now able to get good
21 information from the site. I mean, I don't know how I could
22 explain it better. I mean, before—for example, Chairman, you
23 would have read all of these documents and you had an idea of
24 what outside was. Yesterday I'm sure you would have gone
25 outside and have a totally better idea. The same is here. The
26 contractor is not, not au courant with all the details of the site.

27 **Examination By Commissioner Wilson:**

1 Q. Just a second. Mr. Wei, I'm going to try and follow you here
2 now. Are you saying that for a contractor to issue or put in his
3 tender, he did so without a site visit first?

4 A. No, no, no. If you go through my statement there is when there
5 was the site—virtual site visit—

6 Q. Uh-huh.

7 A. —and the option of a mandatory site visit I think.

8 Q. Uh-huh.

9 A. So yes, there is, there is the site visit stage.

10 Q. So he had the site visit stage prior to issuing his tendering?

11 A. Yes, that all forms part of the tendering process.

12 Q. Right, I just wanted to be clear because—

13 A. Yeah—

14 Q. —I heard from you you said site visit after the award of—

15 A. That would be, that would be reckless to, to allow somebody
16 just to submit a bid without sufficient details of which to put a
17 reasonable tender bid package in.

18 Q. And the second question is, under your control of work system
19 and in the planning stages, Paria wouldn't sit with any elected
20 contractor and in partnership identifying hazards, risk
21 assessments, however you want to term it, you just leave it to
22 your contractors to do or is it a partnered exercise under your
23 control of work process?

24 A. It's a partnered exercise not sitting on—not sitting directly with
25 each other in a room. It's a partner exercise in that the
26 contractor prepares his method statement and risk assessment
27 with the best knowledge of his ex—with his expertise in the

1 execution of the said task. He would know the specific risks.
2 Paria would take that and also look at it and complement that
3 with the risk that para has that is on the site [*Inaudible*]

4 Q. So I understand that. My question is, is there an exercise or
5 exercises—

6 A. Right, okay.

7 Q. —where Paria, the operator—

8 A. And those documents—

9 Q. —sits with the contractor and executes a hazard identification,
10 risk assessments, or you just say, “Contractor, give me your risk
11 assessment let me review”?

12 A. Right, review and we would add and we would com—if there’s
13 obvious risk for us, yes but the contractor still has the
14 responsibility to identify the specific hazards of the specialized
15 work that he’s doing. I don’t know if I answered your question
16 but—

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. But in reviewing it you would assess the risks?

19 A. The contractor would have.

20 Q. But you—

21 A. —assessed it.

22 Q. —for reviewing, would you assess the risk?

23 A. There is—it—the contractor would assess his risk, we would
24 take that the risk is properly assessed. If there’s any obvious
25 in—any obvious, um, flaw or risk that was not considered yeah
26 we’re free to bring it up or question, or question what he has.

27 Q. So, Mr. Wei, in effect you’re telling me that Paria didn’t have

1 the competence to assess the risk?

2 A. No we're not saying that.

3 Q. You're not saying that?

4 A. I'm saying that—

5 Q. So, so—

6 A. —LMCS—

7 Q. One second.

8 A. —LMCS would have provided through their competence as the
9 expert contractor the risks that they saw with their job. Now, I
10 don't know if you're expecting that Paria now would have the
11 same expertise as the expert contractor to assess their risks.

12 Q. Okay.

13 A. So I—but Paria being the side with respect to the management
14 of the site and the management of a port would bring the risk of
15 their side. So for example, with respect to the ships coming and
16 the hazard that plays with—Paria will bring that in. So Paria
17 would not be expected to say, "Hear what, LMCS, you did not
18 identify the risk of Delta P. Correct that." No. But if they had
19 said, um, we—there's an obvious risk that they did not
20 consider, let's say, an explosive environment, Paria would raise
21 the, say, "Hey, there's a risk here" and I think that is why you
22 would have, as you read later, on why there's the insistence of a
23 migration barrier—

24 Q. Okay, the—

25 A. —not to jump forward but—

26 Q. —we'll come to that. But you'll agree with me that Paria
27 supervised the works?

1 A. No.

2 Q. No?

3 A. I will not agree with you on that.

4 Q. So—

5 A. So—

6 Q. —you do, you do not agree that Paria supervised the execution
7 of the works?

8 A. Okay, so—

9 Q. Do you agree that Paria supervised the execution of the works?

10 A. Paria did not supervise dedicated supervision of that job.

11 Q. What Paria did?

12 A. Paria would monitor.

13 Q. Monitor? Look at your witness statement at paragraph 23, 23 at
14 page one three seven six. It says:

15 “The role of the planner was to develop the scope of
16 works supporting the tendering process and to oversee
17 the execution of the project by the contractor.”

18 Is that accurate?

19 A. That’s accurate what I, what I have here, yes.

20 Q. Yes. So you—

21 A. Yes, go ahead.

22 Q. So Paria oversee the execution of the works?

23 A. Not to be interpreted as supervise the execution of the works.

24 Q. They monitor it?

25 A. Yes.

26 Q. To see that it complies with the requirement of the contract?

27 A. That too, yes.

1 Q. Yes.

2 A. Yes. Inasmuch as it's possible.

3 Q. And, according—well, Paria, in respect of these works, your
4 department monitored and reported on the ongoing works
5 which were being done by Rajiv Mangalee, your representative,
6 and Houston Marjadsingh?

7 A. Yes.

8 Q. And according to you at paragraph 67 of your witness
9 statement, at page one two eight three, the said maintenance
10 technicians received daily verbal reports from LMCS of the
11 progress of the works. They used these verbal reports together
12 with their own observations to produce daily work reports and
13 they then submitted these daily work reports to the planner
14 during the course of the project. So monitoring and
15 supervising, Mr. Wei—es.

16 A. I'm not seeing how you interpret that.

17 Q. Okay. Well—but you agree that what you said there is
18 accurate?

19 A. What I said there is accurate that the—

20 Q. Okay. Look at paragraph 67.

21 “On the ground level, my department monitored and
22 reported on ongoing works through Kenson technicians,
23 Rajiv Mangalee, Houston Marjadsingh who reported to
24 Paria planner Terrence Rampersadsingh. They were
25 situated mostly on site and rotated between berths 5 and
26 6 which are offshore and the offshore docks and called
27 Badger docks which is on land.”

1 A. Yes.

2 Q. That is accurate, correct?

3 A. Yeah.

4 Q. All right. And can I show the witness, Mr. Chairman, 565 core
5 bundle two? If you go to page 565, we have core bundle two,
6 Mr. Wei?

7 A. Five sixty five?

8 Q. Yes, five sixty five. And this is the scope of work prepared by
9 Paria and you,—our department would have been involved in
10 this.

11 A. Five sixty five.

12 Q. You see at paragraph three dot one—12—

13 A. Sorry, sorry, what number you said? Five sixty—

14 Q. Five sixty five.

15 A. Five six five, yeah.

16 Q. Right, you see at the top of 3.1.1, “The contractor shall execute
17 the following”, okay?

18 A. Three point one? Three point one—

19 Q. Three point one one, at the top of that it says, “The contractor
20 shall execute the following”, correct? You see that? Just at the
21 top.

22 **Mr. Chairman:** Well I don’t—

23 A. Five sixty five you said?

24 Q. No. If you look at five sixty four first, sorry.

25 A. Or, or sorry.

26 Q. Five sixty four, just under the heading, “Renewal of section SL
27 riser”, et cetera, then, just under that, “The contractor shall

1 execute the following”, and then there’s a—the description of
2 the works and then you’ll see at three dot—at page 565, 3.1.12
3 and then you see at the end of that sentence, “Note video stream
4 to be provided topside during work activity for Paria’s
5 representative”. You see that?

6 A. Yes.

7 Q. So, you still maintain that Paria does not, um, supervise the
8 works?

9 A. I kind a thinking that there’s a, there is a miscommunication
10 here between what is supervision and monitoring.

11 Q. Okay.

12 A. Supervision repair indicated—

13 Q. You indicated on—

14 A. —on the job.

15 Q. We’ll take your answer, right? Can I—

16 A. No, I need to say it because, you’re, you’re—

17 **Mr. Chairman:** *[Inaudible]*

18 **Continued Examination By Mr. Maharaj SC:**

19 A. Okay. You are, you are, you are trying to say that, you are
20 saying that the monitoring is dedicated monitoring.
21 Supervision is what we wa—is dedicated supervision on the
22 site. Paria monitors, meaning that Paria representative doesn’t
23 have to be on that site 100 per cent of the time. The contractor
24 official is to be on that site 100 of the time supervising the
25 execution of his works. This is the concept of the independent
26 contractor. Paria will not supervise the independent contractor.
27 It’s their responsibility.

1 Getting on to your point here now, note video stream to
2 be provided at topside during Paria—Para just ex—is asking for
3 mon—that Paria has a option here to monitor the live stream.
4 Right? Because they might have considered this step critical,
5 which was insert migration barrier, and they wanted
6 confirmation that it was installed because this is in the
7 hyperbaric chamber or wherever, and they needed to see it.

8 Q. Why would they need to see it?

9 A. Because for Paria that would have been a serious—this
10 migration barrier would have kept hydrocarbons—kept that seal
11 between hydrocarbons and any hot work to be conducted.

12 Q. Okay.

13 A. So from a Paria—right, so you ask about the risk. The
14 hydrocarbon risk is what Paria would be obvious to.

15 Q. Okay. Anything else you want to say on that?

16 A. No, um—

17 Q. Okay.

18 A. —if you understand what I'm saying I won't have need to say
19 anything.

20 Q. I want to go to show you—I'm still on the—

21 A. Yes.

22 Q. —I'm still on the evidence pointing out to you—

23 A. Yeah.

24 Q. —at page five seven zero. Look at page five seven zero.

25 A. Yes.

26 Q. You see it's paragraph four dot zero?

27 A. Yes.

1 Q. Right. Paria's responsibility.

2 "Supply personnel for organizing all work permits,
3 certificates, monitoring contractor's performance and
4 work standards, approving work done by the contractor
5 and carrying out quality assurance audits."

6 You agree that is Paria's role and responsibility?

7 A. Yes.

8 Q. And look at, um, 4.4, "Provide personnel for the acceptance of
9 work executed".

10 A. Yes.

11 Q. You agree that is Paria's responsibility?

12 A. Yes.

13 Q. In respect of these works?

14 A. Yes.

15 Q. And look at paragraph 4.5.

16 A. Right.

17 Q. "To provide personnel to oversee isolation, deisolation,
18 depressurization, pressurization, draining, filling product
19 from lines at berth 5 and berth 6."

20 You agree with that?

21 A. Yes.

22 Q. So, Paria had a responsibility to provide personnel to oversee
23 the draining of the lines?

24 A. Right, not supervise.

25 Q. Yes. Right. And the purpose of Paria doing that is to ensure
26 that the draining of the lines complied with what Paria agreed to
27 in the contract?

1 A. To oversee. As I mentioned oversee doesn't mean that you're
2 there all the time, right. But you're right, that line is to provide
3 over—to oversee the isolation depressurization and filling of
4 line.

5 Q. Well if, according to you, it is very important for the line to be
6 drained in accordance with the contract—

7 A. Right.

8 Q. —because you as an expert would know if the line is dry and
9 you're having a migration barrier, you could create a Delta P
10 situation?

11 A. No, I didn't say that.

12 Q. No, no, but you—

13 A. I didn't say a Delta P situation.

14 Q. Okay.

15 A. I said to create the barrier for hydrocarbons not to enter the
16 work space.

17 Q. Mr. Wei, at paragraph—well, before I ask you, would you
18 agree with me that if, in this matter, in these works, the line was
19 drained, the line was empty, okay, or, or, or mostly empty, and
20 a—and the migration barrier was installed, that is to say the
21 plugs were installed on that line and there was—and the habitat
22 came over the line in accordance with the works, that there
23 would have been a latent Delta P differential hazard situation?

24 A. If the hyperbaric chamber was installed over and the plugs was
25 installed and the line was empty, yes there would have been a
26 latent Delta P.

27 Q. Right. So—

1 A. So you had now.

2 Q. So therefore, if in relation to what I just read to you about
3 personnel overseeing the draining of the line and Paria
4 recognized that you could have had a Delta P hazard, if the line
5 was overdrained, if I use that expression—

6 A. Okay.

7 Q. —wouldn't you agree that Paria would have had a duty to
8 oversee what was being drained?

9 A. Step back there because you're talking about what is in the
10 tender document. Subsequent to that, there was a bid document
11 that we just read that LMCS had to—what we accepted
12 thereafter was to remove 35 feet for installation of the plugs.
13 So that would have now been the requirement of LMCS.

14 Q. Well LMCS had two figures, 300 barrels and 35 feet. But the
15 point I am getting at you, I want—the point I'm trying to ask
16 you, that if that was a dangerous situation, and you said it was,
17 it was a potentially dangerous situation if you had that with the
18 line dry and the migration plug installed and the hyperbaric
19 chamber installed and Paria, this is in the scope of duty which
20 Paria accepted as a responsibility—

21 A. Right.

22 Q. —to monitor the works—

23 A. Right. The migration—

24 Q. —to oversee the works—

25 A. —barriers were installed for the hazard that Paria would have
26 seen which is the explosive mixture. The contractor, specialist
27 contractor, should have seen that risk because that is—he is

1 working in—he is familiar with the use of hyperbaric chambers.
2 Para infrequently use a hyperbaric chamber.

3 **Examination By Mr. Chairman:**

4 Q. Did you say frequently or infrequently.

5 A. Paria—the last—Paria would have only used that hyperbaric
6 chamber previous in 2020. LMCS being the specialist
7 contractor would have more experience in that, so we would
8 rely on the expert.

9 Q. Can I just be clear, you don't profess to be an expert in diving
10 matters and so I don't know if you—

11 A. And hyperbaric chamber, no.

12 Q. But you have said that you understand what Delta P is?

13 A. After the incident, a better understanding.

14 Q. Well, that's what I want to ask you about. Did you have an
15 appreciation of what Delta P was, is, before this contract was
16 concluded, before it was even opened? Did you understand a
17 risk associated with Delta P, what that was?

18 A. No, because the contractor never contemplated that in its risk
19 assessment.

20 Q. Irrespective of this job, right, it's irrespective, did you yourself
21 have any kind of understanding of what Delta P is?

22 A. In the hyper—with respect to the hyperbaric chamber? No.

23 Q. Or, or, or irrespective of a hyper—even outside of that
24 particular er, er—

25 A. Yes, you would—

26 Q. You, you, you'd heard of it before, hadn't you?

27 A. Yes.

1 Q. And, having heard of it before, did you understand mechanics
2 of it?

3 A. Yes.

4 Q. You've got differential pressure?

5 A. Yes.

6 Q. And obviously if you've got pressure in one side that was
7 greater than the other—

8 A. Correct.

9 Q. —it's going to push, push it till it finds it's equilibrium isn't it?
10 Did you understand that as a—

11 A. Yes.

12 Q. —basic science if you like? Yeah?

13 A. Yes.

14 Q. All right. But as I understand what you're saying is, it never
15 entered your head to consider that as an issue at all because the
16 LMCS had never raised it as an issue?

17 A. Yes.

18 Q. Am I right about that?

19 A. Yes. As the specialist contractor—

20 Q. Yes.

21 A. —they would be familiar with those risks.

22 Q. And you regarded LMCS as being the specialist contractor?

23 A. Correct.

24 Q. Right. Can I, in that regard, then, please, ask you this? Did you
25 think there was ever any ambiguity at all about the extent to
26 which the line was to be cleared, whether it was to be
27 completely cleared, partially cleared or anything else? Did you

1 have any amb—did you understand there to be any ambiguity
2 about that?

3 A. Okay, so, from the tender document, I think it's clear that the
4 line should be emptied sufficiently to reinstall the plugs.

5 Q. Right.

6 A. Subsequent to that, the development of the method statement
7 would not have been under my purview.

8 Q. Right.

9 A. So I would not have been involved in development of the
10 method statements and the communication thereafter, but what
11 last I would have seen would have been on the tender document
12 with respect to—

13 Q. Thereafter you had no further interest in the detail of what
14 happened? Is that what you're saying?

15 A. To put it lightly, in—yes.

16 Q. I'm trying to use some of the jargon because I didn't follow
17 half of it so I do want to understand.

18 A. Yes.

19 Q. So that we all understand. Your position is, is that you saw the
20 tender documents, took them at face value, thereafter you had
21 no further involvement in the detail or amendments to that?

22 A. In development of the details, yes.

23 Q. All right. So can I ask you to have a look at document, just tell
24 me if you've ever seen it before? Five nine eight, please? Page
25 598. You see this is, this is described as an addendum, Paria
26 Fuel Trading Company Limited miscellaneous repairs and
27 refurbishment works at 5 and 6 berths and main viaduct

1 addendum one. You see that?

2 A. Yes.

3 Q. This is a document you've seen before?

4 A. Yes.

5 Q. At the time or subsequently?

6 A. I would have seen this for the addendum when the issuing of
7 the tendering.

8 Q. Right. So—

9 “The following are questions raised with clarifications.
10 This addendum has to be signed and submitted with the
11 technical tender submission.”

12 A. Right, so—

13 Q. Yeah, and the point of it, as I understand it, is that your, um,
14 where there was some ambiguity or some question arising from
15 the original works, that could be dealt with in this addendum,
16 question answer session?

17 A. Yes. This is clarifi—this is the response to clarifications from
18 invited ten—invited bidders.

19 Q. Yes.

20 A. Yes.

21 Q. So this is being sent out. “Who is responsible for pumping
22 back from the berths to clear the lines with water?” You see
23 that?

24 A. Right.

25 Q. Who's asking that question?

26 A. I—this would be one of the invited tenderers—invited bidders.

27 Q. The invited bidder. Right. And a response comes from you,

1 does it?

2 A. Yes, for Paria.

3 Q. So the response from Paria is, the contractor is responsible for
4 the safe removal of hydrocarbon content from the line and to
5 ensure that the line is clear and dry. What did you understand
6 that to mean?

7 A. Safe removal of hydrocarbons.

8 Q. Yes.

9 A. And ensure that the line is clear and dry.

10 Q. Yes. What's that mean?

11 A. It could mean with respect to—it's a little unclear because it
12 could mean—they didn't define the amount to remove.

13 Q. No, well—

14 A. So it could mean, it could mean from just below or the entire
15 line.

16 Q. Would you agree—

17 A. If I, if I was to read it.

18 Q. Mr. Wei, would you agree with me that at best it is ambiguous?

19 A. Yes.

20 Q. And this—I mean, I'm not saying it's you.

21 A. Yes.

22 Q. I appreciate you didn't write this.

23 A. It could be ambiguous.

24 Q. But whoever wrote it, whoever made that response to the not
25 unreasonable query that arises, your response, that is you, the
26 company, Paria's response—

27 A. Yes.

1 Q. —was, would you agree at best ambiguous?

2 A. Yes.

3 Q. Thank you.

4 A. But subsequent to this it was the tender documents.

5 Q. I'm sure there are many documents that came after this and
6 there's a scheme of work as well which I anticipate at some
7 point we'll get to—

8 A. Yes.

9 Q. —but I'm starting from the beginning because that's where we
10 are at at the moment. Where we end up is another matter. But
11 at this stage, at any rate, in seeking clarification, which I
12 assume this is all—what this is all about, the answer is, at that
13 stage at any rate, ambiguous. One would hope at that such
14 ambiguity would have been cleared up?

15 A. If it was ambiguous to another contractor they could have asked
16 for a clarification a bit further.

17 Q. Well it's ambiguous to you and it's ambiguous to me, all right,
18 so one would hope that somewhere, somewhere along the line,
19 someone would say exactly what we are saying?

20 A. Yes.

21 Q. Thank you. All right, we'll get to what happens later, later.

22 **Continued Examination By Mr. Maharaj SC:**

23 Q. In respect of supervision, I just want to point out to you, if you
24 can look at, um, CD 1 at page 29, 28 and 29 that has to do with
25 the permit to work procedure. And would you look at page 29
26 one, two, three, fourth from the beginning, for the fifth one:

27 “Stop the work if there are changes in site conditions that

1 increase the risk or if new hazards are identified,
2 promptly notify the site authority of these changes.”

3 Whose roles and responsibility is that one?

4 A. You'll have to scroll up for me to see.

5 Q. Isn't that Paria's responsibility?

6 A. Which one?

7 Q. To stop the work if there are changes in site conditions that
8 increase the risk of new hazards?

9 A. This is what page?

10 Q. Page 29.

11 A. Twenty-nine.

12 Q. The fourth dot, the fifth dot.

13 A. I want to see the header, if it's 5.1 or—okay, so it's 5.1—

14 Q. No, page—

15 **Mr. Chairman:** It's 5.1, applicant.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Yes, it's 5.1?

18 A. Right.

19 Q. Just at the top. The applicant—

20 A. Yes.

21 Q. —right—

22 A. Yeah.

23 Q. —is the person completing, A, the work permit, the applicant
24 must have the necessary competence, et cetera. Stop the work
25 if there are changes in site conditions that increase the risk of
26 new hazards, et cetera. Would that apply to Paria?

27 A. That would apply to the applicant who can be a Paria, a Kenson

1 or even the contractor.

2 Q. Or even the contractor?

3 A. So it would be applicable to the applicant.

4 Q. And the applicant on the 25th was Kenson so it would have
5 been Kenson's responsibility?

6 A. That would have fall under his responsibility, yes.

7 Q. Yes. And then if you look at the one above, "Continually
8 monitor the job to ensure that it's performed in a safe manner
9 and within the conditions prescribed in the work permit,
10 certificates and JHA risk assessment. He may sign the renewal
11 section", et cetera, et cetera, that would be the applicant and if
12 it's Kenson would be the Kenson responsibility?

13 A. Yes.

14 Q. Yes.

15 A. To continually monitor.

16 Q. Yes. Now, you notice that it says there, "continually monitor",
17 not part-time, continually?

18 A. It doesn't say continuously.

19 Q. It doesn't say what?

20 A. Continuously.

21 Q. Continuous?

22 A. It says continually.

23 Q. Okay.

24 **Mr. Chairman:** Well he's right, isn't he? It does say that.

25 [*Laughter*]

26 **Mr. Maharaj SC:** Right, okay.

27 **Examination By Mr. Chairman:**

1 Q. Is there a difference?

2 A. In the understanding from the HSE training for permit to work,
3 there is a difference. Continually—

4 Q. Tell him. He knows about it.

5 A. Continually, continually—okay, so this is specific to this
6 permit, specific to the training, what I understand that
7 continually is more periodically as compared to continuously—

8 Q. Okay.

9 A. —in this instance here.

10 **Mr. Maharaj SC:** The next one I want to show you is CB
11 1033 Volume III and this is 1033, and this is, um, Paria's work
12 instructions, right?

13 **Mr. Chairman:** Where are we, please?

14 **Mr. Maharaj SC:** CB 1033. Doc—

15 **Mr. Chairman:** Got it.

16 **Mr. Maharaj SC:** Right.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. You see the document, um, is an instruction prepared by Paria
19 as to exactly—

20 A. Now, could I just come back to your question, because
21 something just crossed my mind, just to make it clearer for you,
22 with the applicant, right, because you're suggesting that the
23 applicant is on the job for dedicated monitoring—dedicated
24 supervising, right? The applicant, in the permit to work system,
25 can have more than one job in progress. He can apply for one
26 job in this, so it would be impossible for him to be on both sites
27 at the same time, but the contractor official is the one who is

1 supervising the work and needs to be dedicated to the job. So I
2 just want to clarify that because I think it's suggesting that the
3 applicant should be on the job continuously.

4 Q. But if for some reason a Paria person cannot be there, Paria can
5 put somebody else in order to deputize for the time being?

6 A. Para can do that to do their monitoring.

7 Q. Yes, okay, whatever you want to call it, okay?

8 A. Not whatever, to do the monitoring.

9 Q. Okay. You are calling it monitoring and I—for these purposes
10 I would accept that for the time being.

11 A. Thank you again.

12 Q. Okay. I want you to look at that document page 1033 and you
13 see that this is a document by Paria and it's an instruction as to
14 how the clearing of the line was supposed to be. So, you see
15 the title "Clearing of line between berth 5 and 6"?

16 A. Yes.

17 Q. Right? Then you go you see the scope of works, clearing of
18 section between berth 5 and 6?

19 A. Yes.

20 Q. And then you see "Responsibilities"?

21 A. Yes.

22 Q. And you see:

23 "The terminal operation manager has the overall
24 responsibility for ensuring that this procedure is
25 established by reviewing and approving this work
26 instruction and ensuring the offshore team lead
27 understand the requirements of this work instruction."

1 You agree with that?

2 A. Well yes, that's written there.

3 Q. And it says that:

4 "The offshore team lead has direct responsibility to
5 ensure compliance with the procedure by reviewing and
6 approving this work instruction and ensuring offshore
7 operations team supervisor understand the requirements
8 of this work instruction."

9 And can I refer you to paragraphs three and four of your
10 witness statement? At paragraph three you said:

11 "My role as team manager"—sorry, sorry—"My role as
12 technical and maintenance manager is to direct the
13 services of general engineering and central maintenance
14 to the terminal operations in compliance with safety,
15 engineering and regulatory standards consistent with the
16 business plan for Paria's terminal situated"—at so-and-
17 so.

18 And then, you itemize at paragraph four what your duties are,
19 and I won't go through all of them with you, but I go to
20 paragraph—to number seven:

21 "Ensure the effectiveness of the maintenance
22 management system, including adequate record and
23 knowledge management as well as performance
24 management and reporting to continually optimize the
25 maintenance planning and scheduling process. Oversee
26 project management and control for projects such as
27 major projects, example tank upgrades, berth turnaround

1 and Sealine and pipeline network repairs replacement.”

2 Then at 11:

3 “Implement SHE standards and ensure adherence to
4 same. Communicate information effectively upwards
5 and downwards.”

6 Those are accurate?

7 A. Yes.

8 Q. Okay. I want to ask you a few things about line clearing, okay?
9 Would you agree that the line clearing—if you don’t know, say
10 you don’t know, okay? Would you agree that the line clearing
11 was done in two phases?

12 A. The line clearing operations specifically didn’t—I was not
13 specifically involved with or the development in procedure.

14 Q. So you won’t, you won’t know?

15 A. I think, um, I would say let’s stay away from for the time.

16 Q. Okay. Would you be able to help us to tell us how many
17 barrels of oil it had in the lines before it was cleared?

18 A. I believe it may be somewhere in the documents. I, either, um,
19 pre or post—

20 Q. I, I have a document. I’ll show it to you and you’ll tell me if
21 you agree with that. I think it’s 2,000 or 3,000 barrels. It’s at,
22 um, core bundle two, page 564 and you would see just under
23 3.0 scope of work, estimate volume of product between
24 isolation points 2,000 barrels. Would you accept that?

25 A. I accept that that is written into the document, yes.

26 Q. Well, you know or you don’t know? You don’t know?

27 A. I don’t know the exact volume on the line—

1 Q. Oh you don't know?

2 A. —at certain points.

3 **Mr. Chairman:** We're not really expecting you to remember
4 that—

5 **Mr. Wei:** But, no, I mean—

6 **Mr. Chairman:**—but, I mean—

7 **Mr. Wei:** Well, I think the honourable here is expecting me to
8 remember that but inside of the document is an estimated
9 volume of 2,000 barrels. I can see that.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. But that figure is in the scope of works?

12 A. Yes.

13 Q. Because reports are prepared by Paria?

14 A. Correct.

15 Q. Right. You are familiar with the daily work reports of Paria?

16 A. I'm familiar that there are daily reports but, um, normally I
17 wouldn't really have line of sight on that specifically.

18 Q. But I want to show you something from the daily—about the
19 removal of the barrels of oil, right, and can I show the witness
20 Volume II of the core bundle 994 to 1019, and I'll just point out
21 something to the witness? Nine ninety-four. Where is my
22 bundle? Nine ninety-four, Mr. Wei. And when you—

23 **Mr. Maharaj SC:** You've got it, Mr. Chairman?

24 **Mr. Chairman:** Yep.

25 **Continued Cross-Examination By Mr. Maharaj SC:**

26 Q. Yes, you have it, Mr. Wei, page 994?

27 A. I'm seeing it on the screen.

1 Q. Or you're seeing it on the screen. If you look at number three
2 on page 994, you see in the last column, job status:

3 "Air Blowing started 12.22 p.m. due to operation setting
4 up to drain to tank and air blowed until 1800 hours. A
5 total of 798 barrels of oil was drained to tank."

6 Okay? You saw that?

7 A. Well I'm seeing it here, yes.

8 Q. Okay. Right. Then, you would agree that this—the daily report
9 of Paria is in this form in respect of this kind of activity?

10 A. Yes.

11 Q. Yes. Then, we go to page nine nine seven and number three,
12 mechanical, look at the job status:

13 "Air blowing started 11.00 a.m. due to installation of slip
14 blank and air blowed until 5.30 p.m. A total of 118
15 barrels of oil that was drained."

16 You saw that?

17 A. Yeah, I'm seeing it yes.

18 Q. At page 1002—

19 **Mr. Chairman:** Can we identify the dates of these—

20 **Mr. Maharaj SC:** Sorry, Mr. Chairman?

21 **Mr. Chairman:** Can we identify the dates?

22 **Mr. Maharaj SC:** Oh yes, sorry.

23 **Mr. Chairman:** The first one was on the 18th of January.
24 This one was on the 21st of January?

25 **Mr. Maharaj SC:** Yes. I'm much obliged. I'm much obliged
26 to you.

27 **Continued Cross-Examination By Mr. Maharaj SC:**

1 Q. At 1002, that was on the 1st of February, 2022 and it says at the
2 first column:

3 “Completed, installed two lengths of six, six feet 30-inch
4 hose together with one length of 6 feet 40-inch pipe and 6
5 inches check valve from SL36 riser to SL66 riser to assist
6 with Phase II air blowing.”

7 And then if you go to, at paragraph four, mechanical:

8 “Level was checked and pipe estimated to be three-
9 quarter full of oil contents.”

10 Then we go to page 1003 on the 2nd of February, 2020. At
11 number one:

12 “Air blowing was conducted between 11.00 a.m. to 3.00
13 p.m. Onshore noted that they received 276 barrels of oil.
14 Note: start air blowing 11.00 a.m. due to lining up of
15 tanks and waiting for pressure to build up.”

16 Then you see at number four:

17 “The level was checked after draining at PB80 and pipe
18 estimated to be one quarter full with oil contents to
19 continue draining tomorrow.”

20 Then at number five:

21 “Ongoing, two slops barge was filled approximately
22 hundred barrels of oil.”

23 Then at page 1004, the 3rd of February, 2022 at number one:

24 “Air blowing was conducted between 1300 hours and
25 1,500 hours. Onshore noted that they received 55 barrels
26 of oil. Note: started air blowing 1300 hours due to
27 waiting on onshore to give clearance to start.”

1 Then at number four:

2 “Completed level was checked after draining at PB80
3 and oil content was approximately 8 feet below tee
4 upriser.”

5 Then number five:

6 “Completed. Two slops barge was filled approximately
7 100 barrels of oil.”

8 That was the 3rd of February. Then we go to the fourth of
9 February, 1005. Number one:

10 “Completed air blowing was conducted between 10.30
11 a.m. and 1430 hours.”

12 Then we go to 1006, 5th of February and then number one:

13 “Remove hoses from inside riser and install 30-inch solid
14 blank at end. Remove temporary hose piping and check
15 valve going to 6 inches to SL66. Sealine 66 and solid
16 blank end.”

17 So, Mr. Wei, I think I have a duty to ask you, because I
18 just want to find out, you would not have an idea of how much
19 oil was drained from topside piping or from the underwater
20 piping?

21 A. No. I will not have.

22 Q. No. I want to show you a letter dated the 20th of July, 2022
23 from Paria to OSHA dated the 20th of July, 2022. It’s
24 electronic bundle 2906.

25 **Mr. Maharaj SC:** I have copies that I could pass up the letter
26 to the witness and to the Commissioners and to the other side.

27 **Mr. Chairman:** Copies for everybody else.

1 **Mr. Maharaj SC:** Yes. It's on the screen.

2 **Continued Cross-Examination By Mr. Maharaj SC:**

3 Q. And this was in response to enquiries from OSHA matters, and
4 I'll go straight to page, at 2906 the second page of the letter.
5 Number three:

6 "The rationale for utilizing the equipment in item two
7 above to remove content from Sealine 36 diameter
8 between berths five and berth 6."

9 Response, from Paria, and I read:

10 "An air compressor was logistically more practical given
11 the configuration of the pipeline. The volume of
12 hydrocarbon removed from Sealine 36 between berths 5
13 and 6 prior to the installation of the subsea slip-on flange
14 30-inch diameter as per method statement.

15 Response: Given the configuration of the system it is
16 impossible to segregate and measure the displaced
17 volume.

18 Five: The volume of hydrocarbon removed from Sealine
19 36 between berths 5 and 6 after the accident.

20 Response: The volume of hydrocarbon removed is
21 estimated at 125 barrels. The quantity is based on the
22 estimated spilled hydrocarbons, six barrels and the
23 recorded volumes of hydrocarbons recovered in the Sea
24 Manatee, 119.8 barrels."

25 So— well, this is from Paria records. At paragraphs 85 and 86
26 of your witness statement, you gave an opinion about Delta P,
27 page 1286 and 1287. And in that opinion—I'll ask you to read

1 it, 85 and 86.

2 A. Eighty-five and 86.

3 Q. Yes.

4 A. Eighty-five, more important. "Knowing I—

5 Q. You could read it to yourself.

6 A. Oh I thought you wanted me to read it for everyone. Sorry.

7 Q. If you read it to yourself, then I can read paragraph 86 for you.

8 A. [Reading] Yes, I've completed reading 85.

9 Q. Right. And at paragraph 86, you said that:

10 "The removal of the migration barriers by LMCS also
11 opened up the differential pressure between the pipeline
12 and the chamber which is likely to have caused a
13 powerful and immediate suction effect which pulled and
14 entrapped the divers inside the pipeline and ultimately
15 caused the death of the four men."

16 Now you told us earlier that at the time of the incident you did
17 not have any idea of Delta P but since the incident you have
18 read about it and you got some knowledge about it. Am I
19 correct?

20 A. Yes.

21 Q. Yes. And it's based on that knowledge that you acquired you
22 have put that—based on that knowledge your paragraphs 85
23 and 86?

24 A. Yes.

25 Q. Right. But since you have some knowledge of it, would you
26 agree with me that it did not need—in the circumstances that
27 day, it did not need the pulling of the plug to activate the Delta

1 P? I'll explain it to you. Would you agree with me that a latent
2 hazardous differential pressure condition was created by the
3 works which were involved in the removal of fuel oil from the
4 pipeline and the installation of the migration barrier with the
5 installation of the hyperbaric chamber? In other words, when
6 that occurred, that created a latent Delta P situation, and just for
7 your information, the habitat was installed on the 13th of
8 February and the migration barrier was installed on the 13th of
9 February. So would you agree with me that from the 13th of
10 February, 2022 there was in the habitat a latent hazardous
11 differential pressure condition?

12 A. Okay. You mentioned the 13th that the migra—the hyperbaric
13 chamber was installed and the plugs installed?

14 Q. Yes.

15 A. Not in that sequence. The plugs were installed and then the
16 hyperbaric chamber was installed.

17 Q. Yes.

18 A. Right? So, with the plugs installed and the hyperbaric chamber
19 installed, and the hyperbaric blown down—

20 Q. No, I'm not talking. The habitat installed—sorry, the
21 expression blown down. yes, go ahead.

22 A. No, no, no, just—I'm trying to make sure we have the right—
23 what we're saying here correctly.

24 Q. Yes.

25 A. Right? With the migration barrier installed, and then the
26 hyperbaric chamber installed over it, if there was the latent
27 Delta P with the plugs installed, yes, there would be that.

1 Q. There would be that. So therefore, during the period the 13th of
2 February, 2022 to the 25th of February, 2022 you had a latent
3 differential pressure situation and you had plugs. Would you
4 agree with me that if there was some leak on those plugs over
5 that period, it could have caused an active Delta P situation?

6 A. If there were leaks on the plugs, hypothetically you're
7 stretching your imagination because the plug is a tight seal.

8 Q. No.

9 A. Assuming the plug is a tight seal—

10 Q. Yes.

11 A. —and those when installed by the contractor would have done a
12 quality test to ensure that it was good, they would have done a
13 quality test to make sure that the plug was functional and
14 acceptable to you, so—

15 Q. Okay.

16 A. —this is like a situation like—

17 Q. All right so—

18 A. —I don't know, like—

19 Q. Okay, Mr. Wei, you do not want to assume that. You, you—

20 A. Okay.

21 Q. So would you agree with me that on the 25th of February, 2022
22 when the permit to work was issued for these works, there was
23 existing in the chamber a latent hazardous Delta P situation?

24 A. Yes.

25 Q. Yes. At paragraph 52 of your witness statement, you referred
26 to a meeting that you had with Mr. Terrence Rampersadsingh
27 on the 24th of February. Paragraph 52, yes, at page 1280, and

1 you told him that the works were to resume on the 25th. And
2 then you told him at paragraph 53 what was discussed. You
3 stated what was discussed. Do you have any—there were any
4 contemporaneous notes made by you at the time of what was
5 discussed?

6 A. No.

7 Q. No. So when you, when you recorded this, when you made this
8 statement, you spoke from memory?

9 A. Yes.

10 Q. Yes. And that was—you had signed this statement on the 10th
11 was it, 16th of August, 2022 and you were speaking from
12 memory of an incident, of a meeting you had on the 24th of
13 February, 2022. And you were able to remember all these
14 details?

15 A. Yes.

16 Q. And what about at paragraph 53? At paragraph 53—at
17 paragraph 53 you gave details of what the scheduled work for
18 Friday was?

19 A. Yeah.

20 Q. And you give the scheduled work for what the work on
21 Saturday was?

22 A. Yes.

23 Q. And that was a meeting between LMCS and Paria?

24 A. That meeting was between Terrence Rampersadsingh and
25 Paria—and LMCS.

26 Q. And LMCS?

27 A. Yes.

1 Q. So it was Paria representing—Mr. Rampersadsingh
2 representing Terrence—

3 A. right.

4 Q. —by Terrence Rampersadsingh?

5 A. Right.

6 Q. And LMCS. Were you at that meeting?

7 A. No, I was not at that meeting.

8 Q. So, you have minutes of that meeting?

9 A. I would not have minutes of that meeting.

10 Q. So you were not at the meeting?

11 A. Right.

12 Q. But you remembered this from memory?

13 A. Yes. Terrence Rampersadsingh would have discussed with me
14 after the meeting and said that work is going to start and these
15 are the works planned for the weekend.

16 Q. But all these works you remember it in that sequence from your
17 memory without looking at any document? Because you just
18 said you didn't have any notes.

19 A. Yeah.

20 Q. You were not at the meeting, Terrence Rampersadsingh tell you
21 something in February, right, and you, when you had to do this
22 statement in August, you remembered just what he told you?

23 A. At the time of this, yes.

24 Q. Yes. Well let's go to paragraph 56.

25 A. That was the day the minutes was—this, um, was signed.
26 Okay?

27 Q. At paragraph 56.

1 A. The date on the, um, document, the date signed.

2 Q. Yes.

3 A. It's not the date when it started. I don't have an exact date
4 when I started writing but when I started writing I would recall
5 what I wrote.

6 Q. Anyhow, you told us—

7 **Examination By Mr. Chairman:**

8 Q. I'd like to understand that, please? This is a very long
9 statement so I could imagine it would take more than a day. So
10 can I be clear, the document is ultimately signed on the 16th of
11 August of this year. Give us some estimate of how long it took
12 you to put this together.

13 A. I don't really—three months plus.

14 Q. So under a period of three months you were writing this
15 statement a bit at a time, obviously not doing that on its own, I
16 appreciate?

17 A. Right.

18 Q. So realizing that it was going to be necessary, you put this
19 document together. Did you do it yourself?

20 A. Yes.

21 Q. Did you do any, um—

22 A. I, I prepared the document.

23 Q. Yes.

24 A. Yeah.

25 Q. I mean, I don't know whether you typed yourself or you got
26 someone to do it for you. Did you type it yourself?

27 A. Yes.

1 Q. I mean, did you cut and paste bits from other statements or
2 other documents?

3 A. No.

4 Q. Can you just have a look at page 1281 for a minute please?
5 There, you see it right there. Stop. Now, go back again. Go
6 back, go back. Just, just stop there. Do you see paragraph 56
7 which you're about to be asked about?

8 A. Yeah.

9 Q. Do you see it starts with a list of numbers after that, just after
10 the introduction as it were, yeah?

11 A. Right, yes.

12 Q. Is it just me or is it that it looks as though the numbering that
13 comes afterwards with all those different lines setting out what
14 they are, are at a different angle from the previous two lines as
15 if that bit has been pasted on?

16 A. Which numbers?

17 Q. You see it says doesn't it:

18 "Paragraph 56 the specific tasks required to be done by
19 LMCS and the sequence of the said tasks from Friday,
20 February the 25th up until completion of the works were
21 as follows:—"

22 and then you list 23 different things that were done, yes?

23 A. Yes.

24 Q. Right. Now, if you look at where the one is on that list—

25 A. Look at?

26 Q. On your page, it looks exactly the same on the page that you've
27 got in front of you?

1 A. Yes.

2 Q. All right? The number one on that list underneath the word
3 “From”, you see what I’m thinking about?

4 A. Yes.

5 Q. And the distance between that and the distance between the
6 word “Workday”, and “Completion”, on the same lines, do you
7 see the distance between the two?

8 A. Yes.

9 Q. All right. Do you agree with me that they are both—that
10 they’re at different distances? One is wider than the other?

11 A. Yes.

12 Q. Well, does it look to you as if the number one through to
13 number 20 on that page has been cut and pasted on to the page?

14 A. I typed it in and I know it wasn’t cut and paste. If you look
15 higher up on the page it’s really—for me it seems to be on the
16 scanning of the document that would have twisted those lines
17 and writing a document over some period of time it’s really
18 formatting.

19 Q. So it’s really just the scanning of the document. Do you have
20 the original?

21 A. I would have the original somewhere, yes.

22 Q. Do you think you might make it available to us, not today, but
23 whenever you get a chance dry and dig out the original let us
24 have it? Do you think you could do that?

25 A. Yeah, I’ll see.

26 Q. Thank you very much. And just before I hand you back to Mr.
27 Maharaj, this particular paragraph that you’re about to deal

1 with, is this again without notes?

2 A. This—yes, this would have been without—

3 Q. Without notes? I'm only asking. I just need to understand what
4 you're saying, you see? You've told us the statement was
5 compiled by you over a period of three months or so leading up
6 to the 16th of August.

7 A. Right.

8 Q. And to the best of your recollection you didn't use notes, you
9 were doing it from your recollection. Is that right? Have I got
10 that right or if I've got it wrong tell me. Put me right.

11 A. I would have referred to some documents—

12 Q. Right.

13 A. —but I would not, um, specifically recall what documents.

14 Q. Because it's difficult, isn't it, for anybody to put a statement
15 together of—I mean, how many pages does it run to? It's, um,
16 15, 20, it's 162 paragraphs. It's an extensive statement and it
17 must have taken you a while as you've told us. I just want to
18 understand. If you used notes, that's fine. I would just like to
19 see them that's all, because otherwise what we have is what you
20 say in the statement. Do you follow?

21 A. Yes.

22 Q. And where you've been or where you refer to a list of particular
23 items, you say you didn't use notes and I'm asking you if you
24 used notes for this list of 23 items, and whether you, if you did
25 use notes, where are they?

26 A. Right and I'm saying that these were the sequence of events—

27 Q. Yes.

1 A. —that I would have expected to have been done.

2 Q. And so where did you get from it, that sequence?

3 A. From knowledge, from knowledge of how the work should be
4 done.

5 Q. Right. So you're relying on memory?

6 A. Yes, in effect, yes.

7 Q. Okay.

8 **Mr. Maharaj SC:** I'm sorry, Mr.—

9 **Mr. Chairman:** That's all right.

10 **Continued Cross-Examination By Mr. Maharaj SC:**

11 Q. Mr. Wei, does Paria have any record of the work-plan for the
12 25th of February of what happened at the meeting for the work
13 plan?

14 A. At the—there would be the, um, there would be the toolbox
15 meeting.

16 Q. The toolbox meeting?

17 A. Right? And there would be the permit. Whether there is a
18 specific document that says what was the work plan for that
19 day, I'm not aware.

20 Q. Uh-huh. But I—okay. Now, in this sequence of the works that
21 you gave at paragraph 56, you would notice that you set out for
22 the new riser section to be removed at tasks 10 and 11 and for
23 the plugs to be removed thereafter at task 20. Correct?

24 A. Yes.

25 Q. And you're telling us today that you remembered those
26 sequence purely from your memory?

27 A. Yes.

1 Q. Yes. Now, I want to show you the method statement number
2 116 dated the 4th of January 2022 CB 1051 Volume III.

3 **Mr. Chairman:** I wonder if before we go to that we might just
4 take a 5-minute break, a comfort break for some, and then we'll
5 press on? Hopefully we'll be able to conclude, all right? So 5
6 minutes, please?

7 **3.42 p.m.:** *Enquiry suspended.*

8 **3.47 p.m.:** *Enquiry resumed.*

9 **Mr. Chairman:** Apparently Mr. Wilson wasn't the only one.

10 **Continued Cross-Examination By Mr. Maharaj SC:**

11 Q. I was taking you, Mr. Wei, to CB 1051 Volume III which is the
12 method statement at paragraph 56 and I was taking you to that
13 in the context of the sequence of how you mentioned the plug
14 was to be removed in your sequence of events and showing you
15 the method statement and what it says. So, have you got
16 paragraphs 55 and 56 at page 1051? It's on the screen.

17 A. Yeah.

18 Q. And you would see what had to be done according to the
19 method statement before paragraph 56 on the next page.

20 "Manually remove migration barrier from line. Manually
21 deflate the line plug and remove from line."

22 So you would agree that the method statement has a different
23 sequence to your evidence of the sequence of the plugs, of the
24 removal of the plugs?

25 A. Yes.

26 Q. Yes. Now, at paragraph 73 of your witness statement, one two
27 eight four, you stated that the applicant for the—sorry, attached

1 to the P—attached to the permit to work, number nine three two
2 zero, were LMCS' revised method statement dated 4th January,
3 2022, job safety analysis dated 10 December, 2021 and other
4 documents LMCS submitted, um, two method statements to
5 Paria, one with ITB proposal and the letter in 2022, et cetera, et
6 cetera. So, the permit to work had this method statement
7 attached to it together with the job analysis report, correct?

8 A. Yes.

9 Q. Yes. And if you look at the permit—well would you agree that
10 the job safety analysis which was done by LMCS was based on
11 the method statement number 116?

12 A. It's based on the method statement 116, yes.

13 Q. And that method statement was reviewed and accepted by
14 Paria?

15 A. Going again what I said before—

16 Q. Yes, I take into account what you said before, but it was
17 approved and accepted by Paria?

18 A. Well I just want to say it again, that the specialist contractor
19 would have identified the risks specific to this—specific to his
20 specialty. Okay? And Paria would have looked at the
21 operational risks and included those into the risk assessments.
22 On that basis, yes.

23 Q. Yes. And that method statement was attached to the permit to
24 work?

25 A. Correct, yes.

26 Q. That was attached to the permit to work by Paria?

27 A. Yes.

1 Q. Together with the job hazard analysis?

2 A. Yes.

3 Q. Yes. And would you agree that the job safety analysis did not
4 identify a Delta P hazard?

5 A. Where's the job safety? So the job safety analysis, please?

6 Q. Yes.

7 A. Can I see it?

8 Q. It did not identify a Delta P hazard?

9 A. LMCS did not identify that, yes.

10 Q. All right. But you told us earlier today that from the 13th of
11 February, 2022 there was a latent Delta P situation in the
12 hyperbaric chamber?

13 A. And the date the document was developed?

14 Q. No, you cannot recall that earlier this afternoon—

15 A. Yes, I recall that, right.

16 Q. And you said that there was a latent Delta P situation from the
17 13th of February?

18 A. Yes.

19 Q. Yes? And Paria issued a work permit on the 25th of February,
20 2022 without identifying any Delta P situation?

21 A. It identifying that the migration barriers were to be used and did
22 not authorize the removal of the plugs.

23 Q. Okay, so—

24 A. So the, the situation would have remained latent.

25 Q. Did—on the permit to work you're familiar with the permit to
26 work—

27 A. Yes.

1 Q. —that was issued. There is nothing on the permit to work to
2 state do not deflate the plug.

3 A. But there is—

4 Q. Before—

5 A. It's not written in to remove the plugs.

6 Q. Okay, all right.

7 A. The permit to work would write what specific tasks are allowed
8 to be done. It does not say what tasks not to be done.

9 Q. Would you—I think I'd better show you the permit to work. It
10 won't be long again, Mr. Chairman.

11 A. Yes, show me the permit to work.

12 Q. Volume III, 1074. Right? Um, on the description of the job,
13 you would agree that the form does not say sequence of job to
14 be done?

15 A. Correct.

16 Q. You would agree that the method statement showed the
17 sequence of the works to be done?

18 A. No.

19 Q. The method statement—

20 A. The method statement shows what works are to be done. It
21 could be in that sequence or it may not be in that sequence,
22 based on specific conditions on the day. When the method
23 statement is developed, when the method statement is
24 developed by the contractor, the contractor is not aware of all
25 the operational risks or the operational situation that is going to
26 exist on that day.

27 For example, if the weather was raining heavily, he could

1 not have gotten entry into the chamber. If there was a barge or
2 a boat alongside, even though he says and it's sequenced that
3 way, it will not follow that. What the authorization is given for,
4 what the site authority is deemed safe to conduct, so these tasks
5 would have been allowed to be done.

6 Q. So you are saying that Paria recognized that the sequence of
7 work stated in the method statement can be changed from time
8 to time depending on the condition on the day?

9 A. Could be, yes. You see, I think you don't understand.

10 Q. No, I, I, I understand.

11 A. The permit to work is the site giving the contractor the
12 authorization to do those specific tasks. The method statement
13 is, is the expert contractor saying these are the steps to be done.
14 But based on conditions or on the site, for example in this if
15 you go lower down it says migration barriers to be used clearly
16 written in.

17 Q. Yes, Mr.—

18 A. So, how can you remove the migration barriers when it's
19 installed there "Migration barriers to be used"?

20 Q. So—

21 A. So that's what I'm saying it's, um, written inside there.

22 Q. Okay. On the permit to work it says, "Line drained". What
23 you understand that to mean?

24 A. I didn't fill out that so I wouldn't—I don't [*Inaudible*]
25 line drained.

26 Q. Would you accept it means the line was drained?

27 A. Yeah, I could—okay, you would—let's say—let's go ahead

1 with that.

2 Q. From your experience there, could the migration barrier to be
3 used, it was to be used in relation to preventing any things to go
4 into the pipe?

5 A. I can't speculate for what, um, for what—but, it would be—the
6 migration barriers there would have been used for a purpose.

7 Q. What is the purpose?

8 A. To separate the line from the hyperbaric chamber, and, in that
9 effect once the hyper—once the migration barriers are installed,
10 you've separa—you've, you've now kept the Delta P latent, but
11 I would—from my statement I would think it's more from if
12 you had it from a—the explosive environment and the fumes,
13 hydrocarbon fumes get into the chamber where you have men
14 working on, it serves the, it serves the both purpose.

15 Q. Do you think there were any residual hazards for that job that
16 day?

17 A. Residual hazards?

18 Q. Yes, in respect of those works, that day.

19 A. If followed in the method statement, no. If followed, sorry, the
20 work permit. Correction.

21 Q. So, as far as you are concerned, with these permit—with this
22 permit to work there was no risk of a Delta P situation
23 happening that day?

24 A. Correct.

25 Q. Even though you have told us that with the hyperbaric chamber
26 being there with the line cleared, no risk from the 13th of
27 February?

1 A. When the—once the migration barriers are installed, the risk
2 remains latent.

3 Q. Mr. Wei, do you find it surprising that in this permit to work
4 you would have a blank for residual hazards but you have
5 additional precautions, care to be taken when weather
6 conditions change? What you think is more important?

7 A. What you're saying there? I not clear.

8 Q. If you look residual hazards, blank.

9 A. Right.

10 Q. Additional precautions, care to be taken when weather
11 conditions changed.

12 A. Yes. And that's consistent with what I've just said. With
13 respect to divers in the water, if the weather changes seriously,
14 it affects the job. So additional precautions with care to be
15 taken when weather conditions change, I think that is quite
16 clear. Divers in the water, it's a storm, you take the divers out
17 the water.

18 Q. I want to ask you one more question.

19 A. Sure.

20 Q. What do you think was more important for this form, as Paria
21 was concerned, to put a Delta P possibility or to put "Care to be
22 taken when weather conditions change"?

23 A. The one with migration barriers to be used.

24 Q. Migration barriers to be used. Thank you.

25 **Mr. Maharaj SC:** Unless I can be of any assistance?

26 **Examination By Mr. Chairman:**

27 Q. Before I pass over, again, can I just be clear—

1 A. Sure.

2 Q. —I understand your position? Leaving aside whether it was
3 your responsibility or LMCS' responsibility to have considered
4 Delta P or anything like that, from the divers' point of view, the
5 individuals who were going to carry out the job themselves, do
6 you think that if they had cast their eye on the work permit that
7 we've just been looking at, 1074—just put it back up please?
8 The work permit, looking at that document—and scroll down to
9 which—where it shows what documents are accompanying it,
10 you see there this work permit authorizes as I understand the
11 position—

12 A. Yes.

13 Q. —authorizes the team to go and do that job.

14 A. Those specific tasks.

15 Q. Those specific tasks.

16 A. Yes.

17 Q. Right? The specific task as it says, “specific tasks”, doesn't it?
18 Just scroll back again please to A? That's it. It says: “Job:
19 various maintenance works”, and then it says, “Specific tasks”,
20 yes?

21 A. Yes.

22 Q. And they are listed there, aren't they?

23 A. Yes.

24 Q. By your colleague, Mr. Majardsingh.

25 A. Yes.

26 Q. Right. The specific tasks are what you want them to do?

27 A. Or what LMCS would have requested to be done on that day.

1 Q. Yes. Well what you, Paria, the firm, required them to do.
2 “These are the specific tasks we require you to do”?

3 A. There’s a slight difference.

4 Q. Is there?

5 A. This is an independent contractor performing a job.

6 Q. Yes. So you’re telling them what they can do?

7 A. On that day in question—

8 Q. Uh-huh.

9 A. —the—on the meeting that Terrence would have had on the
10 24th they would have explained to Terrence what their plan is
11 for the following day.

12 Q. All right.

13 A. So based on their work plan for that day, the applicant prepared
14 the specific tasks based on that.

15 Q. All right. I think we’re at the same place. We’re in the same
16 place.

17 A. I just want to make that clarification. It’s not that—because
18 there’s a, there’s a thought here that Paria is supervising the
19 contractor.

20 Q. No. I’m not, I’m not interested in supervising, all right?

21 A. So—so the—

22 Q. Mr. Wei, we’re going to get on much quicker if you just help
23 me. If you don’t agree with me, just say I don’t agree.

24 A. Okay, no problem.

25 Q. Right? So, my understanding of what this document is doing is
26 to provide the specific tasks for the teams that are going to
27 carry out the job.

1 A. Correct.

2 Q. Those specific tasks do not tell them, A, in which order to do
3 them, do they?

4 A. No.

5 Q. Or how to do them?

6 A. Correct.

7 Q. Do they? This document, scroll back please to three, has with
8 it, as a standard thing, because this is a preprinted document
9 isn't it?

10 A. Yes.

11 Q. Which you then fill in what you think is important, not you
12 personally but Mr. Majardsingh, and included in that is the hot
13 work certificate, there are numbers given, we've seen it, all
14 right, we get also a "not applicable" for confined space
15 certificate, excavation certificate not applicable, "safe work
16 method statement, see attached". Right?

17 A. Yes.

18 Q. What does safe work method statement mean to you?

19 A. The method statement.

20 Q. Right. Is it to do with how the job should be done as opposed
21 to the tasks to be done?

22 A. It's the work to be done.

23 Q. No, safe method statement please? I want to understand what it
24 means to you. The safe work method statement, does that mean
25 how the job is supposed to be done? If I'm wrong, tell me I'm
26 wrong.

27 A. Yes, how the work supposed to be done.

1 Q. It is. Right. Thank you. And that document is the one which
2 we have, that you've been referred to, called the, um, method
3 statement 116, correct?

4 A. Yes.

5 Q. Which is attached to this working document?

6 A. Right.

7 Q. From the divers' point of view, I'm not looking at LMCS, I'm
8 not looking at Paria, I'm just looking at the diver, the people
9 who are going to carry out this job, all right, if they get this
10 document attached to the worksheet, is that not telling them
11 how to do the job?

12 A. Yes. But not work that is authorized for that day.

13 Q. No well obviously. [*Inaudible*] for a lot more.

14 A. Correct, and the—

15 Q. And it's telling them in relation to those parts of the job that
16 we're concerned with on that day, you were referred to, were
17 you not, paragraph 56 and 57, can we have 1051 back up,
18 please? Go back just one page so that we put it into context for
19 you, Mr. Wei so that I understand.

20 A. Uh-huh.

21 Q. Go to 51. Fifty-one deals with perform die penetration test on
22 the welds to determine acceptability, right, so this is again to do
23 with the integrity of the welds, isn't it?

24 A. Yes.

25 Q. And then, "Thoroughly clean and dry the area to be tested.
26 Perform dye penetration test according to product
27 specifications", and then it gives you the steps. You see that?

1 A. Yes.

2 Q. And then next one 54, “On completion of the weld conduct a
3 pressure test on flange weld”, this is all in sequence, isn’t it.

4 A. Generally, yes.

5 Q. Yes. Well if I get—if the sequence is wrong, you tell me all
6 right? Fifty-five, “On acceptance remove the test hardware”,
7 right? That’s now you’ve done the testing, take it away,
8 correct? Then 56, “Manually remove the migration barrier
9 from the line.” You say that’s wrong, don’t you?

10 A. I’m saying based on what we know now, that that order is
11 wrong.

12 Q. Well based on what we know now we know it’s wrong because
13 four men died.

14 A. Yes, because—

15 Q. Can I just be clear, though?

16 A. If the line—

17 Q. At the time, and I want you to do your best to help me there
18 please because, you know, it’s your firm who’ve attached this
19 document to the worksheet, you see?

20 A. Yes.

21 Q. And I just want to look at it from the divers’ point of view.

22 A. Okay.

23 Q. And I get this and I look at this if I did, and we’ve already
24 heard some evidence he didn’t or we can’t remember doing so,
25 but, if you’re looking at this or you’re being told that this is the
26 order by some other diver, help me please to understand, he
27 would have thought this was the how to do the job, wouldn’t

1 he?

2 A. No.

3 Q. He wouldn't have?

4 A. No.

5 Q. And he shouldn't assume that?

6 A. He shouldn't have assumed that.

7 Q. He should not have assumed that. And the basis upon which
8 you say that is because in your statement you set up the
9 sequence that it should have been in, don't you? Let me just
10 find it again. Yes. You set out the sequence it should have
11 been in?

12 A. Yes.

13 Q. Right? In some detail. And we go to that at page 1281 of your
14 statement?

15 A. Yes.

16 Q. And that's at paragraph 56, the one I was asking about where
17 it's slightly askew?

18 A. Yes.

19 Q. And you list there the 23 steps that you say needed to occur on
20 that day?

21 A. No, not on that day.

22 Q. Or, sorry, not on that day, the day before and that day?

23 A. To completion.

24 Q. Or a longer period? Hmm?

25 A. From the 25th to completion.

26 Q. From 25th to completion, so that's the Friday, Saturday and
27 Sunday? I think it was those three days?

1 A. Yes.

2 Q. Doesn't matter if it's another day, but anyway, those are the
3 jobs that needed doing. But were they intended to be
4 sequential?

5 A. In my, in the—

6 Q. In your, in your statement? Go to—scroll up a little for Mr.
7 Wei, please? No, the other way, sorry. Down a bit. Yes. So
8 you can see there, at 13 it says, "Exit the hyperbaric chamber
9 and return to the crane barge." Fourteen, "Depressure the flood
10 barrier chamber". Fifteen, "Remove the hyperbaric chamber."
11 Sixteen, "Install scaffold Platform." Seventeen, "Measure and
12 cut the top of the riser." Eighteen, "Install flange top."
13 Nineteen, "Conduct the hydrotest of the flange weld." Twenty,
14 "Remove the mitigation barrier installation plug", and then over
15 the page, 21, "Reinstall refurbished topside piping", et cetera.
16 That's the order in which you expected it to be done?

17 A. Yes.

18 Q. Right. Can you tell me where you got that from?

19 A. In discussions with Terrence Rampersadsingh—

20 Q. Right.

21 A. —the experience that you would pull the plugs from outside—

22 Q. Right.

23 A. —and not inside the chamber.

24 Q. When I say where did you get that from, I mean, to put it in this
25 sequence in your statement. As I understood from what you
26 said before you weren't looking at any note—

27 A. Right.

1 Q. —you were just remembering how it went?

2 A. Because now I understand on the steps on how the job should
3 be done.

4 Q. Yes. It's through your own, how can I say, experience?

5 A. Yes.

6 Q. And you've got a very considerable experience, haven't you?

7 A. Yes.

8 Q. Thank you very much. That's all I needed to ask. I just needed
9 to understand.

10 **Examination By Commissioner Wilson:**

11 Q. Afternoon again, Mr. Wei. Again, I intend to more interrogate
12 the process and stuff off of what you said. What I need to know
13 in terms of the permit to work. The permit to work is part of
14 your control of work process, yes?

15 A. Correct.

16 Q. And the control of work process is owned by Paria and not
17 LMCS?

18 A. It's owned by Paria, yes.

19 Q. Great. So, I heard you mentioned that you identified the
20 contractor as a specialist contractor so you depended to be
21 advised by them. Well that—because Paria doesn't have any
22 competent diving personnel—

23 A. Yes.

24 Q. —to assist you with planning or executing the job. So without
25 that competent personnel, how were the control measures that
26 were defined in the risk assessment verified as reducing the
27 risks and can actually be delivered under your control of works

1 system?

2 A. The control of the works would have been on the responsibility
3 of the contractor. For this—on this job here, we selected a
4 contractor—

5 Q. Uh-huh.

6 A. —that was competent in HSC management systems. As a
7 matter of fact, the contractor was STOW certified to the Energy
8 Chamber STOW certified.

9 Q. Which contractor you're referring to?

10 A. LMCS.

11 Q. LMCS?

12 A. So they were STOW certified in the HSC management systems
13 by the Energy Chamber, its STOW implementation board.

14 Q. Well it's interesting here.

15 A. And they were high risk, I think it's high risk level.

16 Q. Uh-huh.

17 A. And their recertification scores were 100 per cent. So, for the
18 services that they were to provide for us, that was a very
19 compelling—that you're a contractor with a very strong HSE
20 systems and culture to execute this job. So we would have
21 depended on the contractor to execute the work in accordance
22 to their safety standards.

23 Q. Under your control of work system?

24 A. Under our control of work.

25 Q. Okay. Now you said something about their STOW
26 recertification. What was that about?

27 A. I know somewhere in the documentation there's a STOW

1 certificate.

2 Q. Right.

3 A. I could recall that. Right? STOW—their certificates, they had
4 a valid STOW certification for the period of the job.

5 Q. And five months prior, I heard it in the room here, they had
6 some prohibition by OSHA?

7 A. Yes.

8 Q. And they got that clearance. Now, under the STOW guidance,
9 if an organization who is—who has the membership of STOW,
10 if there's some prohibition which would bring me to my other
11 question around procurement but I'm just making the point, if
12 you have an incident under STOW and there's a prohibition
13 against you, you can have your membership taken. Was that
14 the case with LMCS? And did your procurement actually
15 interrogate that? Because the incident happened prior—

16 A. Yes.

17 Q. —on your assets. So are you aware that, er—

18 A. No I'm not aware.

19 Q. Okay. But under the STOW, that is something that can happen,
20 their membership could be re[*Inaudible*] but that would bring
21 them back to my question around procurement. As I said I'm
22 kind of testing the policies, practices and stuff. So again,
23 without having any competent personnel on the Paria side, how
24 is it that you, I don't want to use the word competent now but,
25 um, how, how or what was the weighting or the criteria used
26 from Paria and how did you validate that as selecting a suitable
27 contractor if you didn't have the competence on your side?

1 A. Okay, so the evaluation process was one where we looked at
2 the HSE management—the—well, first of all that the contractor
3 understood the scope. So he was required to sign off on the
4 scope and what that meant to ensure that he knew and
5 understood and accepted the scope.

6 Q. Just if I could interrupt? How did you validate that? How did
7 you verify that, then, if you don't have the specialist—

8 A. Right.

9 Q. —um, skills to determine that?

10 A. We would have evaluated from a high, from a higher level,
11 from a high level not going down into all the nitty-gritty details
12 of—because that, for us, we ex—we would have to rely on the
13 expert contractor to provide that. So, the contractor would have
14 provided a method statement for us to look at and in our
15 evaluation it seemed fair and reasonable.

16 The contractor would always have provided a schedule
17 that showed that he understood the sequence, he understood the
18 job. The contractor would have provided a list of previous
19 work conducted, that of similar, of similar complexity, also to
20 the equipment that he has and the competent people to execute
21 the job, respect to the relevant documentation for, let's say, the
22 cranes and stuff like that. So, it demonstrated that the
23 contractor for us was competent to execute the work.

24 Q. But if you don't have anyone to determine, that's why you said
25 you hired a specialist, what was the criteria you used to
26 determine competency or, again, scoring and selection?

27 A. That's why we built into the scope that the contractor has the

1 responsibility for developing—for provision of competent
2 personnel for the job.

3 **Mr. Chairman:** Thank you. Right. Let's see how far we can
4 go please? You're next.

5 **Cross-Examination By Mrs. Persaud Maraj:**

6 Q. Mr. Wei, good afternoon. Kamini Persaud for LMCS. So let
7 me take you right where Commissioner has left in relation to
8 the specialist contractor that you're talking about. You're
9 saying—

10 **Mr. Chairman:** Bring your microphone a little closer to you
11 somewhat?

12 **Continued Cross-Examination By Mrs. Persaud Maraj:**

13 Q. You're saying that LMCS was hired as a specialist contractor,
14 yes?

15 A. Give me a minute.

16 **Mr. Chairman:** I've been saying that for some time.

17 **Mr. Wei:** Yes, but I don't know where she's coming from so I
18 want to be accurate.

19 **Mr. Chairman:** Don't concern yourself to where she's coming
20 from.

21 **Mr. Wei:** I want to—

22 **Mr. Chairman:** If you could confine yourself to answering the
23 question then we will get finished before the end of today.

24 **Mr. Wei:** The term—

25 **Mr. Chairman:** Unless there's something specific you want to
26 refer to.

27 **Continued Cross-Examination By Mrs. Persaud Maraj:**

1 A. The term in the scope of work, I can't remember, but yes, a
2 competent, experienced specialist contractor, I don't know if
3 that's the exact wording in the ITB, but yes.

4 Q. All right. So let me take you to your scope of work, and this
5 would have been coordinated from your office and department,
6 correct?

7 A. Yes.

8 Q. You would have had input in it as well? Can I have the
9 introduction, one—it is page 4196 of the submissions, My
10 Lord. Did you communicate this, that you were looking for a
11 specialist contractor, to the vendors that the ITB went out to?

12 A. When you say communicate it—

13 Q. Yes.

14 A. —verbally or in the bid document?

15 Q. No, I—whilst they're finding it, so, yeah, okay, good. Did this
16 specialist contractor that you were looking for, was that
17 communicated when the invitation to bid went out?

18 A. I was not part of the, um, meetings so I—

19 Q. All right.

20 A. —specifically I can't answer that question.

21 Q. So, okay. So you're looking—Paria—you've been saying that
22 LMCS has been hired as a specialist contractor. So that means
23 you were looking for a specialist contractor to perform the
24 works for the contract which was eventually issued to LMCS?

25 A. Yes.

26 Q. Right. So look at the document in front of you, please? It's
27 your scope of work and at 1.0 it says:

1 “Paria Fuel Trading Company Limited (Paria) is seeking
2 to engage the services of an”—of—well it should be—
3 “an experienced and qualified construction and
4 fabrication contractors for the execution of miscellaneous
5 works detailed below.”

6 Is there—so I’m going to ask the question again, was there a
7 communication that you’re looking for a specialist contractor?

8 A. Right. That’s why I said I wanted to see this before, but the
9 Chairman—

10 Q. No, no, no, no.

11 A. So we were looking for experienced and qualified—

12 Q. Right.

13 A. —construction fabrication contractors.

14 Q. Right. But not a specialist? You would appreciate that
15 specialist would be something different from experienced and
16 qualified? You can accept that?

17 A. For me this is a specialist contractor in the construction and
18 fabrication.

19 Q. So for you this means specialist?

20 A. The specialist—this is specialist services, diving, subsea
21 welding.

22 Q. I’m asking you if from what your document, Paria’s document,
23 which went out to the contractors, if from what I have read,
24 right, you are comfortable by saying that you have
25 communicated to those contractors who would have been
26 bidding that you were looking for a specialist contractor?

27 A. The specific words that were said in the virtual—

1 Q. And the specific words, Sir—

2 A. —in the virtual meeting at the time of the tender, I am not
3 aware of what was said. I was not part of that meeting, so what
4 was communicated then. But on here, Paria is asking for
5 experienced and qualified construction and fabrication
6 contractor.

7 Q. All right. Are you familiar with project management
8 consultant?

9 A. Project management consultant?

10 Q. Yes.

11 A. Yes.

12 Q. Yeah. Can you explain to us what is a project management
13 consultant?

14 A. Someone you can hire to provide the technical expertise for
15 project management.

16 Q. All right. In circumstances where there are specialist oriented
17 work to be performed?

18 A. You can choose, you have the obligation to or you don't need
19 to.

20 Q. When you say you, who do you refer to? We're talking
21 about—I am asking you if in—

22 A. A contracting body. Any company has the option to either to
23 use the option of a project management consultant or not.

24 Q. Isn't it usual in the industry where you are hiring independent
25 contractors or contractors to perform works that you require
26 them to do to have a project management consultant when you
27 don't have on board, like you have said earlier today, on board

1 a specialist or a person duly qualified or a team qualified to—

2 A. It depends but it's not a, it's not a mandatory—it's not
3 mandatory.

4 Q. So it's optional?

5 A. It's optional if you, if you deem so.

6 Q. And Paria has saw it best not to utilize that option to have a
7 specialist consultant or a project management consultant, sorry?

8 A. Yes.

9 Q. Yes. And I would like to take you through the contract, the
10 document that you would have sent. Can I have clause 6.1?
11 Scroll down.

12 [*Crosstalk*]

13 **Mrs. Persaud Maraj:** Six point one one, yeah. [*Crosstalk*]
14 So if you could read that? [*Crosstalk*]

15 **Mr. Chairman:** Five seven three? Sorry, I'm looking at the
16 wrong one, am I?

17 **Mrs. Persaud Maraj:** Right, can you—it, it—the screen's
18 turned toward you so might I ask you to pay—okay.
19 [*Document handed to Mr. Wei*]

20 **Mr. Chairman:** I'm sorry, I'm confused, I'm afraid. I don't
21 know where we're going, what we're doing here. Which
22 document is it you want this gentleman to look at? Six point
23 one?

24 **Mrs. Persaud Maraj:** I have clause 6.1.1.

25 **Mr. Chairman:** Right.

26 **Mrs. Persaud Maraj:** And that would have been part of the
27 scope of—

1 **Mr. Chairman:** The one that's on the screen?

2 **Mrs. Persaud Maraj:** The scope, scope of works.

3 **Mr. Chairman:** Good. Proceed from there.

4 **Mrs. Persaud Maraj:** Right.

5 **Continued Cross-Examination By Mrs. Persaud Maraj:**

6 Q. So it says here:

7 "The contractor shall instruct his personnel on the safety
8 regulations, safe working practices and conditions that
9 are required for an industrial/marine environment and he
10 may seek advice on safety matters from Paria's
11 representative."

12 Do you see that?

13 A. Yes.

14 Q. All right. So you're saying this specialist contractor should
15 seek the advice of Paria who does not have the expertise?

16 A. Okay. Again, you see, the specialist contractor, experienced
17 contractor, is working on the specialized task. He is doing a job
18 in an environment, a facility that has other risk. So, yes, he
19 may seek advice on safety matters from Paria representative
20 with respect to the other risks of running the facility.

21 Q. But wouldn't he have been experienced in that environment? A
22 specialist who's experienced and competent, that is what you're
23 saying. I'm going with what you're saying.

24 A. Correct. He may—

25 Q. So why would he need to seek Paria's—

26 A. He may seek advice.

27 Q. Yes. And—

1 A. If there's something that he doesn't know—

2 Q. —it's written in your contract document.

3 A. —he want's clarity on, he can—he may seek advice.

4 Q. Okay. Can we go to 6.3.8? Right. It says there:

5 “The contractor is responsible for provision of the job
6 safety method statement, job hazard analysis and risk
7 assessment which will be reviewed by Paria's
8 representative.”

9 We've accepted that that is your process.

10 A. Yes.

11 Q. Right. I know this will be a repeat of what Mr. Commissioner
12 has asked you, but in the instance where Paria is not the expert,
13 in the reviewing of these documents, what is the standard by
14 which the presentation from the company is judged and dealt
15 with?

16 A. Run that question again?

17 Q. So, when LMCS would have presented to Paria its method
18 statements and job safety hazard analysis and risk assessments
19 for Paria to review, being that you're not the specialist or you
20 don't have the understanding and expertise to the extent of a
21 specialist, right, how would the submissions from the contractor
22 be properly adjudicated upon?

23 A. That would be on the onus of the specialist contractor to be
24 competent to develop the method statement and risk
25 assessment, identify the hazards.

26 Q. So then that process of submitting for approval to Paria it's just
27 a named process? There is no—

1 A. No, no.

2 Q. —purpose behind that, that mechanism?

3 A. The purpose here is to ensure that the contractor develops a
4 method statement and hazard analysis, would have gone
5 through a due process of developing a method statement and a
6 job hazard analysis and risk assessment.

7 Q. And I understand that, Sir.

8 A. Right.

9 Q. But in developing those documents and they're sending it to
10 you for review and approval—

11 A. Right.

12 Q. —right, what mea—by what measure—

13 A. As I mention again—

14 Q. —or standard—

15 A. —Paria—

16 Q. —are you going—

17 A. —Paria would not be respon—

18 Q. —verify—

19 A. —Paria will not be able—

20 Q. Sorry.

21 A. —Paria would not be able—

22 **Mr. Chairman:** One moment, please? I think, if I may say
23 so—

24 **Mrs. Persaud Maraj:** Yes.

25 **Mr. Chairman:**—what Mr. Wei is trying to say is there's no
26 point in buying a dog and then barking yourself.

27 **Mrs. Persaud Maraj:** Yes.

1 **Mr. Chairman:** And he is saying, in effect, that, you know,
2 has employed this specialist, rightly or wrongly, without any
3 verification or whatever we conclude, but he—what he’s
4 relying on is he’s saying, “I’m relying on LMCS as the
5 specialist.” Am I right?

6 **Mr. Wei:** Yes.

7 **Mr. Chairman:** And therefore there is no room for me to
8 review it. That is what he’s saying. Whether we accept that of
9 course is a matter for—in due course.

10 **Mrs. Persaud Maraj:** Um, and, I, and I can, I can move on
11 from this.

12 **Continued Cross-Examination By Mrs. Persaud Maraj:**

13 Q. I’d like to take you to the method statement prepared, 116—
14 116, method statement. On the core bundle, 1048. Right. So
15 you’d have familiarized yourself with this document by now?
16 You’ve had two persons question you on it. I would like to
17 take you to paragraph—to number 86 on page—

18 **Mr. Chairman:** 1052.

19 **Mrs. Persaud Maraj:** Thank you.

20 **Continued Cross-Examination By Mrs. Persaud Maraj:**

21 Q. Eighty-six reads:

22 “Repeat steps 15 to 28 to install migration barrier and
23 mechanical plug just below proposed location of new
24 topside flange.”

25 **Mr. Chairman:** Can you scroll up the page so that Mr. Wei
26 can see the heading under which this is?

27 **Continued Cross-Examination By Mrs. Persaud Maraj:**

1 Q. You see that?

2 A. Yes.

3 Q. All right. So, would you like to see what the steps are from 15?

4 A. No, okay, that's okay. I know that.

5 Q. You're familiar with it because you're familiar with the
6 methodology.

7 A. I'll ask a question and if I need to refer back, I'll—

8 **Mr. Chairman:** Well, I would like to see it, so can you put it
9 up on the screen, please? Fifteen?

10 **Continued Cross-Examination By Ms. Persaud Maraj:**

11 Q. So what do you understand by "Repeat steps 15 to 28"—

12 A. To repeat—

13 Q. —in the method of the work? Now you're saying that the plug,
14 the mechanical and the inflatable plug, the barrier in particular,
15 that's what you've said, the barrier was to remain and that—
16 those—that—the barrier consists of as we know two plugs?

17 A. Yes.

18 Q. Right? So you're saying that was supposed to remain in the
19 riser section to the, under the sea, and not to be taken out?

20 A. Correct.

21 Q. So now I'm asking you, in relation to this step here that is on
22 the method statement, as part of the methodology in the
23 performance of the work, what do you understand when it says,
24 "Repeat steps 15 to 18 to install migration barrier and
25 mechanical plug just below the proposed location of the new
26 topside flange"? What is this step saying to you?

27 A. To reinstall the plug.

1 Q. All right. And in order to reinstall the plug, wouldn't that
2 necessitate the taking out of the plug from below? Would you
3 accept that to be true?

4 A. In that method statement, yes.

5 Q. Okay. So in other words, you would accept that according to
6 the method statement the plugs were to be removed, the
7 mechanical barriers were to be removed?

8 A. I not saying that.

9 Q. You're not saying that?

10 A. I not saying that. That's conflicting what I said. The method
11 statement, the lines that you mentioned with the removal of the
12 plugs, right, that should not have been, I mean, contemplated
13 then, according to my statement, because you would a have the
14 ingress of the fumes.

15 Q. Okay. Can you tell us who Terrence Rampersadsingh is?

16 A. Terrence Rampersadsingh was the planner—

17 Q. Planner?

18 A. —Paria planner assigned for offshore works.

19 Q. All right. There is—can you go to page, of the supplemental
20 witness statement bundle, page two nine two four? So, this is
21 an email from LMCS to Terrence Rampersadsingh on the 4th of
22 January, 2022. And if you can, can you please read that out?
23 Can you see that sufficiently clear?

24 A. Yes.

25 Q. Yes. Would you, would you care to read that?

26 A. You want me read it out loud?

27 Q. Yes you can.

1 A. Oh, sorry.

2 Q. You can read it out loud.

3 A. No, I'll read it personally. [*Pause*] Yes.

4 Q. Have you read it?

5 A. Yes.

6 Q. To yourself? For the benefit of everyone—one second, please?

7 I would care to read that out loud for the benefit?

8 **Mr. Chairman:** All of it?

9 **Mrs. Persaud Maraj:** Not all of it, just—

10 **Continued Cross-Examination By Mrs. Persaud Maraj:**

11 Q. It says:

12 “See attached documents for a captioned job with revised
13 method statement. To answer the question asked,
14 question one, will the inflatable plug also be raised to the
15 top of the new riser section when cutting and welding of
16 the new flange above water?”

17 And the answer was:

18 “Yes. Both the inflatable plug and the solid barrier will
19 be reinstalled at the top before hot works begin. Step 86
20 has been updated. And will the new”—and then question
21 two and then it goes on. “Will the newly installed flange
22 above the water need to be—[*Inaudible*] within the
23 chambers?”

24 Okay so it's the first question that I would point you to,
25 right? So that would have been a question that were asked and
26 it's been answered and at the foot of that email, we see Ahmad.
27 You see that?

1 A. Yes.

2 Q. Okay. So I can tell you that Ahmad is a representative of
3 LMCS. He is the HSE officer. Yes?

4 A. Yes. So are you saying that—

5 Q. And he's saying to Rampersadsingh in a specific email dealing
6 with the methodology that has been submitted to Paria what
7 exactly is to be done.

8 A. Okay.

9 Q. Now you see that?

10 A. Yeah.

11 Q. And do you see that it's clear that the plugs were to be
12 reinstalled at the top?

13 A. What I see there is Ahmad, based on what he was—with
14 respect to the job, he did not see that there was a hazard to 56.

15 Q. I'm not asking you about a hazard.

16 A. Or no because a hazard question being asked, I don't know who
17 asked that question, right, and I don't know—

18 Q. I appreciate that. I appreciate that.

19 A. But the question here—

20 **Mr. Chairman:** Well, hang on, just a minute? Can you scroll
21 down so that Mr. Wei can see, no scroll the other way, sorry,
22 the other way, so you see the top, yes. It's using, on the face of
23 this, Mr. Kazim Ali's email address and being sent to Mr.
24 Terrence Rampersadsing's email address but it's signed off by
25 Ahmad, all right? So that's, that's what we have.

26 **Mr. Wei:** Yeah, but, I don't know who sent the question, but if
27 it's—what I know is Ahmad is answering some questions with

1 respect to the reinstallation of the plugs, so—

2 **Continued Cross-Examination By Mrs. Persaud Maraj:**

3 Q. No Ahmad is answering, to answer the question asked so he's
4 answering.

5 A. So, so it's Ahmad seems to have—

6 Q. With respect to who—

7 A. —picked up the first—

8 Q. Sir—

9 **Mr. Chairman:** One at a time, please? One at a time. Let Mr.
10 Wei speak.

11 **Continued Cross-Examination By Mrs. Persaud Maraj:**

12 Q. Yes. Go ahead, Mr. Wei.

13 A. Ahmad is saying to reinstall the plugs, so that should—Ahmad
14 should have—Ahmad could have seen that the plugs should not
15 have been moved. Is that what you're saying?

16 Q. No. I'm saying exactly what is being said that the plug has to
17 be reinstalled at the top.

18 A. I don't know who asked this question so I'm speculating here.

19 Q. I don't need you to speculate, Sir.

20 A. If, if—

21 Q. I'm simply asking you to—

22 **Mr. Chairman:** I'm not going to permit this, right? If you can
23 ask a question, he can answer it.

24 **Mrs. Persaud Maraj:** Certainly.

25 **Mr. Chairman:** When he's finished answering it, then you can
26 ask a question.

27 **Mrs. Persaud Maraj:** I'm guided, please.

1 **Mr. Wei:** Would this not show that Ahmad could have seen
2 that step—if step 56 and 57 was incorrect he should have
3 picked it up here. Because someone asked why you're reinstall
4 the plug? He knew that if you removed the plug then you
5 would have hydrocarbon vapour making explosives, so that's
6 one. So I think that's what you're trying to tell me?

7 **Continued Cross-Examination By Mrs. Persaud Maraj:**

8 Q. No. I'm just trying to confirm that indeed Ahmad is indicating
9 that the plugs will be reinstalled—

10 A. Yes that's what you're seeing there.

11 Q. —thereby the inference that the plugs would be removed.

12 A. So—

13 Q. Because you have said that the plugs ought not to have been
14 removed.

15 A. Right, and, this here says that Ahmad should have seen that he
16 should not have removed the plugs.

17 Q. Where, in that statement, is it saying that Ahmad should not
18 remove the plug?

19 A. Because if someone asked him to reinstall that plug and he was
20 thinking about it, he would say, if I remove the plugs inside the
21 Chamber that's a hazard, so she should have seen that this was
22 not feasible. And then, further, the reinstallation of the plugs
23 would not have been possible because there was this bar, as I
24 mentioned earlier, at the top. So, to me here this shoulda—
25 LMCS with this here, Ahmad should have specifically seen that
26 the 86 steps could not have been done because of the bar, the
27 lifting bar at the top and he should have seen that 56 and 57

1 steps, it should have alerted him to 56 and 57. Well that's what
2 I'm, that's what I'm reading here.

3 Q. So in other words what you're saying to us is that from the
4 information being given by Ahmad, to Mr. Rampersadsingh,
5 somebody should have said that this ought not to have been
6 done?

7 A. I would expect Ahmad to have said that, looking at that.

8 Q. Okay.

9 A. But I don't know the full context of the email, eh, so—

10 Q. And I appreciate that. I would like to ask you some questions
11 on the permit to work.

12 **Mr. Chairman:** Before you do that—

13 **Mrs. Persaud Maraj:** Yes.

14 **Mr. Chairman:** Before you do that, I think it's only fair that
15 you draw Mr. Wei's attention to the preceding email. This is an
16 email—

17 **Mrs. Persaud Maraj:** Below?

18 **Mr. Chairman:** Yes. This is an email that you've referred
19 him to of the 4th of January, Tuesday, the 4th of January, 2022
20 at 3.59. There's an mail preceding that which is at the bottom
21 of the page, which is the 4th of January, '22 at 1.22 and this is
22 from Kazim Ali again and it appears to be to Terrence
23 Rampersadsingh. So there are two emails.

24 **Mrs. Persaud Maraj:** Yes, yes.

25 **Mr. Chairman:** And there are, for the [*Inaudible*] if you go
26 over the page it says: "Good day. See attached documents for
27 the above captioned job." This is from Ahmad Ali to

1 Rampersadsingh.

2 **Mrs. Persaud Maraj:** Yes.

3 **Mr. Chairman:** And he includes in that the method statement,
4 the job safety analysis and the lift plans. Are they not the
5 documents that were attached to the work schedule?

6 **Mrs. Persaud Maraj:** That is certainly—those were the
7 documents attached.

8 **Examination By Mr. Chairman:**

9 Q. So you can see there, Mr. Wei, that the very documents that I
10 was referring to that have been attached to the work for that day
11 or the days that were to be done are the very documents that
12 apparently seem to be attached and being sent to your Mr.
13 Rampersadsingh.

14 A. Yes.

15 Q. Yes. So could we take it, since he was the person who was
16 carrying out the meeting and authorizing the work, he attached
17 these documents to that work permit which you referred to in
18 your statement which we've spoken about?

19 A. Yes. Those—well not he specifically would have attached it,
20 but, those were the documents that would have been with the
21 permit to work.

22 Q. Well, he says, doesn't he, and it's in this email, the job here is
23 to perform the work of replacing the leaking section of SL36
24 riser at berth 6. Work tasks include, and he sets them out, and
25 we needn't read them all now, but, we could see what he's
26 saying there, can't we? It supplements, does it not, what he set
27 out in his method statement? Yeah?

1 A. So the steps that he has here with, um—Ahmad writes here:
2 “Work tasks include installation of migration barrier and line
3 plug.”

4 Q. Yes.

5 A. “Installing the hyperbaric chamber on to the existing riser.”

6 Q. Yes.

7 A. Which at this point would have already had topside piping
8 removed. “Displacing all seawater from the chamber with
9 breathing air. Cut the leaking riser segment off. Evacuating
10 and flooding the chamber. Removing the cut section with barge
11 deck. Installing new riser piping.” Not remove plugs and
12 install, eh, “Installing new riser piping.”

13 Q. Yes.

14 A. “Displace water again, couple flange faces and coat
15 specifications, removing the chamber and cutting the new riser
16 pipe to length above water.”

17 Q. Yes.

18 A. And after that step would have been the removal of the plugs.

19 Q. Well it doesn't say that.

20 A. It says it here.

21 Q. Sorry? It doesn't say after that would be the removal of the
22 plugs.

23 A. Well, at this stage here for him to return the system to Paria, he
24 would have to then remove his isolation which is the migration
25 barrier.

26 Q. Yes.

27 A. So, on face value, after cutting the new pipe riser, pipe to length

1 above the water—

2 Q. Uh-huh.

3 A. —the next step would have been remove migration barriers.

4 Q. And, and—

5 A. This is what—

6 Q. —I showed it to you.

7 A. Thank you very much, Chairman.

8 Q. No, no of course but that on its own one can readily appreciate
9 that that must be how it was understood to be. What I'm not
10 clear about is what then comes with what you've been asked
11 about, about changing the steps 15 to 28 and then repeating
12 them at 86? Do you see, scroll back again please? Question,
13 question one, "Will the inflatable plug also be raised to the top
14 of the new riser section when cutting and welding for a new
15 flange above water?" Is that a question suggesting the plug is
16 going to be moved, the inflatable plug is going to be moved?

17 A. Yes, this is a suggestion that the inflatable plug will be removed
18 out of sequence as what they had in his email—

19 Q. Yes.

20 A. —preceding.

21 Q. Quite. Well, and then the answer is yes, both the inflatable plug
22 and the solid barrier will be reinstalled at the top before hot
23 works begin. Step 86 has been updated to reflect this. Now,
24 blah blah blah. So, without looking at the works, the statement,
25 the method statement, without looking at that, that would
26 suggest that you're taking the, the, the, the, um, chamber off
27 and then reinstalling the plugs at some point. Is that what you

1 understand it to be?

2 A. Removing the chamber and reinstalling the plug, the step here?

3 Q. Yeah, well—

4 A. Yes.

5 Q. —you see what I want to know is what do you understand this
6 to mean, right? Because on its face it suggests—it doesn't say
7 anything about the removal of the plugs in the first email, does
8 it?

9 A. No.

10 Q. No. It talks about putting them in.

11 A. Talks about putting them in.

12 Q. Right. And then this second email is talking about reinstalling
13 the plugs and I want to know whether you understood this to
14 mean after the hyperbaric chamber has been taken off, before
15 it's been taken off, and what did you understand this to mean?

16 A. This would be after the hyperbaric chamber has been removed.

17 Q. Right. So the plugs would have been removed at some point,
18 you say also, after the hyperbaric chamber has been taken off?

19 A. Yes. After the hyperbaric chamber has been removed then you
20 remove the plugs.

21 Q. And then put them back in again?

22 A. No. There would be no need to remove the plugs after the
23 hyperbaric chamber is removed.

24 Q. Well, that's what I want to understand.

25 A. Only when you finished the job.

26 Q. That's what I want to understand. Are you putting the plugs
27 back in again after you've taken them out and after you've

1 removed the hyperbaric chamber?

2 A. If the plugs were—the plugs were not to be removed. If the, if
3 the plugs are not to be removed—

4 Q. Well they've got to come out at some time.

5 A. Right, but at the end of the job.

6 Q. The job [*Inaudible*], right?

7 A. At the end of the job.

8 Q. So you tell us that your understanding is that these plugs have
9 to come out when the hyperbaric chamber has been removed.

10 A. Correct.

11 Q. Good. And then—but why would you be putting them back in
12 again?

13 A. You would take them out when the job is finished. There was
14 no need to put it back in.

15 Q. Right. So this is—

16 A. Had they not been—

17 Q. —to use a, to use a quaint English expression gobbledygook?
18 It means nothing, does it? What is the point of putting them
19 back in again?

20 A. Okay. This here went on the assumption that the plugs were
21 removed inside the chamber—

22 Q. Yeah.

23 A. —and then to reinstall them from outside the chamber.

24 Q. Right. So, it was clear, at least to Mr., um, Rampersadsingh,
25 that that's what they were going to do? If not to you.

26 A. I, I don't know because I don't know what he would have read
27 and what he would have thought of.

1 Q. No, well we'll ask him in due course, but, I mean just on its
2 face, Mr. Wei, so that I understand please—

3 A. Yes.

4 Q. —because I've always understood your evidence to be quite
5 clear about this—

6 A. Right.

7 Q. —that this hyperbaric chamber has to be removed first—

8 A. Right.

9 Q. —before you touch—have anything to do with touching these
10 barriers.

11 A. So—right. In my statement the step I said was remove
12 hyperbaric chamber—

13 Q. Yes.

14 A. —and then cut to the required length.

15 Q. Yeah.

16 A. And after that work is finished then you are able to remove the
17 hyperbaric—then you are able to remove the plugs.

18 Q. Right I'll let it—

19 A. If you remove it out of sequence before, you would have then
20 have fellas—before you put on the new riser, you would have
21 had hydrocarbon vapours entering the hyperbaric chamber.

22 Q. Yes, we're departing from the issue here.

23 A. Yeah.

24 Q. I just want to know what the point of putting them back in is.

25 A. In this one, in this statement here, it is considering that the
26 plugs were removed inside the chamber successfully.

27 Q. Yes.

1 A. And then there was additional hot work that was required to be
2 done again.

3 Q. Right.

4 A. So the plug needed to be installed again.

5 Q. So take them out, then remove the—this is what this is saying.
6 Take them out, remove the hyperbaric chamber, there's more
7 hot work to be done so put them back in again?

8 A. Yes.

9 Q. Right. That's what you understand it to mean, is it?

10 A. Yes.

11 Q. Okay. Thank you very much.

12 **Mr. Chairman:** I'm sorry to have interrupted. I'm conscious
13 of the time but we are going to proceed.

14 **Mrs. Persaud Maraj:** I'm grateful.

15 **Continued Cross-Examination By Mrs. Persaud Maraj:**

16 Q. So, you've touched on hydrocarbons so I'd like to move to the
17 hydrocarbon point. In your witness statement at paragraph 85
18 you say this, and, please allow me to read?

19 "More importantly, the removal of the migration barriers
20 would have caused a dangerous disturbance of the
21 atmospheric conditions inside the hyperbaric chamber
22 and the differential pressure between inside the pipeline
23 and inside the chamber. With regard to the former, it
24 would have allowed the hydrocarbon fumes from the
25 pipeline to enter the chamber which would then
26 contaminate the breathing air inside the chamber."

27 Right? And I think that's the point that you have been making

1 in relation to the removal of the barrier in relation to the aspect
2 of the safety mechanism that it provided—

3 A. Yes.

4 Q. —with respect to the hydrocarbon. Do you know the content,
5 the—of the, the kind of liquid that was in the 36 Sealine?

6 A. Fuel oil.

7 Q. Fuel oil. All right. And, what can you tell us about flash point?

8 A. I—with respect to the flash point of fuel oil?

9 Q. Yes.

10 A. I don't know it offhand.

11 Q. Okay. But can you explain to us what is a flash point?

12 A. The point at which the, the, the car—the hydrocarbon would
13 ignite.

14 Q. Would ignite or the vapours start rising?

15 A. I can't recall. Flash point, there's a—just help me with the
16 definition because, um—

17 Q. Sorry?

18 **Mr. Chairman:** I mean, do we need to develop this? I mean, I
19 think we can all appreciate that we don't want to be breathing
20 in fumes from hydrocarbons and if that's what he was trying to
21 safeguard then that seems to be highly reasonable.

22 **Mrs. Persaud Maraj:** Well, if I may—can you please find
23 page 76 of the, of the, um, core bundle?

24 **Mr. Chairman:** What are we looking for?

25 **Continued Cross-Examination By Mrs. Persaud Maraj:**

26 Q. So we have here, so this is a Paria Fuel Trading document, yes?

27 A. Yes.

1 Q. Right. And you will see fuel oil and then we have some
2 description below. Let me take you to line one, two, three,
3 four, five, six, seven, seven, vapour density. Do you see that?

4 A. Yes.

5 Q. All right. And it says that it's heavier than air.

6 A. Yes.

7 Q. Do you see that?

8 A. Yes.

9 Q. Can you explain that to us?

10 A. That the density of the vapour is heavier than air.

11 Q. Right. So in the hyperbaric chamber can you tell us what is
12 introduced in the hyperbaric chamber for it to have a dry
13 environment?

14 A. Normal air, air.

15 Q. Air. So in other words, what it's saying is that in simple lay
16 language, the density or the vapour density of the fuel oil is
17 heavier than the air that is introduced in the hyperbaric
18 chamber?

19 A. At standard operating—at standard temperature and pressure.

20 Q. At standard pressure. So in other words, there would have been
21 less likelihood of there being an issue with respect to
22 hydrocarbon inhalation that leads to some unsafe environment?

23 A. Okay. That is—you have to consider other factors.

24 Q. Certainly.

25 A. Right? One, temperature.

26 Q. Right.

27 A. The temperature would affect the density.

1 Q. Yes.

2 A. Meaning that if it's hotter it would be able to mix. Also, the air
3 has in the hyperbaric chamber and there's air coming in the
4 hyperbaric chamber for one to keep the pressure in. So there
5 are air currents inside. So with air currents inside and the line
6 open, air is going to enter the line and displace the air.

7 Q. Uh-huh.

8 A. Right? The air is coming to, so—so it's difficult to say that
9 there is no hydrocarbon coming in but there definitely will be
10 hydrocarbon coming in.

11 Q. All right.

12 A. So, as part of the risk assessment, you would isolate it so you
13 don't have that possibility. You install a physical barrier. And
14 that—so, yes, I understand you, you, you are alluding that if
15 it's, if it's fill of, um—if it's vapour that it's heavier than air it's
16 not going to enter the chamber.

17 Q. Right.

18 A. No, it's not water. Water will not rise but water will evaporate.
19 In this case here the vapour, the VOCs, even though it's dense,
20 heavier than air written here, with the air currents inside
21 because you have air blowing in the chamber—

22 Q. Right.

23 A. —it's going to stir it up.

24 Q. All right. So let me take you to the third line above that line
25 across the document that you're seeing. Right there. Sorry.

26 A. Third line.

27 Q. It's—okay, it's one, two, three, four, five, the sixth point, flash

1 point, 66 zero Celsius? No, we're still on fuel oil. Right. So
2 the flash point is 66 degrees Celsius. And that would mean that
3 at that point in time, 66 degrees, degrees Celsius would be
4 when the vapours would become a danger, from a safety point
5 of view?

6 A. Okay. Flash—define flash point again for me?

7 Q. Well you defined the flash point.

8 A. You were telling me that that's the temperature at which it
9 evaporates. Is that what you're saying?

10 Q. That is what you said?

11 A. Okay, eva—trying to remember my basic level physics but
12 evaporation can occur at any temperature.

13 Q. All right. So it's not necessarily at 66 degrees?

14 A. You can have evaporation occurring at 25 degrees.

15 Q. All right.

16 A. And you can—but the flash point, yeah, is 66.

17 Q. And you were explaining just now about the environment of the
18 water or the environment around the, around the, the liquid
19 within which the vapours would be emitted.

20 A. So, so—

21 Q. And that would have, that would have a bearing in relation to
22 the flash point—

23 **Mr. Chairman:** I'm, I'm calling—I'm sorry, I'm going to call
24 a halt to this. Sixty-six degrees Centigrade is about 150 in old
25 money, Fahrenheit. I don't see how this really is going to help
26 us come to any conclusion. What he is saying is, is that he is
27 mitigating, at least in part, the possibility of these gases coming

1 into the chamber. I don't see anything wrong with that at the
2 moment.

3 **Mrs. Persaud Maraj:** I understand, Mr. Chairman.

4 **Mr. Chairman:** Is there any remote possibility or not it seems
5 to be not an unreasonable precaution to make.

6 **Mr. Wei:** And in addition to the flash point evaporation, there
7 are dissolved gasses, dissolved hydrocarbon in the fuel oil.

8 **Mrs. Persaud Maraj:** Right.

9 **Mr. Wei:** That can evaporate also or can diffuse out or come
10 out of solution in the fuel oil.

11 **Mrs. Persaud Maraj:** But—

12 **Mr. Chairman:** Enough. Move on please? Next question.

13 **Mrs. Persaud Maraj:** I'm grateful.

14 **Continued Cross-Examination By Mrs. Persaud Maraj:**

15 Q. So let me take you to the permit to work which is on 1074 of
16 the core bundle, and I'd move quickly in relation to the specific
17 tasks.

18 A. [*Document handed to Mr. Wei*]

19 Q. So we have here, and I'll read it out very quickly:

20 "Specific task, to remove and install 50-inch flange.
21 Remove and install 30-inch riser pipe. Remove 30-inch
22 solid blank. Conduct pressure test on flange weld,
23 remove chamber and blank top of new riser."

24 Can you say within these steps, these specific tasks, can you
25 point us to where the new riser is bolted on on make up to the
26 flange of the old section?

27 A. The step, "Install 30-inch riser pipe".

1 Q. All rat. Can we go to paragraph—your witness statement
2 paragraph 56 where you would have listed the steps to be
3 taken? I would like to point you to number 11 that says, “Make
4 up mating flanges”. Do you see that?

5 A. Yeah.

6 Q. Right. And the making up of the mating flange is the actual,
7 the actual completion of the connection between the old riser
8 section and the new riser section, correct?

9 A. Yes.

10 Q. Right. And you would appreciate that in the specific task
11 mentioned in the permit to work, that has not been listed?
12 You’re saying that it is, it is the installation?

13 A. Okay. The tasks, install 30-inch riser pipe, to install it would
14 include the making of the flanges. In my, in my description, I
15 would just put a little bit more detail in what would have been
16 required.

17 Q. So you’re more detailed than the—your explanation is a lot
18 more detailed than what has been the specific tasks listed in the
19 permit to work?

20 A. Yes.

21 Q. Yes.

22 A. Because the purposes are different, eh. I wrote that here for the
23 Commission to get information to understand this as clearly as
24 possible, so I put a little bit more steps into it. So to, to say
25 that, that was the reasoning.

26 Q. So inherent, so then you will accept that inherent in the
27 explanation of the specific task that is listed in the permit to

1 work are steps that are not necessarily explicitly stated?

2 A. There can be, yes.

3 Q. All right. And would you accept that one of those steps is
4 indeed the removal of the barrier?

5 A. No.

6 Q. The plugs?

7 A. No.

8 Q. No?

9 A. No.

10 Q. But we're removing the chamber?

11 A. Remove chamber, yes.

12 Q. And leaving the plugs inside, that is what you're saying was
13 what had to have been done?

14 A. Yes.

15 Q. Irrespective of the fact that we would have seen the method
16 statement that said otherwise and an email correspondence that
17 implied otherwise?

18 A. That is in my statement.

19 Q. Thank you. All right. I'm trying to move as quickly as
20 possible. I would like to go back to some things you've said
21 this morning, Mr. Wei. In answer to Counsel for Commission,
22 you said that LMCS had lost its standby diver and had no one to
23 assist. You recall that?

24 A. Had lost their standby diver? I recall something of the nature,
25 yes.

26 Q. Right. Do you mean it's rescue diver?

27 A. Standby diver would also be in the term rescue diver.

1 Q. All right. And it has no one to assist. Was—were you aware
2 that Andrew Farah was present?

3 A. Andrew Farah was the dive supervisor.

4 Q. Right. And do you know one Dexter Guerra?

5 A. In the—Dexter Guerra, yes.

6 Q. And you're aware that he's also a diver, a PADI certified diver?

7 A. Yes.

8 Q. With LMCS?

9 A. Yes.

10 Q. So it wouldn't be true for you to make the statement that there
11 was no one to assist?

12 **Mr. Chairman:** Are you saying Dexter Guerra was there?

13 **Mrs. Persaud Maraj:** Yes.

14 **Mr. Wei:** If you—for this project, LMCS would have provided
15 an organization structure and manpower. On the list of divers,
16 Dexter Guerra name was not listed as a diver. He may have the
17 diving capability but he was not listed as a diver.

18 **Continued Cross-Examination By Mrs. Persaud Maraj:**

19 Q. We're dealing with an instance of emergency, would you
20 agree?

21 A. I do.

22 Q. You have a certified—

23 A. I, I have to review it—I, I have a idea that he used to dive. I
24 wasn't sure if it was—if he was able to dive.

25 Q. That's fair.

26 A. Because there would—I don't know his condition, so—

27 Q. You would have, you would have—

1 A. That would be for the dive supervisor to decide.

2 Q. Sorry?

3 A. No, go ahead.

4 Q. You would have also said that LMCS had no plan in place in
5 relation to what had happened after the emergency, yes?

6 A. They didn't come forward with any plan of rescue.

7 Q. They did not come forward to the IMT, to you, to anyone in
8 specific?

9 A. To the site coordinator or even to—

10 Q. Right. So the site coordinator would have been Catherine
11 Balkissoon?

12 A. Yes.

13 Q. All right. And she would have been informing the incident
14 command management team?

15 A. She would have been the communication to the incident
16 commander, yes.

17 Q. And she did not communicate any plan that was communicated
18 to her from LMCS?

19 A. Ask that question again?

20 Q. She did not communicate to the IMT any sort of plan or request
21 by LMCS in relation to the diving?

22 A. No.

23 Q. No.

24 A. No.

25 Q. Are you aware that there was communication between Andrew
26 Farah and Catherine Balkissoon?

27 A. I don't know.

1 Q. Have you, have you been famil—are you familiar with the
2 name Conan Beddoe?

3 A. Yes.

4 Q. Conan Beddoe, Conrad Beddoe?

5 A. Yes.

6 Q. All right. And these are divers?

7 A. Yes.

8 Q. And were you aware on the day in question, that's on the 25th,
9 that these—Paria had arranged for their quick entry on to
10 Paria's compound in response to the incident?

11 A. I know Paria would have aided in some, in some, um, divers to
12 come on the site, yes.

13 Q. Right. And would you agree that that was for the purpose of
14 executing an—a rescue, a rescue plan, a rescue effort?

15 A. Yes, they were there for a rescue effort.

16 Q. Right. And they would have supplied—they were supplying
17 manpower and equipment, additional equipment?

18 A. Yes.

19 Q. Yes. And these two men were not related to anyone who would
20 have been sucked into the pipe, to the best of your knowledge?

21 A. I'm not familiar with their family and their friends.

22 Q. Okay. [*Pause*]

23 **Mrs. Persaud Maraj:** I think I'm happy to say, Mr.
24 Commissioner, that those are all the questions that I have for
25 Mr. Wei.

26 **Mr. Chairman:** Well if nothing is coming readily to mind, I'll
27 take advantage of that. Thank you. I see somebody with his

1 hand up.

2 **Mr. Ramadhar:** Thank you very much, Sir. On behalf, of
3 course, the family of Kurbans and—

4 **Mr. Chairman:** You're going to have to be very brief, I'm
5 afraid.

6 **Mr. Ramadhar:** I shan't—I'm never very long in these
7 matters. Thank you so much.

8 **Cross-Examination By Mr. Ramadhar:**

9 Q. Sir, you were part of the incident management team, correct?

10 A. Yes.

11 Q. You're a technical man, a man with—you're a technical person,
12 technically minded, aren't you?

13 A. I would—yes.

14 Q. Yes. How do you rate the management of this incident on that
15 day? How would you rate the management of the incident on
16 the 25th that caused four men to perish? How would you rate
17 yourselves? You heard the Chairman. We do not have all
18 evening, please? Take your sip of water.

19 A. I would rate it as excellent.

20 Q. Thank you very much. Four men died on an incident that you
21 were to manage and you consider that excellent? Thank you
22 very much. You have a good memory because you were telling
23 us that you were able to put your statement together from
24 memory. Give me the names of the four dead.

25 A. Kazim Ali Jr.

26 Q. Yes.

27 A. Faizal Kurban.

1 Q. Yes.

2 A. Rishi Nagassar.

3 Q. Yes.

4 A. And Yusuf Henry.

5 Q. Excellent. That is excellent. Now tell us this. What is the
6 highest priority after an accident occurs?

7 A. Stabilizing the site and not putting other lives at risk.

8 Q. Stabilizing the site meaning property, correct?

9 A. Not—yes.

10 Q. Yes.

11 A. No.

12 Q. Yeah, no, make up your mind, Sir. We don't have all evening.

13 A. Yes.

14 Q. Stabilizing the site you said that's the first priority?

15 A. So that you don't con—so that you don't—

16 Q. Uh-huh.

17 A. —continue to have the hazards and danger to other people.

18 Q. To other people. So at that—

19 A. So suddenly—

20 Q. —moment—

21 A. You want me to finish? You asked me a question.

22 Q. Go ahead. My Lord, please don't take the time out from me.
23 Yes.

24 A. Right? And also to ensure that further life is not lost.

25 Q. Thank you. Is that the end of your answer? You appreciate
26 first responders on a daily basis, whether police or firemen, put
27 their lives at risk to help others? You agree with that?

1 A. Yes.

2 Q. Yes. When was the first moment you went down to that site
3 where these men died, you?

4 A. Personally?

5 Q. Yes, yes, you, you.

6 A. I would have gone on the site, on the site, and my statement
7 would have it.

8 Q. I'm not interested in your statement. Tell us now. Did you
9 even go? Sir, did you even go?

10 A. Yes. But you also have to understand—

11 **Mr. Chairman:** Allow him to look at—allow him to look at—

12 A. Yes, I went to the—I went to the site.

13 **Mr. Chairman:** Allow him to look.

14 Q. The anxiety of time. That's—

15 A. But you also have to understand my role—

16 Q. I don't have to understand. You'll answer the question.

17 A. You have to understand my role—

18 Q. I don't have to understand anything other than you answer the
19 question, when was it that you first went on site?

20 A. Chairman, Chairman—[*Perusing document*] Sir, in my
21 statement the first time I visited the site—

22 Q. Yes.

23 A. —the incident of itself, would have been on item page 11293 at
24 around mid-afternoon Collin Piper and myself visited the
25 [*Inaudible*] operations at berth 5 and 6.

26 Q. What date?

27 A. Sunday, February 27th.

1 Q. Oh God. Sunday. This thing happened, what, the Saturday or
2 when was it? When was the incident?

3 A. The incident occurred on Friday.

4 Q. Oh. Saturday you didn't go. Sunday you arrived?

5 A. But—

6 Q. Right, good.

7 A. But you have to understand—

8 Q. I don't need—

9 A. —you have to understand—

10 Q. I don't bound to—

11 A. —the roles and responsibilities of the relevant parties in the
12 emergency response team. My role was not the site
13 coordinator.

14 Q. Yes.

15 A. Right? So as we mentioned before, Catherine Balkissoon
16 would have been there on the site relaying information back. I
17 was—the requirement was not for the logistics to be on the site.

18 Q. Sir, we got that.

19 A. So—

20 Q. Going forward.

21 A. And I just want to be clear—

22 Q. You're, you're very clear. I think everybody understands your
23 position.

24 A. Right.

25 Q. So Catherine was the point person at the time of the accident or
26 shortly thereafter?

27 A. Shortly thereafter.

1 Q. Who was Paria's point person at the time of the accident in that
2 area of the site?

3 A. Paria point person with respect to the permit to work?

4 Q. Whatever it was, the point person who is there at the—

5 A. As I mentioned—

6 Q. Let me finish so you could get a proper answer to us, that had
7 responsibility for Paria's site while work was in progress?

8 A. With respect to the work, Paria did not have a representative on
9 the site specific to the work at that time.

10 Q. Excellent. You had a camera belonging to Paria looking on to
11 the work, yes or no?

12 A. Yes.

13 Q. Right. Who was manning that?

14 A. Andrew Farah.

15 Q. Thank you very much. Now, this is so obvious but I need to
16 put it for the record. Do you consider air to be extremely
17 important to you or any other human being, yeah, oxygen?

18 A. Yes.

19 Q. Right. This is a water environment. There's a grave danger of
20 drowning, you appreciate that, when one works in a water
21 environment, yes?

22 A. Yes.

23 Q. Yes. Did you have any concern about the quantity of air or
24 oxygen available to persons who may yet be alive who may be
25 in the water or in the pipe?

26 A. Yes.

27 Q. Good. What time frame did you consider the—well, did you

1 consider that to be a matter of urgency to get to men who may
2 be alive who may have limited access to oxygen or air, yes or
3 no?

4 A. Right, and that—at that time it did not—

5 Q. Yes or no? Did you consider it urgent?

6 A. At that time, yes—

7 Q. Thank you.

8 A. —with LMCS being the contractor—

9 Q. Yeah, yeah everything—

10 A. —responsible for the employees' safety.

11 Q. —is LMCS. We're talking about you are representing Paria.
12 I'm putting questions here to you.

13 A. But I would not have been the one with the divers.

14 Q. No, of course not.

15 A. Paria would not have been the one with the divers.

16 Q. Wash your hands.

17 A. So how—no, I'm not washing my hands. I'm being—

18 Q. You are incident—

19 **Mr. Chairman:** All right, all right, all right, all right, all right.

20 A. You're not listening.

21 **Mr. Chairman:** Just a minute. Just a moment.

22 **Mr. Ramadhar:** Mr. Now I'm getting bouff now.

23 **Mr. Chairman:** Just a minute. Um, we don't have a jury, it's
24 just us two, all right?

25 **Mr. Ramadhar:** Very good.

26 **Mr. Chairman:** Just us two; and, um, I understand your
27 enthusiasm on behalf of your—of the families, but, please, try

1 and, um—

2 **Mr. Ramadhar:** Yes.

3 **Mr. Chairman:**—contain yourself a little all right?

4 **Mr. Ramadhar:** And if the witness would contain himself and
5 answer the questions, Sir.

6 **Mr. Chairman:** Just a moment.

7 **Mr. Ramadhar:** I'm most grateful to you, Sir.

8 **Mr. Chairman:** I think I know how to handle this, thank you
9 very much.

10 **Mr. Ramadhar:** Thank you. Thank you very much. So—

11 **Mr. Chairman:** If you, if you address the question—

12 **Mr. Wei:** Yeah.

13 **Mr. Chairman:**—and then if you want to add something I will
14 permit you to, all right? So answer the question and if you say,
15 “But I would like to say something extra”, then you'll be
16 entitled to do that all right?

17 **Mr. Wei:** Thank you.

18 **Mr. Ramadhar:** Thank you.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Incident management team, it was part of your responsibility to
21 manage the incident, is that accurate?

22 A. Correct.

23 Q. Yes. Did you consider it urgent to find or locate those men,
24 whether alive or dead, and in particular if they were alive?

25 A. Yes.

26 Q. Yes. Let me take you to the best to what you may have said.
27 Around six o'clock you learned that there was a survivor and

1 that the men were in the pipe?

2 A. Yes.

3 Q. Right. At that point in time, did you or your team consider
4 sending in even—forgive my inexperience or lack of
5 professional knowledge on the matter—but something like an
6 air pipe or air hose into that, so that if men are in a, in a, um, an
7 air pocket, that you may have been able to su—you know,
8 supplant some of the oxygen or air for them? Did it even cross
9 your mind?

10 A. Yes and that would have been on LMCS to install because at
11 that stage the only access would have been in the hyperbaric air
12 chamber—

13 Q. Beautiful.

14 A. —with divers needing to access it.

15 Q. Yes.

16 A. So at that stage for those first three hours, to make it clear—

17 Q. Uh-huh.

18 A. —the access to it could have only been by LMCS divers—

19 Q. Wow.

20 A. —or any diver that responded.

21 Q. Thank you but—so that if assuming the worst that LMCS did
22 not do anything to help, you are saying, “Oh, it’s their
23 responsibility. I have no further responsibility to do that? Is
24 that what you’re telling us?

25 A. We have responsibility for it, but at that stage there’s only
26 LMCS with the divers responsible.

27 Q. Thank you very much. You’ve heard the name Michael

1 Kurban? You know that name?

2 A. I've heard the name Michael Kurban.

3 Q. Yes. Do you know what time he would have been there
4 together with others?

5 A. He would have been there just around the time when Kurban
6 was coming out.

7 Q. Kurban was coming out. I see. We could only pray and hope.

8 A. No, well, er, Christopher Boodram. Apologies there.

9 Q. Yeah. You knew he was part of the effort to retrieve
10 Christopher Boodram?

11 A. Yes.

12 Q. Yes. You knew that he was willing and able, ready, willing and
13 able to go into that pipe to save his own father? Do you know
14 this?

15 A. Yes.

16 Q. You have told this court—I'm sorry, M'Lud. You have told all
17 of us in the nation that there was a decision that it was too
18 dangerous for persons to go in. Is that accurate?

19 A. I don't know exactly when that decision was made, right, but it
20 would have been prudent for Paria to advise that it was—you
21 need to know the conditions in the line—

22 Q. Yeah.

23 A. —to conduct a rescue.

24 Q. Right. You're aware that the coast guard has indicated through
25 most learned Senior Counsel, Mr. Maharaj, have indicated that
26 they took instructions from Paria in relation to this matter?

27 A. No.

1 Q. You don't know this? That's all right. Do you know that
2 Michael Kurban was prevented from going in to save his own
3 father?

4 A. No. He was not prevented from going in.

5 Q. You were present?

6 A. No, I was not present but reports coming in—

7 Q. Yeah, reports from whom?

8 A. From the site coordinator.

9 Q. Give me the name?

10 A. Catherine Balkissoon.

11 Q. Beautiful. That he was never prevented? He made no effort
12 and was told, "You cannot go in"? Is that what you're telling
13 this court, this, this, er, country?

14 A. Well, [*Inaudible*] he continued to dive even with being advised
15 not to go in.

16 Q. Thank you so much. So he didn't went fishing. He went diving
17 for fish? What do you think he went in there for?

18 A. He went in—it is—I don't know if he physically went in the
19 line but I know that he may have went in the hyperbaric
20 chamber.

21 Q. Sir, Mr. Maharaj very brilliantly conducted and there's very
22 little for me but except to ask you this. You said that you all
23 spoke to Christopher Boodram around ten o'clock, 10.00 p.m.,
24 yes?

25 A. Yes.

26 Q. How many hours after the incident is this, around seven?

27 **Mr. Chairman:** The evidence is four, four hours.

1 **Mr. Ramadhar:** Four hours. No, no, this is not when
2 Boodram was retrieved, you know, My Lord.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. But when the incident—the accident occurred to the time you
5 spoke to Boodram was how long?

6 A. Will be seven hours.

7 Q. Seven hours. To that time, you were unaware of any official
8 Paria controlled or LMCS controlled effort to go into the pipe
9 to retrieve anyone?

10 A. No, there was no controlled effort from LMCS.

11 Q. Thank you so much. You said—you listened to the
12 conversation with Mr. Boodram, is that accurate?

13 A. Yes, that is accurate.

14 Q. Yes. Anybody took an audio recording of that conversation?

15 A. No.

16 Q. No. So what we have is a record made by whom? You said
17 there was a written record of that conversation. Who made that
18 record?

19 A. There would be that of the scribe.

20 Q. Who made the record?

21 A. I don't know who would have been the scribe on that day.

22 Q. But it would be part of your team, wouldn't it?

23 A. Yes.

24 Q. You appreciate you have an interest to serve in taking away any
25 level of responsibility rather than admitting it? You agree with
26 that?

27 A. No.

1 Q. You don't. Thank you very much. Now, when Boodram was
2 brought out you had Paria persons on site?

3 A. Yes.

4 Q. Yes. You knew that he was speaking and shouting at that time?

5 A. I know he was speaking, yes.

6 Q. Right. Did you make any effort to ascertain what he said when
7 he came out?

8 A. That would have been with the team on the site.

9 Q. Yes. Did you make any effort to ascertain what that man said?
10 Because you were so eager to speak to him you waited until ten
11 o'clock to do so.

12 A. As I explained earlier—

13 Q. Listen to my question, Sir. Did you make any effort—

14 **Mr. Chairman:** No, no, no you can't frame the question in a
15 way which is not part of the evidence and making it sound as
16 though it is. The question, the question you can ask him is,
17 why it took so long. He has already answered that question and
18 said that they had tried over a period of some time to get ahold
19 of Mr.—

20 **Mr. Ramadhar:** Thank you.

21 **Mr. Chairman:**—Boodram and were unable to do so.

22 **Mr. Ramadhar:** I, I appreciate the hour of the day but my
23 question isn't that at all. My question is whether he make any
24 effort to ascertain what Boodram said when he came out of the
25 pipe.

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. Sir, would you answer that?

1 A. That would have been LMCS to report that into the incident
2 command.

3 Q. So, you had Paria persons on site yes? Did you ascertain from
4 Paria this, Ms. Catherine Balkissoon who was there, as to what
5 this man said when he came out of the pipe? That is your
6 official. Did you make any effort to ascertain from her what the
7 man who just came out, who is the best person to tell you the
8 conditions in the pipe, what he actually said?

9 A. I can't answer that.

10 Q. Of course not.

11 A. I believe that the one who was there specifically.

12 Q. Sir, would it shock you to learn that he said, "Go in", words to
13 the effect, "the men, your father, Michael, your father is right
14 behind me, the others are in. They have a air pocket", or words
15 to that effect? Would it shock you to learn that today?

16 A. Did you hear that from him?

17 Q. Actually, the country has heard it. The man gave sworn
18 testimony and we have evidence from Michael who was
19 present. We have evidence from Corey, we have evidence of
20 others. So let me hear you now.

21 A. And similar they all have interests in it.

22 Q. Eh-heh? To lie about this?

23 A. I didn't say that.

24 Q. Oh. But what are you suggesting then when you say they have
25 interest? Because you have not found out from Catherine what
26 the man said when he was brought out of the pipe. Is that
27 accurate? Up to today, did you find out what he said that

1 Catherine was present, what he said when he came out that
2 pipe?

3 A. I found out what he said from others subsequent to the event.

4 Q. When, subsequent when? When you're talking about?

5 A. Maybe the following weeks.

6 Q. But you were interested, with all due respect to you, Sir, to find
7 out the conditions within the pipe. Isn't that what you told us?

8 A. Yes.

9 Q. Right? And one of the reasons you wanted to find out that is to
10 ensure that it was safe enough to engage a rescue mission, you
11 agree with that?

12 A. Correct.

13 Q. Yes. And the best person, the best evidence that you would
14 have is what the man said when he just came out. You agree
15 with that?

16 A. Not necessarily.

17 Q. Wow. So, tell me something again. In your opinion, when was
18 the decision made or the view formed that the men were dead?

19 A. That would have been somewhere on Sunday afternoon.

20 Q. Sunday. Between Friday afternoon, when this incident
21 occurred, to Sunday, what efforts were made by any diver that
22 were authorized by Paria to go into the pipe to rescue these
23 men? Because you said now that you didn't believe them to be
24 dead until Sunday. So let me hear, let the country hear, what
25 efforts were made between Friday to Sunday to send anybody
26 in to retrieve these men?

27 A. From Friday to Saturday, the period was used to collect data

1 and inspection in the line, to develop a plan for the rescue of the
2 individuals.

3 Q. That never occurred. The rescue, because you got your
4 information—you think it's a bureaucratic exercise you were
5 in?

6 A. No.

7 Q. Or a lifesaving effort? Which is it?

8 A. It's a lifesaving effort.

9 Q. Right. Which lifesaving effort was made between Friday and
10 Sunday? Tell this country. We need to know. My client's
11 family needs to know.

12 A. Right.

13 Q. Yusuf Henry's 11-year old daughter needs to know. Tell us.

14 A. With respect to going into the pipeline, a plan needed to be
15 devised.

16 Q. Yeah, well, I'll hear about your plan. What efforts were made?

17 A. Right. The efforts were to establish the safety inside the line—

18 Q. My God.

19 A. —without putting other people lives at risk.

20 Q. Yeah; and there were persons who were willing to risk their
21 lives to do so. Isn't that correct?

22 A. Right, and part of the, and as I mentioned before—

23 Q. Listen. You will answer what I ask you.

24 A. —the, the—

25 Q. There were persons who were—

26 A. —part of our principles of rescue—

27 **Mr. Ramadhar:** My Lord, would you ask him? Would you

1 ask him?

2 A. —is not to put other people's lives at risk. It would have been a
3 whole—

4 Q. God I—

5 A. —different scenario had Michael—

6 **Mr. Chairman:** Mr. Wei has the right to answer your
7 questions. I understand you feel a little constrained in terms of
8 time—

9 **Mr. Ramadhar:** Yes.

10 **Mr. Chairman:**—but you must allow him to answer the
11 question.

12 **Mr. Ramadhar:** Okay.

13 **Mr. Chairman:** You can't just fire the second one straight at
14 him before he's finished the first answer, all right? I appreciate
15 that.

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. I will, I will do the human thing and allow you the time so
18 you—for you to collect your thoughts and take your breath,
19 okay? You were concerned more about the other person's lives
20 who may go in to rescue. Is that what you're telling us?

21 A. That is part of the factors in it.

22 Q. Part of the factors.

23 A. You cannot, you cannot send someone into the line with—
24 unsafe and then you end up with a different situation.

25 Q. Uh-huh. And the situation we ended up with was what, four
26 dead men? Is that it? No effort made to save them? Is that
27 accurate?

1 A. If you send—

2 Q. No effort made?

3 A. If you send someone inside with a unsafe condition in the
4 line—

5 Q. Uh-huh.

6 A. —and as you know the condition inside the line, you could
7 have end up with losing another person.

8 Q. And if a person—

9 A. And that—it's running into a—if you know someone is running
10 into a building that is burning and is falling—

11 Q. Uh-huh—

12 A. —to run into that building burning—

13 Q. Uh-huh.

14 A. —to save someone—

15 Q. Uh-huh.

16 A. —you are putting yourselves at risk that you yourself might die.

17 Q. Yeah.

18 **Mr. Chairman:** Just a moment.

19 Q. Isn't that what firemen do?

20 **Mr. Chairman:** Just a moment.

21 **Mr. Ramadhar:** Sorry.

22 **Mr. Chairman:** Of course that's right. If it was your father,
23 would you?

24 **Mr. Wei:** If it as my father?

25 **Mr. Chairman:** You can't answer that question.

26 **Mr. Wei:** Yeah, that is—

27 **Mr. Ramadhar:** I'm so sorry, My Lord, I missed what My

1 Lord said. [*Crosstalk*] Yeah, yeah, exactly the point.

2 **Continued Cross-Examination By Mr. Ramadhar:**

3 Q. Listen, forget about for a moment, do forgive me, forget about
4 father. Remember I asked you about first responders? Firemen
5 do this on a regular basis throughout the length and breadth of
6 this world. You agree with that?

7 A. Yes because they are—

8 Q. Yes.

9 A. —because they are trained and prepared.

10 Q. Thank you. And—

11 A. They are equipped with equipment to conduct those rescues.

12 Q. What other, what other—

13 A. You are saying—

14 Q. —equipment did they require to go into this tube? His
15 Lordship produced to us this hula hoop and showed us what it
16 is, the confines. What other equipment did you require for
17 somebody to go in there with?

18 A. What hula hoop?

19 Q. The size, to put a very, very clear indication as to the size of the
20 pipe, what other equipment do you need to go in there other
21 than a person who has an oxygen supply, a long enough line
22 and possibly a rope to go in—

23 A. Well—

24 Q. —listen, let me finish—to go in, right, with the oxygen line for
25 himself and possibly also to give those who were still surviving
26 oxygen? What other equipment did you require? What other
27 equipment could you have required?

1 A. Diving equipment, air equipment.

2 Q. Yeah. You had diving equipment, didn't you?

3 A. But you need to—

4 Q. Did you have diving equipment?

5 A. You need to know the conditions in the line—

6 Q. [*Inaudible*]

7 A. [*Inaudible*]

8 **Mr. Chairman:** Allow him to answer.

9 **Mr. Ramadhar:** I'm so sorry.

10 **Continued Cross-Examination By Mr. Ramadhar:**

11 A. Okay, let me just—I, I understand your compassion.

12 Q. [*Inaudible*]

13 A. We all have that compassion.

14 Q. It's rage for the country. The country has rage for what you all
15 did.

16 **Mr. Peterson SC:** Counsel not supposed to have that.

17 **Mr. Chairman:** Yeah, please? You have to—I understand,
18 but you have to contain yourself a bit.

19 **Mr. Ramadhar:** Yes, of course.

20 **Mr. Chairman:** All right? Please.

21 **Mr. Ramadhar:** Of course. Of course.

22 **Mr. Chairman:** I'm sure that—I'm sure lots of people have
23 rage—

24 **Mr. Ramadhar:** All right.

25 **Mr. Chairman:**—and we've heard it already, but, you know,
26 you're counsel—

27 **Mr. Ramadhar:** Yes.

1 **Mr. Chairman:**—and you try not to have the rage, all right?

2 **Mr. Ramadhar:** Thank you.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. And you're making it so difficult.

5 A. No.

6 Q. Yeah. You had diving equipment?

7 A. But was it the right diving equipment?

8 Q. Did you find out?

9 A. We relied—

10 Q. Did you find out?

11 A. We relied on the experts to advise.

12 Q. Yeah. Did you find out that there was not the adequate
13 equipment to go in there?

14 A. We relied on the experts to advise.

15 Q. Forget about rely. Did you find out, you—

16 A. We relied—

17 Q. —Sir—

18 A. —on advice.

19 Q. —in, what is—incident management team member, did you
20 find out what was required and whether it—what was required
21 wasn't available?

22 A. What was required was a safe—

23 Q. We're talking equipment now. Right?

24 A. Right. A safe plan that would identify the equipment required
25 so without a safe—

26 Q. While you planning man dying?

27 A. —without a safe plan—

1 Q. Yes.

2 A. —you would not have the right equipment so you would be
3 sending someone down into a pipeline, I mean, you saw the
4 hula hoop and to be honest with you the hula hoop to try to
5 compare that hula hoop to a 30-inch line that is filled with
6 water and oil, 40, 50 feet down, horizontally for twelve hundred
7 feet across.

8 Q. Yes.

9 A. To rescue men that you don't know where they are—

10 Q. Right.

11 A. —you don't know the conditions of the line and to say now you
12 want to know what equipment you have, you don't even know
13 what conditions you're going to face, where the divers are how
14 could you know what condition they are—

15 Q. And [*Inaudible*] with what you're saying?

16 A. —to say something like that? You are putting other people's
17 lives at risk.

18 Q. How could you in good conscience say what you just said,
19 because Boodram came out of that pipe, you agree?

20 A. Boodram came out doesn't necessarily mean that the—that it's
21 safe to go back in.

22 Q. I agree. It may not be safe—

23 A. You agree?

24 Q. It may not be the safest—

25 A. You agree?

26 Q. I agree it may not be the safest thing, but Boodram came out.
27 He was rescued. He said certain things that the “father is right

1 behind me. Go get your father.”

2 A. And what I understand from the reports he went in—

3 Q. Uh-huh.

4 A. —and he did not—he went as far as safe as he thought so.

5 Q. Eh heh? As far as the line permitted. And you had access to
6 unlimited lines, didn't you?

7 A. Paria? LMCS had—

8 Q. Everybody who came there—

9 A. —and assets.

10 Q. —came with some kind a equipment. You know what a line is,
11 right? A hose. You agree with that?

12 A. Yes.

13 Q. And you could attach, you take as much as you could, you put
14 another length. You, you know that? You know that, right?
15 You deposit?

16 A. Um, I am not a diving expert and I don't know the—

17 Q. No, no, no, but common sense.

18 A. —details of this.

19 Q. You could add, you could add to the length. You could add to
20 the length. He came back up asking for more line. You know
21 this?

22 A. So then why did LMCS not provide?

23 Q. Listen, because they were prevented. The coast guard was
24 there. You cannot go back in.

25 A. That is not true.

26 Q. Oh really?

27 A. The coast guard never prevented anyone—

1 Q. You were there and spoke on behalf of the coast guard?

2 A. Reports coming back in.

3 Q. From whom, your own people?

4 A. From Catherine Balki—yes.

5 Q. Yes.

6 **Examination By Mr. Chairman:**

7 Q. May I ask, would—you said now several times that the coast
8 guard did not prevent anyone from going in.

9 A. What I under—

10 Q. Let me ask the question.

11 A. Sorry.

12 Q. You've said that several times. Would you have regarded it as
13 wrong for the coast guard to prevent someone from going in?

14 A. If it was deemed unsafe to do so, and if the coast guard would
15 have prevented them from entering, that would have been the
16 right thing to do.

17 Q. Okay.

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. The coast guard told you that it was too unsafe and nobody
20 should go in there?

21 A. Specifically reported that to the—someone else in the IMT.

22 Q. No, no. We're talking to you. You are here. Did the coast
23 guard tell you that it was too unsafe—

24 A. The coast—

25 A. —and they will not permit anybody to go into the pipe?

26 A. Within the reporting lines for the IMT I would not be liaising
27 with the coast guard.

1 Q. Right.

2 A. The coast guard—

3 Q. So you do not know what the coast guard said or did in relation
4 to they making a decision—

5 A. That's what they reported but that would—

6 A. Just let me finish my question. I'm trying to be disciplined and
7 hold back a lot a other things. Yeah? You are not in a position
8 to tell this country and His Ludships that the coast guard did not
9 prevent persons from going in to save other persons?

10 A. That's a question?

11 Q. Yeah.

12 A. The reports coming back to me through the—

13 Q. Uh-huh.

14 A. —IMT, that the coast guard did not prevent people from
15 entering the line. Paria did not prevent people from entering
16 the line.

17 Q. So, no one was prevented from, as far as you are concerned, is
18 that accurate?

19 A. That is true.

20 Q. So you're saying that Michael Kurban would be untrue if he
21 said that he wanted to go back in but that he was prevented by
22 the coast guard and other and then two of the Paria staff?

23 A. Well in that case that would have to be untrue.

24 Q. Wow. You know that Michael actually went into the pipe and
25 came back out?

26 A. Well I heard a report of that.

27 Q. Right. So, having gone in once, you're saying that he would be

1 lying about wanting to go back in a second time? Is that what
2 you're telling this—all of us here?

3 A. I understand he went in as far as he thought safe and he came
4 back out.

5 Q. Thought safe or as far as the line will take him?

6 A. As far as he thought was safe.

7 Q. Right. You talk to him?

8 A. Reports coming back—we're going around—

9 Q. From whom again? Give me a name now, eh. I don't want to
10 hear reports. Who told you he only wanted to go as far as he
11 considered safe? Who told you that?

12 A. I can't recall.

13 Q. Of course not. Because if it's not true what you are saying, he
14 wanted to. There were others who were willing to do these
15 things, not just Michael, to go into the pipe and save other lives,
16 their brothers, their fathers, their, their friends, their colleagues.
17 And because of Paria's position, and under the authority of
18 Paria, they were prevented from going into that line, into that
19 line.

20 A. No. The divers stopped on their own accord—

21 Q. Oh, thank you. You know what—

22 A. —after Paria continued advising that they do not enter the line.

23 Q. Who, who continued advising?

24 A. They stopped at the—Paria.

25 Q. Pariag, exactly, advising. Yes.

26 A. That the conditions in the line were unknown and it would have
27 been unsafe to continue diving.

1 Q. Yes. "I advise you not to go so. If you do so I will deal with
2 you." You, you know how that works, right? Yeah?

3 A. No.

4 Q. No you don't. You know what analysis paralysis is?

5 A. Let me take some time to think about that.

6 Q. You take some time.

7 **Mr. Chairman:** How much longer do you think we're going
8 to be?

9 **Mr. Ramadhar:** No, I'm finished. I am saying let him take
10 his time now. He could analyze as much as he wishes. God
11 bless.

12 **Mr. Chairman:** Thank you. Well you can understand perhaps
13 the somewhat hot-headed approach but, um—

14 **Mr. Peterson SC:** [*Inaudible*]

15 **Mr. Chairman:** Anyway—

16 **Mr. Ramadhar:** I do take serious umbrage to that national
17 statement you just made.

18 **Mr. Chairman:** You know, I've been where you are many
19 times.

20 **Mr. Ramadhar:** Of course.

21 **Mr. Chairman:** And I've been accused of exactly the same, so
22 I—

23 **Mr. Ramadhar:** Well, then I take that—

24 **Mr. Chairman:**—that's why I permitted you to—a, a certain
25 degree—

26 **Mr. Ramadhar:**—I'll take it as a compliment.

27 **Mr. Chairman:**—of latitude. All right?

1 **Mr. Ramadhar:** I take that as a compliment, thank you.

2 **Mr. Chairman:** Yes. Mr. Peterson.

3 **Mr. Peterson SC:** Yes, Mr. Mouttet just has a few questions.

4 **Mr. Chairman:** Mr. Mootoo, you're going to do this as well?

5 **Mr. Mootoo:** Yes. And hopefully—

6 **Mr. Chairman:** You've been burdened today, haven't you?

7 **Mr. Mootoo:** It doesn't feel that way. May I have one
8 moment, please?

9 **Mr. Chairman:** Yes, of course you can.

10 **Examination by Mr. Mootoo:**

11 Q. Mr. Wei, I have a few question for you. Let me apologize in
12 advance. I can't sustain the drama of Mr. Ramadhar so you're
13 going to have to bear with me.

14 **Mr. Ramadhar:** M'Lord, if my friends are going to continue
15 along this path—

16 **Mr. Mootoo:** So you were taken—

17 **Mr. Chairman:** All right.

18 **Mr. Ramadhar:**—to make personal, I [*Inaudible*]—

19 **Mr. Mootoo:** Mr. Ramadhar wants to speak again?

20 **Mr. Ramadhar:** Yeah, I'm saying if it is that you're going to
21 go down that line about making me the issue here, I'm doing
22 my job, Sir, with all due respect and I have clients whose pain
23 that is, you know, incomprehensible.

24 **Mr. Chairman:** Mr. Ramadhar, Mr. Ramadhar, he's accused
25 you of a little drama.

26 **Mr. Ramadhar:** Yes.

27 **Mr. Chairman:** I think we've all seen a little drama.

1 **Mr. Ramadhar:** Well, I am “Dramadhar” in some minds but I
2 am who I am and God bless.

3 **Mr. Chairman:** I allowed it, as you know. You need not get
4 so excited about it. We all understand, we all understand
5 exactly who you’re representing and why it’s important that
6 you should be allowed the latitude that I’ve granted.

7 **Mr. Peterson SC:** That’s what—

8 **Mr. Chairman:**—and so let’s keep any further comments
9 from—of Mr. Ramadhar, to ourselves, shall we?

10 **Mr. Mootoo:** Yes, of course.

11 **Continued Examination By Mr. Mootoo:**

12 Q. Mr. Wei, you were taken to the work permit on the day in
13 question. That’s at 1074 of the core bundle. It’s actually on the
14 screen, I believe, in front of you at the moment. So can I ask
15 that he be taken to the foot of that work permit, just at the
16 bottom of page 1074? And just—right, can you stop right there
17 for me please? Thanks. And you see there is a section C with a
18 heading in bold entitled “Acceptance”. Yes?

19 A. Yes.

20 Q. And there are—there’s space for the contractor official to sign,
21 yes?

22 A. Yes.

23 Q. And the contractor official there would be someone from
24 LMCS?

25 A. That is correct.

26 Q. Good. But the term, “contractor official”, that is a specialized
27 term under the work permit system, is that correct?

1 A. Yes.

2 Q. Yes.

3 A. Yes.

4 Q. And there was a line of enquiry made of you today as to how
5 about the—how the divers may or may not have understood the
6 permit. You remember that?

7 A. Yes.

8 Q. Good. I'd like you to—I'd like to take you very briefly to the
9 permit procedure. That can be found at page—the page I have
10 in question is at page 31 of the core bundle.

11 **Mr. Mootoo:** Can the witness be shown that please?

12 **Mr. Chairman:** Thirty-one, is it?

13 **Continued Examination By Mr. Mootoo:**

14 Q. And if you can be taken down to item 5.6? Right. And I'd like
15 us to just look at that very briefly. The heading is, "Contractor
16 Official" and am I right in saying that that's—the reference to
17 the contractor official there is the same reference for the
18 contractor official that he just saw on the foot of the work
19 permit?

20 A. Yes, that is correct.

21 Q. Good. Now, LMCS personnel were trained in that work permit
22 procedure? Wasn't that one of the—one of the contractor
23 requirements for the job?

24 A. The contractor official? Yes.

25 Q. Yes. And that procedure identifies, and we're going to come to
26 it, certain responsibilities for the contractor official. Isn't that
27 correct?

1 A. Yes.

2 Q. Good. So, let's look at it together. The contractor, this is the
3 second sentence:

4 "The contractor official is officially nominated by the
5 contractor as the signatory on the work permit and
6 certificates and must be at least the level of a supervisor."

7 So that the signatory to the work permit would have been
8 someone holding the position of at least an LMCS supervisor.

9 Is that correct?

10 A. Yes.

11 Q. And then the contractor official is required to have certain, um,
12 responsibilities and certain—and knowledge of certain matters.
13 And I'm keen with—there are six or seven bullet points here
14 and let's just go through them. He's required to have a clear
15 understanding of the job and the different steps involved. He's
16 to be knowledgeable of the hazards associated with the job and
17 the necessary controls. He is to be responsible for the work and
18 for the safety of all contractor employees associated with the
19 job. So in those circumstances it's the LMCS contractor
20 official who would have been responsible for the safety of all
21 the divers on the job. You agree with that?

22 A. Yes.

23 Q. And he's to maintain a log of persons of each worksite. He's to
24 ensure that all equipment is suitable for the job and in good
25 working condition, and he is to remain on site at all times, and I
26 think this, this, um, goes to what you were saying earlier, he's
27 to remain on site at all times or to be represented on site by a

1 suitably competent and authorized alternate. This is the
2 important bullet point. It also provides that the con—ensure
3 that contractor workers, and in this case it will be the divers,
4 comply with all precautions on the work permit and certificate.
5 Yes?

6 A. Yes.

7 Q. Would you therefore agree with me that it's the contractor
8 official who is responsible for ensuring that the LMCS divers
9 on that day complied with all precautions on the work permit?

10 A. Correct.

11 Q. And we know, from looking at the work permit, that it says a
12 migration barrier is to be used, correct?

13 A. Correct.

14 Q. And would it be correct to say that the use of the migration
15 barrier is a precautionary measure?

16 A. That is correct.

17 Q. So would you therefore agree with me that it was the
18 responsibility of the contractor official of LMCS to ensure that
19 the divers were specifically made aware of that precautionary
20 measure?

21 A. Yes.

22 Q. Thank you.

23 **Mr. Mootoo:** I have no further questions for Mr. Wei.

24 **Mr. Chairman:** Yes.

25 **Examination By Mr. Chairman:**

26 Q. Just from that, can I understand you please? There is no issue
27 between anyone, and I think that a barrier was and should have

1 been used, correct?

2 A. Yes.

3 Q. Um, I think we all accept that they were used and it was wise
4 that they should be used. The issue here is not that they were in
5 use but when they should be removed, isn't it? Because you're
6 saying that they should never have been removed until the
7 hyperbaric chamber had been taken off? That's your position,
8 isn't it?

9 A. Yes.

10 Q. Right. And that any suggestion that they were permitted to do
11 so in advance was wrong?

12 A. Correct.

13 **Mr. Chairman:** Yes, okay.

14 **Mr. Mootoo:** Sir, may I, may I have one follow-up question?

15 **Mr. Chairman:** Of course you may.

16 **Mr. Mootoo:** Thank you.

17 **Further Examination By Mr. Mootoo:**

18 Q. Is there anything on that work permit—[*Crosstalk*—is there
19 anything on the work permit that suggests to you that for the
20 tasks to be performed on that day the use of the barrier was
21 limited in duration?

22 A. Can you ask that again?

23 Q. Is there anything on that work permit that suggests to you, for
24 the tasks that are described, that the barrier was to be used for a
25 limited duration?

26 A. No. The barrier was to be used for all the steps identified,
27 [*Inaudible*] to the task.

1 Q. Thank you.

2 **Examination By Commissioner Wilson:**

3 Q. Mr. We, one thing I'd like to ask you on the permit to work
4 system, or, out of the overall control of work system, you just
5 said the roles and responsibilities of the contractor but I want to
6 take you to 5.4, Volume 1. Page number 31—

7 A. Yes.

8 Q. —5.4, the area authority and the senior area authority. You
9 want to read it or I could read it out for you or—

10 **Mr. Chairman:** Read it out loud.

11 **Continued Examination By Commissioner Wilson:**

12 Q. Okay I'd read it out.

13 “The area authority is the facility owner who audits the
14 precautions/conditions laid out in the safety certificates
15 by the competent person to ensure they are adequate for
16 the job taking into consideration simultaneous activities
17 on the facility. For the permit to work system, the area
18 authority shall be someone holding the position of lead or
19 any equivalent or higher designation and is appointed by
20 respective manager. The area authority shall audit and
21 specify additional conditions where necessary on the
22 safety certificates taking into consideration legal
23 requirements, company rules and business objectives,
24 approve the list of precautions on the safety certificates,
25 review the JHA for adequacy, coordinate all jobs under
26 his area of control.”

27 You understand it as I read it?

1 A. Yes.

2 Q. All right. So, if you've indicated that no one on Paria had the
3 competency to do this, how would you verify this or validate
4 this or how is the area authority in your present control of work
5 system able to do this?

6 A. Able—the area authority shall audit and specify additional
7 additions where necessary for the safety certificates, right?
8 Yeah?

9 Q. Yes. The safety certificates are off of like the supplemental
10 certificates attached to your work permit, right?

11 A. Yes, the hot work certificate—

12 Q. Yes.

13 A. —and the excavation.

14 Q. Yes.

15 A. So, yes, he should be able to do that.

16 Q. But again, so I think I've already made it in terms of a
17 competent person able to validate, like, let's just say any of the
18 supplement certificates, the risk assessment, the JHA, right, so
19 if you offer that Paria didn't have anyone competent to do it,
20 this is under your control of work system, so, I take what the
21 gentleman said about the responsibility of the contractor, but I
22 also offer Paria does have some responsibility in the control of
23 work in issuing a permit to work?

24 A. Right; and as I said before—

25 Q. Uh-huh.

26 A. —the risk that he would be very much familiar to bear on the
27 JHA, with those risks, were from the operational side of view,

1 or any plain risks, obvious risks, on that of the experienced and
2 competent contractor.

3 **Examination By Mr. Chairman:**

4 Q. Your position has been, as it has been right from the beginning,
5 if I may say so, is that you regarded LMCS as being the
6 specialist and therefore they were the ones to tell you what the
7 risks were?

8 A. Yes.

9 Q. If they didn't, then it's their fault? That's, as I understand it,
10 what you're saying, isn't it.

11 A. To say it like that, yes.

12 Q. Yeah, all right. I do.

13 **Mr. Chairman:** All right, Mr. Maharaj, is there any re-
14 examination?

15 **Mr. Maharaj SC:** I have no re-examination.

16 **Mr. Chairman:** Well I'm very relieved to hear that. Can I
17 thank everybody for sitting as late as we have. I hope that we
18 can do so if it becomes necessary again, and certainly from Mr.
19 Wei's point of view he's now released. I release you from your
20 obligation. Can I ask, though, please that you do seek do find
21 the original copy of your statement please, rather than the
22 scanned copies or whatever they may have been distorted
23 during the course of being transmitted to us? So I would be
24 grateful if we could have the original at some point. Thank
25 you.

26 **Mr. Wei:** Okay.

27 **Mr. Chairman:** All right, well, with that we shall rise, please.

1 Do not worry about my getting off the Bench. I've got to grab
2 my own papers, so, feel free. Thank you very much indeed and
3 I will see everybody again on the 5th of December.

4 **5.54 p.m.:** *Enquiry concluded.*

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EVIDENTIARY HEARING DAY 4

10.05 a.m.: *Enquiry Commenced.*

Mr. Chairman: Good morning, everybody, welcome back. Few housekeeping matters, if I may, please. I hope everyone's had an opportunity to see the witness schedule for the next two weeks that we'll be sitting prior to Christmas. It is a tough schedule; it's quite a lot on there, but, if we are to keep to time, we're going to need to try and get through each of those witnesses on each of those days that they've been allocated for. You all know, as lawyers, once one slips into the next day then there's two into the day after that, and so on. So we're going to do our level best to try and make sure we keep it to the schedule that we currently have, and I will allow all of you, please, to help me to try and ensure that that's what happens.

Towards the end of this two-week period we will publish the final 10 days now that is going to be set for January. I know that I chose the timetable slightly to bring forward the dates from—remind me someone—we were going to be sitting on Monday 9th and we're now sitting on Wednesday 4th. So we acquired an extra three days, and I'm really grateful to everyone for agreeing to be here in a time which might have been otherwise holiday. So thank you for that.

Can I turn next—Mr. Peterson, can you help me a little about this? We've received a letter from your Gretel Baird, who I think is your instructing attorney, in which she discloses two new documents, one which is a series of emails between Mr. Kazim Ali and Mr. Randolph—Archibald, Randolph, from

1 Paria, which set out certain matters which I needn't refer to
2 specifically; and that was received at 7.40 this morning. And
3 then some charts showing the pipeline between 5 and 6; that
4 was received at 8.45 this morning. And, of course, I'm grateful
5 to receive all documents that might be relied upon; I appreciate
6 having an advance notice of it.

7 My slight concern, Mr. Peterson, as you would probably
8 appreciate, is that Paria have assured us that they've trawled
9 through all the documents and provided us with everything.
10 These seem to me, at first glance, to be relevant documents and
11 I'm slightly concerned, as I say, as to why they were not
12 disclosed before. And that's the first point.

13 The second thing is, is that whilst I appreciate them being
14 served there's no accompanying statement identifying what
15 they are; why on the face of it they're sought to be relied upon;
16 how they came to be found at this stage. And, really, for me to
17 be able to or asked to be able to make—he has it much better
18 than I do because he's read these sorts of charts before, but I
19 don't understand them so readily, and it would be helpful for
20 me to know if there is to be any documents to be served that we
21 get these with a statement setting out what it is. I don't know at
22 this point in time, Mr. Peterson, if this has been served on
23 anyone else. I see Ms.—forgive me, it's gone out of my head
24 for the moment. Forgive me.

25 **Ms. Persaud Maraj:** Ms. Persaud Maraj.

26 **Mr. Chairman:** Thank you, Ms. Maraj. The problem is, is
27 that, you know, if we are to be served this that, really, they

1 should be made available to us at an early enough stage so that
2 we can give it to everybody else, otherwise it's not really fair.
3 So I don't ask you to respond unless you particularly want to
4 say anything. I just flag up our concerns about it happening in
5 this way. All right?

6 **Mr. Peterson:** Yes, Sir. We'll try to avoid that. But the plan,
7 I only saw the plan over the weekend and I thought that it was
8 helpful, and I said to send it to the Commission as soon as
9 possible. But we will do the homework and clean it up, so to
10 speak.

11 **Mr. Chairman:** Yes, all right.

12 **Mr. Peterson:** But I recognize that the lay of the pipe—we are
13 all operating that it runs from 5 to 6 and 6 to—

14 **Mr. Chairman:** Yes, and it seems to be, looking at the chart as
15 best as I understand it with the help of Mr. Wilson as my Co-
16 Commissioner, it seems to me something which I've learned for
17 the first time in the months of preparation to this, that the pipe
18 that is in the seabed is not a straight line. It apparently has a
19 kink in it, as it no doubt searches to find the most level surface
20 under the water. That's what it appears to me. I may have got
21 that completely wrong, but it was kind of useful to know that at
22 an earlier stage; no doubt it's the reason why it prompted you to
23 seek to have it served. But we'll hear evidence about it, I'm
24 sure of. Thank you.

25 Next this: Mr. Rampersadsingh has been interviewed.
26 He's an important witness, as you know, and I appreciate the
27 efforts made by Paria to facilitate that. He was interviewed by

1 our counsel, Ms. Maharaj and Mrs. Baird—I hope I haven't
2 given her the wrong handle—Ms. Baird, I should say—the two
3 of them saw him on Thursday last. It was quite a lengthy
4 interview. And for reasons that are familiar to, at least a
5 number of you, it took a little time, to be sensitive. But it has
6 produced, I think, 600 pages—no, 111. Somebody told me 600
7 and I got very frightened. I haven't read it myself as yet. It
8 was only just finally produced as a transcript in the early hours
9 of last night. It is, as we speak, being made available. That
10 transcript is being made available to the website so that
11 everyone can see it. There's nothing, I'm assured, in it that
12 ought to be redacted, so it has not been. So it is in its full detail.

13 I should say that we are, or Ms. Maharaj is making
14 arrangements to do a summary of a hundred and whatever
15 pages and that summary will also be put on the website and
16 provided to everybody to make sure that we have an overview
17 of exactly what those hundred-and-odd pages say, rather than
18 straight question and answer. I can say at this time that as a
19 result of representations made to me by you and our own
20 observations through Ms. Maharaj, I will not be requiring him
21 to come to this courtroom to give evidence, and if that provides
22 him with some reassurance, then that can be provided. So there
23 will be no opportunity, I make clear, there'll no opportunity for
24 anybody else to cross-examine him. We will have to rely on
25 what he has said in the interviews. Now, of course, everyone
26 will have it, and anyone who wants to make representations

1 about it can. I think that there will be some evidence that may
2 be given as a result of what he has said from others.

3 Next this: the photographs that were taken when we had
4 the opportunity to go to Paria on our site visit are all available
5 now. I understand some had been redacted. I have not yet seen
6 those that had been redacted. Once I've seen those I'll—if
7 there's an issue arising we'll raise it with you. But at the
8 moment, all the others that had been taken are now being made
9 available and, again, will be available on the website today.

10 Fifthly, Mr. Wei's evidence, you will recall I asked him
11 about what looked like some sort of cut and pasting in his
12 witness statement and I asked to have a sight of his original.
13 That has been provided by your instructing attorney, Ms. Baird,
14 and I'm grateful for that, and I can say straight away that no
15 issue arises from it as a result. So that issue, if it were ever an
16 issue, is now laid to rest. So I'm grateful for that.

17 Next, Mr. Hargreaves. He is due to give evidence. He's
18 a senior man at the coast guard, and he is retired; lives in
19 Barbados. We have been able to track him down. He's going
20 to give his evidence on Monday 12th, so next Monday, a week
21 today, he's going to do so by VideoLink. I mention that now
22 because, obviously, giving evidence by video link, if anyone
23 wants him to have a document in his possession so that he
24 could be asked about it, you need to tell us and tell us soon so
25 that we can make sure he's got it. He has, obviously, got his
26 witness statement, and he'll have that with him. Someone will
27 no doubt make sure he's got a Bible in front of him so that he

1 can swear on it, if that's what he wishes to do. But that aside, if
2 there's any document that needs to be placed, we need to have
3 it, and pretty, pretty quickly, please, so that we can make sure
4 he's got it. And I think that's it. No, one more matter I should
5 mention as well.

6 The first witness today is Kazim Ali. I remind everybody
7 that he is the father of Kazim Ali Jr. who died. Please, treat
8 him as you have hitherto, with care, respect, and some
9 sensitivity. It's bound to be difficult for him. It's his own son
10 in his own company that died. So, please, some sensitivity, and
11 I know you will. All right. Well, with that said, unless there's
12 anything anyone wants to raise with us? No? Very well. Let's
13 crack on, shall we? Mr. Maharaj.

14 **Mr. Maharaj SC:** Much obliged, Mr. Chairman. Mr. Ronnie
15 Bissessar will do the summary of the evidence of—

16 **Mr. Chairman:** All right. Thank you very much. Mr.
17 Bissessar, I understand his evidence could be found at 475. Is
18 that right?

19 **Mr. Bissessar:** Correct. His amplified witness statement,
20 Chair, is at 475 and his supplemental witness statement is at
21 2855.

22 [*Mr. Kazim Ali Sr. affirmed*]

23 **Mr. Kazim Ali:** I, Kazim Ali, do solemnly, sincerely and truly
24 affirm that the evidence I shall give to this Commission, shall
25 be the truth, the whole truth, and nothing but the truth.

1 **Mr. Chairman:** Mr. Ali, you can sit or stand, whichever you
2 feel more comfortable with. Most people have been sitting
3 down. You need to bring that microphone down towards you.

4 *[Mr. Kazim Ali Sr. adjusted microphone]*

5 Exactly. And if you speak directly into it, then we won't have
6 to keep asking you, "What did you say?" or repeating yourself.
7 That will put this—your giving evidence in a much shorter
8 compass than it might otherwise be. All right?

9 Can I say straight away on behalf of, certainly the
10 Commission and the lawyers who are here, that everyone feels
11 keenly your loss. It must be hard for you to have to give
12 evidence about a matter such as this, and we are grateful that
13 you're here to do so. Nobody, no father wants to see their
14 children die before them. I have my own sons and it must be
15 very difficult for you. But we are anxious to hear your
16 evidence. It's going to be summarized because you were kind
17 enough to come and have an interview before this part of the
18 Enquiry took place, and that will shorten your evidence
19 considerably. All right?

20 Now, Mr. Bissessar, who sits on the end there, I think
21 you've met once before, he's going to summarize your
22 evidence. If you listen to it very carefully and if you agree with
23 it you will say so. If you don't, you can point out where you
24 think there's something wrong. All right?

25 **Mr. Ali Sr.:** Okay.

26 **Mr. Chairman:** And then we'll deal with it. Then you see all
27 these other lawyers that are sitting there, they will be given—

1 not all of them, but some of them will be given an opportunity
2 to ask you some questions. All right?

3 **Mr. Ali Sr.:** Okay.

4 **Mr. Chairman:** If at any point in time you want a break, you
5 need to take stock, just, please, just put up your hand, ask, and
6 I'll make sure that happens. All right? Take your time. All
7 right? Thank you very much indeed.

8 **Mr. Ali Sr.:** Okay. Thanks. Just one thing.

9 **Mr. Chairman:** Of course.

10 **Mr. Ali Sr.:** I'm a bit hard of hearing.

11 **Mr. Chairman:** You're a bit hard of hearing so we need to
12 shout. Well, nobody ever accused me of not being, um, heard.
13 So I'm sure that others will take into account that you need to
14 be spoken to louder than might otherwise be the case. But if
15 you can't hear anything you just put your hand up straight
16 away. All right?

17 **Mr. Ali Sr.:** Okay.

18 **Mr. Chairman:** Good. All right. Thank you very much, Mr.
19 Ali.

20 **Mr. Bissessar:** Thank you, Chairman.

21 On 28th August, 2022, Mr. Kazim Ali Sr. submitted a
22 signed statement to the Commission and on 5th October, 2022,
23 he submitted a signed amplified witness statement to the
24 Commission. This is at WB475. This combined his previous
25 statement submitted on 28th August, 2022.

26 Mr. Ali Sr. said that the information contained in his
27 amplified witness statement was known to him personally from

1 contemporaneous rep reports given to him as Managing
2 Director of LMCS Limited, which I'm referring to as "LMCS".

3 On the 22nd November, 2022, Mr. Ali Sr. submitted a
4 supplemental witness statement to the Commission—this is at
5 WB2855—following interviews with Counsel to the
6 Commission. Mr. Ali Sr. was represented by counsel at the
7 interviews which were convened on 13th and 18th October,
8 2022. In his amplified witness statement dated 5th October,
9 2022, Mr. Ali Sr. certified that the contents were true and
10 correct and in a supplemental witness statement dated 8th
11 November, 2022, he verified the contents of his amplified
12 witness statement and accepted that what he said in his
13 supplemental witness statement was also true and correct.

14 His evidence then, firstly, on LMCS' principal business
15 and his own qualifications: Mr. Ali Sr. is the Managing
16 Director of LMCS with its registered office situated at 10
17 Tarouba Road, Marabella. LMCS' principal business is project
18 management, engineering design, procurement, marine
19 construction, and construction services including diver-related
20 underwater services, and marine logistics support. In his
21 capacity as Managing Director, Mr. Ali Sr. says he has an
22 overarching responsibility to LMCS, its employees, and
23 contracting parties.

24 Since 2000 to the present LMCS has done about 90 per
25 cent of the marine works at Pointe-a-Pierre including the
26 rebuilding and maintenance of berths and the repair and
27 replacement of pipelines. Mr. Ali Sr. obtained a Marine

1 Engineering Certificate in 1973 qualifying him to serve in
2 different engineering positions on ships and in 1979 he received
3 a second engineering certificate for open vessels and a Chief
4 Engineering Certificate for smaller vessels issued by the then
5 Secretary of State in the Department of Trade in the United
6 Kingdom. This is at SWB2887 to 2896.

7 In 1979 Mr. Ali Sr. served as 2nd Engineer in England
8 for bulk-shipping containers and in 1981 returned to Trinidad
9 and started working for Texaco and was the senior supervisor in
10 charge of Marine Maintenance and maintenance of drilling
11 equipment. Mr. Ali Sr. left Texaco which later became Trintoc
12 in 1991 and worked as a Project Engineer with different marine
13 contractors, and in 2000 he established LMCS.

14 LMCS' previous works: in 2020 LMCS changed out part
15 of the pipeline riser on Sealine 36 between berths 5 and Bent
16 80. In the 2020 job, the riser was leaking at berth 5,
17 approximately 10 feet below sea level. Mr. Ali Sr. attached a
18 copy of the method statement for the 2020 job as KA13 to his
19 supplemental witness statement. He says that the method used
20 for the 2020 job was similar to the method used for the 2021-
21 2022 job. The difference was the configuration of the pipeline
22 because from the 2020 job the line along the seabed sloped
23 from 20 feet at Bent 80 on the main viaduct to 60 feet,
24 approximately, at berth 5.

25 Mr. Ali Sr. maintains that the objective was the same for
26 both the 2020 and the 2021-2022 jobs. In both jobs LMCS
27 used the plugs as a migration barrier to stop hydrocarbon

1 vapours entering the weld area. The mechanical barrier stopped
2 hot molten material from compromising the inflatable plug.
3 This is at SWB2857.

4 LMCS' tender for the 2021-2022 job: in 2021 LMCS
5 tendered for miscellaneous repairs and refurbishment works at
6 berths 5 and 6, the main viaduct, and the servicing of the
7 mooring buoys. The repairs were in relation to a leak on the
8 30-inch diameter riser on Sealine 36 at approximately 10 feet
9 below mean sea level at berth 6, and as part of the works LMCS
10 was required to provide hyperbaric chamber welding. Mr. Ali
11 Sr. understood Paria in the scope of works at 3.1.5 to be
12 requesting for Sealine 36 between berths 5 and 6 to be isolated,
13 depressurized, and drained, and when the job was completed
14 LMCS would reconnect, that is, open back the valves and refill
15 with content.

16 Mr. Ali Sr. says that the addendum dated 14th May,
17 2021, which is at page 46 to the exhibits of his amplified
18 witness statement, also clarified that this is what Paria wanted
19 as it expressly stated that the contractor was responsible for the
20 safe removal of the hydrocarbon content from the line and to
21 ensure that the line was clear and dry.

22 He says that LMCS did not think that complete removal of the
23 line content was the safest method of work execution. LMCS'
24 proposal, according to Mr. Ali Sr., comprised a method
25 statement as well as a risk assessment. LMCS prepared the
26 method statement and the risk assessment which he says was
27 accepted by Paria. The original method statement which was

1 submitted to Paria did not propose the removal of the entire
2 contents of Sealine 36.

3 Mr. Ali Sr. estimated that the contents to be removed
4 from the topside piping would have been approximately 300
5 barrels, and he says this method statement was accepted by
6 Paria which did not ask any questions about the method. Mr.
7 Ali Sr. says that he did not propose the removal of the entire
8 line content between berths 5 and 6 because LMCS wanted to
9 set the plug on a solid leg of liquid.

10 LMCS did not mention Delta P in the method statement
11 or risk assessment but that was to be taken care of by ensuring
12 that there would have been no pressure difference between the
13 plugs. He said that everything LMCS did was to avoid creating
14 a void in the pipeline which is why LMCS tried to ensure that it
15 had a column of liquid under the plug in the riser.

16 He further stated at page 2860 that LMCS only sought to
17 remove enough content in the riser at berth 6 to create a 30-foot
18 ullage which would also have created a 30-foot ullage at the
19 riser at berth 5. Mr. Ali Sr's evidence is that the method
20 statement proposed the use of an air pump at an open riser at
21 berth 6 to create a 30-foot ullage at berth 6 to install the plugs
22 which led to new method statements. This would have
23 involved introducing an air pump at an open riser at berth 6.

24 He said that at the kick-off meeting around 29th June,
25 2021, after LMCS was awarded the 2021-2022 contract, LMCS
26 and Paria looked at the job in some detail. He said that the
27 proposal with respect to the air pump was not practical because

1 LMCS would have had to remove the flange from the top of the
2 riser in order to get the pump in and this risked water entering
3 the riser. He also said that as early as the kick-off meeting
4 LMCS and Paria discussed the method proposed by LMCS of
5 using the air pump. This led to Paria developing and approving
6 an instruction dated 5th January, 2022—this is at CB1033—for
7 using air by way of an air pump to remove the liquid.

8 LMCS also developed new method statements for line
9 clearing, namely No. 108 dated the 1st December, 2021; this is
10 at CB1028, and No. 115 dated 5th February, 2022; this is at
11 CB1041, both of which specifically relate to line clearing.

12 Line clearing: Mr. Ali Sr. said that the method of line
13 clearing in LMCS' method statement and Paria's instructions
14 contemplated air blowing instead of an air pump and the first
15 phase was the removal of the contents of the topside piping by
16 air blowing from berth 5 into Sealine 36. Once the topside
17 piping was cleared of content the tying piping between the
18 topside piping and the riser would be removed at berth 6.

19 The second phase was the creation of a 30-foot ullage in
20 the riser at berth 6 which would also create a 30-foot ullage in
21 the riser at berth 5. Mr. Ali Sr. says that there were numerous
22 oral discussions with Paria's Terrence Rampersadsingh who
23 was told that LMCS was not clearing the pipeline between
24 berths 5 and 6 but only creating a 30-foot space to set the plug.

25 Mr. Ali Sr. says it was his impression that Paria
26 understood that this was the method. He says LMCS never
27 changed the original objective of getting that 30-foot ullage.

1 Mr. Ali Sr. also says that he did not think from the work
2 instructions that Paria wanted LMCS to clear the entire Sealine
3 36. He says that Paria did not do their own assessments for the
4 clearing of the lines, but had oversight and final approval of all
5 method statements and job hazard analyses (JHA).

6 Mr. Ali Sr. maintains that the removal of the contents
7 from the riser to achieve a 30-foot ullage was done in one day
8 in a few hours. He did not see the permit to work for that part
9 of the job and was not present for the toolbox meeting for that
10 job. He says that when LMCS opened the top of the riser at
11 berth 6, the ullage was about four feet. LMCS disconnected the
12 hose which was going to Sealine 66 and connected it to the slop
13 barge.

14 He says that the method of air blowing directly into
15 Sealine 66 to achieve the 30-foot ullage in the riser was not
16 effective, so LMCS decided to transfer the contents directly to
17 the slop barge. LMCS blew, meaning introduced air pressure,
18 then bled off the air pressure in the line and measured a few
19 times until the 30-foot ullage was achieved. The measuring
20 was at the berth 6 riser.

21 Mr. Ali Sr. says that LMCS did not measure the volume
22 removed but got an indication from the number of barges which
23 were filled. The slop barge was filled two and a half times.
24 One slop barge has a capacity of 25 barrels. So LMCS
25 removed approximately 60 barrels. Further, that the line
26 clearing was done in January 2022 over a two-week period and
27 that the change in technique from air pump to air blowing could

1 not have resulted in more of the contents of Sealine 36 being
2 removed because LMCS was measuring the ullage as they were
3 executing the line clearing.

4 Mr. Ali Sr. says that LMCS did not discuss the
5 possibility of a differential pressure in the method statement or
6 the risk assessment because the steps which it took should have
7 eliminated this. Mr. Ali Sr. also says that LMCS' proposal was
8 on the basis that the horizontal section of the line was flat. He
9 said that in working before on the pipe and on Sealine 36 and
10 66, LMCS did not encounter anything but a flat profile.
11 Moreover, that Terrence Rampersadsingh was the person who
12 oversaw the project on behalf of Paria and there were daily
13 meetings with LMCS through Kazim Ali Jr. and Mr.
14 Rampersadsingh. Mr. Ali Sr. says that all method statements
15 were done by him and Paria received and approved method
16 statements and risk assessments submitted.

17 Installation of Plugs and Hyperbaric Chamber: Mr. Ali
18 Sr. said that the plugs were installed on 13th February, 2022,
19 together with a hyperbaric chamber. He said that when the
20 chamber was installed LMCS did a function test. He also said
21 that the chamber which comprised a cube eight feet by eight
22 feet by eight feet had been constructed by LMCS and used
23 twice before. It was not constructed on any specific code or
24 standard and Paria did not require any specific information in
25 relation to the chamber although Paria had inspected the
26 modification works on it. Mr. Ali Sr. says that LMCS wanted

1 to complete the chamber works within a four-day window to
2 limit changes in the condition in the line behind the plug.

3 Meeting on 14th February, 2022: on 14th February, 2022,
4 Paria had requested a meeting. Terrence Rampersadsingh and
5 other Paria personnel were present and he, meaning Mr. Ali Sr.,
6 Mr. Ahamed Ali, and Mr. Kazim Ali Jr. were present, and
7 copies of the method statement were distributed. Mr. Ali Sr.
8 says that there were no formal notes or minutes of the meeting,
9 and no issues were raised by anyone, and at the time of the
10 meeting both the plug and the chamber had been installed and
11 he outlined the work plan which included the removal of the
12 plugs followed by the installation of a flange at the top of the
13 riser.

14 He said that the project did not proceed on 17th February,
15 2022, and prior to 25th February, 2022, LMCS through him,
16 Ahamed Ali, and Dexter Guerra raised concerns with Terrence
17 Rampersadsingh and Randy Archibald. LMCS' concern was
18 that something could have happened to the line due to the
19 passage of time. Mr. Ali Sr. said that he was concerned about
20 an oil spill from Sealine 36 and Randy Archibald's response
21 was that we could clean it up if we had an oil spill.

22 Friday 25th February, 2022: Mr. Ali Sr. says that on
23 Friday, 25th February, 2022, he was not present at the toolbox
24 meeting and around lunchtime he received a call saying that the
25 pressure test could not be done and that a decision had been
26 made by Paria to forgo the pressure test and for LMCS to
27 continue with the job. He said LMCS was not asked for a risk

1 assessment or any documents relating to this change. Later, he
2 received a call from Dexter Guerra saying that they could not
3 find anyone in the chamber.

4 Mr. Ali Sr. said he went on the barge and was told that
5 the men had already removed the mechanical plug and were in
6 the process of removing the inflatable plug when there was a
7 gush of water in the chamber. He says that after speaking to
8 Andrew Farah and Dexter Guerra he decided that there was
9 only one place where the divers could be, which was inside the
10 pipe. He says that Farah had already done some searching of
11 the surrounding area by the time he arrived.

12 Mr. Ali Sr. said that LMCS assumed that the divers had
13 five bottles of dive-air with them and while the worst case was
14 that they were all dead, the best case was that they were still
15 alive in which case LMCS had about an hour to rescue them as
16 this was the time they had left with the air from each dive tank.
17 He said that LMCS devised a simple rescue plan using scuba
18 gear, tanks, and rope. They also had umbilicals and underwater
19 torches.

20 He said that when Dexter Guerra and Andrew Farah were
21 going to implement the rescue plan and he left berth 6 to get
22 more resources, equipment, and gear, but was told by Guerra at
23 about 3.30 p.m. that LMCS was stopped from doing anything.
24 Between 3.00 p.m. and 4.00 p.m. he received a call from Collin
25 Piper for him to go to the shipping office but told Collin Piper
26 that he was busy sourcing resources, speaking to the families,
27 and doing a rescue.

1 At about 5.00 p.m. Christopher came out and they got a
2 message that the men were alive in the pipe. He said he
3 received reports of knocking at berth 5. After about 6.00 p.m.
4 Mr. Ali Sr. says he called Collin Piper and Mushtaq
5 Mohammed requesting that LMCS bolt the riser extension in
6 order to do two things. One, was to remove the chamber in
7 order to more easily access the pipeline and the other was to
8 open the riser at berth 5. He says that Mushtaq agreed but he
9 was told that Catherine Balkissoon at berth 6 said that nobody
10 told her about that.

11 Mr. Ali Sr. says that nobody at Paria asked LMCS for
12 documents for the riser extension to be bolted, then permission
13 was eventually given at about 9.00 p.m. and it was completed
14 by 10.00 p.m. He recalled speaking to Mushtaq Mohammed
15 three or four times mainly to get the riser connected and also
16 spoke to Collin Piper, but on that Friday he did not speak to
17 them about the rescue plan. He says he assumed they knew
18 about the rescue plan because he had said what the plan was on
19 the barge and also because Christopher had said that the men
20 were alive.

21 On the barge when they were discussing the plan, he was
22 aware that there were also Paria representatives listening. Mr.
23 Ali Sr. says that after the riser was extended he told Dexter
24 Guerra to go to berth 5 to take the top off but they were stopped
25 by Catherine Balkissoon. He said he spoke to Catherine on the
26 phone and she told him that they heard from Christopher that
27 the men were in an air pocket and Paria did not want to disturb

1 the air pocket. He said that he told her that this was ridiculous
2 because both ends of the pipe were out of the water. He said
3 that Catherine told him that Paria had sent for a camera to see
4 what was happening, and eventually when the camera arrived,
5 he was told that rain was falling and nobody was doing
6 anything.

7 Saturday 26th February, 2022: when the rain stopped a
8 camera was sent down—this was after midnight—and it was
9 reported that it met obstructions and Paria was getting a
10 crawler. And at about 3.00 a.m. after LMCS got the okay to
11 open the flange, the crawler went in but didn't see the divers.
12 Mr. Ali Sr. says that no one from Paria asked him to join the
13 incident command or to send someone from LMCS and he was
14 not aware that on Friday that there was a team of persons from
15 Paria making any plans.

16 Mr. Ali Sr. said at around 4.00 a.m. after he was told that
17 the flange at berth 5 had been opened and the liquid was low he
18 realized that the plug was still intact in the line so he had to
19 concentrate on berth 6. He suggested that the riser at berth 5 be
20 filled with the same amount of water as at berth 6 to prevent
21 movement of the plug and that Conan Beddoe would be the
22 rescue diver to enter the riser with surface-supplied air.

23 He said that at 7.00 a.m. he went to meet Paria to discuss
24 the rescue plan but was not let in and did not get in until 9.00
25 a.m. and went to Mr. Piper's office to discuss the rescue plan
26 with him. He recalls Catherine Balkissoon, Paul Yearwood,
27 Michael Wei, and Rajiv Mangalee being present walking in and

1 out of the meeting. Mr. Ali Sr. said that Catherine Balkissoon
2 told him that she did not think it was safe to send divers into the
3 pipeline and that Paria had a plan to pump out the line and send
4 in confined space experts to take the men out. He says he
5 assumed she was still talking rescue as no one was talking
6 recovery. He told her he saw the pumps but these could not
7 pump out the line, and in any event, Paria was not going to get
8 anyone to go 60 feet into a dry pipe.

9 Mr. Ali Sr. then told Catherine Balkissoon of his rescue
10 plan and she seemed amenable but she said would have to run it
11 by Mushtaq Mohammed who was in a meeting so that Mr. Ali
12 Sr. waited in the conference room. At about 4.00 p.m. Mushtaq
13 said he would like to speak to the rescue diver, Conan Beddoe,
14 who was in Sangre Grande.

15 Sunday 27th February, 2022: At 10.00 a.m. Mr. Ali Sr.
16 and Conan Beddoe met Collin Piper together with Mushtaq
17 Mohammed, Paul Yearwood, and a lady from Heritage. Conan
18 told Paria about his diving experience and showed him his CV.
19 Conan's dad who was also a diver, assured Paria that it was safe
20 and he would be the topside man. Paria then showed video
21 footage of the tank in the line and that it was jammed about 200
22 feet in the line. Conan said there would be no problem moving
23 it. Paria said, however, that they wanted something in writing
24 and LMCS asked for the footage to be sent to them. Mr. Ali Sr.
25 says that LMCS emailed the rescue plan to Paria at about 2.19
26 p.m. but never received the video footage.

1 There was another meeting after 2.30 p.m. with the same
2 Paria persons as before, but in addition there was a coast guard
3 officer, one Mr. Fuentes from OTSL as well as Heritage
4 persons. Mr. Fuentes had a problem with the diver's apparel
5 and radiation in the line and that the rescuer's diving suit would
6 not give him sufficient protection. Paul Yearwood said he did
7 not think that there would be much radiation there as the
8 pipeline did not have crude oil. The coast guard officer also
9 said that it was not safe but did not say why, and Mushtaq
10 Mohammed then said that they were looking at recovery.

11 Mr. Ali Sr. says that LMCS did not agree with this,
12 saying that if there was a slightest chance that anyone was alive
13 they deserved a chance to be saved. He said he was ignored
14 and he got the impression that Paria had made their minds up
15 long before. Mr. Ali Sr. also says that he did not think Paria
16 intended a rescue and conversely, he was confident about the
17 rescue. He says he was a diver trained since 1981 and that
18 diving in a pipeline means that you would not have the usual
19 dangers of ocean currents, boat propellers, predators, getting
20 snagged in fishing nets, or debris. He said that the pipe was big
21 enough and it would be safe enough to dive in the pipe.
22 Further, that Christopher had come out unaided because nothing
23 was in his way.

24 What caused the accident: Mr. Ali Sr. says in hindsight
25 there had to be differential pressure which caused the plug to
26 move. He said he does not know what caused the difference in
27 the pressure from the top to the bottom of the plug but believes

1 it could have been due to the undulating pipe and the air trapped
2 there. He says that when LMCS put the plug in, there was
3 liquid under the plug but during those 10 days after the plug
4 was put in to 25th February, 2022, the conditions could have
5 changed.

6 He says, again in hindsight, that if he was instructed that
7 or had known the pipeline was not flat but undulating, he would
8 have included in the method statement a step of measuring the
9 pressure at both risers, and if the pressure was not equal he
10 would have equalized the pressure before removing the plugs.
11 He says that on the level line the pressure would be equal and
12 that an inspection of the line by a diving team would not have
13 revealed if it was not level as it was in concrete covered in mud
14 under the seabed. Thank you, Chairman.

15 **Mr. Chairman:** Thank you very much.

16 **Examination By Mr. Chairman:**

17 Q. The first thing I want to ask you, please, before Mr. Maharaj
18 asks you some questions is you've heard that summary of the
19 interviews that you've given to our team together with the
20 original statement that you made. Does that summary
21 accurately reflect what you have told us?

22 A. It does.

23 Q. Thank you very much. I think Mr. Maharaj has a few questions
24 before I pass you on to anyone else. Before he does that, I just
25 want one thing you could help me with. In that summary and,
26 indeed, in your statement, you say that once you'd heard that
27 the divers had gone missing you took the view that there was

1 only one place they could be; that was inside the pipe. All
2 right?

3 A. Correct.

4 Q. First thing is this; we know that they all went missing sometime
5 during the course of that afternoon, but Mr. Boodram came out
6 about 2.45?

7 A. After five.

8 Q. They went missing at 2.45. So you were advised that Mr.
9 Boodram had come out at about five?

10 A. Correct, yeah.

11 Q. At that time, did you know when they went missing? How long
12 it had been?

13 A. Um, I'm not sure it's in the statement there, but I was informed
14 at about three o'clock that the guys went missing. I went out
15 onto the barge by about quarter past three. At that stage Farah
16 had done a seabed inspection as well as an inspection inside of
17 the chamber. When he told me there was nothing from in the
18 chamber on the seabed which would have been bolt spanners,
19 then we assumed everything was sucked into the pipeline.

20 Q. Right.

21 A. So fairly early in the game we realized that they weren't
22 floating around the water.

23 Q. Well, that's what I want to ask you. You said, "We realized".
24 You've said this in your statement, between the time when they
25 went missing and Mr. Boodram coming out, that there was a
26 point in time when you took the view that they must be in the
27 pipe. That's what you've said so far?

1 A. Yes, that's about quarter past 3.00.

2 Q. That was about quarter past 3.00?

3 A. Yeah.

4 Q. So maybe a half an hour, or so, after they've gone missing. All
5 right?

6 A. Yeah, correct.

7 Q. You also said that you thought that if there were no air pockets
8 in the pipe at all and they were relying entirely on the tanks,
9 that must have been sucked in.

10 A. Correct. Until Boodram came out, we didn't even think 'bout
11 air pockets in the line.

12 Q. I follow that, exactly.

13 A. Yeah.

14 Q. So you assumed that they had about an hour or so of air that
15 they could have extracted from the tanks that would have been
16 sucked in—

17 A. From the tanks.

18 Q. All right. So from 2.45 when they went missing, you'd have
19 about an hour, say to 3.45, to effect any kind of rescue if they
20 were going to be rescued alive, as far as you were concerned?

21 A. Yeah. Could I clarify just a little bit?

22 Q. Yes.

23 A. If all five survived that they would be using one bottle each so
24 they have [*Inaudible*]. But depending on how many survive,
25 the survivors could have a longer time. So, like, if one diver
26 had survived he would have five tanks for himself.

27 Q. He actually had them?

1 A. Yeah, because the others wouldn't be using it.

2 Q. Right.

3 A. At that time, one of the divers had his full gear on him when
4 they were sucked in, which happened to be my son. [*Mr. Ali*
5 *crying*] So if only he did survive, he would have the rest of the
6 tanks. So there were a time of an hour, at the least, to probably
7 about four hours if one diver had survived and had all the
8 bottles.

9 Q. So if the others were—in fact, had died already inside, you
10 were surmising in your own mind that your son would have had
11 his tank on?

12 A. Well, at that time I didn't even know was my son. I knew was
13 one diver with a tank.

14 Q. All right, all right. But all I want to try and understand is this,
15 is that you'd said that you thought they would have an hour,
16 minimum—a minimum of an hour?

17 A. That's if all five survived.

18 Q. I got you. And if not, the maximum might be five hours?

19 A. With one.

20 Q. All right. The net result of that would have been that you had
21 that window, a maximum window of five hours in order to
22 effect a rescue?

23 A. Correct, yeah.

24 Q. And a minimum of—hopefully a minimum of one hour?

25 A. Of one hour, yeah.

1 Q. So before Mr. Boodram came out that was the window that you
2 felt was available to you and others who's working at Paria, and
3 so on, to effect the rescue?

4 A. Correct.

5 Q. All right. We know already from some of the evidence we've
6 heard what happened in that window. We know already from
7 some of the evidence that we've heard what happened during
8 the course of that window. All right?

9 A. Yeah.

10 Q. If I'm right about this, can I understand that by the time—when
11 Mr. Boodram did come out and had explained that there were
12 air pockets, that would have given you hope, obviously?

13 A. Well, everybody on the barge.

14 Q. Of course. And did you have any idea at that stage what would
15 be the time scale, or did you have any idea of the size of
16 potentially this air pocket or any of that information?

17 A. No. At that stage we were just going on hope. I calculated
18 afterwards, it had about 1500 cubic feet of air. How long that
19 would last at that depth, [*Inaudible*] guess. What kept us going
20 is we heard this continuous knocking coming from the pipeline.

21 Q. All right. So the first thing that happened after your estimate of
22 the time period that they might have a one to five hours was
23 Mr. Boodram coming out at—[*Mr. Chairman and Mr. Ali*
24 *speaking over each other*] Exactly—at around five o'clock
25 when you were told that. And then whatever air pocket,
26 whatever size air pocket there might have been, did you put,

1 again, any sort of time scale on what you thought might be the
2 period of time that they might survive?

3 A. I didn't really—I was just as urgent as possible to get people in
4 there.

5 Q. All right, all right. Thank you. And lastly this: once you had
6 made the decision, the assumption that they must have been
7 sucked into the pipeline you said at about 3.15, or so, you'd
8 come to that conclusion?

9 A. Yeah.

10 Q. Did you tell anyone else?

11 A. As I said, they were all gathered around me on the barge.

12 Q. Who is "they"?

13 A. Paria and LMCS people.

14 Q. Who particularly at Paria?

15 A. There would have been—I remember Dobson. As I said in my
16 statements somewhere he brought a chair for me to sit down.
17 And there would have been the offshore supervisor, and I had
18 missed it in that statement, but later on I picked it up. I had
19 actually spoken to Mr. Piper while I was on the barge and I had
20 explained to him that the men were in the pipe.

21 Q. Before Mr. Boodram came out?

22 A. Yeah, that's at 3.20 or 3.25 I got a call from Mr. Piper, and he
23 confirms that in his statement as well, that the men were in
24 there. And if you look at the time, the white board that Paria
25 had in their incident command office, there's a statement there
26 from one, their HSE guy, that about 3.48, saying the men had a
27 very—survival was very slim. The only reason you would say

1 that is if you knew—if you considered they were in the
2 pipeline, because we know if people are out in the open sea
3 they could last a couple days before you call them off dead. So
4 I'm saying the only reason he would say that is because he
5 heard me saying that the men were in the pipeline.

6 Q. Just so that I understand it, whatever the position, whatever
7 they might have believed, whatever the conclusions that
8 officers from Paria might have come to, and we'll hear more
9 about that in due course, so that I'm clear, you told them that it
10 was your belief that they were in the pipeline?

11 A. I did.

12 Q. And you told them that inside the hour, or so, that was the
13 minimum period of time?

14 A. I did.

15 **Mr. Chairman:** Thank you very much. Thank you. Thank
16 you, Mr. Maharaj.

17 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

18 **Examination By Mr. Maharaj SC:**

19 Q. Mr. Ali, I know how difficult this is and I do sympathize with
20 you, but I'm sure you would appreciate the exercise we are in,
21 we have to try and get as much information as possible. So I
22 know that you have cooperated with the Commission; you have
23 been interviewed on two days, but there are a few questions on
24 an important aspect that I want to ask you some questions on.
25 Okay?

26 A. Okay.

1 Q. Before I—and it has to do with the line clearing because I think
2 the line clearing is very important in the light of the expert
3 evidence which you know about; the In-Corr Tech Report.
4 Okay?

5 A. Yeah.

6 Q. So before I ask you any question I just want to refresh your
7 memory from the In-Corr-Tech report.

8 **Mr. Maharaj SC:** And that, Mr. Chairman, is at the
9 supplemental core bundle at page 1394.

10 **Mr. Chairman:** Are you at the Executive Summary?

11 **Mr. Maharaj SC:** Executive Summary.

12 **Mr. Chairman:** Oh, I've got it.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. And at paragraph 2.3 it says:

15 “The removal of Fuel Oil from line and the installation of
16 a migration barrier as stipulated in Paria’s Scope of
17 Works” (et cetera, et cetera) “created a large, gaseous
18 void in Sea Line SL36.

19 This void served as a prerequisite for the Latent
20 Differential Pressure hazard that was created when the
21 habitat was installed and pressurized to facilitate work
22 within the said habitat. The hazards associated with this
23 void were overlooked by both Paria and LMCS.” And it
24 referred to a diagram.

25 Then if I could go to paragraph 2.5.

26 “This latent hazard existed at the onset of work within
27 the habitat and became active when the divers were

1 attempting to remove the primary seal (inflatable plug)
2 from within the riser. See drawing.”

3 2.6 Not being aware of this latent differential pressure
4 (ΔP) condition, incorporating a gaseous void, LMCS
5 divers proceeded to deflate the plug after safe removal of
6 the mechanical seal. On reaching a deflated Pressure of
7 approximately 11.4 psig, the resistive force of the plug
8 was then lower than the downward force (4031 lbf) on
9 the plug.”

10 And if I take you to paragraph 3 at page 1397 at paragraph
11 3.1.4.:

12 “Changing the method of oil removal from the line from
13 using an air driven pump as per LMCS method
14 statement, to forced-air blowing from berth #5 resulted in
15 a dramatic increase in the risk profile of the job.”

16 Okay. Now, in your statement that was referred to—your
17 supplemental witness statement that was referred to by Mr.
18 Bissessar under line clearing, and that is at page, in the
19 supplemental witness bundle, it starts at page 2855, but at page
20 2860 at paragraph 30 you stated that:

21 “The method of line clearing in the method statements
22 and Paria’s instruction for the use of air blowing instead
23 of an air pump was to be done in two (2) phases.”

24 So as I understand it, the removal of the fuel from the line
25 was—of the contents of the line, were done in two phases?

26 A. Correct, yeah.

27 Q. Phase one was topside?

1 A. Correct.

2 Q. And topside, according to the evidence you have given—you
3 will tell me if this is correct—you're saying that you removed
4 300 barrels from topside?

5 A. Well, we estimated 300 in the initial method statement. But
6 then when we started blowing, when we changed the method,
7 we weren't just dealing with 36 Sealine. We actually crossed
8 over to 66 Sealine. So the volume would have changed.

9 Q. Could you give us an idea?

10 A. I couldn't really tell you; 66 Sealine was a 50-inch slide so
11 there would have been product of that as well and some of that
12 was more.

13 Q. So it's more than 300 barrels or less than 300?

14 A. More than 300 barrels.

15 Q. So in the method you used to remove the contents from topside,
16 you didn't use an exact measurement then? You just—

17 A. No. The initial 300 barrels was an estimate to start with, but
18 that involves just draining 36 Sealine above sea level. But
19 when we went to this method here and we went via 66 Sealine,
20 it involved—more oil would have been removed than the initial
21 period. How much it was, I couldn't tell you.

22 Q. So was it—did you drain Sealine 66?

23 A. It was used in the clearing but we didn't drain it. The oil from
24 36 Sealine was pushed into 66 and then some of—all of the 36
25 and some of 66 would have been moved into the tank farm.

26 **Examination By Mr. Chairman:**

1 Q. Sorry, I'm not following this. I wonder if—would a diagram
2 help or would it be possible for you to draw a diagram, perhaps,
3 because I am not following this. Line 36 is the one that was
4 supposed to be drained?

5 A. Right. So what we did—

6 Q. Where does 66 come into it?

7 A. Sixty-six is another line on No. 6 berth.

8 Q. Right. Are they connected?

9 A. So we connected 36 to 66.

10 Q. Why?

11 A. To displace the oil from 36 into 66 and ashore.

12 Q. Right. So you were draining one—from one to the other?

13 A. Well, drain mightn't be the right word; pushed.

14 Q. Pushing the fluid?

15 A. Yeah.

16 Q. Well, I'm going to call it fluid because we don't know exactly
17 what it was; oil and water mixture, whatever it is, yeah. But
18 you're pushing that fluid from 36 into 66?

19 A. Into 66, and then eventually would end up in the tank ashore.

20 Q. When you say you're pushing it—

21 A. Well, the air pressure would displace it. It wasn't supposed to
22 be—air wasn't supposed to be blowing through. It would
23 displace—yeah.

24 Q. Right. We got 36 over here?

25 A. Yeah.

26 Q. Right? We got 66 over here?

27 A. Yeah.

1 Q. And you're pushing it from one into the other?

2 A. Into the other.

3 Q. Right. So you're putting some in between connection?

4 A. Yeah.

5 Q. And then what? A pump or—

6 A. No, the air was pushing.

7 Q. Forcing the air in at one point?

8 A. Forcing the air at No. 5. Was pushing it all along.

9 Q. Into this one?

10 A. Into that one.

11 Q. Into 66?

12 A. Yeah. And then—

13 Q. Was 66 empty, then?

14 A. No, it was full.

15 Q. So how were you able to push anything from 36 into 66?

16 A. So we were pushing from 36 into 66 and the same air pressure
17 would have been felt on 66 and pushing that ashore. But we
18 found out—sorry. Are we okay with that one?

19 Q. No. I mean, it may be me. I'm sure Mr. Wilson follows
20 everything you're saying, but I don't and I need to understand
21 it.

22 A. Yes. So we introduced the air at No. 5—the riser—36 riser at
23 No. 5 berth.

24 Q. Right.

25 A. Right. So that would pressurize the line now. We made a tie in
26 between 36 and 66 on No. 6 berth.

27 Q. You created this tie, did you?

1 A. Yeah. Well, it was between Paria and mihsself. We actually put
2 a physical connection between the two.

3 Q. And that was a temporary thing in order to drain one or to push
4 air in to drain the fluid or push some of the fluid into the other.
5 Is that right?

6 A. Right, that's what it is, yes.

7 Q. So it is a temporary connection between the two?

8 A. A temporary connection.

9 Q. Am I understanding that?

10 A. Yeah.

11 Q. So where did the fluid then that you were pushing from 36, it
12 goes into 66, where did the—if that was already full, where did
13 it go?

14 A. Well, the end of that was open into a tank ashore.

15 Q. Right.

16 A. So push it into the—

17 Q. So that I'm clear, you got 36 over here; 66 over here. You're
18 pushing the fluid from 36 into 66 in order to create something
19 of a void in 36. Correct?

20 A. Correct, yeah.

21 Q. And in the process of pushing this fluid into 66 it comes out
22 somewhere else in Paria's—

23 A. Yeah, in their tank farm.

24 Q. Establishment, yes?

25 A. Yeah.

26 Q. Into a tank?

27 A. Correct.

1 Q. Correct. So is there a way in which you can measure how
2 much you're pushing into this tank?

3 A. They were supposed to measure it at the tank farm.

4 Q. Who were "they"?

5 A. Paria's tank farm people.

6 Q. Right. So Paria have some tank people?

7 A. Yeah.

8 Q. And the tank people can measure how much fluid is being
9 pushed through 66 into the tank. Is that right?

10 A. Right. But at the same time while they were measuring there,
11 our objective was to get an ullage in the riser at No. 6.

12 Q. I follow that. I'm going to come back to that in a minute, if I
13 may, or Mr. Maharaj will probably. But what I want to
14 understand is having made this connection between 36 and 66,
15 and pushing the fluid from 36 into 66 and then from 66 into a
16 tank, there is a method by which you can measure how much is
17 going into the tank?

18 A. Correct.

19 Q. Did they tell you how much had gone into the tank?

20 A. Correct.

21 Q. Did they tell you?

22 A. No.

23 Q. Thank you. I now understand. Thank you very much.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. Did you ask them? Did you ask operations how much it was?

26 A. We asked operations and we were getting negligible, negligible
27 as the answer.

1 Q. I'm sorry?

2 A. Negligible was the answer.

3 Q. All right. That is the topside. I come to the phase two which
4 was the underwater between berth 5 and berth 6.

5 A. Correct, yes.

6 Q. So as far as you have told us—well, in your evidence, tell me if
7 I'm correct. You were only interested, as you said, in getting
8 an ullage of about—I think you said 30 feet?

9 A. Thirty feet. I think is 30 feet. I can't remember.

10 Q. About how much oil that would have been?

11 A. One foot of 30-inch pipe is approximately a barrel. So 30 feet
12 would be 30 barrels.

13 Q. So according to you, Mr. Ali—

14 A. Yeah.

15 Q. —as far as you are concerned, that in respect of the underwater
16 piping between berth 5 and berth 6, only 30 feet of oil was
17 removed?

18 A. All right. At No.—36 Sealine has two risers. Right? When we
19 finished with the first phase—

20 Q. No. If you could just keep it at berth—I'm talking about this
21 job. Right? So if you could help us.

22 A. Okay. After we remove 30 barrels of oil we still didn't reach
23 the 30-foot ullage.

24 Q. You still did not reach the 30-foot ullage?

25 A. Yeah.

26 Q. But the point is that, according to you, as far as you're
27 concerned, you removed 30 barrels or 60 barrels?

1 A. About 60 barrels; about two and a half—again, we didn't
2 measure it. We were measuring the ullage.

3 Q. All right.

4 A. Not the amount of oil.

5 Q. So as far as LMCS evidence is concerned, from you, from the
6 underwater piping between berth 5 and berth 6, only about 60
7 barrels of oil were removed?

8 A. Correct.

9 Q. And that evidence is true. Okay?

10 A. It is, yeah.

11 Q. Now, in your witness statement you said that the method of
12 clearing the lines were changed with the approval of Paria?

13 A. Correct.

14 Q. It was to be air pumping and then it now, it changed to air
15 blowing. Correct?

16 A. Correct.

17 Q. So you were blowing air into this line?

18 A. Correct.

19 Q. Now, I want to—before I refer you to the records of Paria as to
20 how much oil was taken out of that line, the underwater line, in
21 your witness statement at paragraph 42 you said: “The line
22 clearing was done in January, 2022...” Sorry, page 2862.
23 “...over a period of two (2) week period.”

24 Am I correct?

25 A. Correct, yeah.

26 Q. Correct. And you said it was not a continuous work but it was
27 done over a period of two weeks?

1 A. Yeah.

2 Q. And then at paragraph 43 you mentioned about the change in
3 technique from air pump to air blowing. And then you said at
4 paragraph 44:

5 "Everything being equal, I knew that once there was
6 liquid in the riser directly under the plug then the
7 horizontal section of the pipe should have been full and
8 the riser at berth 5 would have an ullage equivalent to
9 that of the riser at berth 6. Once this was achieved, there
10 was no chance of any differential pressure."

11 A. Correct.

12 Q. So am I correct in saying that your conclusion at paragraph 44
13 was based on your assumption that Sealine, the underwater
14 line—

15 A. Was full.

16 Q. —had—it was full?

17 A. It was full, yeah.

18 Q. But you did not take any measurement or any test to determine
19 whether the line was full?

20 A. No. The only test we did was we checked the ullage at the riser
21 at No. 6.

22 Q. But when you checked the ullage at riser No. 6, you didn't
23 know if there was air underneath there or more oil?

24 A. You couldn't tell; in the riser there was oil.

25 Q. And you checked that with your naked eye?

26 A. With naked eye and with a tape.

27 Q. And with a tape. And at paragraph 45 you said:

1 “We therefore did not discuss the possibility of a differential
2 pressure in the method statement or the risk assessments
3 because the steps we took should have eliminated this.”

4 A. Correct, yeah.

5 Q. Now, you based that opinion—you based that assessment on
6 the basis that you assumed that the pipe was full; the
7 underwater pipe was full?

8 A. Correct.

9 Q. Correct. Now, so you recognize, Mr. Ali, that there could have
10 been a risk of a differential pressure if the underwater pipe was
11 not full?

12 A. Correct.

13 Q. Correct. But from what I saw in the documents, nowhere in the
14 risk assessment which was done for this job, differential
15 pressure was mentioned. Am I correct?

16 A. Correct.

17 Q. Nowhere in the scope of works I saw that. Am I correct?

18 A. Correct.

19 Q. Nowhere in the job safety analysis I saw that. Am I correct?

20 A. Correct.

21 Q. Nowhere in the notice to permit the work I saw that. Am I
22 correct?

23 A. Correct.

24 Q. But you are telling us today quite in the—that you knew that
25 there was such a risk but you thought it was eliminated because
26 you assumed that there was liquid content in the underwater
27 piping?

1 A. Correct, yeah.

2 Q. Now, if I—I want to show you—I want to refer to you some of
3 the records from Paria daily work reports to show that for the
4 underwater piping there was over 500 barrels of oil taken out
5 from the underwater piping. Would that surprise you?

6 A. It would.

7 Q. It would surprise you. And you would agree with me that if
8 that was taken out, that was a potential differential pressure
9 situation. Not so?

10 A. Yeah.

11 **Mr. Maharaj SC:** So can we go, Mr. Chairman, to core
12 bundle two?

13 **Mr. Chairman:** Thank you.

14 **Examination By Mr. Chairman:**

15 Q. Just so—to remind us, the formula that you gave us before, 500
16 barrels of oil represents about 500 feet of cleared pipe?

17 A. Correct, yeah.

18 Q. That's what it would represent, isn't it?

19 A. That's if it was vertical.

20 Q. It represents linearly or vertically, if it were possible to do,
21 that's the length of pipe that we're talking about?

22 A. Yeah.

23 **Mr. Chairman:** All right. Thank you.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. I am going to start at page 994; core bundle two.

26 A. 994, correct.

27 Q. You saw it, Mr. Ali? You have it there before you?

1 A. Yeah.

2 Q. You're seeing 994?

3 A. Yeah, I am.

4 Q. Okay. Now, I'm going to go through the daily reports and
5 show you the quantity of oil. Right? Now, if you look at No. 3
6 under mechanical and you look across, you see "Description"
7 and then you see "Job Status"; and you see "Air blowing" and
8 then you see:

9 "Ongoing air blowing started at 12:22 p.m. due to
10 operation setting up to drain to tank and air blowed until
11 1800 hours, a total of 798 barrels of oil was drained."

12 That look as if it was phase one. Right? That is topside. Let's
13 go to page 997, at No. 3:

14 "Mechanical description: SL36 riser renewal air blowing
15 contents 36 from berth 5 to 6 ongoing air blowing started
16 11:00 a.m. (due to installation of slip blank) and air
17 blowed until 5:30 p.m. a total of 118 barrels of oil was
18 drained."

19 You see that?

20 A. Yup.

21 **Mr. Chairman:** This is topside or—

22 **Mr. Maharaj SC:** This is topside.

23 **Mr. Chairman:** Topside still.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. Now, I saw in your witness statement you said you personally
26 supervised the line operation—the line clearing operation?

27 A. Well, the final pieces, yeah.

1 Q. Okay. So let's continue, Mr. Ali. Let's go to page 1002.
2 Sorry, I should look at 1001.

3 "No. 1. Completed. Removed topside piping and solid
4 blank top end going towards berth."

5 So that is the topside was completed. Correct?

6 A. Correct.

7 Q. And they started phase two. Correct?

8 A. Correct, yeah.

9 Q. Right. Then we go to 1002. You see No. 1?

10 "Completed two lengths of 6.30 hose together with
11 length 6.45, et cetera. Riser to assist with phase two air
12 blowing."

13 So it shows air blowing had started. And then you go to No. 4.

14 A. Correct.

15 Q. Level was checked and 5 estimated to be 3/4 full with oil
16 content. You see that?

17 A. I saw that, yeah.

18 Q. Right. Then we go to 1003; 2nd February, Mechanical No. 1.
19 Phase II air blowing. Description: Air blowing was conducted
20 between 11.00 a.m. and 3.00 p.m. Onshore noted that they
21 received 276 barrels of oil. Started air blowing 11.00 a.m. due
22 to lining up of tanks and waiting for pressure to build up.

23 You see that?

24 A. Yep.

25 Q. Yes. Then you go to No. 5. Draining contents of SL36 into
26 slop barge. Connect hose, et cetera, et cetera. Two slop barge
27 was filled approximately 100 barrels of oil.

1 You see that?

2 A. I see that, yeah.

3 Q. Mr. Ali, that's much more than 60 barrels. Am I correct?

4 A. A lot more.

5 Q. Yes. Then we go to page 1004. On the 3rd February. No. 1—
6 Phase II, air blowing description. Air blowing was conducted
7 between 1300 hours to 1500 hours. Onshore noted that they
8 received 55 barrels of oil. Note stated air blowing 1300 hours
9 due to waiting onshore—et cetera, et cetera. And then we go to
10 No. 5—well, No. 4 and No. 5. Level was checked at No. 4
11 after draining and oil content was approximately 8 feet below
12 tee on riser. What that means?

13 A. Sir, this is not my report.

14 Q. No, no. But do you know what eight feet on tee riser means, in
15 your—the oil industry, in your business? What it mean?

16 A. Like I say, this is not my report. The figures here are all over
17 the place, but item 4 there will confirm what I was saying all
18 the time. When we measure the ullage he's saying eight feet
19 here below the tee. The tee was the top of the riser. So if you
20 measure down from the top of the riser, the oil was 8 feet below
21 the tee.

22 Q. Below the tee?

23 A. Below the tee. The tee was at the top of the riser.

24 Q. Okay.

25 A. And then I see he goes on to say two barge full, approximately
26 100 barrels. Well, a barge full was 25 barrels. So—

27 Q. Okay. But it says so; 100 barrels?

1 A. Yeah, but he's estimating from—or whoever it is—two barge
2 full, but—

3 Q. And I note, page 1005

4 **Mr. Chairman:** Hang on a second.

5 **Examination By Mr. Chairman:**

6 Q. Two slop barges, you say represents 25 for each barge. So that
7 would be—

8 A. About 50 barrels.

9 Q. Fifty, not 100?

10 A. Not 100.

11 Q. But whoever has put this down has got that wrong, you think?

12 A. Sorry?

13 Q. Whoever has written down 100 barrels has got it wrong—

14 A. Well, estimate, yes.

15 Q. Yes.

16 A. It can't be two slop barge full and 100 barrel.

17 Q. Well, they might have got the number of slop barges wrong
18 rather than the number of barrels?

19 A. Well, I think we say it the way we put a two and a half slop
20 barge full in my statement.

21 **Mr. Chairman:** I'm afraid we're going to need to take a short
22 break. I was hoping to finish this bit, but we can't, I'm afraid,
23 so such is life. We're going to have to break off just for 10
24 minutes. All right? Normally we have a longer break but—

25 **Mr. Ali Sr.:** We don't want to finish this little item here?

26 **Mr. Chairman:** Apparently not, so we will have to take the
27 break now. So as not to embarrass anyone, go. Oh, I'm sorry, I

1 have. Forgive me. Please, if you would go with them.
2 Everyone could take 10 minutes, please. Thank you very much.

3 **11.23 a.m.:** *Enquiry suspended.*

4 **11.35 a.m.:** *Enquiry resumed.*

5 **Mr. Chairman:** Can I just—in helping to see where we got to,
6 summarize what you've established so far, Mr. Maharaj?

7 **Examination By Mr. Chairman:**

8 Q. So, Mr. Ali, what Mr. Maharaj was asking you, and I leave
9 aside the topside for the moment, all right, because that's the
10 one where I was asking you going from 36 to 66 and then into
11 the tank.

12 A. Yeah.

13 Q. So leave that to one side, what I'm calling the subsea pipe level.
14 All right? What he had taken you to is page 1003 where there
15 was 276 barrels and another 100 barrels. And then page 1004
16 where there were 55 barrels and then another 100 barrels, if that
17 is correct. And you pointed out that at line 5 on page 1004 that
18 two slops barges doesn't equal 100 barrels of oil.

19 A. I'm wondering if that—No. 1 and 5 is not a duplicate.

20 Q. One and 5?

21 A. Yes. This report is given at the end of the day.

22 Q. Well, we can ask somebody from Paria to explain that in due
23 course. But at the moment what we've identified is that we've
24 got 55 barrels at one and 100 at five. All right. And we got to
25 put a question mark next to that 100 because that 100 might, in
26 fact, be wrong. Might be less than that; might be 50. Is that
27 right?

1 A. So at item 4 we had a level of eight feet below the tee.

2 Q. Yes.

3 A. And we'll assume that the tee is at the top of the riser.

4 Q. All right. So that was a lot less than you needed? You were
5 asking for 30 feet.

6 A. Yes, so we still had to get some more out.

7 **Mr. Chairman:** All right. Thank you very much. Mr.
8 Maharaj.

9 **Mr. Maharaj SC:** Much obliged.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. And at page 1005 you see it says—and this is Phase II. Air
12 blowing was you conducted between 10.30 a.m. to 1430 hours.
13 That's a lot of hours. Correct?

14 A. Right. Well, it would have been continuous. Following from
15 the previous page we hadn't got to the depth we wanted. And
16 at this case now, we would have been blowing a little bit,
17 offloading some until we got the right amount. So it wouldn't
18 have been three hours continuous.

19 Q. But this was an important part of the work. Am I correct?

20 A. Yes.

21 Q. Did you keep records of what was air blown? The quantity of
22 oil?

23 A. That would be the last half of slop barge. Remember I said two
24 and a half.

25 Q. No. Did you keep record?

26 A. No, I didn't keep record of it.

1 Q. So—but would you not agree with me even on hindsight that
2 knowing the quantity of oil, if any, in the underwater piping
3 was critical to determine whether a Delta P hazard could have
4 become active?

5 A. In hindsight, yes.

6 Q. In hindsight. So what you are telling us about this air blowing
7 from 10.00 a.m. to 1430 hours is purely from memory?

8 A. Okay. What I'm saying is the air blowing would have been
9 done to achieve the final ullage we wanted. It wouldn't have
10 been continuous. We would blow a bit; measure; blow a bit;
11 measure, until we got the 30-foot ullage that we wanted.

12 Q. But the final ullage, the figure that I've shown you, the quantity
13 is over 300 barrels?

14 A. Well, that's what I'm questioning—the quantity.

15 Q. Yes, it's about 600.

16 A. Yes.

17 Q. But I want to show you—you are very familiar with the In-
18 Corr-Tech report. Not so?

19 A. I am, yeah.

20 Q. And you would have seen the schematic diagram in that report
21 that the opinion was even based on if 300 barrels of oil were
22 removed.

23 A. Correct.

24 Q. I want to point out to you at page 1413 of the—it's at—

25 **Mr. Maharaj SC:** Mr. Chairman, it's at the Supplemental
26 Core Bundle and it's at page 1413.

27 **Mr. Chairman:** Under "Conclusions"?

1 **Mr. Maharaj SC:** No, it's a diagram; 1413. It's a schematic
2 representation of sea line between so and so.

3 **Mr. Chairman:** Got it. Thank you.

4 **Continued Examination By Mr. Maharaj SC:**

5 Q. And if you see, Mr. Ali, look at the side, on the left-hand side
6 where you have the darkened drawing at the bottom of the line.

7 You see:

8 "Approx. Level of product in 30" line after removal of
9 300 bbls"

10 So based on his opinion, he was showing the void even if you
11 had removed 300 barrels of oil?

12 A. Yeah. I looked at this opinion that he gave and he based the
13 whole opinion on the 300 barrels we said last May 2021 that we
14 would remove. Right? But I'm still holding that we measured
15 the ullage and not the amount removed. When we opened the
16 flange—

17 Q. So you are saying that you did not measure the amount of oil
18 removed?

19 A. No. Our measurement was what was left in the riser.

20 **Examination By Mr. Chairman:**

21 Q. Can I ask a question about that, please? You're measuring your
22 ullage at riser No. 6.

23 A. Six, yeah.

24 Q. What was the position whilst you were doing that at riser No.
25 5?

26 A. Sorry?

27 Q. Well, you see—

1 **Mr. Chairman:** Can we have a diagram back, please? I don't
2 know why we keep having problems with this. It seems to be
3 pretty straightforward stuff. Right.

4 **Examination By Mr. Chairman:**

5 Q. There's a riser 5 and a riser 6. Okay? The one as we look at it
6 on the left is 6?

7 A. Yes, the one with the plug in it.

8 **Mr. Chairman:** Why is it going off and on? Forgive me, Mr.
9 Ali.

10 *[Pause for technical issues]*

11 Right. It seems to have stayed on now for the moment at any
12 rate. Can whoever is controlling this just don't do anything for
13 the moment, please?

14 **Examination By Mr. Chairman:**

15 Q. Right. You see on the left-hand side that is the riser at the No.
16 6. Yes?

17 A. Correct.

18 Q. The one on the other side is riser No. 5. Yes?

19 A. It's the riser at No. 5 berth, sorry.

20 Q. All right.

21 A. Just to be accurate.

22 Q. Okay. So this is 5, this is 6. All right?

23 A. Yeah.

24 Q. When you are measuring the ullage at 6, what is the position at
25 5?

26 A. Unfortunately, we weren't measuring there because it was
27 closed. That's where we were injecting the air from. So you

1 had a one-inch bus.

2 Q. The time that you were doing the measuring over here, this one
3 has got a sealed cap on it?

4 A. Sorry?

5 Q. No. 6 is being measured by you over here. Right? No. 5 has
6 got a sealed cap on it?

7 A. No.

8 Q. It hasn't?

9 A. We bled out the air. It had a cap but there was also a bus in it
10 that—

11 Q. Is a what?

12 A. A connection, a one-inch connection where we were injecting
13 the air into it.

14 Q. So in this 30-inch over here at No. 5—

15 A. Yeah.

16 Q. —it's got a sealed cap on it. Correct?

17 A. Yeah.

18 Q. It has a hole in the side where you can access the pipe. Is that
19 right? And you're blowing air?

20 A. Yeah, but it was at the top on an elbow.

21 Q. I'm not with you.

22 A. Okay.

23 **Mr. Chairman:** If someone can keep the picture on the screen,
24 on the screen, we could actually try and understand what you're
25 trying to say.

26 **Mr. Maharaj SC:** I am told, Mr. Chairman, that if they get
27 two minutes they could sort out the problem.

1 **Mr. Chairman:** Well, they just had 10, but let's have two
2 more. I don't want to ask this—I do need to understand this.
3 All right.

4 **Mr. Ali Sr.:** Yeah.

5 **Mr. Chairman:** Would you forgive me, Mr. Ali. We're going
6 to have a couple of minutes while they sort out this problem so
7 it doesn't keep flashing up and down. And if necessary, we're
8 going to use that white board behind you and you can show me
9 what you mean. All right? So we're just going to rise for a few
10 minutes please. Thank you.

11 **11.44 a.m.:** *Enquiry suspended.*

12 **11.52 a.m.:** *Enquiry resumed.*

13 **Mr. Chairman:** I'm sorry if I sound impatient, it's because I
14 am impatient, but with technology like this. So I'm pleased to
15 see it's now working. I'm sorry, Mr. Ali, that that's been a
16 problem.

17 **Examination By Mr. Chairman:**

18 Q. Let's see if we can manage with the diagram first. If we can't,
19 then we'll move on. But now we can see that in that diagram
20 that is—

21 **Mr. Chairman:** Can we just make it a slightly smaller so we
22 see the bottom as well, please, and the tops of the pipes as well,
23 please. That's perfect. Thank you.

24 **Examination By Mr. Chairman:**

25 Q. So what I need to understand from you, please, if you could
26 help me is—

27 A. I think I need to draw that piece in for you to—

1 Q. Feel free to, yeah. Keep it at the top of the board rather than at
2 the bottom, if you would, please.

3 *[Diagram drawn on white board by Mr. Ali Sr.]*

4 Right, thank you.

5 A. Sir, that's how it would have been.

6 Q. Where you put those little tee junctions, if I can call them that?

7 A. So that would be the top of the riser in both cases.

8 Q. Right. That's the top of the riser.

9 A. Right. On this side we took off the top piece, so that's where
10 the chamber would have come out eventually. So on that side
11 we were—this pipe was there up to the last—a day or so. So
12 this tee piece—

13 Q. Speak right into that microphone, yes.

14 A. Yeah, this elbow piece. So we didn't have access down here.
15 The air was being injected here.

16 Q. Right.

17 A. Right. And then before we do any measurement, we would
18 bleed out the air, get zero pressure back at the top of—

19 Q. Right.

20 A. So even though it might appear it was sealed, the same spot we
21 were injecting in, we had a tee there and we could bleed off the
22 pressure there. That's why you would notice that we went on
23 the day after. It took about three hours to get the final
24 measurement because we kept blowing and releasing the
25 pressure to get the measurement.

26 Q. When you say, "releasing the pressure"?

27 A. Open it back to atmosphere.

1 Q. So you're pumping air in at 5?

2 A. At 5, yeah.

3 Q. Right.

4 A. I'll show the bottom. [*Diagram drawn*] So the air would be
5 going in here.

6 Q. Right. And you're using quite a lot of pressure presumably?

7 A. In this case it would have been under 40 psi.

8 Q. Under 40?

9 A. We had a limit of 40 psi to use in the pipeline. But here, you
10 would have got the air out. Probably about 30 psi you would
11 have got movement in the line.

12 Q. All right. So you're pumping air in; that forces the fluid out at
13 6?

14 A. Yes. And from there it was going into the slop barge.

15 Q. From there into the slop barge?

16 A. Correct.

17 Q. Right. And then when you got the ullage that you want at 6,
18 what do you do? You've been pumping in the air at one end?

19 A. Right.

20 Q. You turn that off?

21 A. Turn it off, release the pressure through this one here.

22 Q. Right, release the pressure.

23 A. So you get back to—you had equal pressure on the top, then
24 zero pressure.

25 Q. Right. So zero pressure at the top?

26 A. Yeah.

27 Q. Right. And—

1 A. And then you take your measurement when you had equal
2 measure at the top.

3 Q. How do you know what the pressure is at this end?

4 A. This is open. Once it's open no air is bleeding out, so you don't
5 have to measure it. Once it's open to atmosphere that's the
6 pressure you had.

7 **Mr. Chairman:** Right. Thank you very much. That does help
8 me. Thank you, Mr. Maharaj.

9 **Mr. Maharaj SC:** Much obliged.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. Mr. Ali, you have also read the report of Mr. Newsum of the
12 Association of Diving Contractors Inc. You read that report?

13 A. I did.

14 **Mr. Maharaj SC:** That is at 1286, Mr. Chairman, in core
15 bundle 3, and at page 1286 (c)—

16 **Mr. Chairman:** Yes, I've got it. Thank you.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. 1286(c); and the paragraph, about the fourth paragraph starting
19 with the words "Other assessments". You see that, Mr. Ali?

20 A. Yeah.

21 Q. If you look at the last two sentences:

22 "Mr. Kazim Ali stated that he was a Marine Engineer in
23 the preliminary report on the accident. If that is accurate
24 he should have performed some calculations to ascertain
25 the potential for any Delta P hazard."

26 Would you not agree with that?

27 A. Again, in hindsight, yes.

1 Q. In hindsight, yes. So I just want to put a few thing to you and—
2 just a few things. Would you agree with me that since the risk
3 assessment to identify a Delta P hazard was not made at the
4 beginning, or let's say whether the scope of works or in the
5 method of statement, but that failure would have had a ripple
6 effect throughout the process of the works?

7 A. I would say so, yeah.

8 Q. And would you not agree with me that LMCS had a duty of
9 care to its workers?

10 A. We do.

11 Q. And to do everything that was reasonable in the circumstances?

12 A. I would.

13 Q. Since you, from your witness statement, say that you knew
14 what Delta P was and differential pressure, would you not
15 consider it was your duty that if you felt that there could have
16 been the risk of a Delta P to have pointed it out to Paria?

17 A. Well, I didn't think there would be one. Remember, this job we
18 had done similar a year before and there wasn't a consideration
19 there.

20 Q. And, Mr. Ali, I'm just asking you again. You have agreed that
21 the contents of the line under water was a decisive factor to
22 determine whether there could be an active Delta P?

23 A. In hindsight, yes.

24 Q. In hindsight. So at that time you didn't—

25 A. I didn't think—I didn't think there would be a void in the line at
26 that time.

27 **Examination By Mr. Chairman:**

1 Q. If you did this job again—

2 A. Sorry?

3 Q. If you did this job again, whether for Paria or anyone else,
4 would you identify Delta P as a potential risk?

5 A. Chief, I not going anywhere near this job again.

6 Q. Yeah, well, I could understand why you wouldn't, but you
7 understand what I'm asking you? Because you said with the
8 benefit of hindsight you recognize that there was a latent risk as
9 described in the report—so if you were to be engaged in this
10 sort of work again, would you identify Delta P as a risk?

11 A. I would.

12 **Mr. Chairman:** Thank you.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. Mr. Ali, well, let me ask you then. In hindsight, don't you
15 think that you should have contacted Operations Department of
16 Paria to ascertain the volume of oil which was taken out of this
17 pipeline?

18 A. We did contact them. In fact, in my witness statement—

19 **Mr. Chairman:** Speak into the microphone, please.

20 **Mr. Ali Sr.:** Sorry. In my witness statement you will see that
21 we changed to pushing the oil into the slop barge because we
22 were told they weren't receiving anything into the tank farm.

23 **Continued Examination by Mr. Maharaj SC:**

24 Q. I will check that, but I can't recall seeing that.

25 A. Words to that effect; that because we weren't getting anything
26 at the tank farm, that's why we decided to put it into the slop
27 barge. We assumed that the pressure was too low to push it

1 into the tank farm.

2 **Examination By Mr. Chairman:**

3 Q. You assumed the pressure was too low where?

4 A. The 40 psi—you see, we had a limit. Paria asked us not to
5 cross 40 psi air pressure.

6 **Mr. Chairman:** I want to ask you a few questions about that
7 when Mr. Maharaj is—

8 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. Well, that brings me to the final question. Did you consider
11 taking the pressure before the job was done on the 25th
12 February, and since you had an idea of what Delta P was, did
13 you consider taking the pressure from the riser at berth 6 and
14 the pressure to compare the pressure in the habitat?

15 A. I didn't consider it, no.

16 Q. One more question, Sir. Did you use a method of air blowing
17 in the 2020 project?

18 A. Yes, we did.

19 Q. And did you use a hyperbaric chamber?

20 A. I did.

21 Q. And did you use an inflatable plug?

22 A. I did.

23 Q. And did you take out the plug inside the hyperbaric chamber?

24 A. I did.

25 Q. Without checking pressure?

26 A. Without checking—

27 Q. Without checking—

1 A. Yep.

2 Q. You're probably very fortunate.

3 **Mr. Maharaj SC:** I have no further questions.

4 **Mr. Chairman:** I do, and I think the only way I can
5 reasonably do that is by using your white board. So I'm going
6 to come across to where you are so that you can answer my
7 questions please.

8 Can I have that microphone? Is there a microphone?
9 Otherwise I'll just do my best to speak loud enough for
10 everyone to hear me. If anyone can't, just [*Inaudible*]—

11 **Examination By Mr. Chairman:**

12 Q. Can I ask, please—and you perhaps best use the microphone.
13 But can I ask if we're clear about this? [*Microphone handed to*
14 *Mr. Chairman*] Thank you. We were all assumed that this
15 pipeline here and in particular the horizontal is level?

16 A. That was the assumption.

17 Q. Yeah. Whose assumption is that?

18 A. Well, everyone.

19 Q. Right. Well, who would know?

20 A. Paria would know.

21 Q. You need to speak into that microphone.

22 A. Yeah, Paria would know.

23 Q. Right. Did anyone tell you that it might not be?

24 A. No. In fact, we got a drawing showing the reason why it could
25 be flat or it would be flat.

1 Q. Right. You see, if it's flat and you're pumping air in at this
2 end, and you're pushing the fluid—let's say to start with, the
3 fluid level is there.

4 A. Yeah.

5 Q. And you're just pushing the fluid around to get rid of some of
6 it. All right?

7 A. Yeah.

8 Q. As you pump air in here, you're pushing that level down.
9 Correct?

10 A. Correct.

11 Q. And this level goes up?

12 A. Should.

13 Q. And then it comes out. Correct?

14 A. Correct, yeah.

15 Q. All right. So that assumes this arrangement. And the amount
16 of air pressure you're pumping in at that end, rather depends on
17 this being level. Because if this end is lower, if this end does
18 this, [*Mr. Chairman draws*], instead of what you've drawn, if
19 that's the position, then what would happen is—

20 A. It would get blown.

21 Q. What you would have is the level would be the same through.
22 So if it's there—this level, let's say there, this end would be
23 here. Wouldn't it? Because—

24 A. It would be the equal height.

25 Q. The fluid, well, the fluid here, all of that fluid will go until it got
26 to about here, wouldn't it?

27 A. Yeah.

1 Q. So that line was level right the way through it. So you have
2 more air on this side than you'd have on that side. Correct?

3 A. Correct.

4 Q. And so, then you're pushing that, you're now pushing that fluid
5 into a void at this end. Correct? To pump it out?

6 A. Um-hmm.

7 Q. And that's one way. If it was this way, if this end was lower
8 than that end, the level would be—you've now got the fluid in
9 at this here, okay?

10 A. Yes.

11 Q. And it would go all the way to wherever is level at that end.
12 Okay? And as you start pushing from that end, you're now
13 going to create, are you not, a much more flat level that you're
14 pushing down on?

15 A. Yeah.

16 Q. Because there'd be lots of water at this end and almost none at
17 that end?

18 A. Correct, yeah.

19 Q. Yes?

20 A. Yeah, but when you bleed out the pressure then it—

21 Q. Then it should equalize. It should. I haven't finished yet. I'm
22 going to give you one more question. Right?

23 A. [*Inaudible*]

24 **12.00 noon.**

25 Q. But can you, and that also assumes, does it not, that the pipe
26 is—

27 A. Level—

1 Q. —straight—

2 A. Straight, as well as level.

3 Q. —as well as level. What if it's not? What if it's actually doing
4 that? I mean, that's an exaggeration, but—

5 A. Well, I think that's what it was because if Christopher could say
6 he had two air pockets it had to be like that.

7 Q. Who would know whether pipe that's been laid along the
8 bottom of the seabed was level and/or straight? Would you
9 know?

10 A. No, not without removing all the, um, silt and exposing that.

11 Q. Who would know?

12 A. The people who put it down, the owner of the line.

13 Q. Sorry, there's something else you wanted to say?

14 A. No, I was just going to show you this same drawing.

15 Q. All right. Thank you very much. So that I'm clear, all right,
16 can we just have the drawing back that we had, please, from the
17 report from In-Corr-Tech, please, the one we were looking at
18 earlier that kept disappearing? [*Crosstalk*] That's it. Thank
19 you very much. Do you see that, just looking at the diagram—
20 forget the wording because nobody can read it frankly. You
21 need some microscope to be able to read the writing, but, just
22 looking at the drawing, do you see that what has been assumed
23 there by the expert who's drafted this report, Mr. Khan—

24 A. Yes.

25 Q. —he has shown the level of fluid in a horizontal pipe.

26 A. Flat line.

27 Q. Yeah, A, that assuming that the pipe is flat, that is to say lying

1 level and secondly that it is straight, it has no undulations?

2 A. Correct.

3 Q. Um, and therefore it's showing the level of fluid as having a
4 gap between the level of fluid and the top of the pipe?

5 A. Correct, eh.

6 Q. Constant all the way along?

7 A. Correct.

8 Q. We know that that's wrong, don't we?

9 A. We, we do from Christopher description, yeah.

10 Q. From his description, the very fact that he survived?

11 A. Yeah.

12 Q. And indeed from the autopsy reports of others that survived for
13 some time. There must have been air pockets.

14 A. Yeah.

15 Q. So your scale of one to five hours using tanks are well exceeded
16 by their survival for a period of time anyway?

17 A. Yeah.

18 Q. Can I—and so, looking at that diagram, if that is wrong, that is
19 to say one end of the riser is deeper than the other end, it would
20 create a difference unless you drained off the air in the way you
21 described at one end?

22 A. But it doesn't explain everything.

23 Q. No.

24 A. Because if we have air trapped in the middle, the pressure of
25 that air would be with the column of liquid on it. So—

26 Q. And the depth.

27 A. —just that air pressure—

1 Q. And the depth—

2 A. —there should have resisted the movement of the plug. So
3 unless that air trapped in there was released somewhere during
4 the 10 days, are you, are you [*Inaudible*] that?

5 Q. I am. I mean, I—

6 A. So if that is trapped there, it would be like, um, like liquid in
7 that it's going to support this column here.

8 Q. Yeah.

9 A. At this point you're going to have—if it's air there you're going
10 to have on 20, 30 PSI depending on the—

11 Q. The depth of water?

12 A. —the length of the column.

13 Q. Yeah.

14 A. Right?

15 Q. But the air that's—

16 A. And that would resist the pressure from the plug coming down.
17 So somewhere along the line we had to release the pressure that
18 was trapped in between.

19 Q. Yes. What we know is that at the point in time when you were
20 carrying out this exercise—

21 A. Yeah.

22 Q. —and draining off an amount of fluid to create the ullage that
23 you wanted, you could not know whether there was any air in
24 this pipe at all?

25 A. [*Inaudible*]

26 Q. You could only know there was air at either end.

27 A. We did not know.

1 Q. If you had been aware of undulations in the pipe in the way in
2 which I've described there—

3 A. Yeah.

4 Q. —would that have made any difference to your assessment?

5 A. It depends on how serious the undulations would have been.
6 Checks for undulations would have made a difference, air—

7 Q. And the other thing I wanted to ask you is—all right, and the
8 last thing I wanted to ask you about that is this. Any air pocket
9 that does exist—

10 A. Yeah.

11 Q. —within this fluid pipe, all right, any air pocket, if it did and
12 we know that there must have done, the pressure of the air in
13 that pipe, would that be dependent on the depth of the pipe?

14 A. It would depend on the amount of liquid above the air.

15 Q. Only that?

16 A. Yeah. If it's in the seabed, and it doesn't matter how deep it is,
17 once the ends are outside the pipe, so at the top of the pipe you
18 would have atmospheric pressure.

19 Q. Yes.

20 A. And then any further pressure on this, on the bottom, will be
21 caused by the height of the liquid, again one of the things that
22 we have there is, um, one PSI 2 feet, so if you have 30 feet, 40
23 feet, you'll have initial 20 feet at, er, 20 PSI at the seabed level.

24 Q. As I understand it, every 10 metres or so you could—

25 A. Ten inches?

26 Q. —for every 30 feet is something like one atmosphere?

27 A. Rule of thumb is—

1 Q. Hmm?

2 A. Rule of thumb is 2 feet one PSI.

3 Q. One PSI. All right, that's what you use, all right. Okay. Thank
4 you very much.

5 A. [*Inaudible*]

6 **Mr. Chairman:** Thank you. All right, so, questions next from
7 Paria, counsel from Paria. You can go last, Mr. Maharaj.

8 **Mr. Peterson SC:** Thanks.

9 **Cross-Examination By Mr. Peterson SC:**

10 Q. Morning, Mr. Ali.

11 A. Morning.

12 Q. Your company has done a lot of work at Pointe-a-Pierre for
13 Paria and Petrotrin?

14 A. Correct.

15 Q. In fact, in paragraph 10 of your witness statement, you said that
16 you have done 90 per cent of the marine work at Pointe-a-Pierre
17 including building, rebuilding of berths at Pointe-a-Pierre?

18 A. Correct.

19 Q. And your company has developed a good reputation in the
20 marine environment?

21 A. Correct.

22 Q. And you held yourself out—when Paria put out its invitation
23 you held yourself out as a competent company and justifiably
24 so, to do the work.

25 A. I did.

26 Q. In fact, your company does not only do work in Trinidad, it do
27 work up the Caribbean region?

1 A. Correct.

2 Q. And you're also STOW certified?

3 A. Correct.

4 Q. For those of us who are not familiar, what is the status of a
5 STOW certification? What does it say, in your industry?

6 A. It's for certification from the, um, Energy Chamber stating that
7 you are proficient or able to do the works that they're listed on
8 it.

9 Q. You're proficient and competent?

10 A. Yep.

11 Q. So you would not hold Paria to blame for relying on the
12 reputation and competence of your company?

13 A. Um, why not?

14 Q. Okay. Are you saying that you—you can't have it both ways.
15 There were—you said you were competent, you held yourself
16 out to Paria as being competent when they invited bids so I'm
17 asking you, the fact that you're STOW certified and published
18 as STOW certified, the fact that you have done 90 per cent of
19 the work in Paria and its predecessor, the fact that you said you
20 do work up the Caribbean in the industry, is it reasonable for
21 someone like Paria to rely on the competence of your
22 company?

23 A. I did 90 per cent of the work there, but the pipeline, the subsea
24 pipeline would probably be about one per cent.

25 Q. All right, I—

26 A. So I had myself as a contractor who had the manpower and the
27 equipment to carry these jobs. The history of work at Pointe-a-

1 Pierre with Petrotrin and with Paria was we—it would be
2 collaborative. We did joint method statement, joint, um, JHAs,
3 everything.

4 Q. All right.

5 A. In Petrotrin—

6 Q. All right.

7 A. —they had a separate, um, project department.

8 Q. Okay well I'll take—all right, I have a limited time so let me
9 take you directly to 10 and see if you—if 10 is saying—

10 A. Uh-huh.

11 Q. —in your statement what you're just telling us. From 2000 to
12 present-day—

13 A. Yeah.

14 Q. —LMCS has done about 90 per cent of the marine works in
15 Pointe-a-Pierre?

16 A. Correct.

17 Q. This includes the rebuilding and maintenance of a number of
18 berths—

19 A. Correct.

20 Q. —at Pointe-a-Pierre. The rebuilding included replacement and
21 repairs of pipelines.

22 A. Correct.

23 Q. That's both above ground and underwater?

24 A. Correct.

25 Q. Right. You have done work in 2020—

26 A. Are you finished with that first question?

27 Q. Yes I—

1 A. Ninety per cent included the building of berths, repairing of
2 berths and everything, and if you look at the weighting of the
3 percentage, it'd be over 85 per cent in topside repair.

4 Q. Yeah but—

5 A. Right? And the pipelines would be split between above ground
6 and—

7 Q. Underground, okay?

8 A. I'm just telling you that the subsea pipeline would have been
9 less than 3 per cent.

10 Q. Okay, I accept that for the time being.

11 A. Yes, okay.

12 Q. I want to deal with the job you referred to in 2020 that you did.

13 A. Yeah.

14 Q. And that was a seabed—

15 A. Subsea, yeah.

16 Q. Subsea?

17 A. Yeah.

18 Q. And that falls into the 3 per cent you just described?

19 A. Correct, yeah.

20 Q. And you said you dealt with a 20-foot slope of that line?

21 A. Er—

22 Q. Or you want me to take you to the paragraph in your statement?

23 A. Er—

24 **Mr. Chairman:** I think you should.

25 **Mr. Peterson SC:** Yes, I would. I was just trying to—

26 **Continued Cross-Examination By Mr. Peterson SC:**

27 Q. Paragraph 16 of your supplemental statement, it's coming to

1 you. [*Document handed to Mr. Ali*] You see the method used
2 in 2020 was similar to the method that you used in 2021, '22?

3 A. Right.

4 Q. Right. So the method used in 2020 is similar to the method you
5 used now?

6 A. Correct, yes.

7 Q. The difference was the configuration of the pipeline—

8 A. Correct.

9 Q. —which you recognized is an important factor—

10 A. Yeah.

11 Q. —the configuration of the pipeline?

12 A. Correct.

13 Q. Whether it's as you drew it there or whether as the In-Corr-
14 Tech report is, the configuration which include undulation and
15 slope, isn't it?

16 A. Yeah, go ahead, I'm listening.

17 Q. No. I just—no, I just want—I don't want you to agree with me
18 just agree with me. Do you accept that in your statement when
19 you speak of configuration of the line—

20 A. Yeah.

21 Q. —you're also referring to the undulation of the pipeline and the
22 slope of the pipeline?

23 A. You know there's a big difference between undulation and
24 slope?

25 Q. Yes, I know. That's why I put them separately.

26 A. I know. So you had a slope difference here.

27 Q. Right.

1 A. You had an elevation difference.

2 Q. Right.

3 A. But there was no undulation.

4 Q. Right. What's the difference?

5 A. I thought you just said you know.

6 Q. No.

7 A. Undulation is it would be up and down.

8 Q. Right.

9 A. And then you will have a chance of air being trapped or gas
10 being trapped in the highs and lows.

11 Q. And the slope?

12 A. And the slope you have a slope, a smooth slope, you have a
13 gradient then.

14 Q. Right. I thank you for that. Because in the 2020 project the
15 line along the seabed sloped 20 feet at bent, bent 80. Bent 80 is
16 further along than berth 5, isn't it?

17 A. Yeah, but you—

18 Q. No, isn't it? I'm asking you. I don't know. Isn't bent 80 in
19 that figure to the right of berth 5?

20 A. Bent 80 is by berth 5? Bent 80 is on the main viaduct.

21 Q. Yeah, but it's on the right of berth 5, on that diagram?

22 A. Yeah.

23 Q. Right. So it was 20 feet at bent 80 on the main viaduct to 60
24 feet for approximate—approximately at berth 5?

25 A. Correct.

26 Q. So the slope was about 60 feet. Where did you get that
27 information to undertake that job?

1 A. You could back up a bit? The slope was 60 feet?

2 Q. Yeah. No, the slope was 20 feet?

3 A. The slope wasn't 20 feet. It wasn't 20 or 60. It was sloping
4 between 20 and 60.

5 Q. Right.

6 A. Right. So that's no slope of 20 feet. That doesn't mean
7 anything.

8 Q. Okay. All right. But you're saying that the line was sloping.
9 Where did you get that information?

10 A. By the measurement at the riser on both ends.

11 Q. Why did you measure it?

12 A. Sorry?

13 Q. Why did you measure it if the job then was similar to this one?

14 A. I don't understand.

15 Q. Why did you measure to ascertain the slope in 2020 if the job
16 was similar to this one in 2021/2022?

17 A. Why did I measure it?

18 Q. Uh-huh.

19 A. For the same reason I measured it on the, um, other job.

20 Q. Right. Did you—

21 A. To get as much information as you could.

22 Q. Right, so you could know what you're doing? Right.

23 A. All right.

24 Q. Did you take steps to ascertain the undulation slope
25 configuration with respect to the line between berth 5 and berth
26 6 on this 2021 job?

27 A. No. We went by the information given by Paria.

1 Q. Which was what?

2 A. Which was a drawing showing that the—under the risers were
3 supported so they shouldn't be sinking at that point.

4 Q. But that's at the point of the risers?

5 A. Yeah.

6 Q. What about the 1,200 feet between berth 5 and berth 6? What
7 information you relied on—

8 A. Well, I couldn't measure that.

9 Q. Beg your pardon?

10 A. We couldn't measure it. It was under the mud.

11 Q. Yes.

12 A. So we assumed or we took Paria's thing that it was a level
13 pipeline.

14 Q. You took Paria's what?

15 A. Word that it was a level pipeline.

16 Q. Where did you get the word that this was a level pipeline?

17 A. That's what they said. In fact, that's what they're still saying.

18 Q. Where is that?

19 A. You'll check any one of their statement you'll see that that's
20 what they are still saying that the pipe is level. They
21 maintained it before and after.

22 Q. No, no, no. When you were bidding for the job who maintained
23 to you—

24 A. Paria.

25 Q. —that the line—who at Paria?

26 A. They gave some drawings showing the line was level.

27 Q. Drawings? You had drawings showing that the line was level?

1 A. Yeah.

2 Q. What drawings are those?

3 A. Maybe in my statement.

4 **Mr. Peterson SC:** Mr. Chairman, he may be referring to page
5 two three zero, um, nine three two. Nine three two—00932.

6 **Mr. Chairman:** Of his statement?

7 **Mr. Peterson SC:** Of his statement.

8 **Mr. Chairman:** Zero?

9 **Mr. Peterson SC:** The page number, Sir. The page number,
10 Mr. Chairman. Right, it's up on the screen.

11 **Mr. Chairman:** Of the—that's the core? [*Crosstalk*] Sorry,
12 remind me of the page number?

13 **Mr. Peterson SC:** Nine three two. Right.

14 **Mr. Chairman:** Thank you.

15 **Continued Cross-Examination By Mr. Peterson SC:**

16 Q. So, on the assumption that the line is flat, I take it in hindsight
17 you are saying what could have caused the Delta P problem is
18 that the line was undulating?

19 A. It could be one of the factors.

20 Q. It could be one of the factors. And it would depend on the level
21 of undulation we take it, well, I mean—

22 A. It would.

23 Q. Right. You said you—I'll get straight to the point. You said
24 you were blowing out the line in order to facilitate the work.

25 A. Correct.

26 Q. We have had reference in this Commission to make the line
27 clear and dry.

1 A. Correct.

2 Q. What do you understand about that phrase in the context of this
3 job?

4 A. In my submission, my proposal that I submitted, we stated that
5 we are going to take out sufficient to get the plug in. Right?
6 We never intended to drain the line, empty the line, even
7 though it appears that that's what Paria wanted. We said he
8 were going to just take out sufficient to put the plug in.

9 Q. So you would—line—well, sufficient means to make the area
10 that you're working dry, that you could work?

11 A. It didn't have to be dry, just once I could get the plug in. If the
12 wall is lined, was wet or whatever it doesn't make a difference.

13 Q. Right. Well when I say dry I don't mean paper dry, I mean dry
14 from liquid.

15 A. So empty area?

16 Q. Empty, yes.

17 A. Well, yeah.

18 Q. Right. And you were prepared to take it down, yeah, you were
19 prepared to take down the liquid to about 30 feet?

20 A. Thirty feet from the top, yeah.

21 Q. And you embarked on that exercise using two methods, isn't
22 that so? Didn't you use a method where you were pumping
23 into the slop barge and then another where you were pumping
24 into 66?

25 A. Yeah. Initially it went into 66, and, when we couldn't get the
26 objective we wanted, we put it into the slop barge.

27 Q. I thought you said this morning—all right. Did you not use the

1 slop barge to clear the elbow at 6, at berth 6?

2 A. I don't think so.

3 Q. Berth 6 comes up and connects to the pipe, the piping along the
4 racks. You cleared the elbow before you broke it, did you not?

5 A. We cleared everything above the riser, not just the elbow.

6 Q. I know.

7 A. You had a mass of piping on number six.

8 Q. But then—

9 A. —so it had—

10 Q. —before you opened 6 to start your blowing at 5, did you not
11 have to clear that elbow, that line?

12 A. I, I not sure where you're getting that. Could you—

13 Q. No but you said this morning to the Commission that—

14 A. Yeah.

15 Q. —you had opened the top of six—

16 A. After—

17 Q. —when you were blowing?

18 A. After we blew out the topside piping—

19 Q. Right.

20 A. —then we removed the elbow and had access to the top of the
21 riser.

22 Q. That's it.

23 A. Good.

24 Q. And where did you blow that into before you removed the
25 elbow?

26 A. That's what we just said. We blew everything from on the
27 berth into 66 Sealine.

1 Q. Right. So that—

2 A. —at shore.

3 Q. You didn't say that. That's the point.

4 A. That's what I said.

5 Q. So you started—

6 A. That's what I said.

7 Q. Right. So you started the process—

8 A. Uh-huh.

9 Q. —by blowing into 66 Sealine to shore into the tank farm?

10 A. We started the process by blowing into 36 Sealine which
11 pushed the contents of 36 into 66.

12 Q. Into 66 and—

13 A. And then 66 went to the tank farm.

14 Q. Right.

15 A. Correct.

16 Q. That's the point. So the process started with blowing into 66
17 then you moved into the slop barge or the slop barge into 36,
18 which one?

19 A. Let me say it one more time, slow this time, right?

20 Q. Yeah.

21 A. We blue from number five berth into 36 Sealine.

22 Q. Right.

23 A. Thirty-six Sealine was directed into 66.

24 Q. Right.

25 A. Sixty-six emptied into a tank ashore.

26 Q. Right. How much did you blow at that stage?

27 A. I have no idea.

1 Q. The only amount that you could measure is what you had in the
2 barge?

3 A. What I had in the barge, correct.

4 Q. And you were always blowing from berth 5?

5 A. Berth five, correct.

6 Q. But berth 5 doesn't just exist, it connects somewhere else?

7 A. No, it terminated at berth 5. If you look at the drawing, berth 5
8 went across the berth—

9 Q. Yes.

10 A. —down on the next side to number eight.

11 **Mr. Chairman:** Use what you've got on the screen, because I
12 think that helps you, Mr. Peterson. If you use the one on the
13 screen, as I understand what you're saying, this is—[*Pointing to*
14 *drawing on screen*—this is five.

15 **Mr. Peterson SC:** Right.

16 **Examination By Mr. Chairman:**

17 Q. And the air is being blown in here, pushing the air round and
18 this is the connection from six to—from 36 through to 66.
19 That's where this dotted line here is the connection that was
20 made, is that right?

21 A. Correct, yeah.

22 Q. And that's the one that's being pushed—pushing the fluid into
23 tank 111, yes?

24 A. Yeah.

25 Q. But so this is connect—connected to the riser—

26 A. Yes.

27 Q. —at six?

1 A. Yeah.

2 Q. So when you're pumping air in at that end, it's pushing the fluid
3 down here, cross here, up that way—

4 A. Across.

5 Q. —into this temporary pipe that you've connected and down
6 there?

7 A. Yes.

8 **Mr. Chairman:** I that's where you're—where you—where—

9 **Mr. Peterson SC:** Not quite, Sir.

10 **Continued Cross-Examination By Mr. Peterson SC:**

11 Q. But on the—at berth 5, where you connect your line, where
12 does that—

13 A. There's a valve where.

14 Q. Where does the right side go to?

15 A. Just—

16 Q. That goes to?

17 A. It goes across—

18 Q. To PB 80?

19 A. Yeah.

20 Q. All right. I'm not trying to trap you, you know. I'm trying to
21 help you really.

22 A. No, no so there's a valve there—

23 Q. Right.

24 A. —that separated it from

25 Q. Right.

26 A. Yes.

27 Q. Notice in some of the numbers that were shown this morning I

1 see reference to PB 80 some barrels?

2 A. There was no connection between the two.

3 Q. Right. There was no connection from PB 80?

4 A. No.

5 Q. Why you say that? Tell us. Help us. We weren't there.

6 A. Because you had two valves locking off—

7 Q. All right.

8 A. —between—I think if you look on that drawing you'll see one,
9 there was a second valve closer.

10 Q. Right. And whatever was pumped all the way into 66—

11 A. Uh-huh.

12 Q. —was commingled with other product wasn't it, or was it
13 purely what came from the line?

14 A. Sixty-six Sealine was full with crude oil. Thirty-six had fuel
15 oil. The product from 36—

16 **Mr. Chairman:** Into the microphone, please?

17 **Continued Cross-Examination By Mr. Peterson SC:**

18 Q. Speak into the mike.

19 A. Yeah. The product from 36 was pushed into 66 so it would
20 have commingled there.

21 Q. Right. And you checked the level at berth 6—

22 A. Berth 6.

23 Q. —to see whether you had achieved your goal?

24 A. Correct.

25 Q. But I think you told the Commission this morning you never
26 checked the level at berth 5?

27 A. No, we didn't check that level.

1 Q. But best practice and hindsight would now assist us that you
2 should have checked five also?

3 A. Well, now that we know the line wasn't level and—

4 Q. Now that we know what?

5 A. That the line wasn't level.

6 Q. But we don't know the extent to which that impacted the
7 incident.

8 A. No we don't.

9 Q. Well, I prefer to say accident. I like how In-Corr-Tech says it,
10 so we don't know if that is really—that's what you surmised as
11 a possible explanation, isn't it?

12 A. I'm not making the explanation. I'm giving you a fact.

13 Q. Okay.

14 A. Right? We pumped down the line at six, we found minus 30
15 feet from the surface, and—

16 Q. No, the explanation I'm talking about is to the delta event
17 which we all accepted has now occurred. So one of the things
18 you anticipate that could have caused the delta, the Delta P
19 event, is you're saying undulation in the line?

20 A. I'm saying that one of the things.

21 Q. Right. But you cannot tell us the level of the undulation and
22 whether it could have had an impact on the Delta P or whether
23 it should be a factor to be ignored?

24 A. I think I clearly stated, I don't know what caused the Delta P.
25 I'm suggesting that—

26 Q. Okay.

27 A. —it's one of the things.

1 Q. Now I want—the plugs were installed on the 13th of February?

2 A. Correct.

3 Q. This job recommenced 12 or 13 days later, the 25th?

4 A. Twelve days.

5 Q. Twelve, yeah, 12. I want you to look at paragraph 61 of your
6 statement. Sorry, before I go there, I want to take you back to
7 something Mr. Maharaj had dealt with. At page 104 of the—oh
8 God, 1004 of the daily reports, of the core bundle, you see at
9 item four on that daily report—

10 A. I do, yeah.

11 Q. It says across on “Job Status”, level was checked after draining
12 at PB number 80 and oil content was approximately 8 feet
13 below the tee on riser. Mr. Maharaj took you there. Isn't it that
14 that's correct because they needed to drain 8 feet down on PBB
15 to get under the level of the valve?

16 A. Sorry, repeat that again?

17 Q. This daily report—

18 A. Uh-huh.

19 Q. —that says the level was checked after draining at PB 80 and
20 oil content was approximately 8 feet below tee on the riser—

21 A. The job that we were doing had nothing to do with PB 80.

22 Q. No, but did you—you were—PB 80 connects with berth 5?

23 A. I said to you there were two blind flange—two—

24 Q. Two valves?

25 A. —two valves that were closed off.

26 Q. Right. But did you not need to drain—that is what I understand
27 this report to be saying you need to drain 8 feet on that side

1 too—

2 A. We had nothing to do—that was a completely different system,
3 was shut off. The work was between number five and number
4 six.

5 Q. So what's your comment on this daily report?

6 A. I didn't write that daily report.

7 Q. I know.

8 A. Right?

9 Q. But it's a contemporaneous record?

10 A. I have no idea what it—

11 Q. It's a daily record?

12 A. It's not my daily record.

13 Q. I know, Mr. —

14 A. In Sir, so why you're asking me?

15 Q. I'm trying to find—okay. All right, so your position is it's not
16 your record?

17 A. It's not my record. I have no idea what is that. All I could see
18 in the description, it concerns with Sealine 36. Sealine 36 when
19 we were working, we had nothing to do with Pile Bent 80.

20 Q. Is that your position on that?

21 A. Yes.

22 Q. So I want to take you now to paragraph 61.

23 A. Okay.

24 Q. At paragraph 61, you said: "The fact that the works did not
25 proceed within four days would have been a risk as we were
26 worried that the conditions of the line may change." What do
27 you mean by that?

1 A. Exactly what I mean.

2 Q. No, that's not good enough, sorry. What changes you were
3 worried about, not concerned, worried about?

4 A. The plug was my main concern.

5 Q. Beg your pardon? Sorry.

6 A. The plug was my main concern.

7 Q. Yes.

8 A. Right? Over—we had done this job using the plug within four
9 days then we had no problem. Any extended period you're
10 going to start losing pressure on the plug. The plug was going
11 to be in a oily condition. Even though it's supposed to be
12 resistant to oil, you could have certain dissolving of the rubber,
13 that was the, um—my concern.

14 Q. That was your worry?

15 A. That was my concern.

16 Q. But then you went on in that same paragraph to say, "I was not
17 targetting any particular condition."

18 A. I wasn't targetting—

19 Q. Just conditions in general.

20 A. I'm just saying over that period of time things coulda happen.
21 Thing always happen over a period of time.

22 Q. Right. And the fact that you were concerned about the plug and
23 the holding of the plug, did you have Delta P in mind?

24 A. Actually, I was more concerned about pollution.

25 Q. You were more concerned about?

26 A. Pollution.

27 Q. Pollution?

1 A. If the plug failed because, as far as I was concerned, the method
2 that used prevented the plug going down because of the liquid
3 we were supposed to have there. Right? I was concerned that
4 if the plug failed and water got in you'll get pollution to
5 harbour. I think that is addressed further down in my statement.

6 Q. No, but—

7 A. I suggest—

8 Q. —that, that—

9 A. —a bit further down.

10 Q. You had already gotten 30 feet clearance.

11 A. Yep.

12 Q. And your concern was the pollution?

13 A. Yep.

14 Q. Is that the only—

15 A. If water got into the line because the plug failed, the oil would
16 float out into the—

17 Q. That inflatable plug?

18 A. Yeah.

19 Q. And the mechanical plug will not hold?

20 A. The mechanical plug, as I clearly stated, was to prevent molten
21 material getting down to the inflatable plug.

22 Q. Right.

23 A. And it was also meant as a block against a plug failure.

24 Q. And the inflatable plug was to prevent hydrocarbons coming
25 up?

26 A. Well, also to prevent the, um, molten material going into the
27 oil.

1 Q. All right. I thought that was the mechanical plug to do that?
2 The inflatable plug is to do that too?

3 A. You ever heard of a double block.

4 Q. No, I didn't—

5 A. Yeah, this is—

6 Q. —I just [*Inaudible*] just help us.

7 A. That's—

8 Q. You're the expert now, Mr. Ali.

9 A. Take a little bit extras here.

10 Q. All right. So the inflatable plug will serve both purposes?
11 That's what you're telling us?

12 A. Yeah, right.

13 Q. Having—the period of 12 or 12 days having run—

14 A. Uh-huh.

15 Q. —and you having a worry about the conditions—

16 A. Yeah.

17 Q. —did you do any pressure checks?

18 A. No. We put a chamber into operation and observe it for a
19 while.

20 Q. Did you check to see if the plug was—the integrity of the plug
21 had been compromised?

22 A. We put it under operated pressure and observed it.

23 Q. You did that on the 25th?

24 A. On the 25th.

25 Q. Right. Did you then, having had that plug in there for 12 days,
26 having not checked berth 5 on the 13th when you, in my
27 respectful view, ought to have done, did you go and check berth

1 5 at that stage to see what was happening across there?

2 A. No.

3 Q. So you don't know what the level of the liquid was on the 25th
4 in berth 5?

5 A. They opened the flange at berth 5 and they did a pressure test in
6 there.

7 Q. When?

8 A. On the 25th.

9 Q. All right.

10 **Examination By Mr. Chairman:**

11 Q. Was that pressure test on the weld?

12 A. On the weld.

13 Q. Right. It wasn't a pressure test to test what the pressure was in
14 the pipe?

15 A. No, no it was on the weld itself.

16 Q. It was to test the pressure on the weld that you previously
17 performed, is that right? Mr. Ali, on the weld that—

18 A. Yes on the weld.

19 Q. —you'd previously performed?

20 A. Yeah.

21 Q. Thank you.

22 **Continued Cross-Examination By Mr. Peterson SC:**

23 Q. Yeah, you said you did—sorry, you said you did the—I was
24 being distracted. You said you did the pressure check on five?

25 A. On the weld.

26 Q. On the weld?

27 A. Yeah.

1 Q. You supervised the installation of those plugs?

2 A. The plug at, um, number six berth, yes.

3 Q. Number six. You supervised?

4 A. I did.

5 Q. Why you personally supervised those plugs, the installation?

6 A. Whenever we have lifting, I supervise personally? Right? That
7 day we had lifting going on and I was on the barge supervising
8 the installation of the plug, the installation of the chamber.

9 **Mr. Chairman:** You have to use the microphone, Mr. Ali.
10 We can't hear you otherwise. Thank you.

11 **Continued Cross-Examination By Mr. Peterson SC:**

12 Q. Is there any reason why you also did not supervise the removal
13 of those plugs?

14 A. Lifting wasn't involved so I didn't go out there on that date.

15 **Examination By Mr. Chairman:**

16 Q. Is that right? Isn't lifting involved in removing the plug?

17 A. When I say lifting I mean with the crane barge so—

18 Q. Well, did you not use the crane to take the mechanical plug out?

19 A. No.

20 Q. So no cable attached to it to remove it?

21 A. No, no. It wasn't [*Inaudible*]

22 Q. How on earth—forgive me.

23 A. —with a chain hoist, chain hoist inside there.

24 Q. A what?

25 A. A chain hoist.

26 Q. A chain hoist, not the crane?

27 A. Yeah.

1 Q. All right.

2 **Continued Cross-Examination By Mr. Peterson SC:**

3 Q. But when was the habitat put in place?

4 A. On the 13th.

5 Q. And you said that—I'm curious. You said that Paria told you
6 that the line was flat?

7 A. Yeah.

8 Q. The horizontal?

9 A. Yeah.

10 **Mr. Peterson SC:** Mr. Chairman and Member Commission,
11 598 of the core bundle. I wish to take the witness to it.

12 **Mr. Chairman:** Five ninety-eight core bundle or 598 of his
13 statement?

14 **Mr. Peterson SC:** Five nine nine, it goes on to five nine nine,
15 Sir. Addendum one, Mr. Chairman.

16 **Mr. Chairman:** Yes.

17 **Continued Cross-Examination By Mr. Peterson SC:**

18 Q. At number seven there was a query at the bidding process, Mr.
19 Ali? Were you familiar with that question as to what is the
20 water depth at berth 5 and 6?

21 A. Yeah.

22 Q. And the storm moorings?

23 A. Yeah.

24 Q. What do you understand the response to be the water depth
25 varies between approximately 60 to 70 feet?

26 A. I see the storm moorings.

27 Q. Yeah.

1 A. The word storm mooring. This job was in three parts. Storm
2 moorings has nothing to do with berth 5 and 6.

3 Q. All right.

4 A. Okay?

5 Q. The water depth was there, not the storm mooring, the depth of
6 the water.

7 A. At the storm mooring, not at berth 5 and 6. The storm
8 moorings were placed throughout the harbour. There were
9 about ten moorings that were placed at different points in the
10 harbour.

11 Q. I know but it says—

12 A. At, at the storm mooring, the storm mooring was in the harbour,
13 not close to number five and six.

14 Q. No, you said at berths five and six?

15 A. There were no storm moorings at berth 5 and 6.

16 Q. No. That's correct. What it says is—Mr. Ali—

17 A. It says—

18 Q. Mr. Ali, just now.

19 A. That—

20 Q. What it says—

21 A. There was no storm mooring by the riser.

22 Q. Mr. , yes, just now, wait, please?

23 A. Yeah.

24 Q. The water depth, [*Inaudible*] what is the water depth at berth 5
25 and 6 and the storm moorings?

26 A. The storm mooring, right.

27 Q. So they're not saying the storm mooring is at five and six.

1 A. Right. So you had some storm moorings around the harbour
2 and you.

3 Q. Forget the storm moorings?

4 A. And at berths five and six. So, at the storm moorings it would
5 have been 70, you see so it ranged across from where number
6 one berth, number six berth and number seven berth so you had
7 the storm moorings displaced all around, right?

8 Q. Right. I'm not on the—I'm talking about the water depth. You
9 did not, signal to you?

10 A. So that was a water depth throughout the harbour.

11 Q. Does it not signal to you that the line there would be flat?

12 A. No.

13 Q. And that flat line is a half-inch thick steel line, isn't it?

14 A. Is the what?

15 Q. How thick is the line, 36?

16 A. About half-inch, yes.

17 Q. Right. Embedded in concrete?

18 A. No. Has a concrete coating on it.

19 Q. Right. And that is to do what, to keep it steady?

20 A. To keep it from floating.

21 Q. And from then—

22 A. [*Inaudible*] it's a weight coating. Concrete on the pipeline is a
23 weight coating. If it doesn't have that, and you remove the
24 liquid from the line it will float up.

25 Q. Right.

26 A. So that is meant to keep it on the seabed.

27 Q. Right. So having removed the liquid, you took no steps to

1 ascertain the condition of the line?

2 A. How could you assert? We removed the liquid in the riser. We
3 checked out that piece.

4 Q. Right. And you left how much in the line?

5 A. We took out 30 feet of liquid from the riser.

6 Q. On one side?

7 A. On one side.

8 Q. And from your calculation, how much was left in the line?

9 A. It should have been about twelve hundred, about eleven
10 hundred.

11 Q. But you agree that that wasn't left there since you had this—

12 A. I don't know. I don't know.

13 Q. You don't know?

14 A. I don't know.

15 Q. Even in hindsight after having this violent vortex that Mr.
16 Boodram described, you still don't know?

17 A. I don't know.

18 **Mr. Chairman:** Before you move on from that particular
19 point, can we, can I ask you please, can we have the addendum
20 document back please? Thank you. And can we go to the
21 question that Mr. Peterson was asking, which is at number
22 seven, please?

23 **Examination By Mr. Chairman:**

24 Q. So who's asking? You see it says "Query"? If you look at the
25 screen—

26 A. Yeah.

27 Q. —it says:

1 “Query: what is the water depth at berths 5 and 6 and the
2 storm moorings?”

3 And then, response:

4 “The water depth varies between approximately 60 and
5 70 feet.”

6 First of all, who’s asking the question? Who’s, who’s, who’s
7 the query?

8 A. That would be one of the, um, bidders on the job.

9 Q. One of the?

10 A. The bidders. That came out—after they send out the tender, the
11 peel who were bidding the job would have sent in questions.

12 Q. All right. But if you go back to the beginning of the document
13 please, just one page up? A bit further.

14 “Paria Fuel Trading Company Limited, miscellaneous
15 repairs and refurbishment works at five and six berths
16 and main viaduct, Addendum one. The following are
17 queries raised with clarifications. The addendum has to
18 be signed and submitted with the technical tender
19 submission.”

20 Right? And so, the query is raised by whom?

21 A. I’m sorry?

22 Q. Who raises the query, the potential bidder?

23 A. The bidders, yes.

24 Q. Right.

25 A. Yeah.

26 Q. Might not have been you but whoever it was—

27 A. Yeah.

1 Q. —these are the queries that have been raised. So the first one
2 there is:

3 “Who is responsible for pumping back from the berths to
4 clear the lines with water?”

5 Do you see that?

6 A. Yeah.

7 Q. Then the answer or the response to that is:

8 “The contractor is responsible for the safe removal of
9 hydrocarbon contents from the line and to ensure that the
10 line is clear and dry.”

11 What did you understand that to mean?

12 A. Well that’s what I said, we, in our submission we said we
13 weren’t going to clear the line.

14 Q. You were not?

15 A. We were just going to take off—yeah, and they accepted that
16 proposal.

17 Q. Whose response is this, if you read this document when you’re
18 given this document?

19 A. Right, that’s Paria’s response.

20 Q. That’s their response?

21 A. Yeah.

22 Q. So go to seven as well please? Question by one of the potential
23 bidders:

24 “What is the water depth at berths 5 and 6 and the storm
25 moorings?”

26 And you could have broken that down into two questions
27 couldn’t you? You could say: “What is the water depth at

1 berths 5 and 6?” And then another question: “What is the water
2 depth at the storm moorings?”

3 A. Correct.

4 Q. Right. First of all, berths 6 and 6, when that question’s being
5 asked, are we talking about what’s in the pipeline or are we
6 talking about the water depth from berth 5 to the seabed?

7 A. To the seabed.

8 Q. Right. So it’s out—forget the pipeline altogether.

9 A. Yeah.

10 Q. We’re just talking about the water depth, right?

11 A. Right, yeah.

12 Q. And it’s the same 5 and 6 and then the storm moorings are
13 some other asset?

14 A. Yeah, they’re scattered around the harbour.

15 Q. I follow that. And the answer by Paria is, as Mr. Peterson has
16 pointed out, there is between approximately 60 feet and 70 feet?

17 A. Correct, yeah.

18 Q. Right. Without identifying whether that’s 5, 6 or the storm
19 moorings?

20 A. Or the storm moorings, correct.

21 Q. Correct? And given that it varies between 60 feet and 70 feet,
22 that is a 10-foot difference, correct?

23 A. Correct.

24 Q. And a 10-foot difference at one end is considerable different
25 ullage depth at that end than it would be at the other end, 5 and
26 6, wouldn’t it?

27 A. Yeah, ullage was measured from the top.

1 Q. Yes.

2 A. So—

3 Q. So it would be the same distance down—

4 A. Yes.

5 Q. —but the fluid, I didn't mean ullage, I meant the fluid below
6 that to the—

7 A. Yeah, could be different, yeah.

8 Q. —might be, might be as much as 10 feet difference.

9 A. Correct, eh.

10 Q. If that's right, or they may have been referring to the storm
11 moorings at the berth.

12 A. I don't know.

13 Q. We don't know which; it's not clear?

14 A. That's what I read it to be.

15 Q. All right.

16 A. The difference at the different storm moorings.

17 Q. You read it to me mean what the difference between—

18 A. At the different storm moorings.

19 Q. Right, okay. Thank you. Thank you.

20 **Mr. Chairman:** I'm sorry to be—

21 **Mr. Peterson SC:** Thanks, Sir. I'd like to take it up from
22 there.

23 **Continued Cross-Examination By Mr. Peterson SC:**

24 Q. Why you read it and restricted it only to the storm moorings
25 and just don't factor in berth 5 and berth 6 which are the berths
26 you are concerned with?

27 A. Because I knew the water depth varied from the, um, storm

1 moorings from one to the other.

2 Q. And from berth 5 to 6 it must be—

3 A. They're close enough so we expected it to be the same.

4 Q. You ex—or. But Paria told you there's a 10—

5 A. No, Paria said it was difference between 60 and 70—

6 Q. You're reading what Paria said.

7 A. —at the storm moorings and 5 and 6.

8 Q. Mr. Ali—

9 A. All right.

10 Q. —you're reading what Paria said, so, I am not saying it, right?

11 Paria is also saying—

12 A. Uh-huh.

13 Q. —you're restricting your consideration to the storm moorings.

14 Paria is also saying a 10-foot differential in their answer—they

15 may be wrong, but that is the information they were giving you

16 at that point that there is a difference in the seabed—and I—Mr.

17 Chairman I thank you—there's a difference on the seabed

18 between 60 and 70 which is a 10-foot difference?

19 A. Er—

20 Q. Don't you understand that they're telling you there, it is not

21 flat?

22 A. I don't really, but if they understood it was not flat, you didn't

23 think I would a picked it up in my submissions?

24 Q. Picked up what in your submissions?

25 A. In my method statement and all those things. You said it—

26 Q. No, no, that's something else, Mr. Ali. We are telling you—

27 A. Uh-huh.

1 Q. —you see where we are—

2 A. Okay, I'll make it simple.

3 Q. No.

4 A. I didn't understand, appreciate that then.

5 Q. All right.

6 A. Maybe they were not clear enough to—

7 Q. I could accept that. I could understand that.

8 A. All right, so—

9 Q. So, reading this—

10 A. —they should have made it a little more clear.

11 Q. —reading this you could have read it to pertain to the storm
12 moorings, not to the—

13 A. Not on berth 5, right.

14 Q. Because, had you appreciated the 10-foot differential between
15 berth 5 and berth 6, you would have then been revisiting your
16 understanding as to whether the line was sloping, undulating or
17 flat?

18 A. Well, it will tell if it was sloping. It wouldn't tell you was
19 undulating.

20 Q. All right. Okay, well at least it would put you on inquiry?

21 A. Yep.

22 Q. All right.

23 **Examination By Mr. Chairman:**

24 Q. Following on from that, would it not have alerted you to
25 perhaps check the seabed levels?

26 A. Looking at the seabed you wouldn't know. The seabed itself
27 was level—

1 Q. I appreciate—

2 A. —but the pipe was submerged under the mud.

3 Q. You couldn't see the pipe or whether—

4 A. You couldn't see the pipe so you could see the mud—you could
5 see the depth of the seabed.

6 Q. Right.

7 A. So if you met 5 and 6 there it will tell you where the mud was
8 on the seabed not where the pipeline was.

9 Q. Are you saying that it's not immediately identifiable where the
10 pipeline is—

11 A. Nor how—

12 Q. —at the seabed?

13 A. No.

14 Q. So it could have been completely buried?

15 A. Yep, it's completely.

16 Q. Although it's covered in concrete it could have been completely
17 buried by some feet?

18 A. Yeah, by some considerable amount, yeah.

19 Q. Yeah, all right. But, you know, Mr. Peterson is saying did this
20 not alert you to the fact that there was a differential in the
21 heights?

22 A. No.

23 Q. It didn't. All right, very well.

24 **Mr. Chairman:** Thank you, Mr. —

25 **Mr. Peterson SC:** That just brings me to the next question.

26 **Continued Cross-Examination By Mr. Peterson SC:**

27 Q. The drawings that you put in your statement that I took you to

1 earlier at page nine three two, those are not engineering
2 drawings, those are just schematic drawings?

3 A. Yeah.

4 Q. So they're not an accurate representation of what is actually
5 under the water?

6 A. No. But that's not the drawing I was referring to.

7 Q. That's not the drawing you was referring to?

8 A. No.

9 Q. Well in fairness to you, could we get what you're referring to?
10 Well this one is in your statement, huh? This one is attached to
11 your statement, huh, as I just—

12 A. Yeah.

13 Q. Was there another one attached to your statement?

14 **Mr. Chairman:** Page 4, page 4 from memory, it's either the
15 page—if you just scroll down one or up one you'll see a
16 difference. Yes, there you go. There's a different one. Is that
17 the one you meant?

18 **Mr. Ali Sr.:** It's—sorry?

19 **Mr. Peterson SC:** That's also schematic?

20 **Mr. Ali Sr.:** No, it's a sandbank, concrete barge.

21 **Mr. Peterson SC:** Mr. Chairman if there's another one in
22 fairness to him I think we should—

23 **Mr. Chairman:** No I agree, I agree. Let's be clear about what
24 you're talking about, Mr. Ali.

25 **Mr. Ali Sr.:** Yeah.

26 **Mr. Chairman:** You had a different diagram to that? In the
27 tender document, please? [*Document handed to Mr. Ali*] I

1 think you might need to look at the tender document.

2 **Mr. Ali Sr.:** Could I confer with M'Lord?

3 **Mr. Chairman:** No, well, no, not really. You're in the midst
4 of your evidence. I don't know if Ms. Persaud Maraj can help
5 us. I don't think there's a different diagram attached to your
6 statement. A lot of material is attached to your statement but
7 there are only, as I recall it, those two schematics. There's a
8 picture of the chamber which, um, which you—which we've
9 got. I don't think there's any other—*[Perusing document]* Can
10 you help us as to what it looks like?

11 **Mr. Ali Sr.:** Could I go please?

12 **Mr. Chairman:** I'd rather you didn't. I think we're getting
13 there.

14 **Mr. Ali Sr.:** With the cement bags.

15 **Mrs. Persaud Maraj:** The one on the tender, the tender
16 document.

17 **Mr. Chairman:** Six two six?

18 **Mrs. Persaud Maraj:** Six two six.

19 **Mr. Chairman:** What, of his statement?

20 **Mrs. Persaud Maraj:** Volume II.

21 **Mr. Chairman:** Volume II?

22 **Mr. Ali Sr.:** Was after the In-Corr-Tech report I submitted it.

23 *[Pause]*

24 **Mr. Chairman:** Well I'm not going to delay this any longer.
25 We'll come back to it, please? Mr. Peterson, if you'll move on
26 please and we'll try and locate it for you, all right, Mr. Ali?

27 **Mr. Ali Sr.:** I appreciate that.

1 **Mr. Chairman:** We're going to try and locate it for you,
2 please, so we're going to carry on for the moment, all right?

3 **Mr. Ali Sr.:** Yeah.

4 **Mr. Chairman:** Make sure you keep speaking into that
5 microphone please? Speak into there. All right.

6 **Mr. Ali Sr.:** Yeah, just what you said there.

7 **Mr. Chairman:** Okay.

8 **Continued Cross-Examination By Mr. Peterson SC:**

9 Q. Mr. Ali, I just want to—I'm hesitant to do this because we only
10 sent it to the Commission yesterday but are you aware this
11 mor—well you were here this morning, I think boasting and
12 telling me this morning like it's an achievement, I said
13 yesterday. A bathymetric chart for that area berth 5 and 6, have
14 you ever seen it?

15 A. No.

16 Q. Are you familiar with such a chart? Do you have the technical
17 expertise to read such a chart? [*Document handed to Mr. Ali*]

18 **Mr. Chairman:** Do we have that to put on the screen, please,
19 the chart that was provided to us at about seven o'clock this
20 morning? I think we might want the third page of that
21 document. Yes, after that. No, it's the first one, sorry. I'm not
22 sure I'm—yes, that's better, thank you. Have you seen that
23 document before?

24 **Mr. Ali Sr.:** I haven't seen it before.

25 **Mr. Chairman:** All right. Well, Mr. Peterson, if you're
26 proposing to ask him question about it—

27 **Mr. Peterson SC:** No, just, no, that—

1 **Continued Cross-Examination By Mr. Peterson SC:**

2 Q. Yeah, that's why I was saying because I didn't want to hold you
3 to it or put anything—if you could read—that's what I asked, if
4 you had the ability to read it and assist us but if you can that's
5 fine. I just—

6 A. Well I could hardly see it.

7 Q. I don't want to lose the opportunity of your presence.

8 A. It, it measures the depth of water.

9 Q. Good. All right.

10 **Examination By Mr. Chairman:**

11 Q. It's a contour map of the land—

12 A. Of the seabed.

13 Q. —under the sea?

14 A. Of the seabed.

15 Q. Yes, of the seabed?

16 A. Yes.

17 Q. So in the same way as you have contours of hills and mountains
18 above land—

19 A. Yeah.

20 Q. —above sea level, this is one in reverse in effect?

21 A. Right, so you know it as the sea level.

22 Q. So we can see where the water is—

23 A. Yep.

24 Q. —and how deep it is—

25 A. Yep.

26 Q. —depending on the tide of course?

27 A. Well they normally fix it to mid tide.

1 Q. As a sort of medium?

2 A. Yes.

3 Q. Yes, all right.

4 **Continued Cross-Examination By Mr. Peterson SC:**

5 Q. And it's—this between berths 5 and 6 but if you have never
6 seen it before you'll have to probably call someone who could
7 assist us with reading it and explaining the levels, but I didn't
8 want to not give you an opportunity, if you could have or if you
9 did see it before, to assist.

10 A. I didn't see it before but I could see—

11 **Mr. Chairman:** You can see it now?

12 **Mr. Ali Sr.:** Yeah, I can see the, um—

13 **Continued Cross-Examination By Mr. Peterson SC:**

14 Q. And you—can you see the numbers there that they're a very
15 slight variation in the undulation?

16 A. I can, yeah.

17 Q. Yep?

18 A. Yeah.

19 Q. You can?

20 A. I can.

21 Q. Right.

22 **Mr. Chairman:** First of all can you help me please so that I
23 can understand it, since you served it on us this morning, the
24 numbers that go with each contour, now nobody else is going to
25 be able to see this because although I'm squinting at it I can just
26 about make it out, but what's on the screen you won't be able to
27 see the actual numbers, but each contour, that is, each line that

1 creates a sort of wiggle underneath which that signifies the
2 depth at that point of the seabed?

3 **Mr. Peterson SC:** And in metres.

4 **Mr. Chairman:** And it's in metres, is it? Right. So we can
5 see, for example, that at berth 6 in that what looks like a T box,
6 to the left of that top of that T box, which is berth 6, there is a
7 number on the contour which is 17.5? Correct? Have I got that
8 right?

9 **Mr. Peterson SC:** Yes, Sir.

10 **Mr. Chairman:** So that that's 17 and a half metres in depth
11 right beside berth number 6, is that right? Have I got that right?
12 I see you nodding.

13 **Mr. Peterson SC:** Yes.

14 **Examination By Mr. Chairman:**

15 Q. Right. And there is a line which has got little crosses on it
16 which stretch between berth 6 and berth 5. Do you see that?
17 Looks like a—yes, that's—someone's tracing it now with the
18 marker and if they can use a hand rather than that little marker,
19 but anyway, you can see a line moving in a straight line slightly
20 north and east and then down slightly south and east towards
21 berth 6—5, sorry, from 6 to 5. Do you see that? Is that the
22 pipeline?

23 A. The one with the crosses?

24 Q. Yes.

25 A. No, no. This is a map of after they dredged the harbour.

26 Q. After they dredged the harbour? Right.

27 A. So you'll notice that if you draw a straight line between 5 and

1 6—

2 Q. Yes.

3 A. —the water to the top of it is deeper. That's where there was a
4 dredge—

5 Q. Right.

6 A. —for the—

7 Q. There's a dotted line between 5 and 6.

8 **Mr. Chairman:** Is that the pipeline? I'm asking Mr. Peterson.

9 **Mr. Ali Sr.:** It does—it does—

10 **Mr. Chairman:** Pause, pause, Mr. Ali, please?

11 **Mr. Ali Sr.:** Yes.

12 **Mr. Chairman:** I'm asking Mr. Peterson what his—I mean,
13 he's served this. So that we understand what it is—

14 **Mr. Peterson SC:** We plan to call someone with the
15 knowledge to speak to it, Sir. I—

16 **Mr. Chairman:** It would have been even more helpful if you
17 provided a witness statement with these documents, so—

18 **Mr. Peterson SC:** We will be doing—we will be doing that,
19 Sir.

20 **Continued Cross-Examination By Mr. Peterson SC:**

21 Q. All right, just before we pass on, Mr. Ali, since you've been
22 handed this document, leaving aside where the pipeline is
23 because we can't identify it, but, do you see that squiggly line
24 that I've been talking about that goes across the page?

25 A. Yes.

26 Q. Starting on the far left—probably best if I come and point to it.

27 A. The one that—

1 Q. From this line here, do you see this line here that goes like this?
2 Do you see that all the way there, so that's literally between 5
3 and 6, this line. Do you see that?

4 A. Yes.

5 Q. That says 17.5 metres.

6 A. That's the dredged area where the—

7 Q. That's the dredged area?

8 A. That's the normal, the ambient depth.

9 Q. Right. And then the next contour which passes right through
10 berth 6 is this one?

11 A. Yes.

12 Q. And comes close to berth 5 as well. Do you see that?

13 A. Yeah.

14 Q. That's, that's marked at 15 metres?

15 A. Yes.

16 Q. So the difference between each of these contours appears to be
17 two and a half metres. Fifteen metres.

18 A. Yeah.

19 Q. The next 17 and a half metres.

20 A. Yeah.

21 Q. It's a little bit taller than me—

22 A. Yeah.

23 Q. —is the difference in height.

24 A. All right.

25 Q. All right? But for these two contours, and they're the ones that
26 seem to pass near to berth number 5 and berth number 6. Some
27 day we'll find out where the pipeline is.

1 A. The pipeline would be somewhere between berth 5 and berth 6.

2 Q. I think we've managed to work that out, the pipeline is
3 somewhere between those two, yes?

4 A. And then the not in front, it's in between the structures.

5 **Mr. Chairman:** All right.

6 **Continued Cross-Examination By Mr. Peterson SC:**

7 Q. Thank you, Mr. Ali. I know you didn't see these but just to
8 show you in case you were familiar with it or you had seen it
9 before.

10 A. Right.

11 **Mr. Peterson SC:** But, Mr. Chairman, we will call someone to
12 give a—well, to speak to it.

13 **Commissioner Wilson:** Is there a legend—

14 **Mr. Peterson SC:** Yes, there.

15 **Commissioner Wilson:** Yeah, but I'm just asking about a
16 legend and if we could enlarge it so we could get an idea of
17 what everything means?

18 **Mr. Peterson SC:** Go to the right. Down.

19 **Mr. Chairman:** Or, right at the bottom on the left—

20 **Mr. Peterson SC:** On the left.

21 **Mr. Chairman:** Right.

22 **Mr. Peterson SC:** Left.

23 **Mr. Chairman:**—side, you see a legend. Well we'll work it
24 out [*Inaudible*]

25 **Mr. Peterson SC:** Yeah, when the witness comes we'll have
26 the original too.

27 **Mr. Chairman:** So how long—how much longer do you think

1 you're going to be, Mr. Peterson?

2 **Mr. Peterson SC:** About 45 minutes, Sir.

3 **Mr. Chairman:** About 45 minutes. All right, we're going to
4 take lunch here. Would anyone be too upset if we resumed at
5 two o'clock? I hear no protests, so that's what it will be.
6 Thank you very much. Two o'clock. Mr. Ali, I'm afraid
7 you're going to have to come back after lunch. I was hoping to
8 finish you before lunch so we're not going to be able to finish
9 you now.

10 **Mr. Ali Sr.:** Sorry, um—

11 **Mr. Chairman:** I'm afraid we're going to have to break off for
12 lunch now, all right? So we'll come back at two o'clock. Will
13 that be all right for you?

14 **Mr. Ali Sr.:** That's okay for me. You have two more
15 witnesses. Are you going to take them or you—

16 **Mr. Chairman:** I know. Well, I'll work that out. Don't you
17 worry about them. I'll deal with that. For the moment, you're
18 not to discuss your evidence with either of them or anyone else
19 for the time being, all right?

20 **Mr. Ali Sr.:** Yeah.

21 **Mr. Chairman:** So keep your counsel to yourself, have a bit
22 of lunch, come back at two o'clock if you would please?

23 **Mr. Ali Sr.:** Yeah.

24 **Mr. Chairman:** Thank you very much. All right, we'll rise
25 now.

26 **1.07p.m.:** *Enquiry suspended.*

27 **1.59p.m.:** *Enquiry resumed.*

1 **Mr. Chairman:** Good afternoon. Can I please ask everyone to
2 give me a little bit of help? I heard from Mr. Peterson. He
3 thinks he'll be another 45 minutes. Ms. Maraj, first all, before
4 you, anyone else? Any questions? No. Good. Ms. Maraj?

5 **Mrs. Persaud Maraj:** Mr. Commissioner, unless there is—if
6 my friend clarifies the points that I have to clarify here, I see
7 that I should be no more than 30 minutes, 15 minutes to 30
8 minutes.

9 **Mr. Chairman:** The nearer to 15 the better, thank you very
10 much. We're going to try and get through the witnesses today.
11 I've had it suggested to me that we might sit earlier. I'm not
12 sure if that's to sit earlier and retain the time that we've
13 changed it to today or whether it is a suggestion that we should
14 sit earlier and finish earlier?

15 **Mr. Peterson SC:** The suggestion came from me, Sir, and I
16 was saying that if you're losing time today, then the following
17 day you could possibly crave the indulgence of everyone for an
18 extra hour, so what—if you were pushing us to like 4.30,
19 quarter to 5.00 today, five o'clock, instead of keeping us 6.00
20 you may want to start 9.00?

21 **Mr. Chairman:** Yes. I'm open to that suggestion.

22 **Mr. Peterson SC:** So we'll be more productive early in the
23 morning.

24 **Mr. Chairman:** Yes.

25 **Mr. Peterson SC:** The hour in the morning is more productive
26 than the hour in the evening.

27 **Mr. Chairman:** I'm open to that subject, subject to witness

1 availability and convenience. I appreciate that we've all got
2 other lives as well but this must take priority. We're all
3 lawyers, we know what that's like. So, I think that's not an
4 unhelpful suggestion and I'll certainly take that on board. Does
5 anybody have any difficulty with us starting at nine o'clock on
6 any particular day? No? Good. I understand that's the normal
7 starting time for courts in this jurisdiction in any event. Good.

8 Well, what we will do is to go on till about 4.30 today. If
9 we find that we haven't been able to conclude what needs to be
10 concluded today we will, subject as I say to the witnesses,
11 resume on tomorrow morning at 9.00. So, and I'll adopt that
12 policy wherever possible between now and the conclusion of
13 these two weeks to try and make sure that we stick to the
14 timetable we've applied.

15 I'll ask you all please to look again at what examination
16 you've got, try and concentrate it in such a way that we get to
17 the issues and I'll do my level best not to interfere too much.
18 All right. So, I hope you've been able to get some lunch, Mr.
19 Ali, and we'll proceed now. Thank you. Mr. Peterson.

20 **Mr. Peterson SC:** Thank you, Mr. Chairman.

21 **Continued Cross-Examination By Mr. Peterson SC:**

22 Q. Mr. Ali, good afternoon.

23 A. Afternoon.

24 Q. I want to get straight to the plugs which is one of the important
25 parts. Have you—the brand of plug that you used, Lansas, have
26 you ever used it before?

27 A. I did, yeah.

1 Q. Beg your pardon?

2 A. I did.

3 Q. Yes. They have helpfully published a video and material online
4 how to safely install their plugs. Have you watched that video?

5 A. Sorry?

6 Q. Have you ever viewed the video?

7 A. I did not.

8 Q. Have you ever read the literature online?

9 A. Yep.

10 Q. All right. And how many times you have used that plug
11 before?

12 A. I used that plug twice.

13 **Mr. Chairman:** Which plug are we talking about, the
14 inflatable?

15 **Mr. Peterson SC:** The Lansas, yes, inflatable, sorry. The
16 inflatable plug I'm referring to, the Lansas inflatable plug.

17 **Continued Cross-Examination By Mr. Peterson SC:**

18 Q. When did you use it before?

19 A. At number 5 in 2020 and number 6.

20 Q. Right. Have you ever reviewed the installation safety
21 instructions for the plug?

22 A. Um, not really, no.

23 **Mr. Peterson SC:** Mr. Chairman, I'm at page 9832 in the
24 bundle of submissions.

25 **Mr. Chairman:** The core bundle?

26 **Mr. Peterson SC:** Core bundle. It says bundle of submissions,
27 I think it's in the—the electronic bundle.

1 **Mr. Chairman:** I'll get it in a while but carry on.

2 **Mr. Peterson SC:** It's on the screen now, Sir.

3 **Mr. Chairman:** All right.

4 **Continued Cross-Examination By Mr. Peterson SC:**

5 Q. Could you scroll down to the, under the rubric "Safety should
6 always be of the most importance"? You see prior to doing any
7 installation, that you should review the pipe plug safety
8 instructions? You said you have never done it. Have you
9 circulated to your men to review?

10 A. Yes.

11 Q. Who have you circulated it to?

12 A. My son went to the States and brought the plug back himself.
13 He spoke to the people there.

14 Q. Right. But he wasn't the only one installing it?

15 A. No.

16 Q. What did you all do to educate everyone with respect to the safe
17 installation of the plug?

18 A. Well he would have spoken to his crew.

19 Q. When? You don't know that? You assume that he would
20 have?

21 A. Yes.

22 Q. Right. You know that there is a procedure to put a brace whilst
23 installing the plug? I know I taking you a bit quickly but could
24 we go to page 3 under the rubric "Installing the pipe plug"? It's
25 page—

26 **Mr. Chairman:** Nine eight three five.

27 **Mr. Peterson SC:** Nine eight three five.

1 **Continued Cross-Examination By Mr. Peterson SC:**

2 Q. The first one says to make sure it's the correct size plug for the
3 line. What line you did in 2022 was a 30-inch line?

4 A. Sorry?

5 Q. The line was—

6 A. Yes, about 30-inch, yes.

7 Q. And this plug was for which line?

8 A. Thirty-inch.

9 Q. Right. It's only a 30—

10 A. It also range from I think was 24 to 30, I'm not sure right now,
11 but it was for more than one size.

12 Q. Right. And ensure the pipe is rated to handle the back test
13 pressure for the application. Did you do that examination
14 before you insert the plug and pressure it up that you ascertain
15 that the pipe was fit to take the pressure?

16 A. Yep.

17 Q. You did that?

18 A. Yep.

19 Q. What was the pressure to install that plug?

20 A. I don't think that's what they're saying there, you know.

21 Q. What they're saying?

22 A. It should—

23 Q. That's the plug itself?

24 A. Yeah.

25 Q. Right, and ensure that the pipe is clean and free of debris or
26 damage which can damage the pipe plug, cause the pipe plug to
27 fail or dislodge from the pipe?

1 A. Right, we did that.

2 Q. Did you all clean inside the—

3 A. We did.

4 Q. Just before the 30—just above the 30, um, the 30-foot of liquid?

5 A. No. When we pumped out the line, the line was clean. Where
6 we pumped down the line, the line was clean.

7 Q. When you pumped down the oil, the line was clean?

8 A. The line was clean, yeah.

9 Q. Could you explain to us how that can be?

10 A. Well the liquid went down. There was no solids, nothing, no
11 rust or anything on the line. I think that's what they meant.

12 Q. You think that's what they meant?

13 A. Yeah.

14 Q. But again, is that what you think?

15 A. Yep.

16 Q. Go over to the next page towards the bottom. Eight three—
17 nine eight three five under the rubric,
18 "Blocking/bracing/restraining the pipe plug". Do you
19 understand the purpose for blocking/bracing/restraining the
20 pipe plug?

21 A. That's why we ensured it went down on a leg of liquid.

22 Q. No, just now. Yeah, that's probably the way you did it. But
23 you understand the reason for it?

24 A. Yeah, to stop the plug moving, to restrict the movement of the
25 plug. Once you put it on a solid thing or they lock it leg of
26 liquid it wasn't supposed to move.

27 Q. So you use the liquid to support the plug?

1 A. Come back?

2 Q. You used the liquid to support the plug?

3 A. Exactly.

4 Q. So if the liquid evaporates or disappears, the plug goes?

5 A. Well it shouldn't have inside the pipeline evaporate or go.

6 Q. Beg your pardon?

7 A. It should not have.

8 Q. Yes. But that is—

9 A. And now in hindsight we know something happened to it?

10 Q. We all know—right.

11 A. But, at the time—

12 Q. I like you—all right. We all know that, Mr. —

13 A. And the science of it is the liquid there would restrict
14 movement of the plug.

15 Q. Right. But they're not telling you here to use the liquid to rest
16 the plug on?

17 A. They said to restrain the plug.

18 Q. Right.

19 A. They didn't say how to restrain it. If there was no liquid, you
20 would block it.

21 Q. Right.

22 A. Right? Like to the top of the plug there was no liquid and we
23 used the mechanical plug as the restraint.

24 Q. Oh.

25 A. So you had the—the plug wasn't supposed to go down because
26 you had a solid leg of liquid below.

27 Q. Right.

1 A. And the mechanical plug which stop it coming up—

2 Q. Right.

3 A. —whilst using it.

4 Q. So once you remove the mechanical plug—

5 A. Right.

6 Q. —the top support is removed?

7 A. Right, so at that stage—

8 Q. Isn't there?

9 A. —we were removing the plug. While you're in operation,
10 while you're doing the welding and you're doing that sort a
11 stuff you restrain it, you make sure.

12 Q. Right. You could move faster if you just accept. You know the
13 plug had two hooks on top to attach cables?

14 A. Yes.

15 Q. What's the purpose of those hooks?

16 A. Those were also a restraint.

17 Q. To restrain it within the hyperbaric chamber?

18 A. Yeah.

19 Q. So it would not fall into the pipe?

20 A. Yep.

21 Q. That—

22 A. Well that—

23 Q. —was done?

24 A. Sorry?

25 Q. Was that done?

26 A. That was done, yeah.

27 Q. When was that done?

1 A. When they removed the mechanical plug, they attached—

2 Q. They're supposed to attach?

3 A. No, they did.

4 Q. Right. To—the plug should be in the hyperbaric chamber but it
5 wasn't?

6 A. No, I'm not saying that. I said they attached it.

7 Q. Right.

8 A. If you look at the plug, the pictures I got now you'll see where
9 the log was broken off.

10 Q. Right.

11 A. So when it moved it broke off the, um—

12 Q. So some of the key considerations when blocking, bracing or
13 restraining pipe plugs are as follows. Do not point load the pipe
14 plug when blocking and bracing. What does that mean?

15 A. That you shouldn't have anything sticking up that the plug
16 could puncture itself on, so that's why the liquid was the better,
17 um, option.

18 Q. Instead, use multiple points of contact on the plug in order to
19 spread the back pressure or—

20 A. Correct, yes.

21 Q. —test pressure forces—

22 A. That's why the liquid was the better option.

23 Q. I ain't finish yet, eh—over the largest possible area of the plug?

24 A. Correct.

25 Q. Right.

26 A. So you don't have point loading that would stick into it and
27 puncture the, um—

1 Q. Right. But I get back to you, once that liquid goes the support
2 that you are depending on goes?

3 A. At the time we didn't expect to go.

4 Q. Right. I accept that. But it happened that it went?

5 A. Right.

6 **Mr. Chairman:** Can I ask a question in relation to that please,
7 Mr. Ali?

8 **Examination By Mr. Chairman:**

9 Q. This plug that you're being asked about, there was no attempt
10 by you, as I understand it, to check the integrity of that plug in
11 the 12-day gap between it being installed?

12 A. Unfortunately we couldn't get at it. The only way to get at it
13 was to remove it.

14 Q. Well—

15 A. It was inside the pipe 30 feet down and we had the mechanical
16 one. So we could remove the mechanical plug—

17 Q. Yes.

18 A. —but we couldn't access—we would have had to go inside the
19 pipeline.

20 Q. Well forgive me, that's what I want to ask you. You would
21 have had to have removed the mechanical plug first of all,
22 correct?

23 A. Correct.

24 Q. Right. Assuming you'd removed the mechanical plug and left
25 the inflatable plug—

26 A. Yeah.

27 Q. —the way in which—one way in which to check the integrity

1 of that was to ensure that the pressure that had been pumped
2 into the PSI into that plug was the same as when you left it?

3 A. It would have been, yep.

4 Q. Yeah. I mean, I don't know what it was but whatever the
5 pressure was necessary to inflate it so that it created the seal
6 which you're talking about?

7 A. But remember it was in operation test mode for the four hours
8 and it didn't move at that stage.

9 Q. Right.

10 A. So that was a way of testing it as well.

11 Q. Well—

12 A. But we didn't—

13 Q. You said earlier, you see, that normally you'd want this work to
14 be done within four days of installing plugs?

15 A. Yeah.

16 Q. We know that it was three times that much.

17 A. Yeah.

18 Q. Did that not cause you some anxiety to check the integrity of
19 that plug?

20 A. That's what I'm saying, Sir. We put the chamber into
21 operation.

22 Q. Right.

23 A. And it had the air pressure on it and it held, so that was one way
24 of testing it.

25 Q. Well, by the time you did that, you had the mechanical plug in
26 place, didn't you?

27 A. Yeah but the mechanical plug wasn't sealed off.

1 Q. Was what, sorry?

2 A. It tightened against the wall of the pipe.

3 Q. Yes. Well they put—

4 A. But it wasn't a pressure seal. We had holds in the plug, the
5 same bolts to leave the pressure to pass in and out of that.

6 Q. Well I've not understood this then.

7 A. It's air-tight, then.

8 Q. Am I to understand it that you're saying that the mechanical
9 plug that is but over the top of the inflatable—

10 A. Yeah, it wasn't air-tight.

11 Q. Was not air tight?

12 A. No. It was tight against the side of the pipe—

13 Q. Right.

14 A. —that would stop it moving up and down in the pipe.

15 Q. Right.

16 A. Right? But it didn't stop the pressure from passing through in
17 and out the pipe.

18 Q. Oh really? So just—

19 A. So it was meant—

20 Q. Just a minute, Mr. Ali. I need to write that down. [*Pause*]
21 Thank you. So I can take it, can I, that the mechanical plug
22 didn't create a seal?

23 A. No, it was more or less a physical barrier—

24 Q. Right.

25 A. —to stop the plug coming out and to stop things falling on to
26 the plug.

27 Q. I got you. Right. So what Mr. Peterson was asking you about

1 this inflatable plug, once you put the hyperbaric chamber over
2 the top, that would have had that downward pressure?

3 A. It would have, yeah.

4 Q. And do you know if it moved, if the inflatable plug moved
5 when you did that?

6 A. It was still there when they opened the chamber. We wouldn't
7 know. All we would know is that the chamber was operating.

8 Q. Right.

9 A. Right? It was voiding the liquid in the chamber and we were
10 getting, um, some ullage in the pipe, about 4 feet under the, um,
11 where we did the flange.

12 Q. Right.

13 A. So it was never meant to be a seal.

14 Q. The mechanical plug was never a seal?

15 A. No.

16 Q. Well I have completely misunderstood that up until you just
17 told me that, all right?

18 A. Yeah. I think it's stated there that it was to stop the, um—

19 Q. Well, then it's passed me by.

20 A. Yeah.

21 Q. I'm grateful to know that that's what you're saying.

22 **Mr. Chairman:** All right, thank you very much. Sorry.

23 **Mr. Peterson SC:** Thanks, Mr. Chairman. One more question
24 on the plug before we move.

25 **Continued Cross-Examination By Mr. Peterson SC:**

26 Q. Could we just scroll back—well, scroll back up to the rubric
27 ahead of—stop, come back down please, "Monitoring the pig

1 plug.” Right. Pipe plug. Monitoring the pipe plug. Once the
2 installation, you see that?

3 A. Yeah.

4 Q. “Once the installation and inflation of the plug is
5 complete, and you are working the application, the plug
6 should be monitored regularly.”

7 A. Right.

8 Q. “The required inflation pressure should be checked every
9 four hours at a minimum but more often in critical
10 situations.”

11 But that plug was installed 12 days before?

12 A. It was.

13 Q. What do you say about this?

14 A. I say it was monitored. Before you went into the chamber we
15 would leave it running to make sure the plug was still holding.

16 Q. Not the hyperbaric chamber I talking about, you know, I’m
17 talking about—

18 A. I know, but what I’m saying—

19 Q. —the plug.

20 A. —the way we knew the plug was still holding was because we
21 could empty the hyperbaric chamber.

22 Q. Right.

23 A. Right. So the pressure from the chamber was going acting on
24 the plug.

25 Q. But you don’t know if it’s holding but you don’t know if it’s
26 leaking?

27 A. It—

1 Q. It was there for 12 days.

2 A. Right.

3 Q. And they're suggesting every four hours.

4 A. I'm not sure what you're saying.

5 Q. I will say it slowly.

6 A. What are you talk—no, no, you don't have to say it slow. What
7 are you talking about leaking.

8 Q. The inflatable plug.

9 A. Right.

10 Q. The inflatable plug—

11 A. Right.

12 Q. —was installed 12 days before the 25th.

13 A. Right.

14 Q. The manufacturer's specifications suggest, which you told me
15 that you hadn't read—

16 A. Uh-huh.

17 Q. —but we have to accept it's in the bundle, indicated that you
18 should check the pressure on the plug every four hours at a
19 minimum and more often depending on the situation. That
20 wasn't done.

21 A. The only way it could have been done by making sure the
22 chamber was functioning. If the chamber wasn't functioning it
23 meant you were losing the pressures on there.

24 Q. The chamber—

25 A. It's, it's—

26 Q. The chamber was able to push down the water and you're
27 interpreting that to mean that the plug—

1 A. That the plug was holding.

2 Q. Yes, but holding how?

3 A. Holding sufficient enough, right.

4 Q. But not sufficient enough to stop a delta, a latent delta pressure?

5 A. We said before the Delta P we could—was in hindsight. At the
6 time we installed the plug there was supposed—there was a leg
7 of liquid underneath that would have eliminated Delta P.

8 Q. Okay. And that—

9 A. There were other considerations that could have caused the
10 Delta P that they haven't uncovered.

11 Q. Another conclusion or explanation, if the plug—well, we're all
12 now into the realm of speculation?

13 A. Yeah.

14 Q. If the plug was at its best—

15 A. Uh-huh.

16 Q. —the Delta P force may not have been able to pull it in.

17 A. If it was at its best?

18 Q. At its best, like complete the pressures that—properly installed,
19 properly braced.

20 A. So, are we speculating that during the 12 days the pressure was
21 lost in the plug?

22 Q. That's the problem we have. That is what the chairman is
23 trying for us to understand. That's what we're investigating
24 here.

25 A. Yeah, but the plug didn't move until we went and deflated it so
26 it was okay.

27 Q. It's like a car tyre. Let's, let's—let me speak—

1 A. Yeah but what I'm saying we had to deflate it in any case.

2 Q. It's like a car tyre, Mr. Ali. Sometimes the tyre kind a soft
3 you're saying, um, gas station I ain't stopping there but I go
4 make it home?

5 A. Right.

6 Q. Or you have it—you stop and pressure it up efficiently.

7 A. So—

8 Q. That's what I'm—

9 A. And I'm telling you.

10 Q. —the parallel I'm drawing.

11 A. I'm telling you it's only when we deflated it that the plug
12 moved. So prior to us deflating it, the plug was good at its best.

13 Q. Prior to you deflating it, it had not moved?

14 A. It had not moved.

15 Q. But you don't know if it was at its best.

16 A. In any case we had to reduce the pressure, so whether it had
17 reduce and stayed there we still had to come and reduce it even
18 more.

19 Q. Right. Well, we have the manufacturer's specs—

20 A. All right.

21 Q. —specifications in the bundle. I now want to take you quickly
22 to the method statement, the final one that was used, which is
23 number 116.

24 A. Yeah.

25 Q. Your guys did not hold religiously to the steps in that method
26 statement?

27 A. Your guy is making up a story.

1 Q. No, I ask—

2 A. There was one that is certain and we used that method.

3 **Mr. Chairman:** Can we have the method statement up so that
4 we could see what you're saying? Thank you. Can we put—
5 what page is it at, please? It's in core bundle two, 1048? Yes,
6 thank you. Could you identify what you're speaking of please
7 Mr. —

8 **Mr. Peterson SC:** This is method statement 116?

9 **Mr. Chairman:** Yes.

10 **Continued Cross-Examination By Mr. Peterson SC:**

11 Q. This is the only method statement you submitted?

12 A. We submitted a method statement at the time we tendered the
13 job.

14 Q. Yes.

15 A. We submitted a method statement for removing the oil in the
16 pipeline. We submitted a method statement for installing the
17 plug and installing the chamber.

18 Q. Right. Those earlier ones as number 108 and I can't remember
19 the other number?

20 A. Right.

21 Q. The one I'm referring to is this one that—the last one on the
22 job.

23 A. Could you scroll down? Because I'm not sure if it's the final
24 version. Hold there. Scroll down a bit more, please? Yes, that
25 looks like the one we have.

26 **Mr. Chairman:** Where do you want him to look, Mr.
27 Peterson?

1 **Mr. Peterson SC:** Thank you, Sir.

2 **Continued Cross-Examination By Mr. Peterson SC:**

3 Q. Now, if we go to—the job was stopped on the 13th, wasn't it?

4 A. On the 15th.

5 Q. On the 15th, sorry, 15th of February, after completing number
6 53.

7 **Mr. Chairman:** Can we turn to 53 then, please?

8 **Mr. Ali Sr.:** Right.

9 **Continued Cross-Examination By Mr. Peterson SC:**

10 Q. All right?

11 A. Yeah.

12 Q. Let me ask, is this method statement supposed to follow in
13 order, 48 followed by 49, followed by 50, or can we jump
14 around depending on the execution?

15 A. It's supposed to follow unless we have an agreed change
16 between us and Paria.

17 Q. All right. Are you aware that when they stopped on the 15th,
18 they stopped after completing step 53 and they resumed with
19 step 58 and then they had 61 to 73, then reverted up to 54?
20 They were moving around. Are you aware of that?

21 A. You could you come back on, um—

22 Q. I didn't move it.

23 A. Who's controlling the—I can't see what you're—

24 **Mr. Chairman:** Right. Well, can we take it one bit at a time,
25 please, Mr. Peterson, so that he has a fair opportunity to answer
26 your questions? So you're saying that on the 15th the work was
27 called to a halt? That was at the conclusion of number 53 that

1 we've already read. That's performing a dye penetration test to
2 ensure the integrity of the weld, I imagine, all right?

3 **Mr. Peterson SC:** Yes.

4 **Mr. Chairman:** And then options if it passes or not, right, so
5 that's when work was called to a halt?

6 **Mr. Ali Sr.:** Right, so—

7 **Mr. Chairman:** That's what Mr. Peterson has put to you, all
8 right?

9 **Mr. Ali Sr.:** But he's flipping the screen so I can't see it.

10 **Mr. Chairman:** Right. So the next step he says is 58 so can
11 we turn to 58, please?

12 **Mr. Peterson SC:** No, 61, Sir. They restarted at 61, sorry.
13 That's my error.

14 **Mr. Chairman:** So you restarted at 61. Right.

15 **Examination By Mr. Chairman:**

16 Q. So what is, what is being suggested to you is that step 54, which
17 was, on completion of the weld conduct a pressure test on the
18 flange weld, 55 which is, on acceptance remove the test
19 hardware—

20 A. Could I have a couple minutes, Sir—

21 Q. You need to speak into the microphone.

22 A. —to explain? All right. So, on the 15th, they finished late and
23 we couldn't do the test.

24 Q. Right.

25 A. We were that late. So we said we'll resume. Because we didn't
26 have the technicians for testing the weld on the 16th we said
27 we'd test continue on the 17th.

1 Q. Right.

2 A. Right. But there were couple steps that could have been
3 interchanged. So—

4 Q. Right. Stop there for a minute. Did you complete the weld test
5 on the 17th?

6 A. No we did not.

7 Q. Right.

8 A. So we went out on the 16th and we changed around the step in
9 order to progress the work. So we went on to—

10 Q. So had works been stopped on the 15th?

11 A. Right. So we stopped at 54. We didn't do the weld.

12 Q. Rat.

13 A. And if somebody could please scroll up? Who's controlling,
14 you? Yeah. Could you go down to where we, um, opened the
15 chamber?

16 Q. You've got the document in front of you.

17 A. Okay.

18 Q. It's easier for you to scroll through it.

19 A. Okay, I'll go with on the screen. I'll just explain it as we—

20 Q. All right.

21 A. It might be easier. All right. So we couldn't do the pressure
22 test on the weld.

23 Q. Right.

24 A. We decided we'll come back on the 17th. We didn't come back
25 on the 17th, whatever reason so we came back on the 25th. All
26 right? While we were waiting for this—

27 Q. Is Mr. Peterson right when he said to you the work on your

1 schedule—scroll back please to 51—that it stopped at 51, 52,
2 53, that's where it stopped?

3 A. It stopped at 53.

4 Q. Right. And is he right when he says it resumed at a different
5 place to 54? Have a look at 54.

6 A. Yeah, it resumed at a different place.

7 Q. Right. Where do you say it resumed?

8 A. It resumed at, um—

9 Q. Scroll forward, please, so that we're on to the next page?
10 Right, have a look at that page. Just pause there. Where, in
11 that list between 56 and 65, do you say it resumed? Have a
12 look.

13 A. I have to do it here, that is a moving—[*Perusing document*]

14 Q. Have a look at 56, paragraphs 56 to 65.

15 A. Okay.

16 Q. And you tell us—

17 A. So we got to 61.

18 Q. Right, 61, unbolt 50-inch flange at the top of the chamber
19 stovepipe.

20 A. Right.

21 Q. Are you saying that's where you resumed?

22 A. Yeah.

23 Q. Right. Now, I think that's what Mr. Peterson put to you.

24 **Continued Cross-Examination By Mr. Peterson SC:**

25 Q. That's what I wanted to know that notwithstanding what is
26 chronicled in your method statement—

27 A. Yeah.

1 Q. —you moved, you moved around depending on the execution
2 of the job?

3 A. In conjunction with Paria.

4 Q. Yeah.

5 A. Good.

6 Q. That's fine but it's not—what I'm trying to get—

7 A. Yeah.

8 Q. —before the Commission is that this is not set in concrete, the
9 order.

10 A. It could be changed with mutual agreement, yeah.

11 Q. All right. And the reason it could be changed is that the top of
12 your statement, if you could go to the top of the same method
13 statement, it introduces itself with these opening words, “All
14 steps below shall only be carried out in full compliance with
15 Paria's PTW system.”

16 A. Correct.

17 Q. So, notwithstanding what is contained in the method statement,
18 what really governs is the PTW to execute?

19 A. With this in conjunction.

20 Q. Yes. Because those steps have to be completed, but not in that
21 order. Isn't that so?

22 A. Right.

23 Q. Right.

24 A. And I'm saying—

25 Q. Thank you very much. And your company is of the view that
26 Paria PTW system is paramount, no pun intended, because
27 you're familiar with an email sent from your address, but in

1 fairness to you it was authored by Mr. Ahmad Ali, concerning
2 an incident when there was an unauthorized movement of a
3 barge?

4 A. Yep.

5 **Mr. Chairman:** Is this the email that you sent us earlier this
6 morning?

7 **Mr. Peterson SC:** Yes, Sir.

8 **Mr. Chairman:** Yes. Is there any reason why he can't see it?

9 **Mr. Peterson SC:** No, Sir, no.

10 **Mr. Chairman:** Right. Can we have it up on the screen then,
11 please? Is there a particular passage you want to refer to?

12 **Mr. Peterson SC:** Yes, um, I'll just—

13 **Continued Cross-Examination By Mr. Peterson SC:**

14 Q. The whole email is good for the Commission for reading later
15 on with respect to context, but, because we're against time this
16 was an incident with the unauthorized moving of a barge
17 contrary to a PTW?

18 A. Yep.

19 Q. It was investigated by you and you took certain steps and you
20 recognized in answering one of Paria's questions, yes, one of
21 Paria's questions, question three, when Mr. Archbald was
22 asking whether you would introduce self-check or a checklist
23 system to be implemented, so that is to guard against that kind
24 of infraction, you see question three? It's supposed to be on the
25 front page. Question three, you see "Q 3" and you see "A 3", A
26 is the answer, Q 3 is the question. Well I could help you
27 quickly. What your Mr. Ali was confirming to Paria is that a

1 checklist can be created because Paria was suggesting if a
2 checklist as a method of guarding against infractions, whether
3 that system is going be implemented and your Mr. Ali said, not
4 you, your Mr. Ali, Paria's, umm, LMCS' Mr. Ali said; "A
5 checklist can be created but we feel that the permit itself
6 already serves as the most powerful control document in the
7 existing system and another form recapping the same
8 requirements as already documented there is of little value."

9 A. Yep and—

10 Q. You accept—you agree with Mr. Ali, your, your—I think he's
11 the—one of your senior persons—you agree with him that the
12 permit—

13 A. I agree with him.

14 Q. Yeah, you agree with him.

15 A. Could I, um—

16 Q. Your lawyer across there will ask them—you see, I'm against
17 time, not that I don't want to—

18 A. Right.

19 Q. I against some time. The rescue, I just want to get there. I
20 know that—the rescue, you said in answer to the Chairman this
21 morning I think at about 3.50—when did you first know the
22 men went missing, around 2.50p.m. on the 25th?

23 A. Around three o'clock.

24 Q. Around three o'clock?

25 A. Yeah.

26 Q. But, by 3.15 you formed the view that they were in the pipe?

27 A. Correct.

1 Q. Because all equipment gone and all of that?

2 A. Yeah.

3 Q. And you mustered up a quick rescue plan?

4 A. Correct.

5 Q. Having mustered up that plan, what did you do with it?

6 A. I left it for the divers to activate, to execute the plan.

7 Q. All right. Anybody in particular?

8 A. Andrew Farah, Dexter Guerra and—

9 Q. Right.

10 A. —a bunch of men on the barge.

11 **Examination By Mr. Chairman:**

12 Q. I didn't hear that. Mr. —

13 A. Andrew Farah and Dexter.

14 Q. Farah and Dexter?

15 A. Guerra.

16 Q. Guerra. And they're both qualified divers?

17 A. Sorry?

18 Q. They're both qualified divers?

19 A. Well, one is, um, commercial, one is PADI.

20 Q. Right. One's PADI and one's commercial?

21 A. Yeah.

22 Q. Thank you.

23 **Continued Cross-Examination By Mr. Peterson SC:**

24 Q. And you left the barge area?

25 A. I left I went back ashore.

26 Q. You said you got a call from Mr. Piper inviting you to come to
27 the building, the shipping building?

1 A. I had few calls from Mr. Piper.

2 Q. You had a few calls from Mr. Piper.

3 A. Right.

4 Q. Did you tell him—

5 A. I had a call from Mr. Piper while I was on the barge—

6 Q. Yes.

7 A. —at 3.23—

8 Q. Right.

9 A. —where I told him what the status was on the barge.

10 Q. Which is that you think the men are in the pipe?

11 A. Yep.

12 Q. Right. When next you spoke to him?

13 A. Probably about half an hour afterwards or—

14 Q. Right. When did you tell him about the details of your plan, the
15 rescue plan?

16 A. I told him we were going to dive and get the men out. Whether
17 I give him the details I'm not sure but I told him that we were
18 going to get the men, rescue the men.

19 **Mr. Chairman:** Please speak into the microphone.

20 **Mr. Ali Sr.:** Sorry.

21 **Continued Cross-Examination By Mr. Peterson SC:**

22 A. Yeah, I said we were going to dive and get the men out of the
23 pipe.

24 Q. Right. Do you recall when around you told him that?

25 A. That would be around 3.23.

26 Q. Right. And did you execute the plan?

27 A. We're going in circles. I left the barge just after that.

1 Q. Or so you left it, okay. So you told Mr. Piper that you left a
2 plan, you plan to dive?

3 A. Yeah, and the men were going to do it.

4 Q. Right. But you didn't tell him the details of that rescue plan?

5 A. I said we were going to go into the pipe and get the men. The
6 men were in the pipe. I told him the men were in the pipe so
7 the, the plan was to go in and get them out of there.

8 Q. Right. You said in your witness statement that you told Ms.
9 Catherine Balkissoon. Our instructions are that you never told
10 her about your plan.

11 A. I never told her about the plan? She was told about the plan
12 about four times by me, by Dexter Guerra. At that stage I
13 detailed the plan.

14 Q. At which stage?

15 A. When I spoke to Catherine. That would have been a about after
16 6.00 somewhere around there.

17 Q. Right.

18 A. That's the first time I spoke to her around 6.00 or after 6.00.

19 **Examination By Mr. Chairman:**

20 Q. Right. So that I understand this please, Mr. Ali, you told Mr.
21 Piper before—

22 A. Catherine.

23 Q. —before Catherine?

24 A. Yep.

25 Q. Right?

26 A. I can't remember exactly what details I gave to Mr. Piper, I just
27 told him that.

1 Q. Pause a minute. I, I've got that bit. But you told Mr. Piper
2 before Christopher Boodram—

3 A. Yeah.

4 Q. —came out of the pipe?

5 A. Yeah, long before.

6 Q. And you told Catherine after—

7 A. Right.

8 Q. —Mr. Boodram came out of the pipe?

9 A. Correct, yeah.

10 Q. Have I got that right?

11 A. That's correct.

12 **Mr. Chairman:** Okay, thank you. Sorry.

13 **Continued Cross-Examination By Mr. Peterson SC:**

14 Q. You say you cannot recall the details you told Mr. Piper. I
15 would suggest that you told him none. In your witness
16 statement you said you didn't tell him any details, he didn't ask
17 you. You recall—

18 A. I meant.

19 Q. —saying that in your statement?

20 **Mr. Chairman:** Find the paragraph please?

21 **Continued Cross-Examination By Mr. Peterson SC:**

22 Q. Paragraph 104 I will take you to immediately but that's not the
23 one I was first looking for. Paragraph 104 of your
24 supplemental statement, you said, "I did not speak to them
25 about the rescue plan on Friday and they did not ask for any
26 details."

27 A. Right.

1 Q. That was—

2 A. That didn't—

3 Q. You were referring to Mr. Mushtaq and Mr. Piper?

4 A. Yep. When I spoke to Piper I said we were going to rescue
5 them. I didn't give him a plan. I didn't explain to him how we
6 were going to do it. At that time most important in my mind
7 was to get the men ready and go down in there. I was talking to
8 Mr. Piper on the phone while I was talking to the men. I'm not
9 sure exactly but I know I told him we were going to get the men
10 out. So the details of a plan I didn't give him.

11 Q. All right.

12 A. But I told him we were going to get the men.

13 Q. When did you first give him the details of a plan if any?
14 Wasn't it Sunday?

15 A. Who, Mr. Piper? I put Saturday morning. Saturday when I
16 went to Paria I was locked out of the gate. Mr. Piper eventually
17 let me come in about nine o'clock.

18 Q. When you say—no just now, wait. I can't—

19 A. Saturday morning.

20 Q. When you say Mr. Piper eventually, that could create the
21 impression that Mr. Piper was the person who locked you out.

22 A. Paria locked me out.

23 Q. Right. So you arrived at the gate and you weren't given
24 admission?

25 A. I wasn't given admission.

26 Q. Right. But don't say Mr. Piper let you in.

27 A. Mr. Piper spoke to them and I was allowed to come in.

1 Q. Right. Because you called Mr. Piper?

2 A. I called Mr. Piper.

3 Q. Right. You didn't do that when you arrived and you didn't—
4 weren't getting him?

5 A. Sorry?

6 Q. You did, you did that when, shortly after you arrived—

7 A. I tried a few times but—

8 Q. —[Inaudible]

9 A. —nobody was available on the phone.

10 Q. Right. Okay. Once you don't get the impression that Mr. Piper
11 did anything to keep you out of the compound.

12 A. Well Paria did that.

13 Q. Well—

14 A. And the instruction was, keep LMCS out.

15 Q. Well I don't know, Mr. , um, Ali, that's not in your statement.

16 A. No, I'm telling you now.

17 Q. Don't make up things as we go along please?

18 A. You're saying I'm making it up.

19 Q. No.

20 A. I'm telling you what happened.

21 Q. Don't—well don't add in things as we go along, otherwise I'll
22 have to get instructions and call you back to confront you.

23 A. All right.

24 **Mr. Chairman:** There is something in his statement about him
25 being held outside the gate—

26 **Mr. Peterson SC:** Yes, but not—

27 **Mr. Chairman:**—by Paria.

1 **Mr. Peterson SC:** No, not that Paria gave instructions not to
2 let LMCS on the compound. That's a different—

3 **Mr. Chairman:** Well, I appreciate they're slightly different
4 but—

5 **Mr. Peterson SC:** There is on the statement that he was
6 outside the gate and he wasn't admitted until Mr. Piper gave the
7 order to let him back in.

8 **Mr. Chairman:** One assumes there must have been authority
9 for that to happen.

10 **Mr. Peterson SC:** Well, it's a—it's a—I don't want to give
11 evidence but it's an insulated—

12 **Mr. Chairman:** No, no, no, but it'd be wrong to assume it was
13 Mr. Piper which you've made clear.

14 **Mr. Peterson SC:** Right.

15 **Mr. Chairman:** But somebody, presumably at Paria, must
16 have given that instruction.

17 **Mr. Peterson SC:** I don't know if instructions were given.

18 **Mr. Chairman:** All right.

19 **Mr. Ali Sr.:** I'm telling you you're going to find it in the
20 statement. When you read all the statements you'll see it there.

21 **Mr. Chairman:** Well I've seen it, don't worry, but Mr.
22 Peterson is putting to you that it wasn't Mr. Piper who was, as it
23 were, instructing anyone to keep you out, do you follow?

24 **Mr. Ali Sr.:** Yes, I agree to that.

25 **Mr. Chairman:** And that may be so, right?

26 **Mr. Ali Sr.:** Right.

27 **Mr. Chairman:** So—

1 **Mr. Ali Sr.:** I was locked out.

2 **Mr. Chairman:** You were locked out.

3 **Mr. Ali Sr.:** Right?

4 **Mr. Chairman:** We're clear about that.

5 **Continued Cross-Examination By Mr. Peterson SC:**

6 Q. Your plan to dive on Friday, did it consider the occurrence of a
7 second Delta P factor?

8 A. No, because the line had stabilized at that stage. There was no
9 external pressure on the plug and we weren't going to interfere
10 with the plug.

11 Q. At which stage you discovered that the line had stabilized?

12 A. As soon as Andrew saw the bubbles stop coming out of the line.

13 Q. What time was that?

14 A. That would have been before I even got to the barge.

15 Q. Okay.

16 A. About ten past 3.00 somewhere around there.

17 Q. So you never considered that not knowing whether the plug was
18 fully holding, that there was not the possibility of an occurrence
19 of a second event?

20 A. I was concerned that there were five people in that pipeline and
21 we were the only people that could help them out.

22 Q. I understand that, Mr. Ali.

23 A. The line was stable. There was no imminent danger, no
24 apparent danger and the best option at the time was to go in and
25 get them.

26 Q. Right. So you knew, you knew the plug was holding because
27 bubbles weren't coming up at that time?

1 A. No, I didn't know the plug was holding. At that stage I didn't
2 even consider where the plug was. All I know by number
3 five—by number six everything had gone back to the way it
4 was before the plug move.

5 Q. Right.

6 A. And we established that because we have deflated the plug
7 that's why the thing moved. But in our rescue there was no talk
8 or even thought of interfering with any plug.

9 Q. But there were—

10 A. Right.

11 Q. —was there consideration that the plug may have been in
12 such—

13 A. To be—

14 Q. —a condition—

15 A. —honest with you—

16 Q. Yeah.

17 A. —I said I didn't even consider the plug in the line.

18 Q. Okay.

19 A. Right? As later in my statement you will see I only found out
20 or figured out the plug was in the line on Saturday.

21 Q. All right.

22 A. Yep? At that time, the consideration was there's nothing
23 looking dangerous here, let's go get the men.

24 Q. Having discovered on Saturday that the plug was in fact in the
25 pipe—

26 A. Yeah.

27 Q. —and having not considered the possibility of a second event,

1 you would agree with me that your plan on Friday had built-in
2 inherent risk?

3 A. Life has inherent risks.

4 Q. I know that. I agree with you.

5 A. The consideration was five people needed saving in the pipeline
6 and we could see no immediate risk and we're not going to
7 leave them there figuring and thinking up risks.

8 Q. Right.

9 A. Right?

10 Q. Something I cannot understand. There is a statement from one
11 of Kenson's witnesses on the—in the bundles where he came
12 ashore at, around 1900 hours—

13 A. Uh-huh.

14 Q. —which is seven o'clock, with five empty tanks that were
15 emptied or consumed by the rescue divers and he came ashore
16 to have them refilled. Are you aware of that?

17 A. I'm aware and I don't think Mr. Dopson said that.

18 Q. Okay.

19 A. Mr. Dopson saw some empty tanks, asked Andrew if he would
20 like those to be refilled and he took them to be refilled.

21 Q. Okay.

22 A. Right, so I don't know what point you're trying to get at there
23 now but, um—

24 Q. I'm not getting at anything except that the statement says—

25 A. Yeah.

26 Q. —that five tanks were brought from the barge back to shore that
27 were used by the rescue divers to be refilled. He waited for

1 about an hour I think—

2 A. And whose statement is that, Sir?

3 Q. Um, one of the Kenson persons.

4 A. So it wasn't Kazim Ali's statement?

5 Q. No.

6 A. Well I can't help what Mr. Dopson put there.

7 Q. Mr. Ali, I know it's not your statement, but you're in the box
8 and we have to give you an opportunity that if you don't know
9 about it—

10 A. I don't know about it.

11 Q. —you state it. Well, thank you.

12 A. I think Mr. Dopson is programmed here, he could answer this
13 himself.

14 Q. Mr. Ali, before we—I wrapping up shortly—but let me explain
15 something to you.

16 A. Uh-huh.

17 Q. All we are doing is that if you are there and you know
18 something, we're giving you an opportunity to either comment
19 on it, say you don't know about it or dispute it. That's all it's
20 about. So that's why I asked you if you are aware. Just give
21 me one minute to let me make sure I cover it. *[Pause]* Mr. Ali,
22 you did say that you had experience before of diving into a
23 pipe.

24 A. I did.

25 Q. Yes. I think that's paragraph 56 of your amplified statement
26 and 154, but that was a 50-inch pipe, wasn't it? It wasn't a 30
27 inch?

1 A. Fifty-inch pipe, yeah.

2 Q. Did it have oil or was it a clean pipe?

3 A. It didn't have oil, neither did the riser at 36.

4 Q. Yes. Neither did the riser at 36. Right.

5 A. When we were looking at doing the dive. Your film would
6 show that.

7 Q. Beg your pardon?

8 A. Your film, the borescope shows that it was clear.

9 A. Right.

10 A. Andrew found out—

11 Q. So you had—

12 A. —going into the chamber—

13 Q. So you all had access to the borescope?

14 A. No. But I'm telling you, you would find out that. When
15 Andrew went to the chamber there was no oil at the top of the
16 riser.

17 Q. Yeah, yeah. And that 50-inch pipe, it was big—it was large
18 enough for you to turn in it, wasn't it?

19 A. No.

20 Q. Okay. The Tribunal will decide.

21 A. But you know you don't need to turn in the pipe to get out, eh.

22 Q. Explain that to the Chairman.

23 A. Right.

24 Q. [Pause] Mr. Ali, I want to take you to the Sunday, the 27th—

25 A. Yep.

26 Q. —where you said that an email was to be sent to you and it
27 wasn't sent, after you had a discussion with respect to a rescue

1 plan the Sunday?

2 A. I said the film was supposed to be sent.

3 Q. Yeah, yeah, via a email?

4 A. Yeah.

5 Q. Right. That plan that you developed at—you send it to Paria at
6 around two, 2.19?

7 A. Yep.

8 Q. In fact, it's covered in paragraph 143 of your witness statement
9 where you said you emailed a written plan specifically dealing
10 with the removal of the bottles at around 2.19?

11 A. Correct.

12 Q. Right? Could you look—and the email has attached to it
13 documents. And the email could be found at page five eight
14 seven five?

15 A. I have different numbers here.

16 Q. The submission bundle.

17 A. This one?

18 Q. Right, that's it.

19 **Mr. Chairman:** Look at do you see it there or is that too far
20 away? Is that the document that's up now?

21 **Mr. Ali Sr.:** Yes, yes.

22 **Continued Cross-Examination By Mr. Peterson SC:**

23 Q. That email, could you scroll down and show us the subject?
24 No, the other way.

25 A. Scuba tank retrieval.

26 Q. Scuba tank—or, you have it. Scuba tank—right. It doesn't
27 speak anything about the men?

1 A. No.

2 Q. The documents that were attached to that email as part of the
3 plan, at I think the method statement, which could be found at
4 page 1110 of the core bundle, could we go to that, page 1110 of
5 the core bundle? That method statement at the second line was
6 prepared to deal with entry into the riser pipeline to retrieve
7 three scuba tanks.

8 A. Right.

9 Q. Again, the method statement does not mention any rescue of the
10 men. It mentioned tanks?

11 A. Just get to the point.

12 Q. No, Mr. Ali. I have been very, very, very—I understand your
13 predicament, I understand your position. I have something to
14 do and I've been very respectful—

15 A. All right, will I explained the email?

16 Q. Answer me and then you could explain to your—

17 A. Okay, yes, it said the bottle—

18 Q. It said about the scuba tanks.

19 A. Yes.

20 Q. At the meeting and the audio is in the bundle, I could play it—

21 A. Uh-huh.

22 Q. —at that meeting in Paria, you did indicate to Mr. Piper and
23 Mr. Mushtaq in that meeting, the audio is filed, that you don't
24 think those guys were alive at that stage. You remember saying
25 that?

26 A. I said that, yes.

27 Q. So I don't need to play it because I'm trying to avoid doing

1 that.

2 **Mr. Chairman:** This is on the Sunday?

3 **Mr. Peterson SC:** Sunday. Yes, I—

4 **Mr. Chairman:** In the meeting in the afternoon?

5 **Mr. Peterson SC:** In the afternoon.

6 **Mr. Chairman:** Yes.

7 **Mr. Ali Sr.:** I think that was in the morning.

8 **Mr. Peterson SC:** In the morning, in the morning. There was
9 a meeting first. The evening meeting was the plan that was
10 submitted but the meeting wash around 10.00 a.m. on the
11 Sunday.

12 **Continued Cross-Examination By Mr. Peterson SC:**

13 Q. And this is my last question, Mr. Ali. I sorry to take you back
14 there but I had missed it and my colleague here pointed it out to
15 me that I have it highlighted but I missed it. I want to take you
16 back to page nine eight three seven, the—

17 **Mr. Chairman:** Well, I think before you do that, you said you
18 were going to give him an opportunity to explain what he meant
19 by the email together with these documents.

20 **Mr. Peterson SC:** No I told him his lawyer will do that. I just
21 told him—I point out to him the fact that the documents speak
22 only about scuba tank and not persons.

23 **Mr. Chairman:** Yes, but he did say he wanted to and I thought
24 you said you were going to permit him to do so.

25 **Mr. Peterson SC:** Well, you could go ahead and do that.

26 **Examination By Mr. Chairman:**

27 Q. What did you want to say about the email to—

1 A. Right, so we were shown—we went and we had to do a dive
2 and we were told there were bottles blocking the pipeline,
3 right?

4 Q. Speak into the mike.

5 A. I'm sorry. So we were told that there were bottles blocking the
6 pipeline.

7 Q. Right.

8 A. So we got a look up, just a little piece of the film showing us
9 what looked like two bottles in the line.

10 Q. Right.

11 A. And we said we could get that, out no problem.

12 Q. You said you would take it out?

13 A. Yeah.

14 Q. The reason why we wanted to take it out, as we were saying the
15 whole meeting there, if we take the bottles out we can send a
16 camera in. Paria's position was the bottles were blocking there
17 and we couldn't get the camera in, so I said let's take the bottles
18 out, send the camera in, make sure the men are not alive before
19 we do anything further. So that was just to address that one
20 thing to get the camera inside and show that the men were—

21 Q. I understand. Thank you very much.

22 **Continued Cross-Examination By Mr. Peterson SC:**

23 Q. Did you not also explain, I think to Mr. Mushtaq Mohammed,
24 that in the event of the retrieval of the body you didn't want the
25 tanks to damage the bodies? I know it—I didn't want to go
26 there so I said—

27 A. Sorry, um, I missed that.

1 Q. Do you recall telling Mr. Mohammed one of the reasons you
2 also wanted to remove the tanks that if they were retrieving the
3 bodies that you don't want the tanks doing damage to the
4 bodies?

5 A. Yes.

6 Q. You did tell him that?

7 A. Yes.

8 Q. Okay. So I'm sorry I'd want—I didn't have—I didn't want to
9 go there but I—

10 A. No, no.

11 Q. In fairness to you?

12 A. You understand was to get the camera in.

13 Q. Yes. Also. Also?

14 A. Okay.

15 Q. Also. Yes, finally page nine eight three seven of the core
16 bundle—no, bundle of submissions. That's the manufacturer's
17 specifications, the warning at the last page. Mr. Ali and it says
18 this:

19 "Before, before attempting to remove any pipe plug,
20 always make sure all back pressures or test pressures
21 have been completely released and that there are no
22 forces working against the pipe plug before deflating. If
23 there is still back/test pressure against the plug, when it
24 deflates it can shoot out of the pipe like a projectile. Or
25 like project, but a projectile. Did you have your men
26 check the back pressure before deflating that plug?

27 A. No because—

1 Q. Because—

2 A. —at the time we still—

3 **Mr. Chairman:** Microphone.

4 A. I'm sorry. Because we had the liquid leg or because we were
5 supposed to have a liquid leg.

6 Q. That's it

7 A. There was no way to pressure it.

8 Q. If they had followed the manufacturers' specifications and
9 warning and checked for that back pressure, they would have
10 realized the live issue of a latent delta event.

11 A. The method of installing the plug.

12 Q. That must be a yes, Mr. Ali.

13 A. Okay.

14 Q. That must be a yes?

15 A. All right.

16 Q. I know it's an unfortunate situation but that would have
17 possibly alerted them to the danger that was waiting. Thank
18 you.

19 **Mr. Peterson SC:** Thank you, Mr. Chairman.

20 **Examination By Mr. Chairman:**

21 Q. It would have taken but minutes, presumably, to have opened
22 the valve at riser number five, where you've shown us where
23 you were allowing the air pressure to come out? If you'd
24 opened that valve, before removing the plug, what would have
25 happened with hindsight?

26 A. In hindsight?

27 Q. Yes.

1 A. You would have known that the pressure wasn't equal.

2 Q. You'd have known?

3 A. Yeah.

4 Q. So, to be blunt about it, had that valve been opened at riser
5 number five, this would not have happened?

6 A. I don't agree, Sir.

7 Q. You don't agree?

8 A. If it was opened, it would have been worse.

9 Q. Had it been opened at riser number five, where you check for
10 the pressure—

11 A. Yeah.

12 Q. —as you told us before, as you told us before when they were
13 pumping air in, at the conclusion of each of those episodes you
14 checked for the pressure differential by allowing any air to
15 escape, correct?

16 A. I'm not trying to convince you but you did say if we had
17 opened—if it was opened it wouldn't have happened?

18 Q. No, no. If you had done that before you removed the plug?

19 A. Okay yes, I agree with you.

20 Q. That's what I meant. If I—

21 A. Yeah.

22 Q. —sorry if I didn't make myself clear.

23 A. No, but, even then, if we had opened it we would realize the
24 pressure was not equal.

25 Q. Right. How would you have known?

26 A. Because there'll be zero pressure there and you would have had
27 13 per 7 pounds when we were actually in the chamber, so you

1 would have had differential of 7 pounds, but if it was opened
2 while we were removing the plug, it would have been a worse
3 case.

4 Q. No, no, no.

5 A. There would have been no—

6 Q. I'm not talking about that. I'm not talking about that. What
7 I'm asking you in pursuance to what Mr. Peterson has said—

8 A. Sorry, chief, I'm not—

9 Q. Yes. In pursuance to what Mr. Peterson said, and it's quite
10 important that I understand this, all right?

11 A. Yeah.

12 Q. If you or one of your staff had opened the valve at riser number
13 five, the other end of the pipe, where you told us you were
14 testing for differential earlier when you're blowing air in—

15 A. Yeah.

16 Q. —if you'd have opened that valve, can we assume it would a let
17 air out and potentially fluid out?

18 A. But that's what I'm saying, Sir. That would have made the
19 situation worse.

20 Q. How?

21 A. Opening that woulda just tested and told me the pressure was
22 different and once it was opened what would happen when it
23 was closed and sealed—

24 Q. Yeah.

25 A. —it would a create a back pressure as the plug was moving and
26 slowed down the plug. If it was freely opened the plug might
27 have gone all the way out.

1 Q. No, no, no I think you're misunderstanding what I'm asking
2 you.

3 A. Yeah.

4 Q. Before you moved any plug at all—

5 A. Yeah.

6 Q. —before you got your staff to do anything to the—to
7 mechanical plug or the inflatable plug, before they touched it,
8 all right—

9 A. Yeah.

10 Q. —had you opened the valve at riser number five—

11 A. Yes.

12 Q. —would that have told you—

13 A. Yes, I agree—

14 Q. —that there was a differential?

15 A. I agree to that. It would a told me that we had a pressure
16 difference.

17 Q. Right.

18 A. Right.

19 Q. And then what, you'd have been able to act on that, wouldn't
20 you?

21 A. Yeah, I would have yeah.

22 Q. Right, so is it as blunt as this? Had you done that., this would
23 not have happened?

24 A. Correct.

25 Q. Thank you.

26 A. Right.

27 **Mr. Chairman:** Anybody? Introduce yourself please so that

1 everybody knows who you are.

2 **Mr. Hosein-Shah:** Good afternoon. Mr. Hosein-Shah on
3 behalf of the Seamen and Waterfront Workers Trade Union.
4 Good afternoon, Mr. Ali. Right here. [*Mr. Hosein-Shah stood*]

5 **Mr. Ali Sr.:** Er, yeah, I could see.

6 **Mr. Chairman:** Would it be too inconvenient for you to stand
7 while you're asking questions? Because then everyone can see,
8 because I can barely see you as you're sitting down at the back
9 row.

10 **Mr. Hosein-Shah:** I can try but these documents are quite
11 heavy.

12 **Mr. Chairman:** All right, well, do your best and prop them
13 perhaps on the ones you're not using.

14 **Mr. Hosein-Shah:** Sure.

15 **Cross-Examination By Mr. Hosein-Shah:**

16 Q. Sir, you're a mechanical engineer by profession—sorry, marine
17 engineer by profession?

18 A. Correct, yeah.

19 Q. I want to take you to paragraph 28 of your witness statement.
20 That is located at page 484 of the witness statement bundle. So,
21 just to be fair to you, at paragraph 28 you speak to a pressure
22 test that was ultimately abandoned by Paria. You see that?

23 A. Twenty-eight.

24 Q. Yes, paragraph 28.

25 A. Could you help me out? I'm not hearing you.

26 Q. Is this better?

27 A. Yep.

1 Q. Sure. So, at paragraph 28 you speak to a pressure test that was
2 foregone or abandoned by Paria. Are you seeing that?

3 A. Yep.

4 Q. What is this pressure test you're speaking about at this
5 paragraph? What did it involve?

6 A. That was a test on the flange that was welded in the chamber.

7 Q. Sure. And I want to take you now to page five seven three of
8 the witness statement bundle. This deals with the scope of
9 works attached in tender documents. So if we can go down to
10 8.4, you see pressure testing.

11 A. Yeah.

12 Q. Can you explain what paragraph A means, 8.4 A?

13 A. Eight point four A?

14 Q. Yeah. So it's the paragraph that starts with "The piping shall be
15 tested in according with AP1RP1110." Are you familiar with
16 that?

17 A. Yeah.

18 Q. What was that about?

19 A. Well actually it's for testing, pressure testing the pipeline, all
20 right? In this case we were pressure testing the weld on the
21 flange.

22 **Mr. Chairman:** Two separate things.

23 **Mr. Hosein-Shah:** Sure.

24 **Mr. Chairman:** One is testing the weld, this is testing the
25 pipeline itself.

26 **Mr. Ali Sr.:** Yeah, that's right.

27 **Mr. Chairman:** Pressure in the pipeline. All right.

1 **Continued Cross-Examination By Mr. Hosein-Shah:**

2 Q. So why is it that the pressure testing set out at paragraph 8.4
3 was not conducted? You could go ahead and answer that?.

4 A. Sorry.

5 Q. Sorry, I'm asking why the pressure testing at paragraph 8.4 was
6 not conducted.

7 A. Not conducted. Um, the pipe was egg-shaped so the rig for
8 testing the weld couldn't be installed.

9 Q. But you just said that this pressure testing is different from the
10 pressure testing you spoke about with respect to the weld
11 related to paragraph 28 of your witness statement. Are they one
12 and the same?

13 A. No, the whole objective there was to test the weld, not the
14 pipeline.

15 Q. Sure, but—

16 A. So even though it says here the pipeline, it was understood to be
17 the weld on the—between the flange and the pipeline.

18 Q. Sure. So you're saying that the pressure testing set out here
19 relates solely to the weld even though it's—

20 A. Yeah.

21 Q. Okay. Fair enough. Now I want to take you to paragraph 206
22 of your witness statement. So that would be at page 482. So at
23 paragraph 26, you say that your son, Yusuf Henry and
24 Christopher Boodram were PADI certified divers with respect
25 to open water scuba.

26 A. Yeah.

27 Q. And that Rishi Nagassar and Faizal Kurban were commercial

1 divers?

2 A. Correct and Andrew Farah.

3 Q. Well yes. But with respect to these divers with the exception of
4 Andrew Farah, did they undergo any further training beyond
5 their certifications?

6 A. Are you, um, who are you addressing there, um?

7 Q. These divers, Yusuf Henry, your son, Christopher Boodram,
8 Rishi Nagassar and Faizal Kurban.

9 A. And the question, um—

10 Q. Oh sorry let me ask it a different way. Did LMCS provide any
11 further training to these divers beyond their ordinary
12 certification?

13 A. No, I sent them for the commercial and I sent the— I send them
14 for the PADI as well, but, beyond that—

15 Q. So what sort of training did these divers have with respect to
16 operating in an environment in the oil and gas industry dealing
17 with pipelines?

18 A. Experience in working in the, um, in the oilfield.

19 Q. Okay and where did they get this experience?

20 A. In the oilfield right there. In—

21 Q. With LMCS?

22 A. In Pointe-a-Pierre, yes.

23 Q. With LMCS?

24 A. With LMCS, yeah.

25 Q. Okay, what sort of training did LMCS provide to prepare them
26 for those operations?

27 A. Not for that operation specially.

1 Q. But, in general, did LMCS, you know, whether by—not
2 anything with a certificate or anything but by experience or—

3 A. Yeah, by experience and that's why we started training up some
4 of the men in the commercial to spread it out to the guys down
5 below.

6 Q. And who conducted that training?

7 A. It would have been Faizal and Andrew would have been, um—
8 so when they went and got their commercial—

9 Q. Yes.

10 A. —then they would, um, spread the training amongst the men.

11 Q. Sure. And did that training involve rescue operations?

12 A. Not specifically, no.

13 Q. Okay. And did that training involve a situation whereby or a
14 situation where divers would be trapped inside a pipeline?

15 A. No.

16 Q. Okay. Now I want to go to page five eight nine of your witness
17 statement.

18 **Mr. Chairman:** Can I have some indication of how long you
19 think you're going to be? I did ask this question at the
20 resumption—

21 **Mr. Hosein-Shah:** Sure.

22 **Mr. Chairman:**—after lunch and you didn't say anything,
23 so—

24 **Mr. Hosein-Shah:** Er, I think about not more than 20 minutes,
25 Chair.

26 **Mr. Chairman:** I'm going to limit it to 20 minutes.

27 **Mr. Hosein-Shah:** Sure.

1 **Continued Cross-Examination By Mr. Hosein-Shah:**

2 Q. So we're at page five eight nine and at the listing or the table
3 you see here relates to prior experience going back five years of
4 LMCS. Yeah?

5 A. For Paria and Petrotrin.

6 Q. Good. Did any of these operations involve diving into a
7 pipeline?

8 A. No.

9 Q. All right. Now I want to go to paragraph 28 of the witness
10 statement of Andrew Farah, and that would be at page—

11 **Mr. Chairman:** Well just a minute. We've heard evidence
12 that Mr. Boodram says he did dive into a pipeline.

13 **Mr. Hosein-Shah:** Yes.

14 **Mr. Chairman:** Are you aware of that?

15 **Mr. Ali Sr.:** Andrew?

16 **Mr. Chairman:** Yes.

17 **Mr. Ali Sr.:** Yeah.

18 **Continued Cross-Examination By Mr. Hosein-Shah:**

19 Q. No, no Christopher Boodram.

20 A. Yeah.

21 Q. So, in his oral testimony Christopher Boodram said while
22 employed by LMCS he was involved in a dive where he was
23 required to go into the pipeline because carrying out the works
24 there was safer.

25 A. Are you sure it's LMCS he said?

26 Q. Well—[Crosstalk]—He didn't say LMCS? Okay, okay, well,
27 fair enough. So paragraph 28 of Andrew Farah's witness

1 statement, that's at page 447 of the witness statement bundle, so
2 you see there Mr. Farah is saying that he has dived in a pipeline
3 before?

4 A. Correct.

5 Q. Has LMCS conducted any works whereby divers were required
6 to go into pipelines?

7 A. Not LMCS. This job was for a company called Daynco and we
8 were all working on that job.

9 Q. Sure.

10 A. Andrew, Christopher, mihsel.

11 Q. Sure. So you all had experience—

12 A. Yeah.

13 Q. —when it came to diving into pipelines, right?

14 A. We did, yeah.

15 Q. And in that experience, was there anything in particular that
16 prepared you for emergency scenarios which may arise?

17 A. Whether we did we took the precautions of tying off a rope so
18 we could be pulled back out to find our way out and we went in
19 feet first. Any time we dive into a situation where you don't
20 have total access you go in feet first so you could swim out or
21 be dragged out other way, and, it's just a precaution that that
22 was the—

23 Q. Sure. Anything else?

24 A. —anytime we diving that's what would be using.

25 Q. Is there anything else you want to add?

26 A. Sorry?

27 Q. Is there anything else you want to add to that?

1 A. No.

2 Q. Fair enough. So, you had experience diving into pipelines?

3 A. Correct.

4 Q. You had experience dealing with potential dangers which may
5 have arisen in—when it comes to diving into pipelines, yes?

6 A. Correct, yeah.

7 Q. Whether by through LMCS or through your own rights or
8 through your divers' own rights?

9 A. Yep.

10 Q. Yeah? So now I want to go back—

11 A. Could I say—

12 Q. Yes.

13 A. —I myself dived into the pipeline, so, so I had experience.

14 Q. Sure. And you're a diver of how many years' experience?

15 A. Nineteen eighty-one, I think or '82, somewhere round there.

16 Q. And you have been commercially diving for how long?

17 A. Not commercially, diving in the industry. I also am advanced
18 PADI.

19 Q. Sure. So I want to take you now to page seven nine one of the
20 witness statement bundle. This is the site safety plan. And I
21 want to go to page 809 of that plan. So this is a plan, Sir, you
22 would have submitted to Paria.

23 A. Correct.

24 Q. Yeah?

25 A. Correct, yeah.

26 Q. And Paria would have approved this plan in the consideration
27 of your bid? Everything—

1 A. Well everything to do with Paria, Paria had to approve.

2 Q. Excellent.

3 **Mr. Chairman:** Just a minute I need to find my place. Just a
4 minute.

5 **Mr. Hosein-Shah:** Sorry. Eight zero nine.

6 **Mr. Chairman:** [*Pause*] Thank you.

7 **Continued Cross-Examination By Mr. Hosein-Shah:**

8 Q. Yeah. So we were looking at paragraph 8.1.4 so just to recap
9 this is the site safety plan. And under the heading of “Diving
10 Operations”, the second to last bullet point, “Standby divers to
11 be present and suited up to render assistance throughout the
12 dive.”

13 A. Yep.

14 Q. Now on the 25th of February, 2022, standby divers were
15 available?

16 A. Correct.

17 Q. And those standby divers, one of which being Andrew Farah,
18 they were commercial divers?

19 A. Correct.

20 Q. And he was trained in pipeline operations?

21 A. Correct.

22 Q. He was able to enter into pipelines?

23 A. Correct.

24 Q. And beyond Andrew Farah, further on during the day,
25 additional divers arrived?

26 A. That’s correct, yeah.

27 Q. And those divers came equipped with equipment to allow them

1 to enter into the pipelines and get to I think at least 300 feet into
2 the pipeline?

3 A. Correct. Well, to be honest they came at different stages. The
4 first set that came—

5 Q. Yeah.

6 A. —came with more scuba gear and then—

7 Q. Yeah.

8 A. —just after 6.00 we had be people with, um, surface supplied,
9 so as the day went on we got more and more equipment and
10 more and more men.

11 Q. Yeah. But Paria would have been aware, through your plan,
12 that in the event an emergency occurred, the primary
13 responsibility or the primary body of persons who would effect
14 a rescue operation would be LMCS?

15 A. Correct.

16 Q. And that's in fact what you did?

17 A. Correct.

18 Q. And when you spoke to Collin Piper, Collin Piper ought to have
19 known, through your safety plan, that you would be pursuing a
20 rescue operation?

21 A. Correct.

22 Q. And you, in fact, told him you're going to get your boys, yeah?

23 A. Correct, yeah.

24 Q. Now I want to take you to page eight one eight. This is the
25 emergency, er—what's the name of it, sorry—the emergency
26 response plan. So, the emergency response plan stats at eight
27 one six and we're going to eight one eight. So we see—right,

1 stop, stop, go back up. In the event of an emergency—of any
2 emergency, any emergency, in the hyperbaric chamber, and
3 we're going to the last bullet point. You're with me?

4 A. Yeah.

5 Q. Sorry trying to be economical on time, emergency assistance
6 available from additional divers on site. You're seeing that?

7 A. Which one, sorry?

8 Q. So, look at the screen. You're seeing "in the event of any
9 emergency in the hyperbaric chamber" and you see they're
10 using bullet points?

11 A. Okay, good, yeah.

12 Q. So I'm looking at the last bullet point. Emergency assistance
13 available from additional divers on site.

14 A. Correct.

15 Q. Again, this is a document that was in Paria's possession?

16 A. Correct.

17 Q. And LMCS had the facilities at the time?

18 A. We did.

19 Q. With the additional divers to conduct emergency assistance or
20 to provide emergency assistance?

21 A. We did, yeah.

22 Q. But ultimately Paria prevented you from doing that?

23 A. They did.

24 Q. And the coast guard prevented you from doing that?

25 A. They did as well.

26 Q. Now did you have any reason to doubt the structural integrity of
27 the pipeline?

1 A. Intake—of the pipeline? No, I didn't.

2 Q. In fact, LMCS was contracted to fix or to remove and replace
3 the defective portion of the pipeline?

4 A. Correct, yeah.

5 Q. So if there were problems, if, if there were other areas of the
6 pipeline defective, logic dictates that a tender would have gone
7 out to repair those portions as well?

8 A. It would have, yeah.

9 Q. Thank you.

10 **Mr. Peterson SC:** Is speculation and logic the same thing?

11 **Mr. Chairman:** If you have an objection—

12 **Mr. Peterson SC:** Yes, Sir. I was—I—

13 **Mr. Chairman:**—then make it.

14 **Mr. Peterson SC:** I don't know how—well, which interest my
15 friend is seeking but suggesting that there are other defects in
16 the line or if there were that they would be—it's highly
17 speculative and it's casting inferentially some liability or some
18 responsibility on Paria with respect to some aspect in the
19 pipeline that does not arise. There's no issue of other issues in
20 the pipeline that didn't go to tender. So I don't know where my
21 friend is going with this.

22 **Mr. Chairman:** Mr. Hosein?

23 **Mr. Hosein-Shah:** Well the point of the question was
24 essentially to get from Mr. Ali that they were there to repair a
25 defective portion of the pipeline. Insofar as it relates to
26 everything else, I can accept the objection from there.

27 **Mr. Chairman:** Rephrase the question, then.

1 **Mr. Hosein-Shah:** Sure.

2 **Continued Cross-Examination By Mr. Hosein-Shah:**

3 Q. So, Mr. Ali, LMCS was contracted to repair, remove and
4 replace a defective portion of the pipeline.

5 A. Correct.

6 Q. And you had no reason to doubt the structural integrity of the
7 remainder of the pipeline?

8 A. Not whatsoever.

9 Q. Thank you.

10 **Mr. Hosein-Shah:** Chair, I believe Ms. Alfonso has just a few
11 questions and she will be confined within the same time frame.

12 **Ms. Alfonso:** Much less, much less. Thank you.

13 **Mr. Chairman:** Sorry, who's going to do what? I thought
14 we'd resolved this tag team event?

15 **Ms. Alfonso:** Sir—

16 **Mr. Chairman:** In fact, I think we got correspondence about it
17 somewhere or—

18 **Ms. Alfonso:** Yes indeed Sir. We did try to document what
19 the position would be, which was that Mr. Hosein-Shah and I
20 would address different aspects of the material, I won't say
21 evidence, of the material, and we promised to be economical
22 and I promise to have far less questions than Mr.—

23 **Mr. Chairman:** You have 5 minutes and I really do want you
24 to resolve this. It's not going to happen again. All right? You
25 have to, I'm afraid, work it out between you. One counsel can
26 do the prep work the other one can do the questions. You
27 know, I've been a King's Counsel for a long time and I've had

1 my juniors prepare it for me. We know how it works, how it
2 works, you know, but I'm not going to have a tag team working
3 on preparing and then using their skills and whatever it might
4 be to cross-examine each witness. So I'm going—this is the
5 last time I will permit it please. You decide between you which
6 one of you are going to ask questions of each witness rather
7 than both of you. All right? This is the last time I'll permit it.
8 You have 5 minutes.

9 **Ms. Alfonso:** I take that. Certainly, Mr. Chairman, we would
10 work it out from today. Even if it's somebody does the prep—

11 **Mr. Chairman:** You're using up your 5 minutes. I suggest
12 you ask the questions.

13 **Ms. Alfonso:** Okay, well I'll try not to jump too far.

14 **Cross-Examination By Ms. Alfonso:**

15 Q. Mr. Ali, are you hearing me?

16 A. I am.

17 Q. Thank you very much. My name is Nyree Alfonso, Mr. Ali.
18 You've said, you admit that you are or you've said that you are
19 a marine engineer by training, yes?

20 A. Correct, yeah.

21 Q. Okay. You would have read the In-Corr-Tech Limited report?

22 A. I would have, yeah.

23 Q. Yes, okay, so I won't take you through that. But you would
24 have read that the root cause identified for the Delta P, you
25 would have read that part of the report, yes?

26 A. Yeah.

27 Q. So, well, let me put it you to. When we were here on another

1 occasion Mr. Michael Wei would have given certain evidence,
2 seated where you are, to the effect that one of the reasons that
3 Paria, let me not say him, Paria did not want LMCS's divers, or
4 any other divers for that matter, to go down into the pipe was
5 his fear or Paria's fear, beg your pardon, Paria's fear that, you
6 know, it could be a repeat Delta P incident. Do you have any
7 position on that? You have anything to say with respect to that
8 position advanced by Mr. Wei?

9 A. A repeat Delta P?

10 Q. Is that—in your training and experience, is that possible?

11 A. It is possible if there's external forces on the system, but at this
12 stage the pipeline condition had stabilized, and, unless
13 somebody went and interfered with the plug or we all know the
14 line was isolated so you couldn't switch on a pump or anything
15 elsewhere to create the situation again, so once the first incident
16 happened, and the pressure is equalized, and—well, like I said,
17 we didn't know, we didn't consider where the plug was in the
18 first day, right, so that wasn't there, but this system was—there
19 was no flow in or out of the pipeline so we assumed that—the
20 next day again that came up and I dealt with that and I said we
21 will fill the riser at number five with an equal amount of liquid
22 as we had at number six thereby stabilizing the line. At that
23 stage I knew there was a plug in the line and the plug was
24 intact.

25 Q. So you think it unlikely that another Delta P could have
26 occurred because the pressures had already equalized?

27 A. It wouldn't have had. It wouldn't have done.

1 Q. Okay. Mr. Ali, you would have—

2 **Mr. Chairman:** Before you move on just one moment.

3 **Ms. Alfonso:** Sorry.

4 **Examination By Mr. Chairman:**

5 Q. If there was the prospect of a second Delta P before Mr.
6 Boodram came out of the pipe, was that alleviated at all by the
7 fact that Mr. Boodram came out of the pipe?

8 A. It would have because he would have had to pass through some
9 kind a pressurized bubble or something like that, um—

10 Q. And given the information that he gave you that they were all
11 together—

12 A. Yep.

13 Q. —at least four of them were, did you have any doubts at that
14 time as to a second Delta P after he'd come out of the pipe?

15 A. No.

16 Q. Thank you.

17 **Mr. Chairman:** Sorry. Carry on. I'll add a minute.

18 **Ms. Alfonso:** Thank you very much, Mr. Chairman.

19 **Continued Cross-Examination By Ms. Alfonso:**

20 Q. Before the lunch break, Mr. Ali, we were shown a particular
21 map—

22 A. Yeah.

23 Q. —by Paria's attorney. Do you recall that.

24 A. Yeah, the, um, show the depths of water.

25 Q. Okay. Is that a bathymetric survey?

26 A. It was, yeah.

27 Q. Than you. And that bathymetric survey would show you the

1 depth of the water?

2 A. Correct.

3 Q. The area where—which we saw on the screen, yes?

4 A. Yeah, yeah. It won't show you what's under the seabed, no.

5 Q. Thank you very much. It wouldn't show you the pipeline
6 necessarily or the configuration of the pipeline?

7 A. Not unless it was on top of the mud.

8 Q. Okay, so it's showing you depths of water?

9 A. Yeah, correct.

10 Q. And perhaps topography, if that's the right word, when it's
11 under the water?

12 A. Yep.

13 Q. Okay, thank you. You would have read, Mr. Ali, the
14 Association of Diving Contractors International Inc. report that
15 is Mr. Neusum who signed that?

16 A. Yes.

17 Q. And you would have noted that he made some comments about
18 having PADI certified only divers participate in this, well, let
19 me call it exercise or this job?

20 A. Yeah.

21 Q. And you would have seen he made a comment with regard to
22 divers being tethered and divers being supplied with surface
23 air?

24 A. Yeah.

25 Q. You have any position with that, Mr. Ali? Do you think that
26 the better way to do this is if your divers were commercially, all
27 of them, were commercially certified and they were wearing

1 commercial gear rather than what, well scuba, scuba
2 equipment?

3 A. Okay, that's about three questions in one.

4 Q. Sorry. I'm trying—I'm sorry, I'm doing you a disservice
5 because I'm trying to hurry.

6 **Mr. Chairman:** Yes. It's a fair, it's a point he's making. You
7 have to select which ones you want to use.

8 **Ms. Alfonso:** Okay.

9 **Examination By Mr. Chairman:**

10 Q. So the first question is whether or not you've seen Mr.
11 Neusum's report and you've already told us you had.

12 A. Correct.

13 Q. So he makes an observation about the people working in the
14 chamber being tethered in some way to the chamber.

15 A. Yeah correct.

16 Q. Did you see that?

17 A. I can see advantage and disadvantage.

18 Q. I'm sure there are disadvantages to being tethered. Nobody
19 wants to be tethered. We're not dogs. On the other hand, it
20 might make some sense, mightn't it, if they had been tethered?

21 A. It might have. Whether it would helped in this situation, as,
22 um, Christopher said, it could have strangled you being tethered
23 and been crossing over things.

24 Q. Could have been worse?

25 A. Yeah.

26 Q. Difficult to see it being worse given that four people died?

27 A. Sorry?

1 Q. I said it's difficult to see it being much worse, given that four
2 people died. Obviously Mr. Boodram didn't but—

3 A. Well, to be, um—the four people didn't die from the incident.

4 Q. Oh.

5 A. They died from the lack of action after.

6 Q. Well, we had to have the incident first. I take your point but we
7 had to.

8 A. Yeah.

9 Q. The question is whether or not you think, with the benefit of
10 hindsight now, it might have been better if they had been
11 tethered.

12 A. I say, weighing it, they probably would have had a better
13 chance of, um, drawing them out. I still say there's advantage
14 and disadvantage but it might have been better.

15 Q. I ask the question I asked you earlier, now that you know what
16 happened and you have much more information than you did
17 before, do you think today you would make those people be
18 tethered rather than untethered?

19 A. Today I'd make sure we don't have a Delta P, Sir.

20 Q. Yeah, well, that's true but even with the possibility of a Delta P,
21 would they not be better being tethered? That's the question.

22 A. Possibly, yeah.

23 Q. Yeah. Do you think that now you would do that?

24 A. Yes, I would do that.

25 Q. That was the second question. Third question I think was
26 whether or not you thought that they will be assisted by surface
27 air if they were commercial divers having some separate tube

1 that leads to their mouth so that they're breathing that air rather
2 than the air that was in the hyperbaric chamber? I think that
3 was the essence of it.

4 **Ms. Alfonso:** Yes indeed, Mr. Chairman.

5 **Examination By Mr. Chairman:**

6 Q. I personally don't see how it could help, but, anyway you
7 answer the question not me.

8 A. I don't think there was a problem with the air in hyperbaric
9 chamber. I think she meant that if they had the tether, the
10 surface air, they would still get air down in the pipeline.

11 Q. Yes, would they have been able to take the surface air with
12 them into the pipeline?

13 A. Yeah. Well, that's the surface supply there.

14 Q. No, no. Given that we had a Delta P and they were sucked into
15 the pipeline, if they were using a surface to chamber pipe in
16 order to breathe, would they have been assisted by having that,
17 having been sucked into the pipeline?

18 A. Again, it would have been beneficial if they survived the trip
19 down with the surface air system because then they would a
20 kept on breathing there for a much longer time.

21 Q. It would rather depend on the length of pipe, wouldn't it—

22 A. It would.

23 Q. —that they were breathing through, not the length of the pipe
24 they were in.

25 A. But—it would, but even in the swirling around, they could have
26 become tangled up with it.

27 Q. All right, thank you very much. So there are your answers.

1 A. It would help them if they survived the trip had they had it.

2 Q. Yes.

3 A. And then we coulda use that to draw them back out.

4 Q. All right.

5 A. So, like I say, there's advantage and disadvantage to that.

6 **Mr. Chairman:** You have your answers.

7 **Continued Cross-Examination By Ms. Alfonso:**

8 Q. I just want for my clarification Mr. Ali, is there a difference
9 between the surface air which will be with a tube—

10 A. Yes.

11 Q. —and the helmet, yes, or would it be some—how—okay, so
12 there's a tethering with like a rope so that if you were—you
13 went down into the pipeline there would be a way to pull you
14 out, yes?

15 A. Correct, yeah.

16 Q. And there's—and you could have also a tube giving you
17 oxygen, air, as well?

18 A. Well, that—that's what we talk about surface-supplied, am—

19 Q. Okay.

20 A. Right? So the—

21 Q. But is it two different things or one thing? I don't want to
22 confuse you or myself. Is it two different things that you could
23 be tethered like, say, with a rope?

24 A. Yes.

25 Q. And then you could also have two—

26 A. Well, you could have—

27 Q. —for argument's sake with air from the surface?

1 A. Right you could have the scuba setup and you tether with a
2 rope.

3 Q. Okay, so—

4 A. Or, with the surface supply then, the tubing acts as a rope with a
5 tether in some.

6 Q. So following from what the honourable Chairman said, if you
7 had an opportunity once again in hindsight, would the safer
8 thing to be to be tethered with a rope, let me say like tethered
9 with a rope so they could be retrieved?

10 **Mr. Chairman:** He's already said that. He's already said that.

11 **Ms. Alfonso:** Right.

12 **Mr. Chairman:** And he's already drawn the [*Inaudible*]
13 between the two.

14 **Mr. Ali Sr.:** It'd be safer to be tethered with a rope and even
15 safer to have—

16 **Mr. Chairman:** I think you can move on now, please?

17 **Ms. Alfonso:** Okay thank you very much. Thank you very
18 much.

19 **Continued Cross-Examination By Ms. Alfonso:**

20 Q. Mr. Ali, by Sunday afternoon the meeting—I'm just going to
21 ask you one more question. By the Sunday afternoon—

22 A. Uh-huh.

23 Q. —when this plan to remove the three tanks that you
24 mentioned—

25 A. Yes.

26 Q. —was being put forward, by that time was there another plan
27 that Paria had explained to you by which the line would have

1 been, I want to say, pumped, flushed, being flushed, flushed in
2 order to recover the bodies of the—

3 A. To recover, eh. They weren't talking rescue they were talking
4 about recover.

5 Q. Okay. So is it that you wanted the tanks to be removed because
6 the plan that was put forward at that time by Paria was to flush
7 the line?

8 A. No. We were still talking rescue.

9 Q. You or Paria?

10 A. LMCS were talking rescue.

11 Q. Okay, I'm sorry, LMCS were talking rescue?

12 A. Rescue.

13 Q. But was Paria on the Sunday afternoon when you had this
14 meeting that you referred us to, wasn't Paria talking about
15 recovery and flushing the line in order to recover the bodies?

16 A. Yes.

17 Q. Right?

18 A. They had gone to recovery even though they pretended they
19 were engaging us in rescue.

20 **Ms. Alfonso:** Okay thank you very much, Mr. Ali.

21 **Examination By Commissioner Wilson:**

22 Q. Mr. Ali, good afternoon.

23 A. Afternoon.

24 Q. Thank you for coming. First all, I want to say condolences for
25 the loss of your son and your entire dive team, you know. I
26 could imagine the effects it have on your work. Whilst we have
27 this up here, I think we already established that Delta P was not

1 identified in the risk assessment or hazard identification here?

2 A. Right.

3 Q. And I offer you that an emergency response plan, you—it really
4 comes out powerfully out of a quality risk assessment, yes?

5 A. Sorry, I didn't catch your last.

6 Q. An emergency response plan, that's why I'm addressing this
7 here, an emergency response plan is something that would
8 come out powerfully if a risk assessment, a quality risk
9 assessment, was done, it speaks to emergency response plan?

10 A. Correct.

11 Q. Right. So I want to address here and just clarify, the gentleman
12 indicated that this was a pipeline. The emergency response
13 plan here identified was for vessel, the hyperbaric chamber and
14 event of emergency whilst underwater. It was never intended
15 for rescue within a pipeline?

16 A. No.

17 Q. No, because the risk assessment didn't drive for it?

18 A. Didn't call that.

19 **Commissioner Wilson:** Thank you.

20 **Mr. Chairman:** Yes. Well you didn't say anything either.

21 **Mr. Ramadhar:** Unfortunately in the washroom when you
22 asked the question but I shan't be very long and I apologize.

23 **Mr. Chairman:** All right. Very well.

24 **Mr. Ramadhar:** So, shall we start the countdown now, then?
25 Thank you so much.

26 **Cross-Examination By Mr. Ramadhar:**

27 Q. Good afternoon, Sir. Of course, just like your—

1 **Mr. Chairman:** Introduce yourself, please?

2 **Mr. Ramadhar:** Yes, Prakash Ramadhar representing the
3 interest of the family and of course the daughter of Yusuf
4 Henry.

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 Q. Like the Commissioner I too, we all sympathize with your loss.
7 You lost your only son, is that accurate?

8 A. Yes.

9 Q. Now, what I'm most interested in is to find out—of course the
10 accident occurred that is behind us. This is tombstone hearing.
11 I know, you're not hearing me well.

12 A. I'm not hearing.

13 Q. Yeah. We are interested in finding out exactly how the
14 accident occurred to prevent possible recurrence. Okay?
15 That's one aspect.

16 A. Yeah.

17 Q. We call it a tombstone hearing. The other aspect is, in terms of
18 the rescue which my clients, their families, are most interested
19 in. Around three o'clock everyone knew that a disaster had
20 occurred?

21 A. Correct.

22 Q. Yes. You had plans in place?

23 A. Correct, yeah.

24 Q. You had manpower in place?

25 A. We did.

26 Q. Yes. When was the first time that you saw or observed any
27 Paria personnel on the scene?

1 A. On the sea?

2 Q. On the scene, on the scene?

3 A. On the site? Er, um—

4 **Mr. Chairman:** Define scene?

5 **Mr. Ramadhar:** Yes, where the accident or incident occurred.

6 **Mr. Chairman:** Berth 6.

7 **Mr. Ramadhar:** Berth 6. Thank you so much, Chairman.

8 **Continued Cross-Examination By Mr. Ramadhar:**

9 A. When I hot out on the site there were about four Kenson/Paria
10 people.

11 Q. No, no hold on. He have to make a distinction between Kenson
12 and Paria and there's a reason for that. I shall come to it. Paria,
13 who did you know from Paria that would have been present and
14 you first saw them?

15 A. No one. No one.

16 Q. No one. When was it the first time that you saw anyone from
17 Paria itself on site?

18 A. I didn't.

19 Q. You never saw any Paria personnel?

20 A. Well, to be fair—

21 Q. At the time, up to the time you left the site?

22 A. Yeah, up to the time I left.

23 Q. And what time would that have been?

24 A. That would have been between half past 3.00 to quarter to 4.00
25 so.

26 Q. Right. What time did you return to the site?

27 A. I didn't.

1 Q. You did not?

2 A. No. I—

3 Q. Now, you were at a meeting, and forgive me, Chairman, you
4 went to a meeting with Paria personnel?

5 A. Right.

6 Q. Onshore?

7 A. On Saturday and Sunday.

8 Q. Hold on, we're talking Friday evening.

9 A. No. Phone contact on Friday.

10 Q. Phone contact?

11 A. Because Mr. Piper was in St. Augustine at the time and there
12 didn't appear to be anybody at what they call the ICT.

13 Q. I under—I see. So, as far as you are concerned, the person who
14 was point person in terms of in complete control, apart from
15 LMCS, but in relation to Paria or Kenson, the most senior
16 person would have been Mr. Piper, is that accurate?

17 A. Correct, yeah.

18 Q. Yes. When did you first see Mr. Piper at or around Petro—
19 sorry, Paria's premises?

20 A. On Saturday, the um—

21 Q. Saturday morning?

22 A. About ten o'clock.

23 Q. Now you told us something very interesting. You said that you
24 believe that you were locked out, is that accurate?

25 A. I was locked out.

26 Q. How long were you waiting at the gate, as the father of a victim
27 and as the man in charge of LMCS? How long did you have to

1 wait at the gate?

2 A. At about three hours. Shortly after 6.00 I arrived there.

3 Q. Around three hours?

4 A. Correct.

5 Q. And the person, as far as you're aware, who authorized your
6 presence or your admission was Mr. Piper?

7 A. Yeah, that's when I called and got admittance.

8 Q. Good. At that point in time, who was looking after LMCS'
9 business at berth 6—

10 A. I—

11 Q. —at the time you were locked out?

12 A. I had Dexter Guerra and Andrew Farah.

13 Q. Do you know why it is that no one entered the water shortly
14 after three o'clock with a view to going into the pipe?

15 A. Um—

16 Q. Do you know why it was that no one entered the pipe with a
17 view to rescuing shortly after three o'clock?

18 A. As far as LMCS is concerned, we were stopped.

19 Q. By whom?

20 A. By the technician working—they pulled the permit and said—

21 Q. Whoa, whoa, hold on. Don't—I want to hear this. They pulled
22 the permit?

23 A. Yeah.

24 Q. What does that mean so that all us could understand what that
25 means?

26 A. Well, normally you—well the same permit to work that you
27 have—

1 Q. Right.

2 A. —all right?

3 Q. So it was cancelled? In other words you couldn't do—I just
4 want to hustle up here.

5 A. Yeah.

6 Q. Who pulled that permit?

7 A. They took away the permit and said we had no permit to work
8 and that would have been—

9 Q. Who said this?

10 A. Houston Majardsingh.

11 Q. Working for whom?

12 A. Well he would have been a Kenson worker working for Paria.

13 Q. Oh my goodness. Now, you have been in the business for
14 many, many years, correct?

15 A. Correct, yeah.

16 Q. The progenitor of Paria was Petrotrin, is that accurate?

17 A. Correct, yeah.

18 Q. In fact, my understanding is that we had world-class personnel
19 working there with greatest expertise, is that accurate?

20 A. Correct, yeah.

21 Q. Yeah. In—when this incident occurred, some of the most
22 senior men, of course, were no longer working with Paria, is
23 that accurate?

24 A. Correct.

25 Q. Yes.

26 A. Apart from Piper who would have been there.

27 Q. Apart from Piper?

1 A. Correct.

2 Q. So persons who would have been experienced in the art or in
3 the practice of recovery and so, or rescue would not—were no
4 longer with Paria? Is that accurate?

5 A. Well, so it is now, yeah.

6 Q. Yes. Now, hindsight is 2020 vision and we all learn from it and
7 we are grateful for the opportunity to be able to learn from it.
8 Now, you having lost your son—well, when I say lost, he was a
9 victim of the accident at the time?

10 A. Correct.

11 Q. When did you personally give up hope that he was alive?

12 A. I'd say Sunday sometime.

13 Q. Sunday?

14 A. Yeah.

15 Q. Did you wish to have any rescue effort from Friday afternoon,
16 yes or no?

17 A. From Friday afternoon to long after I felt some of them were—
18 well, until I was sure there was no one alive there was a rescue
19 in my mind.

20 Q. Thank you. Now, you appreciate anything to do with water,
21 underwater or even above it—

22 A. Yeah.

23 Q. —there are inherent risks as we've all been hearing, yeah?

24 A. Correct, yeah.

25 Q. But there comes a moment when you have to weigh and
26 balance the likelihood of life being saved to the likelihood of
27 life being imperilled, you agree with that?

1 A. Correct, yeah.

2 Q. At six o'clock or thereabouts, we understand that Christopher
3 Boodram miraculously was retrieved from the pipeline.

4 A. Correct.

5 **Mr. Chairman:** Five; five o'clock.

6 **Mr. Ramadhar:** Five. I thank you so much.

7 **Continued Cross-Examination By Mr. Ramadhar:**

8 Q. Certainly, makes it even better. So, by five o'clock, still
9 daylight—

10 A. Uh-huh.

11 Q. —I am—do you know, were you—well you said you were not
12 present but you had personnel from LMCS there, ready,
13 equipped and prepared to go in.

14 A. Correct.

15 Q. You agree with that?

16 A. Yep.

17 Q. Michael Kurban, you know he's a certified commercial diver?

18 A. I paid for that.

19 Q. Sorry?

20 A. I paid for his certificate.

21 Q. Of course. Do you know he was also trained in what we call
22 close water diving?

23 A. Correct.

24 Q. Specifically, specifically for diving into pipelines?

25 A. Well, that's sort of diver.

26 Q. [*Inaudible*]

27 A. Yeah.

1 Q. Yeah. You knew, because you had been speaking with the
2 families, and I want to thank you for that at least, and tried to
3 give support there and then to get men, equipment and
4 opportunity available to save not just your son but your other
5 co-workers' lives, is that accurate?

6 A. Correct, yeah.

7 Q. In fact, tell us, because this I important, they were like brothers,
8 all of them?

9 A. Correct.

10 Q. Including your son?

11 A. [*Nodding*]

12 Q. Mr. Kurban, I shan't go through all the names. I know it's very
13 difficult. Sir, I do not mean to do this but I need to make it very
14 clear, because we need to know at some stage or the other who
15 is liable, first of all, for the accident, okay?

16 **Mr. Chairman:** That's not what we're here for and I am going
17 to constrain you from asking questions with [*Inaudible*] the
18 limit to how far I'm prepared to permit this and you've gone far
19 enough, thank you.

20 **Mr. Ramadhar:** Thank you so much.

21 **Mr. Chairman:** Right, so can you move on, please?

22 **Mr. Ramadhar:** Absolutely. Thank you very much.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. Now Mr. Farah and Mr. Guerra, as you've indicated were
25 available since around shortly after three o'clock?

26 A. Yeah.

27 Q. Now, the pipeline, as the Chairman had so graciously allowed,

1 um, the horizontal part was under the seabed cover?

2 A. Correct.

3 Q. Is that accurate?

4 A. Yep.

5 Q. You could not and did not know at the time—

6 A. Right, it wasn't visible, no.

7 Q. Right. You could not and did not know at the time that it was
8 not completely horizontal?

9 A. Correct.

10 Q. Yes. Now we're hearing a lot about pressure differentials,
11 yeah, and the issue of the plug being removed, whether by
12 failure or by—

13 A. Design.

14 Q. —design. On one end there's the plug on one side at six, berth
15 6, is that accurate?

16 A. Correct, yeah.

17 Q. And you have described now pumping air into this, into this
18 pipeline to push its content meaning water oil or whatever, out
19 of it?

20 A. Yeah.

21 Q. Also accurate? But you also said something very interesting
22 that at five there was a valve somewhere?

23 A. Correct.

24 Q. Yes. That valve, anybody check to see whether there was a
25 failure of that valve to create any, any, um, differential in the
26 pressure?

27 A. I—*[Shaking head from left to right]*

1 Q. But it—not under your remit? That’s Paria’s valve? Is that
2 accurate?

3 **Mr. Chairman:** Just a moment. I’m not sure I can
4 understand—

5 **Mr. Ramadhar:** Yes.

6 **Mr. Chairman:**—what you’re as actually asking.

7 **Mr. Ramadhar:** I’m—sorry.

8 **Mr. Chairman:** If the valve isn’t working, just think of your
9 car tyre, if the valve fails in some way and lets the air out, it’s
10 going to do the exact reverse of what you’re suggesting as far
11 as I can see.

12 **Mr. Ramadhar:** No. With all due respect I don’t know
13 enough and that’s why I’m asking.

14 **Mr. Chairman:** Well, I think I—I think we all—the rest of us
15 might know by now—

16 **Mr. Ramadhar:** Yeah.

17 **Mr. Chairman:**—that if you open the valve it’s going to let air
18 out rather than in.

19 **Mr. Ramadhar:** I believe I’d ask him—

20 **Mr. Chairman:** Unless, unless there was a vacuum on the
21 inside.

22 **Mr. Ramadhar:** Thank you so much.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. And that is why, er, Mr. Ali you said something earlier that it
25 would have been worse if there was an opening at five. Is that
26 what you said?

27 A. Correct.

1 Q. Tell us what you mean by that.

2 A. This is not for checking the pressure now it's—

3 **Mr. Chairman:** This is what?

4 **Mr. Ali Sr.:** The riser was open and the plug moved, there
5 would be no back pressure building up to stop the plug.

6 **Mr. Ramadhar:** There you go.

7 **Mr. Chairman:** Yeah.

8 **Continued Cross-Examination By Mr. Ramadhar:**

9 A. So that's what you're asking?

10 Q. Yes. So there was a greater likelihood of the plug moving away
11 from where it was originally placed is that accurate?

12 A. Correct, yeah.

13 Q. And that, that's it.

14 **Mr. Ramadhar:** Thank you very much, Mr. Chairman.

15 **Mr. Chairman:** Thank you, um, yes Ms. Maraj.

16 **Cross-Examination By Mrs. Persaud Maraj:**

17 Q. Mr. Ali, Kamini Persaud Maraj for LMCS. I'd like to follow
18 up from this morning's questioning where you indicated that
19 there were some dive ramps that you would have referred to.

20 A. Correct.

21 Q. Do you recall that when you—

22 A. Yeah.

23 Q. —said you would have seen it? Okay. So, I understand that
24 they—I have emailed those documents to the Commission. It
25 was previously disclosed to the Commission but I don't think it
26 has found its way in the bundles. So those have since been
27 supplied. Have a look at the documents being supplied.

1 [Documents handed to Commissioners and Mr. Ali]

2 **Mr. Chairman:** Is this in a, um, original supplied material on
3 line?

4 **Mrs. Persaud Maraj:** It's part of a list of documents that were
5 supplied by LMCS to the Commission but it's not part of the
6 bundle. It's not within the bundle of the documents.

7 **Mr. Chairman:** So it was on a list but not actually supplied?

8 **Mrs. Persaud Maraj:** Not actually supplied.

9 **Mr. Chairman:** Right.

10 **Mrs. Persaud Maraj:** Yes?

11 **Mr. Chairman:** And have you got copies for everybody else,
12 or can we put it up on the screen at least?

13 **Mrs. Persaud Maraj:** It's on the screen, please?

14 **Mr. Chairman:** Ah, right.

15 **Mrs. Persaud Maraj:** Right.

16 **Mr. Chairman:** Can we make it a little bigger, please? That's
17 better, yes. Thank you. Is this what you were referring to?

18 **Mr. Ali Sr.:** Right.

19 **Mr. Chairman:** Right, thank you.

20 **Continued Cross-Examination By Mrs. Persaud Maraj:**

21 Q. Right. And you were explaining the assumption that was made
22 in relation to the pipeline referring to this dive ramp. Can you
23 explain what we're looking at and—

24 A. Okay. At the foot of the riser there is concrete bags placed to
25 stop the riser sinking further than the rest of the pipeline.
26 Because the pipeline is concrete coated—

27 **Examination By Mr. Chairman:**

1 Q. Could you just show us where that could be? Just point.

2 A. So there we have the concrete bags at the foot of the riser.
3 When you have a concrete coated line, at the riser it's coated as
4 well, there's concentrated weight on the riser.

5 Q. Of course.

6 A. Right? So it sinks further than the rest of the pipeline. So
7 that's where you would have getting your undulations. What's
8 a bit perplexing in this case it's not just at the riser, because
9 Christopher refers to two air pockets. So if was just this one
10 then you would have one air pocket. So there must have been
11 some more undulation in the pipeline, but this is what was
12 meant to portray that the line was level and not undulation or
13 sinking down into this corner. And that—

14 Q. Right.

15 A. That's one of the explanations for the air pockets that came up
16 that we found out were there.

17 Q. So when you were—where did you get this document from?

18 A. This was given by, um—in one of our meetings at the—

19 Q. Paria gave you?

20 A. Paria. It's a Paria document.

21 Q. Right. But you assumed from that that the pipe—

22 A. Was level.

23 Q. —at the subsea level—

24 A. Yeah.

25 Q. —was, was level?

26 A. Yeah, with no—the major thing was that the riser hadn't sunk
27 down lower than the rest of the pipe.

1 Q. Right. So that there'd been no movement or you didn't believe
2 there to be any movement—

3 A. Yeah.

4 Q. —at the riser at number six?

5 A. And similar for number five.

6 Q. And is that, is that the same for the riser, I think the next
7 diagram is the one—

8 A. Yeah.

9 Q. —at number five?

10 A. Number five.

11 **Continued Cross-Examination By Mrs. Persaud Maraj:**

12 Q. So yes, so there are two diagrams one for berth 5 and one for
13 berth 6. And just by way of explanation, Mr. Ali, you'll
14 confirm that that's the same reasoning and the rationale—

15 A. Yeah.

16 Q. —which is applicable—

17 A. At both.

18 Q. —to both. All right. Can we please have page four two five
19 two of the bundles of submission, that is the permit to work?

20 **Mr. Chairman:** Yeah. Just before you move on—

21 **Mrs. Persaud Maraj:** Yes.

22 **Mr. Chairman:**—does it give the distance of the pipe from the
23 main sea level to the floor? I mean, it probably does, but it's in
24 such tiny writing I can't possibly read it. Well, I challenge
25 most people to be able to read it, actually. I just want to know
26 if it does, and if it does it give exactly the same distance for
27 both five and six?

1 **Mrs. Persaud Maraj:** I'm going to attempt to read it myself,
2 please Mr. Commissioner.

3 **Mr. Chairman:** Well I figure it's going to give you the depth.
4 I just want to know if it's the same. Well, should we check that
5 later on? We've got the diagrams now, we can check it later.
6 You can move on to your next question.

7 **Mrs. Persaud Maraj:** I'm grateful. There is on the right of
8 the document a number of measurements that I can see it where
9 perhaps—

10 **Mr. Chairman:** We've got the document. We can work it out.

11 **Mrs. Persaud Maraj:** Yes, so we can perhaps look at it.

12 **Continued Cross-Examination By Mrs. Persaud Maraj:**

13 Q. All right, so can I have page two eight seven one, witness
14 statement, supplemental witness statement, paragraph 92.
15 Right. So, I'm taking you to paragraph 92 of your statement
16 where you've said that your men were about to implement a
17 plan, a simple plan for the rescue.

18 A. Correct.

19 Q. Right? But something happened. Right? Let me take you to
20 now page nine three oh two of the bundles of submissions. Oh,
21 sorry, it's page four two five two. It's the permit to work 9302.
22 But unlike the core bundle this has a second page that is
23 missing from the core bundle.

24 **Mr. Chairman:** Just a minute. The permit to work you say?

25 **Mrs. Persaud Maraj:** Yes, it's the permit to work. Right.

26 **Mr. Chairman:** Right. One zero seven four. It's in the core
27 bundle.

1 **Mrs. Persaud Maraj:** So the core bundle, Mr. Commissioner,
2 has a page that has been omitted. So this is the first page of that
3 permit to work.

4 **Continued Cross-Examination By Mrs. Persaud Maraj:**

5 Q. And Mr. Ali, this is the permit to work that would have been
6 issued to LMCS for the purposes of the 25th of February, 2022.

7 A. Correct, yeah, nine three two nought.

8 Q. Right. I'd like to take you to the second page. So this is the
9 first page. Yes? And now, scroll. Keep scrolling. Right, stop
10 right there. Right. So we have an annotation here. You see
11 that? Are you seeing that? Are you seeing—

12 A. Yeah, sorry, yeah.

13 Q. Right. Would you be able to tell the Commission what that
14 annotation means?

15 A. All right, I—that's where the permit was pulled and all work
16 stopped. The men were instructed not to do anything on the
17 barge. As you can see—

18 Q. Can you see a time?

19 A. —the time there is 15:22 on the 25th, second—

20 **Mr. Chairman:** So all worked stopped at 15:22?

21 **Mr. Ali Sr.:** Yeah. That's where they took, they pulled the
22 permit then and actually signed it off.

23 **Continued Cross-Examination By Mrs. Persaud Maraj:**

24 Q. And by pulling the permit they also came with instructions to
25 the members of LMCS present at the barge?

26 A. That's right. When they pulled it, even though it said 15:22 it
27 was just after I left that they told the men they weren't to do

1 anything else and they had the permit for nothing.

2 Q. And anything else would have included carrying out the—

3 A. The diving, the rescue.

4 Q. The rescue plan.

5 **Examination By Mr. Chairman:**

6 Q. So that I understand, your position is that is it that indicate the
7 time at which LMCS were effectively prevented from doing
8 anything further—

9 A. Yes.

10 Q. —under the original work permit?

11 A. Yeah.

12 **Mr. Chairman:** You're saying have I got that right?

13 **Mrs. Persaud Maraj:** That's correct.

14 **Mr. Chairman:** Okay, thank you.

15 **Continued Cross-Examination By Mrs. Persaud Maraj:**

16 Q. Now, I'd like to take you back in relation to the contract.

17 A. Yeah.

18 Q. And—for all of the works that was planned. You said earlier
19 this morning that it was—the development of the method
20 statement and the JHAs were a collaborative effort. You recall
21 saying that?

22 A. Yeah, correct.

23 Q. I'd like to take you to page six five eight of the core bundle. So
24 the work plan would be carried out as follows. Please scroll
25 down. This is under work method and this is a document that
26 you would have provided during the—

27 A. My proposal.

1 Q. —in your proposal in relation to what Paria required, correct?

2 A. Yes.

3 Q. Good. I'd like to read for you what this says. It says:

4 "LMCS will work with Paria Fuel Trading Company
5 Limited to confirm all engineering requirements
6 including quality control/assurance activities for the
7 contract prior to the placement of the purchase orders for
8 equipment and materials."

9 You see that?

10 A. Correct, yes.

11 Q. That's correct. This is what you would have indicated to Paria
12 and Paria would have had this document in their possession?

13 A. Correct.

14 Q. Next thing.

15 "LMCS Limited would provide the required insurances
16 and bonds within time limits for the contract."

17 A. Correct.

18 Q. And:

19 "Paria Fuel Trading Company Limited and LMCS will
20 conduct job hazard analyses (JHAs) and risk assessments
21 as required for all activities associated with the project."

22 A. Correct.

23 Q. All right. So, when you say that the this was a collaborative
24 effort—well let me take you back to the virtual attendances.
25 Were you present at the virtual meetings that would have had
26 with the—that Paria would have had with the—

27 A. Contractors.

1 Q. —with all of the tenderers, the contractors?

2 A. I was.

3 Q. All right. And you would have received of course the package
4 in order to put in your tender?

5 A. Yeah.

6 Q. Right.

7 A. Well the package was sent via email prior to the virtual site.

8 Q. Right. At any point in time did you understand that it was only
9 LMCS' expertise that was required for the execution of these
10 works?

11 A. No. Actually there were 18 contractors invited. At least some
12 of them were just painting contractors so there was no thing of
13 expertise in the field.

14 Q. All right. And your understanding was that you would have
15 worked along with Paria in relation to the development of the
16 methodology and the execution of the works?

17 A. Correct. Ever since we started with Petrotrin, and later on with
18 Paria, that has always been the conduct of the work. It was
19 Paria's site. Number six was an active berth with ships coming
20 and going. There was no way we could have taken over that as
21 a greenfield.

22 Q. So that—

23 A. Everything had to be done within their, um, purview and their
24 control.

25 Q. Right. So, I like that word, control. So at any point in time did
26 LMCS have total control over the execution of these works?

27 A. No.

1 Q. There's one other question I'd like to ask you and it's in
2 relation to the purpose of the inflatable plug.

3 A. Yeah.

4 Q. In relation to the stoppage, as I understand, were stopping the
5 hydrocarbons from being emitted within the contents of the line
6 that's correct?

7 A. [*Nodding*]

8 Q. Can you explain to me, in the circumstances of that safety
9 mechanism, the thought process or the methodology that LMCS
10 employed by removing that plug on the day in question?
11 Because, as it is, the work was not totally completed. Is that
12 correct?

13 A. Correct, yes.

14 Q. The hot works were completed, meaning the welding?

15 A. Correct.

16 Q. But all of the works were not yet completed?

17 A. Correct.

18 Q. Right. Can you explain to us that methodology employed by
19 LMCS in the removal of the—in the safety aspect of the
20 removal of the plug on that day in relation to the hydrocarbons?

21 A. In relation to the?

22 Q. Hydrocarbons.

23 A. All right, like I said the plug, the inflatable was to stop, while
24 we're doing hot work, the vapours coming into contact with the
25 molten metal and catching on fire, right, and the mechanical,
26 well, was again was to help that to stop the molten metal from
27 going. Once we finish all the hot work there was no

1 requirement for the plugs. The chamber was vented at all time
2 with fresh air.

3 Q. Right.

4 A. This is how habitats work. You put in pure air.

5 Q. And that was supplied?

6 A. Yeah, you supplied pure air and that keeps out undesirables,
7 then, right? They do it in the refinery. You go over pipelines,
8 you put it, you put a positive pressure and it keeps out the
9 surrounding air.

10 **Examination By Mr. Chairman:**

11 Q. Was there a method for measuring that?

12 A. Sorry?

13 Q. Was there a method for measuring the quality of the air?

14 A. There is.

15 Q. Right. And was that being monitored?

16 A. There were two metres monitoring the air constantly.

17 Q. Thank you.

18 A. One belonging to Paria and one belonging to LMCS and that
19 was full-time. It wasn't stop and go.

20 Q. All right.

21 A. Continuously. And, like I said before, the hydrocarbons from
22 heavy fuel is five times heavier than air. It would come out the
23 pipeline and sink to the bottom of the chamber. On top of that,
24 the flash point was so high that was very little hydrocarbon that
25 would come out. So, the chamber was safe at all times once we
26 have it vented. If it had ever gone to the stage where it became
27 dangerous we'll pull the men out, vent it out properly again

1 before we send them in. If we still couldn't get in, then we'll
2 go in with the air, keep the mask on, close the pipeline and let it
3 come out. So the danger of hydrocarbon—er, well there was no
4 welding done. I know there was a permit but I got no permit,
5 but the work permit was meant to be over a seven-day period.
6 Within that seven days we would have been welding again. So
7 that's why the permit would have been there. It's interesting to
8 note that, um, work permit—um, can we have it again on the
9 screen?

10 Q. Yes you can.

11 A. Nine three two nought.

12 Q. Seventy-four. Core bundle three.

13 A. Yeah. Just scroll down a bit please whoever, er—again. All
14 right, good. In column—in section four, if you look there's
15 gloves on one side and you go across, gas monitoring
16 equipment required. Right down to the bottom of that, um—
17 Right? You see there's no connotation there for gas
18 monitoring, so it's obviously everybody knew there was no
19 welding going to take place.

20 Q. No?

21 A. No welding. That's where you will have the gas monitor.

22 Q. Well it's blank. It hasn't been ticked, has it?

23 A. Yes. That's what I'm saying. So if they envisaged welding
24 they would have definitely ticked it off.

25 Q. Right.

26 **Mrs. Persaud Maraj:** I believe this is all from LMCS, please.

27 **Mr. Chairman:** Thank you.

1 **Mr. Maharaj SC:** I have no question, Mr. Chairman.

2 **Mr. Chairman:** Thank you very much.

3 **Mr. Ali Sr.:** Could I say one more thing, Sir?

4 **Mr. Chairman:** Well depends what it is.

5 **Examination By Mr. Chairman:**

6 A. Okay. When we were shown the film, the video of the
7 pipeline—

8 Q. Yes.

9 A. —there's reference to a borescope.

10 Q. Yes.

11 A. And the borescope showed—the film of the borescope showed
12 that the bottle was right there at the elbow.

13 Q. Right.

14 A. Which would have been about 10 feet—

15 Q. Right.

16 A. —from the riser. Right? The other film that was shown here in
17 the last session showed a crawler film and that same bottle was
18 now shown to be 200feet into the bottom of the pipeline.

19 Q. Do we know that it's the same one?

20 A. You didn't so the borescope one but—the crawler one showed
21 it, but the borescope, which was in the package that—

22 Q. Well you do believe it's the same one. What's the point you
23 want to make?

24 A. It's the same bottle.

25 Q. Right, the same bottle?

26 A. Yeah. Because earlier you can see the marking on the bottle.
27 But when people were invited, well, asked if they would go into

1 the pipeline, they were shown a drawing showing you the bottle
2 at 150 feet. In fact, one of the experts said the reason he wasn't
3 going to the dive, apart from being told by Paria it was a
4 recovery, was because there was a blockage 150 feet into the
5 pipe. This was wrong information. This is what led people to
6 say, "No, we can't do it."

7 Q. Right. Because they thought that the pipe was blocked by that
8 tank?

9 A. But not only that, they're showing that the pipe is—and then
10 they're using that now to say there was no air pocket.

11 Q. I'm about to say, I'm unpersuaded by that particular
12 observation by a number of people at the moment because it
13 seems to me if Mr. Boodram managed to get past it to get out—

14 A. Exactly.

15 Q. —I can't see how it was a problem for anyone to get past it to
16 go in, but that's another matter, all right? But we'll deal with
17 that.

18 A. All right, so if I could just quickly finish, right?

19 Q. You're not the advocate, Mr. Ali. I have a whole phalanx of
20 advocates here, all right? But I understand what you say.

21 A. I thought we were going to get to the facts of this thing.

22 Q. Well, we're doing our best, I can assure you.

23 A. Okay.

24 **Mr. Chairman:** All right, look, we're going to rise for 5
25 minutes and then we're going to recall another witness. Thank
26 you very much indeed for coming.

27 **Mr. Ali Sr.:** Okay.

1 **Mr. Chairman:** It's much appreciated.

2 **Mr. Ali Sr.:** Okay.

3 **Mr. Chairman:** You are now free to stay or go as you please,
4 all right?

5 **Mr. Ali Sr.:** Okay.

6 **Mr. Chairman:** Thank you very much. We'll rise for 5
7 minutes please?

8 **4.10p.m.:** *Enquiry suspended.*

9 **4.15 p.m.:** *Enquiry resumed.*

10 **Mr. Chairman:** Ms. Persaud Maraj, can you help me, please?
11 This document that you've produced for us a copy of, even with
12 these glasses I can't—actually I can see there is a dimension on
13 there but I can't actually read it. Can I leave it with you to look
14 at originals, or whatever you might have, and tell us if they
15 show a depth on each riser from the sea level to the bottom of
16 the riser, for berths 5 and 6? All right, if you can let me know
17 at some point, I'll be grateful.

18 **Mrs. Persaud Maraj:** Certainly, Sir.

19 **Mr. Peterson SC:** Mr. Chairman, and during the break what
20 we also strained, well we strained to observe is the dates so if
21 my friend could focus on that too. It seems to be 2018 but I
22 was leaving it to when I get home—

23 **Mr. Chairman:** What, on the bottom of the document?

24 **Mr. Peterson SC:** Yes, when I get home to my magnifying
25 glass, but—

26 **Mrs. Persaud Maraj:** Yes, it—the—I can confirm that, that
27 the date of this document is the 2nd of February, 2018.

1 **Mr. Chairman:** Well I've got a date on the bottom in a box
2 when it says checked which says the 26th of April, 2018.

3 **Mrs. Persaud Maraj:** Yes, so—but we'll take some
4 instructions on this also in the interim too.

5 **Mrs. Persaud Maraj:** Proved, yes.

6 **Mr. Chairman:** Marvellous, thank you very much. All right,
7 we now clearly do not have time to deal with both remaining
8 witnesses so I'm going to take Mr. Peterson's suggestion that
9 we sit earlier tomorrow to make up the time. We'll do that, sit
10 at nine o'clock tomorrow because the witness, Mr. Dhillpaul
11 has to be working tonight and will therefore, working through
12 the night, will not be available tomorrow morning. It would be
13 unreasonable to expect him to be available tomorrow morning.
14 I'm going to have him called now and we'll deal with Ahmed
15 Ali in the morning.

16 I know that that caused some disquiet to somebody. I
17 wouldn't normally change the order unless some specific
18 reason arises, but clearly this is not an unreasonable reason and
19 I am going to do that. We'll call next please Mr. Victor
20 Dhillpaul, please? He is the health and safety executive officer
21 for LMCS.

22 *[Mr. Victor Dhillpaul sworn]*

23 **Mr. Dhillpaul:** I, Victor Dhillpaul, solemnly swear that the
24 evidence I shall give to the Commission in this case shall be the
25 truth, the whole truth and nothing but the truth.

26 **Examination By Mr. Chairman:**

27 Q. You are Mr. Victor Dhillpaul, correct?

1 A. Yes, Sir.

2 Q. And I was introducing you, I think, when you came in. You are
3 the, or were, the health and safety officer for LMCS, is that
4 right?

5 A. Correct.

6 Q. Are you still in that role?

7 A. Not for the said company.

8 Q. No, all right, for a different company. All right, thank you very
9 much. What's going to happen next is, um, I think it's a
10 summary or the entirety of his statement? A summary.

11 **Mr. Bissessar:** Summary.

12 **Mr. Chairman:** So, Mr. Bissessar here is going to read a
13 summary of your evidence. You were good enough, I think, to
14 provide us with some additional evidence but he's going to give
15 a summary and listen to that summary. If you agree that it's
16 accurate then we won't need to hear your evidence-in-chief and
17 you'll just be asked some questions in cross. I don't think we
18 have any, do we, for Mr. Dhillpaul? No. All right. So, some
19 of the lawyers sitting to your left will have some questions for
20 you, all right? Hopefully we'll be done—well, we will be done
21 today definitely so—because I'm—you've got to get to work
22 tonight, don't you?

23 A. Yes.

24 Q. You'd be able to go to work tonight. You might not be as
25 sprightly as you would otherwise be but you'll be able to work.
26 All right. All right, thank you very much.

27 **Mr. Bissessar:** Thank you, Chair.

1 Mr. Victor Dhillpaul was employed by LMCS from
2 August 2021 as a field health and safety officer, FHSO, but not
3 full-time. He's no longer working with LMCS. On 10th
4 November, 2022, Mr. Dhillpaul provided a signed witness
5 statement to the Commission. This is at WB 2932, following
6 an interview with Counsel to the Commission. He was
7 represented by counsel during the interview. He said that the
8 facts stated in his witness statement are true and correct.

9 Mr. Dhillpaul has about 13 years' experience in health
10 and safety and has qualifications including OSHA General
11 Industry Standard certification, OSHA Construction Industry
12 Standards certification, International Association of Safety
13 Professionals Confined Space Entry certification, Shadrack
14 Risk Assessment and Accident and Investigation certification
15 and NEBOSH HSE Certificate Level IV.

16 As LMCS' FHSO, Mr. Dhillpaul conducted safety
17 meetings, explained job safety analyses, JSAs, and risk
18 assessments as well as identifying hazards and making
19 recommendations. He says he was not involved in the
20 preparation of JSAs or risk assessments for the Paria project.
21 LMCS' HSE manager, Ahmad Ali, prepared those documents.
22 Mr. Dhillpaul says he was training on Paria's permit to work
23 system, PTW, but was not yet authorized to sign the PTW on
24 behalf of LMCS. He says he attended training sessions with
25 Paria after he started working with LMCS. Mr. Dhillpaul was
26 involved in LMCS' line clearing and he was there when the line
27 was pumped at berth 5 and he conducted some of the toolbox

1 meetings for the line clearing.

2 On 15th February, 2022 he conducted a toolbox meeting
3 with Ahmad Ali. He also conducted toolbox talks for the
4 installation of the hyperbaric chamber and the plug and was
5 present for the installation of the plug but cannot recall exactly
6 how it was done. On Friday, 25th February, 2022 Mr.
7 Dhillpaul was LMCS' safety officer at berth 6 and at around
8 9.00 a.m. he had a toolbox meeting to discuss the job hazards.
9 He said Paria's Andrew Dopson was present and the main
10 hazard discussed were compressor failure and chamber
11 flooding. He says he discussed general hazards.

12 He asked Mr. Dopson if he wished to address anything
13 but Mr. Dopson said no. Mr. Dhillpaul said that anyone who
14 was present on 25th February, 2022 during the toolbox talks
15 would have signed the toolbox forms. Mr. Dhillpaul said that
16 on 25th February, 2022 he called upon Kazim Ali Jr., who was
17 a job supervisor, to discuss the job method and hazards. Kazim
18 Ali Jr. then talked about compressor failure and chamber
19 flooding but what he said was not documented at the toolbox
20 meeting.

21 Mr. Dhillpaul explains that Kazim Ali Jr. was his
22 supervisor that day and was very busy and told Mr. Dhillpaul to
23 leave it and when he, meaning Mr. Ali Jr., got a chance, he
24 would document what he had spoken about at the meeting, but
25 of course he never got a chance to. Kazim Ali Jr. also spoke
26 how the job to be done but Mr. Dhillpaul cannot recall what he
27 said about the job in particular.

1 Mr. Dhillpaul recalls that Mr. Terrence Rampersadsingh
2 of Paria was not present at the toolbox meeting. Mr. Dhillpaul
3 also said that he did not observe any breaches of safety protocol
4 but he did review the permit to work and his job was to ensure
5 that what was on the PTW was done and nothing contrary to
6 that. He said that the PTW was a package comprising a method
7 statement, a risk assessment and a JHA.

8 Mr. Dhillpaul says that when the accident occurred, he,
9 meaning Mr. Dhillpaul, was on barge six making observations.
10 He says Paria's representative, Mr. Dopson, had already gone
11 ashore to collect his lunch, but Mr. Dopson was on site for the
12 entire day before the accident occurred. He said that Mr.
13 Dopson inspected all the documents including the PTW with
14 the method statement, and also checked the oxygen level and
15 did a gas free test in the habitat.

16 Mr. Dhillpaul describes the knocking he heard coming
17 from the direction of the habitat. This was around 4.25 p.m.
18 and he and the others began bounding the pipe and he heard a
19 faint voice and knocking. He says that Paria said that no divers
20 should enter the habitat and he describes the arrival of the coast
21 guard who he said were taking photographs of themselves.

22 He also describes Christopher Boodram's rescue and that
23 when he was being transferred to the Adventurer X he said that
24 the others were alive in the air pocket. Mr. Dhillpaul said that
25 he tried to discuss rescue plans with Paria's personnel but they
26 showed no interest nor did they include him in their
27 discussions. He remained on site all day Saturday and left at

1 8.00 p.m. Before leaving he said that LMCS was just there and
2 no one from Paria was saying anything and nothing was being
3 done.

4 Thank you, Chairman.

5 **Mr. Chairman:** There was just one thing I needed to ask you
6 if you would help me at this stage, please?

7 **Examination By Mr. Chairman:**

8 Q. A permit to work could be for longer than one day, is that right?

9 A. Well Paria's permit to work system works several ways.

10 Q. Can you speak a little louder and into that microphone, please?

11 A. Paria permit to work system is seven days.

12 Q. Several days?

13 A. Seven days.

14 Q. Seven.

15 A. What happens after the day's job, it's suspended and the
16 following day it would be renewed.

17 Q. After each day or—

18 A. Each working day.

19 Q. Right. So the permit would have a life of seven days?

20 A. Correct.

21 Q. But it's limited in the sense that at the end of each day it's
22 suspended and then restarted the following day, and that would
23 go on for seven days?

24 A. Correct.

25 Q. And then there'll be a new work permit, would there, for any
26 subsequent work?

27 A. With the same information, unless there are changes to the job.

1 Q. Right. So if a job, for example, was estimated to take seven
2 days, but lasted in fact nine days, would there have to be a
3 whole new permit for the extra two days?

4 A. Yes.

5 Q. And would the new permit simply reflect what was on the old
6 permit?

7 A. Yes, correct.

8 Q. Right. Next, this. A toolbox meeting, is that just to do with
9 safety or does it cover other things as well?

10 A. Toolbox cover the safety of the job and also the steps of the job.

11 Q. Right. The steps of what's supposed to happen in the order in
12 which it's supposed to happen?

13 A. Correct.

14 Q. So you'd be present at such a meeting?

15 A. Yes.

16 Q. And your contribution would be to deal with health and safety?

17 A. Yes.

18 Q. And was it at any time your responsibility to identify health and
19 safety issues?

20 A. Not on that given day.

21 Q. I beg your pardon?

22 A. Not on that given day.

23 Q. Not on that given day. You were simply covering the ones that
24 had been already identified, is that right?

25 A. Yes.

26 Q. Thank you very much.

27 **Mr. Chairman:** All right, um, so I will ask anybody else, Mr.

1 Peterson?

2 **Mr. Peterson SC:** Mr. Mootoo will take this witness, Sir.

3 **Cross-Examination By Mr. Mootoo:**

4 Q. Good afternoon, Mr. Dhillpaul.

5 A. Afternoon.

6 Q. My name is Jason Mootoo and I have a few questions to ask
7 you. I act on behalf of Paria. Now, in your statement to the
8 Commission, you submitted that on the 10th of November,
9 2022, is that correct?

10 A. Correct.

11 Q. Right. But you also submitted a statement to OSHA on the
12 17th of March, 2022? You recall that?

13 A. I can't remember the exact date but I did.

14 Q. Okay. We'll get it but do you recall submitting a statement to
15 OSHA?

16 A. Yes.

17 Q. Okay. And do you recall that statement was quite some time
18 before you submitted your statement to this Commission?

19 A. Yeah.

20 Q. Yes?

21 **Mr. Chairman:** Mr. Mootoo would you get a little closer to
22 your microphone?

23 **Mr. Mootoo:** I'm sorry.

24 **Mr. Chairman:** Not at all, just—

25 **Continued Cross-Examination By Mr. Mootoo:**

26 Q. Okay and you were, um—as I read your statement you were
27 involved in two toolbox meetings, is that correct, at least two,

1 on this job, the 15th of February, 2022 and the 25th of
2 February, 2022?

3 A. Right.

4 Q. Is that correct?

5 A. Yeah.

6 Q. Right. And as the Chairman asked you, your responsibility
7 there was really to deal with the safety aspects of the job?

8 A. Correct.

9 Q. Correct? Now, on the 25th in particular, Mr. Kazim Ali was
10 there at that toolbox meeting?

11 A. Junior.

12 Q. Junior, sorry, yes. Thank you for the correction. He was there
13 on that day, yes?

14 A. [*Nodding*]

15 Q. And your discussion in your statement about the toolbox
16 meeting is that there is a toolbox form to be filled out?

17 A. Yes.

18 Q. Yes? And the important aspects that are discussed at that
19 meeting are included on the form, isn't that correct?

20 A. Correct.

21 Q. And you would consider that to be a very critical aspect of
22 what's included on the form?

23 A. Yes.

24 Q. Is that correct?

25 A. Yes.

26 Q. Yes. But your evidence to the Commission is that although you
27 could recall what you spoke about in connection with safety on

1 the 25th of February, you actually have no recollection what
2 Kazim Ali Jr. spoke about in relation to the job to be done?
3 Perhaps I can help you. Might the witness be shown paragraph
4 24 of his witness statement of the 10th of November, 2022?
5 That is at page 2936 of the witness statement bundle.

6 [*Document handed to Mr. Dhillpaul*]

7 **Mr. Chairman:** It's being given to him.

8 **Mr. Mootoo:** Yes.

9 **Continued Cross-Examination By Mr. Mootoo:**

10 Q. You can see it on screen. Do you see that?

11 A. What exactly?

12 Q. Paragraph 24. It's at the top of the screen. Your evidence to
13 the Enquiry is you can't remember or recall what Kazim Ali Jr.
14 said about the job on that day. Is that correct?

15 A. Yeah, I couldn't recall all the specifics which he spoke about.

16 Q. Right. But you didn't identify any in your witness statement,
17 did you?

18 A. No I didn't.

19 Q. And in fact in your earlier statement to the—to OSHA, that is to
20 be found at page six nine four of the bundle of submissions. I
21 want to suggest to you—well first of all, yes, it's up on the
22 screen. It's a two-page document. I want to suggest to you that
23 in this statement you also made no mention about the method of
24 the job to be performed, you made no mention of it there in that
25 statement at all, correct?

26 A. Correct.

27 Q. Good. And this was a mere three weeks after the incident had

1 occurred. Yeah?

2 A. Right.

3 Q. Now you are aware of Mr. Andrew Dopson. You know that
4 name?

5 A. Yeah.

6 Q. And he was an HSE technician on site. You agree with me?

7 A. Agreed.

8 Q. And he was there on the 25th of February. And he was a
9 Kenson official?

10 **Mr. Chairman:** You mean at the toolbox meeting?

11 **Mr. Mootoo:** Sorry, yes, at the toolbox meeting.

12 **Continued Cross-Examination By Mr. Mootoo:**

13 Q. Yes, you accept that?

14 A. Yeah.

15 Q. I need you to say yes or no.

16 A. Yeah.

17 Q. Yes. And he was a Kenson official or you knew him to be a
18 Kenson official?

19 A. Yes.

20 Q. Yes. And you also knew Kenson to be representing the interest
21 of Paria?

22 A. Correct.

23 Q. Right. Now, I'd like to ask the witness to be shown a document
24 at page six five nine two of what I understand to be the bundle
25 of submissions, electronic bundle of submissions received by
26 the Commission.

27 **Mr. Chairman:** Has somebody else got their microphone on?

1 Ah yes, it's—thank you.

2 **Mr. Peterson SC:** I realize when you have on both, Sir, you
3 cannot get yours—

4 **Mr. Chairman:** Yeah, quite. Somebody tell me where that is
5 in our core bundles, please? [*Crosstalk*] Volume II? Thank
6 you. No, no, no. It's not in the core bundle at all? You sure?
7 Ten two two? Thank you. Proceed please?

8 **Mr. Mootoo:** Thank you.

9 **Continued Cross-Examination By Mr. Mootoo:**

10 Q. I'd like you to have a look at this document in front of you. It
11 runs into two pages and on the face of it it's prepared by Mr.
12 Andrew Dopson. It's dated the 25th of February, 2022. It's the
13 same day. You agree with me?

14 A. Indeed.

15 Q. And it's a daily activity report. It's quite a detailed document.
16 Would you agree with me?

17 A. Yes.

18 Q. Yes? And would you also agree with me that nowhere in that
19 document is the removal of the—of any migration barrier
20 discussed. You accept that?

21 A. No.

22 Q. You don't accept it? Have a look at it. And tell me where, in
23 that document, the removal of the migration barrier is
24 discussed.

25 A. [*Perusing document*] It isn't there.

26 Q. It isn't there. So, let me get the evidence correct. It's not there,
27 it's not in your statement given to OSHA, yes? You agree?

1 A. Agree.

2 Q. It's not in your statement given to OSHA three weeks after the
3 event. It's not in your statement to the Commission. I want to
4 suggest to you that in fact the removal of the migration barrier
5 was not discussed on the 25th of February.

6 A. No, it was discussed.

7 Q. It was discussed?

8 A. Yeah.

9 Q. Didn't you just tell us a few moments ago when we looked at
10 paragraph 24 of your witness statement that you agreed with
11 me, you couldn't remember anything Kazim Ali Jr. spoke about
12 the job?

13 A. It wasn't mentioned.

14 Q. Do you recall that?

15 A. Yes I recall.

16 Q. Yes. Do you recall—do you think that the removal of the
17 migration barrier was an important matter?

18 A. Yeah it was a important matter.

19 Q. By the time you came to prepare this statement don't you
20 consider it was perhaps one of the most important matters?

21 A. To answer that question, the guys that were in the pipe—

22 Q. No, I'm not cash in you about that.

23 A. Right.

24 Q. Don't you consider by the time you came to prepare this
25 statement it was one of the most important matters, if not the
26 most important matter?

27 A. Well I've—it was important, yeah.

1 Q. Yes. And it was—but nonetheless are you asking the
2 Commission to believe that despite it was one of the most
3 important matters you never mentioned it to OSHA, you never
4 mentioned it to the Commission and in fact the first time you're
5 mentioning it is today?

6 A. Well I was going to quote for you from the method statement.

7 Q. I'll get you—we'll get to the method statement.

8 **Mr. Chairman:** I can't hear. You have to speak directly into
9 that microphone, please.

10 **Continued Cross-Examination By Mr. Mootoo:**

11 A. I we'll get to that when we come to the method statement.

12 Q. We'll get to it.

13 A. Right.

14 Q. I'm not asking you about the method statement. I'm asking
15 about what you told the Commission and what you told OSHA.

16 A. At that point in time I couldn't have remember everything.

17 Q. Or so you can re—your memory is better now several months
18 after the fact?

19 A. Um, if you were a part of that, you would have understand what
20 I had dealt with.

21 Q. Yes. I understand that but you, you submitted this statement so
22 your memory got better between the 10th of November and the
23 5th of December, is that it?

24 A. No, that's not it.

25 Q. Well I'm suggesting to you that in fact on the toolbox meeting
26 document that you formed, that you asked us to look—well,
27 that you signed. You recall signing a toolbox meeting form?

1 A. Yes.

2 Q. Let's look at page ten seventy of the—of core bundle. You
3 have that in front of you?

4 A. Yeah.

5 Q. No mention of the removal of the migration barrier. Would you
6 accept that?

7 A. Yeah, because I stated [*Document handed to Mr. Dhillpaul*] in
8 my statement that Kazim Ali had spoken about that so he would
9 have written in that—

10 Q. Kazim Ali spoke—you're saying in your statement you say
11 Kazim Ali spoke about the removal of the migration barrier?
12 Didn't you just tell us in your statement that you couldn't
13 remember what he said at all at paragraph 24?

14 A. At the given moment when I'd given the statement.

15 Q. Okay, so yes, two weeks ago you couldn't remember but now
16 you remember? Didn't we just cover that ground, Mr.
17 Dhillpaul?

18 A. Well, if you say so.

19 Q. Would you like to change your evidence today for the first
20 time?

21 A. Well, it was spoken about.

22 Q. Okay. But it's not on the form. It's not on the toolbox form.
23 Do you accept that?

24 A. Yes I accept that because the form is incomplete.

25 Q. And it's also—but you would accept that this toolbox form was
26 a document that was prepared on the day?

27 A. Yes.

1 Q. And Mr. Dopson's statement that we just took you to was a
2 document prepared on the day.

3 A. Okay.

4 Q. You accept that?

5 A. Right.

6 Q. And on the day would you also accept that nobody knew about
7 Delta P at the time? Would you accept that?

8 A. Yeah.

9 Q. To the best of your knowledge nobody knew about it?

10 A. Correct.

11 Q. In fact, um, nobody knew what had caused the problem, isn't
12 that right?

13 A. Correct.

14 Q. So, it's very unusual, if the removal of the migration barrier
15 was spoken about, that it was omitted from all of the documents
16 produced on that day. Wouldn't you agree with that?

17 A. Well—

18 Q. Would you agree with that—

19 A. I agree—

20 Q. —it's unusual? In fact, what, you would agree with me, that
21 what one would have expected is that if it was discussed, it
22 would have been on the documents? Would you not agree with
23 that, if it was discussed, it would have been usual, listen to my
24 question, it would have been usual to expect it to be on the
25 documents?

26 A. Some, some, yeah.

27 Q. Yes. Now, you, um, you also spoke about your knowledge of

1 the permit to work system. Am I right about that?

2 A. Yeah.

3 Q. You were trained in it?

4 A. [*Nodding*]

5 Q. Yes?

6 A. Yes.

7 Q. Now, in your statement I see you talk about, I see you talk
8 about the permit to work and then you talk about permit to
9 work documents. You recall that?

10 A. Right.

11 Q. So is it that you look at them as two different things, the permit
12 to work is one document and then you have a group of other
13 documents?

14 A. No, well, the permit to work is more or less a package.

15 Q. Okay. So when you use the phrase in your statement permit to
16 work documents, what you mean is the permit and the
17 supporting documents?

18 A. Correct.

19 Q. Is that what you mean?

20 A. Yeah.

21 Q. Okay. You know Paria produced a method statement, an
22 amended method statement for this job. Are you familiar with
23 that? [*Crosstalk*] Sorry, forgive me. LMCS. It's a long day.
24 You're familiar with that?

25 A. Yeah.

26 Q. No? But as the health and safety officer—

27 A. I said yes.

1 Q. Oh, yes. Right. Now, if the witness can be shown 1048 of core
2 bundle two? Right, just on the first page there, this is a method
3 statement. You see it?

4 A. Uh-huh.

5 Q. And that's the LMCS logo at the top of the page. Yeah. You
6 accept that's an LMCS document?

7 A. Yeah.

8 Q. You see immediately under the main heading, italicized words
9 in bold, "All steps below shall only be carried out in full
10 compliance with Paria's permit to work system. You see that?

11 A. Yeah, I see that.

12 Q. And were you listening to the evidence earlier today when Mr.
13 Ali was—

14 **Mr. Chairman:** I hope he wasn't.

15 **Mr. Mootoo:** Well I was going to ask.

16 **Mr. Dhillpaul:** Well I know I was isolated.

17 **Mr. Mootoo:** Now it's a bit late. Well I'm going to have to
18 find another question for you, then.

19 **Mr. Chairman:** Have I somehow stolen your thunder, Mr.
20 Mootoo?

21 **Mr. Mootoo:** Mr. Peterson was stealing it anyway.

22 **Mr. Chairman:** All right.

23 **Continued Cross-Examination By Mr. Mootoo:**

24 Q. Are you aware, and I'll use my words, are you aware that from
25 the perspective of LMCS' upper management, they consider the
26 actual permit to work to be the most important document?

27 A. The permit to work, work—

1 Q. I'm asking you are you aware of that? If you're not that's fine.
2 Are you aware of it?

3 A. No.

4 Q. Okay, good. Will you accept from me that the permit to work
5 can set out—the actual permit, forget the bundle, the permit to
6 work can actually set out what is to be done and what is not to
7 be done, well, or what is to be done on a particular day?

8 A. I can explain?

9 Q. Are you—you'll get a chance to explain in a while.

10 A. Okay.

11 Q. But let's go through my questions first. Would you accept that,
12 that the permit to work can set out what is to be done on a
13 particular day?

14 A. It can outline some of the—

15 Q. Okay.

16 A. —specifics.

17 Q. Do you recall the permit to work on that day, of the 25th of
18 February? You've told us you saw it.

19 A. Oh, yeah I saw it but I can't recall.

20 Q. All right. That is at page 1074 of the same bundle. Can you
21 look at little bit further down the page? Right. Can I ask the
22 operator to stop right there? "Migration barrier to be used."
23 You see this under the heading, "Requirements for Equipment
24 Isolation and clearance"?

25 A. Yeah.

26 Q. Now you would agree with me you would understand what that
27 means if the migration barrier is to be used on that day?

1 A. As I mentioned—

2 Q. No, no. We'll get to that.

3 A. Okay.

4 Q. Answer my question.

5 A. Well yeah, that's what I'm seeing there.

6 Q. Yes, good.

7 A. Right.

8 Q. And, um, I want to suggest to you that in your statement when
9 you say the most important document in the permit to work
10 package is the method statement, that's what you say, I want to
11 suggest to you two things. One, that that's untrue. Do you
12 accept that, that the actual document that's the most important
13 is the permit itself?

14 A. Well okay.

15 Q. Not okay. Do you accept it?

16 A. No, I don't.

17 **Mr. Chairman:** Two things first, please? Can you move that
18 microphone slightly to your left? A bit more. No, more than
19 that. You see, when you're looking at me it's fine, right, where
20 it is, but you're not looking at me, you're looking at Mr.
21 Mootoo who's asking you questions. So that's better there.
22 Thank you.

23 **Continued Cross-Examination By Mr. Mootoo:**

24 Q. Yes, you don't accept that the permit to work?

25 A. No.

26 Q. Would you like to reconsider that answer after having just
27 looked at the method statement? Remember the words I

1 showed you at the top of the method statement?

2 A. Yeah.

3 Q. Would you like to reconsider your answer in light of that?

4 Would you like to see the method statement again?

5 A. I saw it.

6 Q. It's not too late.

7 A. Well I want to explain why the—

8 Q. We'll get to that. would you like to reconsider your answer?

9 **Mr. Chairman:** Well, he keeps saying he wants to explain.

10 Let him explain, Mr. Mootoo.

11 **Mr. Mootoo:** I'll give way, Mr. Chairman.

12 **Mr. Chairman:** If he can let him explain it.

13 **Mr. Mootoo:** I'm directed.

14 **Mr. Chairman:** Explain what you understand the position to
15 be.

16 **Mr. Dhillpaul:** A method statement is created—from the
17 method statement the JHA and the risk assessment is created so
18 that is the steps of the job.

19 **Mr. Mootoo:** Maybe I'm not being clear.

20 **Continued Cross-Examination By Mr. Mootoo:**

21 Q. But the permit to work is a separate document, yes?

22 A. Yes it is.

23 Q. The permit to work is a separate document, isn't it?

24 A. Right, it is.

25 Q. And it's actually the last document, isn't it?

26 A. It is.

27 Q. So it is the final say—in fact, wait, let me withdraw that

1 question. The other documents are prepared by LMCS, isn't
2 that right?

3 A. Correct.

4 Q. But the permit to work is signed off by Paria?

5 A. Correct.

6 Q. And the permit to work is Paria's final say as to what is to
7 happen on the day in question?

8 A. But if, if you had noticed that the, the space there—

9 Q. We'll get to that. I'm asking you whether the permit to work is
10 Paria's final say—

11 A. Yeah.

12 Q. —as to what is to happen on the day?

13 A. Yes.

14 Q. Good. I want to take you to just one small area again?

15 **Mr. Chairman:** Did you say yes to that?

16 **Mr. Dhillpaul:** Yeah.

17 **Continued Cross-Examination BY Mr. Mootoo:**

18 Q. I just want to take you to one small area. This is just to help me
19 clarify something. In your witness statement of the 10th of
20 November, you talk at paragraph 52—can the witness be shown
21 paragraph 52 please?

22 [*Document handed to Mr. Dhillpaul*]

23 Right. And to be fair to him, if paragraph 49 can fit on
24 the same page it will be helpful to him. Right. So what we're
25 seeing, I want to pick up the narrative at paragraph 49. You're
26 saying at around 1445 hours, all right, "I was on the barge when
27 Andrew Farah was asking Dexter Guerra if the compressor was

1 still operating”, and then you give us a narrative and at
2 paragraph 52 you say, “At this time I had believed the men
3 were in the water.” What time was that?

4 A. Um, it would have been shortly after.

5 Q. All right. And then, and then—well you give us a time frame a
6 little lower down. You say at paragraph 53:

7 “Sometime around 1625 hours or it could be later, Dexter
8 heard—Dexter and I heard a knocking and a voice
9 coming from the direction of the habitat.”

10 So that’s about 4.30 p.m., right, correct?

11 A. Correct.

12 Q. And the immediate paragraph before you say:

13 “At this time I had believed the men were in the water.”
14 That closer to 4.30? Because you’ve told us a lot had happened
15 between 1445. So when you say “at this time” in paragraph 52,
16 that would be closer to 4.30, wouldn’t it? Have a look at the
17 statement. I’m just trying to follow what you meant.

18 A. Could have been shortly after Andrew had entered the chamber
19 and realized the guys weren’t there.

20 Q. Okay. So that was at—so you’re saying closer to three
21 o’clock?

22 A. To—could be after 3.00.

23 Q. Okay. And would it be fair to say that it wasn’t until about
24 1625 that you actually thought that the men might be in the
25 pipe?

26 A. Me?

27 Q. Yes, you did.

1 A. Me, yeah.

2 Q. Right. But you were the health and safety officer there on that
3 day?

4 A. Yeah.

5 Q. All right. And if—would you agree with me that if somebody
6 had thought that the men were in the pipe prior to 4.30, as the
7 health and—as LMCS' health and safety officer, somebody
8 from LMCS would have told you that prior to 4.30?

9 A. No, well, as I, I—as stated there—

10 Q. I'm asking whether it would be reasonable that prior to that
11 time, if, if anybody thought that they were in the pipe?

12 **Mr. Chairman:** Well, I think you're going to ask him was he
13 told. It's not a question of whether he thinks it's reasonable or
14 not as to whether he was or not. I think it's—what, what you're
15 going to ask him, it seems to me and the question is, is simply
16 this, were you ever told by anybody at LMCS that the men
17 might be in the pipe?

18 **Examination By Mr. Chairman:**

19 A. Yeah, well Andrew Farah, Dexter Guerra and Mr. Kazim Sr.—

20 Q. Right.

21 A. —they had suggested they were in the pipe, but I had still
22 believe that they were in the water.

23 Q. So you thought they were still—

24 A. Yeah.

25 Q. —in the water but they had suggested to you that they might be
26 in the pipe?

27 A. Yeah.

1 Q. Nonetheless, you believed them—they were still in the water?

2 A. Yes.

3 Q. When did they tell you that?

4 A. I can't really, I can't recall.

5 **Mr. Chairman:** Right, all right, thank you. All right, Mr.
6 Mootoo.

7 **Mr. Mootoo:** I have no further questions for this witness.

8 **Examination BY Mr. Chairman:**

9 Q. Before I pass you on, can I just ask you a couple questions,
10 please? If you don't know the answer please just say, "I don't
11 know." Don't try and guess and don't try and help anybody, all
12 right? Just answer the question, all right? In the document
13 which is our 1070 which is the toolbox meeting, can I have you
14 put that back up please? You were asked about this document.

15 A. Right.

16 Q. Correct? And what you told us is that you can now recall that
17 there was discussion about the removal of the barrier, you agree
18 it's nowhere on this document at all. You answered my
19 questions right at the outset before I asked Mr. Mootoo to ask
20 you any questions, that you told us what you understand a
21 toolbox meeting to be, which is a number of different steps and
22 different things that were being said before the work
23 commences on that day. Your part in that was safety?

24 A. Correct.

25 Q. Yes? But that's not the only things that are being done in a
26 toolbox meeting, is it, as you told us earlier, is that right?

27 A. Right.

1 Q. So other people have other responsibilities at that toolbox
2 meeting?

3 A. Correct.

4 Q. Did they include things like the steps to be done?

5 A. Yes they did.

6 Q. Right. So irrespective of what the steps were, all right, and I'm
7 going to put that to one side for the moment, irrespective of
8 that, in this document is there anything at all which sets out
9 what the steps are?

10 A. No.

11 Q. Of any kind?

12 A. No.

13 Q. Is the only thing that is raised in this document health and
14 safety?

15 A. Yeah.

16 Q. Who put those health and safety things on this document?

17 A. It would have been me because that's what I—

18 Q. Is that your handwriting?

19 A. Yeah.

20 Q. Right, so at the top where it says, "Topics Discussed", you've
21 taken up one and a third of the two lines that are made
22 available, and you've but in various thing that we can see which
23 are all to do with health and safety, choppy waters, weather
24 conditions, slippages, awareness, COVID 19 protocols, all of
25 those sorts of things, communications, all right, all health and
26 safety matters, all your responsibility?

27 A. Right.

1 Q. It is somebody else's responsibility, is it not, to add to that,
2 whatever else they discussed?

3 A. Yes. They didn't did they not on this document.

4 A. No.

5 Q. Can we go to the next page, please? Page 1071. This is also
6 toolbox meeting, isn't it?

7 A. Yes it is.

8 Q. Right. This is apparently 15 minutes later, isn't it? Do you see
9 yours, the previous one, is at 9.15. This one is at 9.30. It's also
10 on the 25th of February. All right? The speaker in the previous
11 ones are said to be Mr. Dhillpaul and the speaker in this one is
12 said to be Mr. Dhillpaul. That's you, isn't it?

13 A. Yes.

14 Q. Here, on this occasion the description is: "Job project to remove
15 and install solid blank." Do you see that? On the previous one
16 there is nothing there at all, was there? If necessary we can flip
17 back to it. See? Nothing where it says job or project. Nothing
18 at all. Left blank. Who should have put something in there?

19 A. That was my responsibility.

20 Q. I'm sorry?

21 A. That was my responsibility.

22 Q. Your responsibility? You didn't put anything in that?

23 A. Yeah.

24 Q. When you come to the next page the one—scroll up again
25 please—you did, didn't you? You put in, "To remove and
26 install solid blank." Is that what you thought was going to be
27 done on that day? Is that what you thought was going to be

1 done on that day?

2 A. This would have been on, on, um, berth 5.

3 Q. Yes. Well, just a second, is that what you thought was going to
4 be done on that day?

5 A. Yeah.

6 Q. Right. Are the things that are mentioned there, COVID-19
7 protocols, strain, pinch points, caught between,
8 communications, weather conditions, copy waters, manual
9 handling, so broadly speaking the same things as on the
10 previous document, correct?

11 A. [*Nodding*]

12 Q. Different people attending on this one, correct?

13 A. Correct.

14 Q. Did you conduct these toolbox meetings at each separate
15 location, berth 5 and berth 6?

16 A. That meeting would have been on the boat coming—going out
17 to, um—

18 Q. So you're having this toolbox meeting on the boat as you're
19 bobbing along going to berth 6 and berth 5, are you?

20 A. Yeah, berth 5.

21 Q. So were all of the people that have signed this doc—both
22 documents, on that boat?

23 A. Yeah.

24 Q. An awful lot of people on that boat. How big is the boat?

25 A. It's a pirogue.

26 Q. Sorry?

27 A. It's a pirogue.

1 Q. A what?

2 A. A pirogue.

3 Q. I've no idea what that is.

4 A. All right.

5 Q. No doubt somebody will tell me later, but anyway, they were
6 all on the boat?

7 A. Yeah.

8 Q. So you conduct a toolbox meeting on the boat for berth 5 and a
9 separate one for berth 6?

10 A. Yeah.

11 Q. And that's what these two documents relate to, is it?

12 A. Yeah. Right.

13 Q. And nowhere on these documents does it say anything about
14 what was actually going to be done or the steps to be done
15 beyond identifying to remove and install a solid blank at berth
16 6—berth 5, is that right?

17 A. Right.

18 Q. If somebody were to be setting out the steps to be carried out,
19 of the work that needed to be done at berth 6 and berth 5, whose
20 responsibility was it to put that on there?

21 A. Supervisor.

22 Q. The super—but not yours?

23 A. No.

24 Q. So the first things to be discussed were safety, yes? That's why
25 you filled it in. And then the supervisor, whoever that was, for
26 each of those particular jobs, didn't fill in anything, did he?

27 A. No.

1 Q. Who had the form?

2 A. Well the form would have been with their packages.

3 Q. Sorry?

4 A. Well berth 5 would—had, had a package and—

5 Q. No, you're on the boat. You just told us you're on the boat—

6 A. Yeah.

7 Q. —bobbing up and down going to the berth, you've got your
8 form, you're filling it in because then you told us, it's
9 contemporaneously done, isn't it?

10 A. Right.

11 Q. Right. So it's contemporaneously done. Who's got the form?

12 A. Well they would have their package so I would have filled that
13 out and they would have gone with that package—

14 Q. Who's got his form, Mr. Dhillpaul? Who has this form?

15 A. Berth 5.

16 Q. No, no, no, no. Who physically has it in their hands? Whose
17 writing on it?

18 A. My writing.

19 Q. Right. So you've got the form?

20 A. Correct.

21 Q. Having completed it, you then pass it to each of the people who
22 are on the boat to sign it. Is that right?

23 A. Right.

24 Q. While they're on the boat?

25 A. Yes.

26 Q. Is that right? So is this the last—contrary to what Mr. Mootoo
27 was suggesting, is this actually the last point in time, the last

1 document where Paria or its representatives can say, “That’s
2 not what we intended should happen”?

3 A. I wouldn’t say so because in my possession, if anything else
4 were to be done or not to be done, I, I carried a radio belonging
5 to Paria.

6 Q. Uh-huh.

7 A. So that if there’s anything that they have second thoughts on,
8 they would inform me.

9 Q. No, you see Mr. Mootoo was saying that the final document is
10 the permit to work.

11 A. Right.

12 Q. All right? And that that was the final point of say that Paria had
13 as to what the work should be. I hope I’m not getting it wrong
14 but that’s what I understood him to suggest, and you said yes to
15 that. That was the last document, the last opportunity that Paria
16 had to say what the scope of work was, what was to be done
17 and so on. Now is that right or is it the toolbox document that
18 is actually signed by representatives, if not actual Paria
19 employees, but representatives of Paria from Kenson?

20 A. It was a simple yes or no answer to me. I wasn’t able to—

21 Q. I can’t hear you.

22 A. I say it was a simple yes or no answer to me. I wasn’t able to
23 explain myself.

24 Q. Right. And?

25 A. The permit works hand in hand with the method statement.
26 You follow the steps of the job. The permit would have
27 specifics of the job. May not have everything that is to be done.

1 Q. Right. Well let's have a look, please? Can you just put up the
2 permit please which is at our page one zero seven four? You
3 see the permit there?

4 A. Right.

5 Q. Right. At the top of the permit it says what works to be done,
6 specific tasks, do you see? The job it says various maintenance
7 work on 5, 6, 36 riser yes? And then it says: "To remove and
8 install 50-inch flange, remove and install 30-inch riser pipe,
9 remove 30-inch solid blank conductors, pressure test of flange
10 weld, remove chamber and blank top of new riser. See that?
11 It's been pointed out to you that nothing's been said there about
12 the barriers being removed. That's correct, isn't it?

13 A. Correct.

14 Q. Indeed, at paragraph one it says mitigation barrier to be used.
15 Yes? Not to be removed.

16 A. That's because, as I mentioned, the permit is a seven-day
17 process.

18 Q. Right.

19 A. And it would—these information would always be there
20 because the permit is being suspended and renewed.

21 Q. Well, attached to that document is the document you were
22 referred to, the method statement, which is at 1048. Now
23 you're the health and safety officer. When you see this
24 statement—can you scroll up a little please—you see it's got
25 what appears to be one—well, a numbered system?

26 A. Yeah.

27 Q. What do you understand the numbered system to represent?

1 A. I think it's a sequence, everything—

2 Q. A sequence of events?

3 A. Yeah.

4 Q. If someone were to depart from that sequence of events, would
5 there have to—would something have to happen?

6 A. The only time that would happen is if it had a, a, a discussion
7 with the contractor and the client.

8 Q. Right. So LMCS would have to talk to Paria to put it in a
9 nutshell?

10 A. Paria have to approve on everything that is—

11 Q. Right.

12 A. —to be done.

13 Q. Otherwise, you as the health and safety officer of LMCS, did
14 you understand the numbering system to be the steps and the
15 order in which those steps were to be carried at?

16 A. Yeah.

17 Q. You don't think you might be wrong about that?

18 A. No.

19 Q. All right. Thank you very much.

20 **Mr. Mootoo:** Mr. Chairman, I have one or two questions just
21 arising from—

22 **Mr. Chairman:** Certainly I was going to say, Mr. Mootoo, if
23 you want to ask any questions arising from that now, please do.

24 **Mr. Mootoo:** Sure. Thank you.

25 **Continued Cross-Examination By Mr. Mootoo:**

26 Q. The Chairman just took you to the toolbox meeting form. On
27 that form, apart from Mr. Dopson—

1 **Mr. Chairman:** Is this one oh seven oh?

2 **Mr. Mootoo:** Yes, yes it is.

3 **Mr. Peterson SC:** The core bundle.

4 **Continued Cross-Examination By Mr. Mootoo:**

5 Q. I think what you were being asked is whether anyone from
6 Paria, after the permit to work had been signed, well when in
7 fact this toolbox meeting document was the last opportunity?

8 **Mr. Chairman:** That's what I was asking, yes.

9 **Mr. Mootoo:** Yes.

10 **Continued Cross-Examination By Mr. Mootoo:**

11 Q. The person who was there representing Paria's interest was Mr.
12 Dopson, right? We covered that.

13 A. Correct.

14 Q. And Mr. Dopson was the HSE, he was simply a HSE
15 technician, is that right?

16 A. Yeah.

17 Q. Was there anyone else on that—at that meeting representing
18 Paria or Paria's interest?

19 A. None that I can recall.

20 Q. Well—

21 **Mr. Chairman:** Are you at one oh seven oh?

22 **Mr. Mootoo:** I am.

23 **Mr. Chairman:** Can we scroll up to see the reference on
24 there?

25 **Continued Cross-Examination By Mr. Mootoo:**

26 Q. All right? Just take your time. Was there anyone else there
27 representing Paria's interest?

1 A. Dopson.

2 Q. No, apart from him, anyone else?

3 A. No.

4 Q. And on the next page, 1071?

5 **Examination By Mr. Chairman:**

6 Q. Sorry, before you move on from that, do you know a Mr.
7 Majardsingh?

8 A. Yeah, I know him.

9 Q. Who does he work for?

10 A. Kenson.

11 Q. Who does Kenson work for?

12 A. Paria.

13 Q. Was he's there?

14 A. No he wasn't there.

15 Q. He wasn't there. Would you have a look at the document? Is
16 that a signature on the document or is that just some—

17 A. Yeah, these documents was taken away when the incident
18 occurred.

19 Q. So you're saying even though his name is on there he wasn't
20 there?

21 A. He wasn't there.

22 **Mr. Chairman:** Mr. Mootoo?

23 **Mr. Mootoo:** I'm going to have to take instructions on that.
24 It's not been mentioned in any statement prior—

25 **Mr. Chairman:** Right, to me either, so we're at one with that.

26 **Mr. Mootoo:** Right. It's certainly very curious evidence to me
27 but I'll take instructions on it.

1 **Continued Cross-Examination By Mr. Mootoo:**

2 Q. And on the next page, 1071—well I don't think we need to go
3 to that. The point I'm after is this.

4 **Mr. Chairman:** Well, no, can we, please? Because you've
5 raised it and I do want to see—scroll up, please? Keep going.
6 Keep going. Stop there. Thank you. Do you see on that
7 document, Mr. Majardsingh is also shown as being present?

8 A. Yes.

9 Q. So this is the one—we're all on the boat at this stage. I don't
10 suppose the hot has gone back again, unloaded some people and
11 put some new ones on, has it?

12 A. No, no. He was—

13 Q. You're bobbing up and down on the waves. Had Mr.
14 Majardsingh joined the boat on this occasion?

15 A. He would have been there on berth 5 meeting.

16 Q. So was he already on berth 5 or was he on the boat?

17 A. He came on to the boat and, and—while we were discussing the
18 toolbox.

19 Q. Well I need to be clear, I'm afraid, because you've lost me now.
20 I thought that when Mr. Mootoo was asking the questions a
21 moment ago—

22 A. Uh-huh.

23 Q. —asking you about who was present representing Paria, you
24 told him there was a representative from Kenson, go to the
25 previous document, please, there was a representative from
26 Kenson. That was Mr. Dopson. Yes? We can see Mr.
27 Dopson's name and his signature appears at 39 on that

1 document?

2 A. Correct.

3 Q. Yes? Below him is Mr. Houston Majardsingh?

4 A. Yeah but he wasn't on that—he wasn't a part of that toolbox.

5 Q. Well you—if you're all on the boat together—

6 A. No—

7 Q. —coupled up as you go along, I mean, unless there's some
8 huge ship, as I understand it's a small launch taking you from
9 one berth to the other.

10 A. The meeting on berth 6 was held on the barge.

11 Q. Berth six was held on the barge?

12 A. Yeah.

13 Q. And berth 5 was held?

14 A. On the boat, yeah.

15 Q. Sorry?

16 A. On the boat.

17 Q. What, travelling from 6 to 5?

18 A. Yeah.

19 Q. Right. So the first one that we're looking at there, that one,
20 that's at 9.15?

21 A. Yeah.

22 Q. Right. So that wasn't held on the boat bobbing up and down on
23 the sea, was it?

24 A. No.

25 Q. Right, so that's what I thought you'd said to us earlier or to me
26 at any rate. So you were all on the boat, you went to berth 5
27 and it's at berth 5 that you have the toolbox meeting?

1 A. Right.

2 Q. Which did not include Mr. Majardsingh?

3 A. At berth 5, yes, but not at berth 6.

4 Q. Forgive me, yes, so you went PO to berth 6 first?

5 A. Yes.

6 Q. Had the meeting there?

7 A. Yeah.

8 Q. You left there, went to berth 5 and then you had the meeting
9 another meeting?

10 A. Yeah.

11 Q. All right. So this meeting, is this the start time or the end time?
12 Nine-fifteen—

13 A. It would have been the start.

14 Q. Sorry?

15 A. The start.

16 Q. Start time. All right. So that I get this clear in my head, you've
17 all gone out from the jetty to berth 6?

18 A. Right.

19 Q. You went there first. I've just done it about 10 days ago, all
20 right?

21 A. Right.

22 Q. I know what's involved in doing so, probably less complicated
23 with us than it would have been for you because there were all
24 kinds of COVID protocols in place then. In any event, at 9.15
25 on the 25th of February, you, together with all the people listed
26 on that document—scroll up again please—1 2, 3, 4, 5, 6, 7, 8,
27 9, 10, 11, 12, 13, 14, 15 if we include Mr. Majardsingh, 15

1 people plus the pilot of the boat and various other seamen that
2 were no doubt with him were all on this boat going out to berth
3 6. You get to berth 6, you all get off the boat and then you
4 conduct this toolbox meeting?

5 A. I conducted the toolbox meeting at berth 6 on the barge.

6 Q. On, on the barge? So you hadn't got off the barge, you stayed
7 on the barge but you're at berth 6?

8 A. Houston had dropped off at berth 5.

9 Q. You dropped Houston?

10 A. Houston. He was at berth 5. He wasn't at 6.

11 Q. Right. So you took him there first?

12 A. He was—their, their boat had dropped him there.

13 Q. So you're all on a boat, you go to 5, drop him off and then
14 come to 6?

15 A. No, not our boat, their boat.

16 Q. Paria boat.

17 A. Yea.

18 Q. Right. So we can exclude Mr. Majardsingh from being
19 present—

20 A. Right.

21 Q. —at the toolbox meeting at berth 6?

22 A. Right.

23 Q. Because you say he wasn't there even though he's signed it?
24 Correct?

25 A. Yeah.

26 Q. Anyhow, you conduct this toolbox meeting at 9.15?

27 A. Yes.

1 Q. On the barge at berth 6. Have I got that right?

2 A. Yeah.

3 Q. The meeting lasts however long it lasts, but it can't be for very
4 long, can it?

5 A. No, it wasn't.

6 Q. Because having conduct this toolbox meeting you all get back
7 or you're on the barge, the barge now goes over to berth 5
8 where you're joined by Mr. Majardsingh, correct?

9 A. Correct.

10 Q. And a load of others who were not with you on berth 6, correct?

11 A. [*Nodding*]

12 Q. So you conduct a second one there?

13 A. Right.

14 Q. So that, and—that starts at 9.30, so your toolbox meeting
15 couldn't have been for very long bearing in mind you had to get
16 to the other berth, didn't you, afterwards, to start that one at
17 9.30?

18 A. [*Nodding*]

19 Q. So the entirety, would it be fair to say, the entirety of the
20 meeting, toolbox meeting, couldn't have been more than 10
21 minutes, if that?

22 A. It could be about a little more than 10 minutes, yeah, because it
23 would a take you about three minutes to go to the—

24 Q. Yes, it's not far but you've got to get all of these people
25 together. They weren't on your barge, you had to get off?

26 A. Yeah.

27 Q. Yes? All right. So have I got it right now? So you're not all

1 on the boat bobbing up and down while you're writing this?
2 This all takes place at the barge?

3 A. Correct.

4 Q. But moored at—

5 A. Berth 6 to berth 5.

6 Q. But all of these people were on the boat, were they?

7 A. No. Berth six people were on the barge. That meeting was
8 held on the barge.

9 Q. Right.

10 A. But I went with the boat to 5 to keep the meeting.

11 Q. Right. I think I've got it. I think I have enough here.

12 **Mr. Mootoo:** Well I was on a slightly different point but from
13 our perspective we have to wait for the Kenson witnesses to
14 come because there there's no one from—

15 **Mr. Chairman:** I think we can't take this any further, if I may
16 say so, Mr. Mootoo. You've made your points.

17 **Mr. Mootoo:** There's one point I want to take you.

18 **Mr. Chairman:** Of course.

19 **Continued Cross-Examination By Mr. Mootoo:**

20 Q. And that's, um, in relation to the toolbox meeting, the question
21 was put to you whether Paria had perhaps a final—the final say
22 was not at the permit to work, at the stage of the permit to work
23 was signed off by Paria but was at the toolbox meeting, so I
24 want to ask you this. You're familiar that the permit to—you
25 are familiar with the permit to work system, right? And you
26 would also be familiar with the permit to work procedure for
27 Paria?

1 A. Correct.

2 Q. Yes? And you are familiar with the term, “site authority”?

3 A. Yeah.

4 Q. Right. The site authority for this permit was Johnathan
5 Ramdhan, yes?

6 A. Yeah.

7 Q. Mr. Ramdhan, his position was senior to Mr. Dopson who was
8 a mere HSE technician, correct?

9 A. Correct.

10 Q. And would you agree with me, from what you knew about the
11 permit to work system, is that the site authority is the person
12 with authority to authorize the commencement of the job?

13 A. Right.

14 Q. And he is the one with the authority—he’s essentially the one
15 with the authority over that permit for the day, correct?

16 A. Correct.

17 Q. And therefore, would you also not accept that really Mr.
18 Dopson could not have had the last word on that day over Mr.
19 Johnathan Ramdhan as the site authority?

20 A. Correct.

21 Q. And everybody knew that, correct?

22 A. Correct. But Johnathan supposed—normally when a permit is
23 to be signed or the nature of that type of job, he would have did
24 a visual on site and then signed the permit and be a part of the
25 toolbox. That never happened.

26 Q. Okay, thank you.

27 A. He weren’t there.

1 Q. But that wasn't my question. Thank you.

2 **Commissioner Wilson:** If we could get the roles and
3 responsibilities of the site authority?

4 **Mr. Mootoo:** If I can assist I think that's at item 5.3 of the
5 permit to work procedure which is—somebody's going to have
6 to give me the page reference. Page 31 of Volume I.

7 **Examination By Commissioner Wilson:**

8 Q. Sorry, it's the senior area authority; 5.5 the senior area
9 authority. I just wanted to get a full understanding of the roles
10 and responsibilities of the gentleman you're referring to, so I'm
11 going to read it.

12 "The senior area authority is the overall asset owner
13 having responsibility for more than one facility in an area
14 as identified in the asset map. For the work permit
15 system the senior area authority shall be the terminal
16 operations manager or technical and maintenance
17 manager. The senior area authority shall ensure that the
18 risks created by simultaneous operations in different
19 facilities are adequately managed. Specify any additional
20 precautions to be taken during the work. Periodically
21 audit the conditions laid out in the certificates, taking into
22 consideration simultaneous activities throughout the
23 asset/area under his control. Ensure that all persons
24 under his control who are signatories to the permit to
25 work system undergo the training and certification
26 requirements established by the HSEQ lead."

27 Mr. Dhillpaul, I'd like to ask you, as you've gone under the

1 permit to work training, what are the components required for
2 the permit to work or the permit issued to go live if you're
3 aware as you've gone under the training?

4 A. I don't understand the question.

5 Q. In order for a permit to be issued—

6 A. Right.

7 Q. —for it to go live under the control of works system, what are
8 the steps required for that to happen?

9 A. They would have assessed the area, the job, the hazards, before
10 creating the permit.

11 Q. Are you aware of all the personnel, whether asset owner or
12 contractor, who should be involved in the generation of a
13 permit and then ultimately the issuance of the permit?

14 A. Yeah.

15 Q. Right. So I'm sort of testing your knowledge of the system
16 since you've undergone the training, all those sequential steps
17 that lead up to a permit being issued or it goes live, are you
18 aware of them?

19 A. Yeah. That I—I don't know if I could recall at the moment,
20 but, yeah, I'm aware.

21 Q. Aware of what, the steps or just the end result of the permit
22 being issued?

23 A. What I do—what I could remember is that all the applicant and
24 anyone signing on the permit should be trained, certified and
25 competent.

26 Q. Okay. Well I'd move on to another question where I heard that
27 when the sequential process or steps in the method statement,

1 because these are supplemental documents to the permit to
2 work, when they were changed you said that there was a
3 discussion. Is there a process and/or a document that captures
4 that sort of collaborative discussion? In your experience, one,
5 as an HSE professional, and/or the training with the permit to
6 work?

7 A. This discussions happens between the client and my
8 management.

9 Q. Uh-huh.

10 A. And they would then inform me of the necessary changes.

11 Q. So all these discussions are just verbal, they're not captured in
12 any documentation or any process that is part of the control of
13 work process which would lead to the issuance of a permit
14 and/or be a supplemental certificate on the permit to work, like
15 a management, a change form or something like that?

16 A. Sometimes, sometimes there are documents depending on the
17 severity of the changes, sometimes it's verbally.

18 **Commissioner Wilson:** Okay, thank you.

19 **Mr. Chairman:** Does anybody have any questions for this
20 witness?

21 **Mrs. Persaud Maraj:** I have, I—

22 **Mr. Chairman:** No.

23 **Mrs. Persaud Maraj:** I, I have—

24 **Mr. Chairman:** Do you?

25 **Mrs. Persaud Maraj:**—just two questions.

26 **Mr. Chairman:** Two?

27 **Mrs. Persaud Maraj:** Yes. May he be shown document at

1 1070 with the core bundle again?

2 **Mr. Chairman:** Ten?

3 **Mrs. Persaud Maraj:** Ten seventy. That's the HSE toolbox
4 document. Right. It's there.

5 **Examination By Mrs. Persaud Maraj:**

6 Q. The document in front of you, Mr. Commissioner asked you or
7 pointed out to you that the job of project line is bare. Right?
8 Just tie that in for us. You also told him that the supervisor was
9 supposed to tie that in. Who was that supervisor?

10 A. Kazim Ali Jr.

11 Q. So he was the one who was supposed to fill in that information.
12 And—

13 A. Either he or me would have filled it in.

14 **Mr. Chairman:** Can't hear you. You have to—

15 **Mr. Dhillpaul:** Either he or me could have filled that part in,
16 yeah, but what he discussed he would have filled that in.

17 **Continued Examination BY Mrs. Persaud Maraj:**

18 Q. So on that day in question he was the one who was going to fill
19 in what he discussed?

20 A. Yeah.

21 Q. All right. You mentioned you had a radio, a Paria radio, just
22 now?

23 A. Yeah.

24 Q. Right. And that was a radio to communicate with Paria
25 personnel?

26 A. Yeah, shipping office.

27 Q. Shipping office?

1 A. Yeah.

2 Q. And any person or personnel in particular?

3 A. Well, is a radio that you could switch to any channel HSE,
4 shipping, office, wherever.

5 Q. And is that radio used for the purpose of you communicating to
6 them what you—

7 A. Yeah.

8 Q. —what you—what work is—

9 A. Yeah, like—

10 Q. —is being carried out?

11 A. Like seconds before they had entered the water, I had informed
12 Paria that divers are entering the water and they would have
13 confirmed.

14 Q. Do you recall who you would have informed?

15 A. Nah.

16 Q. But you had done that?

17 A. Yes.

18 Q. All right. And the person would have accepted that
19 information?

20 A. Yes, yeah.

21 Q. And there is an acknowledgment of the information flowing
22 from you to them via that radio?

23 A. Yeah.

24 Q. All right. Do you recall if you would have informed them
25 whether the—when the barriers were being taken out?

26 A. No, I didn't inform them of that.

27 Q. All right. In the event that they were aware, was there—were

1 you the only person with a radio?

2 A. Yeah.

3 Q. You were the—

4 A. No, um, well Paria officials would have had radios as well.

5 Q. Paria's officials?

6 A. Yeah.

7 Q. And we would have had Paria officials at berth—you were at
8 berth 6?

9 A. Yeah.

10 Q. Right. And at the station that had the live video observing the
11 men in the chamber, they would have had a Paria official at that
12 station?

13 A. Yeah there were someone there—

14 Q. Right.

15 A. —from Paria as well.

16 Q. And communication would have been able to be transmitted via
17 the Paria official's radio?

18 A. Yeah.

19 Q. At the time. All right?

20 **Mrs. Persaud Maraj:** I think that is all that I have.

21 **Mr. Chairman:** Thank you very much.

22 **Mr. Maharaj SC:** I have none.

23 **Mr. Chairman:** Are we done for the day? Excellent. Thank
24 you all again for sitting a little longer. I'm grateful. We will
25 start tomorrow morning with a Ahmad Ali who is LMCS. And
26 we're going to start at—

27 **Mr. Peterson SC:** Ten o'clock is—ten o'clock. It's nine

1 o'clock Sir when we stop at 4.30 when we—

2 **Mr. Chairman:** Well it's 5.30 now.

3 **Mr. Peterson SC:** Sir, but that's something we could—

4 **Mr. Chairman:** Shall we start at 9.30?

5 **Mr. Peterson SC:** Yes.

6 **Mr. Chairman:** Would that be all right, 9.30 tomorrow?

7 Thank you all very much—9.30. And please feel free to go.

8 I'm going to collect my papers anyway, so—

9 **5.25p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 5**

2 **9.35 a.m.: Enquiry commenced.**

3 **Mr. Chairman:** Good morning, everyone. Ms. Maharaj, the
4 drawings that you gave us yesterday, could we have any
5 dimensions now?

6 **Ms. Maharaj:** I did not check the dimensions. I'm very sorry.
7 But they are—I'm happy to say that they were disclosed to the
8 Commission. It's actually—

9 **Mr. Chairman:** No, no, I know. It's just that they are in such
10 tiny little space that we can't actually see anything on it.

11 **Ms. Maharaj:** What I did do was to email it, and it can be
12 expanded. I'll undertake to try to get that for you.

13 **Mr. Chairman:** If you could help me out, please, I'd be
14 grateful. Thank you.

15 **Ms. Maharaj:** Yes, yes, I will certainly try to do that.

16 **Mr. Chairman:** Mr. Peterson, your survey maps that you
17 disclosed yesterday, we were trying to work out dimensions on
18 that—the legend in particular.

19 **Mr. Peterson SC:** Yes, Sir. We are hoping to get someone to
20 speak to the map and give life to it.

21 **Mr. Chairman:** You're going to actually provide a witness
22 statement—

23 **Mr. Peterson SC:** Yes, we're going to file a supplemental.

24 **Mr. Chairman:** That would be helpful, yes. Thank you very
25 much. All right. When do you think we might have that?

26 **Mr. Peterson SC:** We were aiming to say [*Inaudible*], but
27 guaranteed Friday.

1 **Mr. Chairman:** Marvellous. Thank you very much. All right.
2 I think our first witness this morning is Mr. Ahmad Ali. Is that
3 right?

4 **Mr. Maharaj SC:** Mr. Chairman, Ms. Vijaya Maharaj would
5 do the witness summary.

6 **Mr. Chairman:** Thank you, Mr. Maharaj. Page number,
7 please?

8 **Ms. Maharaj:** The witness statement bundle at 936, and
9 there's also a supplemental at 1229.

10 **Mr. Chairman:** I'm sorry, Ms. Maharaj. What page did you
11 say the supplemental is?

12 **Ms. Maharaj:** It's 936.

13 **Mr. Chairman:** No, the supplemental.

14 **Ms. Maharaj:** I'm just double-checking. The witness
15 statement bundle one.

16 **Mr. Chairman:** Good morning, Mr. Ali. You are Ahmad Ali?

17 **Mr. Ali:** Yes.

18 **Mr. Chairman:** Yes. And I think at the time you were the
19 HSE Manager at LMCS. Is that right?

20 **Mr. Ali:** Yes.

21 **Mr. Chairman:** Are you still the manager there?

22 **Mr. Ali:** Yes.

23 **Mr. Chairman:** All right. Thank you very much.

24 I appreciate he needs to be sworn in, yes. You can do that now.

25 *[Mr. Ahmad Ali affirmed]*

26 **Mr. Ali:** I, Ahmad Ali, do solemnly, sincerely, and truly affirm
27 that the evidence I shall give to the Commission in this case

1 shall be the truth, the whole truth, and nothing but the truth.

2 **Mr. Chairman:** Mr. Ali, good morning to you. The lady, Ms.
3 Maharaj, is going to summarize the evidence you have put in
4 writing. All right? Listen, please, carefully to her summary.
5 Once she's finished, if you agree with it, please tell us that you
6 do. If you don't, then point out where you disagree, all right,
7 and we'll take it from there. And, hopefully, that would make it
8 a much shorter exercise. Okay, all right. Thank you very
9 much.

10 **Ms. Maharaj:** Mr. Ali submitted an amplified written
11 statement to the Commission dated 5th October, 2022,
12 containing a statement previously submitted by him together
13 with his amplified evidence. And that statement is at the
14 witness statement bundle 936. He was interviewed by Counsel
15 to the Commission on the 6th October, 2022 in the presence of
16 LMCS' attorney-at-law. A supplemental witness statement was
17 prepared by the Commission and signed by Mr. Ali on 31st
18 October, 2022, and that is at the witness statement bundle page
19 1129.

20 Since January, 2020, Mr. Ali has been LMCS' Health
21 Safety and Environment Manager. He was previously
22 employed by Petrotrin in its HSE Department between 2010
23 and 2018 and intermittently with Paria between 2018 and 2019.
24 As part of LMCS's submission for the bid for the project, Mr.
25 Ali prepared the HSE plan which included the risk
26 assessments—and those are at the core bundle of documents,
27 Volume II, pages 841 to 847; the Site Specific Safety Plan,

1 which is at the core bundle, Volume II again at page 852, the
2 COVID-19 Work Practices at the core bundle 873, and the
3 Emergency Response Plan also in the core bundle at 877.

4 Since the scope of works were divided into three main
5 sections, Mr. Ali prepared a risk assessment for each section.
6 The risk assessment prepared by him in relation to the works
7 which were being done by the divers at berth 6 in the
8 hyperbaric habitat are the section "A" works of the scope of
9 works.

10 In order to prepare that risk assessment, Mr. Ali reviewed
11 the method statements, which was at the core bundle 653,
12 which was prepared by Mr. Kazim Ali Sr. to determine how the
13 work was planned to be executed and then he envisioned what
14 type of scenarios may be encountered which leads to harm. He
15 then used the risk assessment procedure to evaluate how likely
16 those scenarios were to occur and how severe the consequences
17 of those scenarios are.

18 He then put together a list of control measures for those
19 scenarios which would help reduce the risk. Mr. Ali says from
20 a safety perspective that the following were identified by him.
21 One, it was a personal hazard for the divers to perform work in
22 the habitat with diving gears intact, so they were required to
23 take off their diving gears in the habitat to carry out their works.

24 The habitat was last used by LMCS in 2020 and an
25 operations pre-work checklist was developed to target the safety
26 of the habitat, and that is at the core bundle page 850. The
27 requirement for safety for the use of the habitat was based on

1 the air pressure and quality of breathing air within the habitat.
2 From all indications and previous work done in the habitat,
3 there was never a likelihood of a risk other than flooding, fire,
4 or toxic air within the habitat.

5 Mr. Ali says that the plan which was devised for rescue
6 involving the divers were directly related to a risk of a chamber
7 being flooded which was foreseeable and addressed. According
8 to Mr. Ali, the scenario of the divers entering the pipeline was
9 not identified by him in the risk assessment because there was
10 no need for the divers to enter the pipeline to execute work at
11 any point in time, and also the pipeline would have been
12 disconnected from Paria's system.

13 He said that based on his qualifications, training, and
14 work experience from previous LMCS works that he would
15 have been able to determine whether an event could have
16 occurred and caused the men to be sucked into the pipeline.

17 Mr. Ali stated that he was satisfied based on the method
18 statements that the scenario of the men entering the pipeline
19 would not have occurred because the method statement required
20 that LMCS remove only enough pipeline contents from the riser
21 at berth 6, sufficient to give room to install the mechanical and
22 inflatable plugs in the riser and by leaving the contents of the
23 pipeline, LMCS minimized the void space. In addition, he says
24 that whilst the works in the habitat were ongoing, the other end
25 of the pipeline would have been blanked and tight. The method
26 statement which Mr. Ali is referring to is at the core bundle
27 659.

1 Mr. Ali's evidence is also that after the contract was
2 entered into, Paria requested method statements and job hazard
3 analysis known as JHAs for specific tasks within the job so they
4 could be integrated into the permit to work to be issued for the
5 task. He says that the JHA is similar to a risk assessment.

6 One of the first tasks to be done in relation to the project
7 was the clearing of Sealine 36 between Berths 5 and 6. Mr. Ali
8 says that this was done in two phases and the method statement
9 and JHA was prepared by LMCS and approved by Paria for
10 each phase, and also printed as part of the permit to work
11 system for the line clearing task. The method statement in JHA
12 for phase one is at the core bundle, pages 1028 to 1030 and the
13 method statements in JHA for phase 2 is in the core bundle at
14 pages 1041 to 1044.

15 Mr. Ali attended a meeting on the 14th February, 2022
16 with representatives from LMCS and Paria to discuss the works
17 to be done in the hyperbaric habitat. He can't recall everything
18 that was discussed and only to note as it pertains to his duties.
19 In relation to recordkeeping by LMCS, Mr. Ali says that daily
20 reports for the project would have been done by Kazim Ali Jr.
21 He doesn't know how frequently this was recorded in writing
22 by Kazim Ali Jr.

23 Mr. Ali also states that all of the works which were to be
24 conducted in the hyperbaric habitat for the change out at the
25 riser at berth 6 were to be conducted on the 15th and 16th
26 February. The works went smoothly on the 15th February, but
27 the second day of work was the 25th due to an issue which

1 occurred resulting in suspension of works by Paria. A specific
2 method statement and accompanying JHA was produced by
3 LMCS for the works to be done in the habitat. This is the
4 method statements dated 4th January, 2022, and the JHA dated
5 10th December, 2022, both of which were attached to the
6 permit to work on the 25th February.

7 On the 25th Mr. Ali arrived at berth 6 when the toolbox
8 meeting was in progress. The toolbox meeting is essentially a
9 safety meeting discussing both the works for the day and the
10 safety. The toolbox meeting was conducted by LMCS' Safety
11 Officer, Victor Dhillpaul. Mr. Ali stated that it would have
12 been Mr. Kazim Ali Jr's job to inform the divers of the job to
13 be done that day at the toolbox meeting. He assumed that Mr.
14 Kazim Ali Jr. had already done this by the time he arrived at the
15 meeting. He also says that he recalls Mr. Dobson from Paria's
16 HSE being present. Mr. Ali conducted the breathing air quality
17 test in relation to the habitat and Paria personnel carried out an
18 air test of the habitat's vent. Mr. Ali then left berth 6 and
19 returned to the office.

20 In relation to the permit to work, which is at the core
21 bundle page 1074, Mr. Ali stated that from his experience this
22 document does not identify every aspect of the task to be done
23 on that day, as there are only two to three lines of space for a
24 summary of what completion is expected to entail. He also
25 stated that LMCS' supervisor is responsible for ensuring that
26 the job is being done in accordance with the permit to work.
27 He further stated that the job is expected to be done in

1 accordance with the method statement, and as far as he was
2 aware, there was no agreement between LMCS or Paria to
3 change the steps in the approved method statements.

4 On the 25th February there was a camera in the habitat
5 with a live feed. LMCS' supervisor and dive supervisor were
6 to monitor the job from this live feed. He also stated that there
7 would have been an operations representative present from
8 Paria and Paria also usually assigns a safety person.

9 At about 3.10 p.m. Mr. Ali was informed about the
10 accident from LMCS' Victor Dhillpaul. At this stage it was
11 unclear if the men had been pushed out of the habitat or pulled
12 into the open pipe. At about 3.50 p.m. Mr. Kazim Ali Sr. told
13 him that it was assumed that the men were pulled into the
14 pipeline and there could potentially be some fatalities.

15 Mr. Ahmad Ali went to Paria at about 4.10 p.m. that day.
16 He first went to Paria shipping building to try and get
17 information, but he said he did not get any. Nobody there from
18 Paria asked him to join in any meetings. When we got to berth
19 6 he ascertained that Paria had taken the folder from LMCS'
20 barge containing the permits to work and other documents. He
21 was also informed by other LMCS personnel about a proposed
22 rescue plan, and there was a lot of back and forth about the plan
23 between LMCS and Paria. Mr. Ali stated that Catherine
24 Balkissoon of Paria was receptive to them and had a lot of
25 questions about the job and how a rescue could be done. She
26 relayed the information she received on the telephone and
27 advised on the instructions she received which was that there

1 was no permission to dive.

2 Mr. Ali was told by Catherine Balkissoon that LMCS'
3 operations were on hold until the coast guard arrived to take
4 over rescue operations. Until then, LMCS was to keep
5 monitoring the situation at both ends of the pipe section and
6 provide information to Paria through her. When the coast guard
7 vessel arrived, the officer spoke to Catherine Balkissoon. Mr.
8 Ali stated he inserted himself into the conversation and from
9 what he gathered, the coast guard did not know why they were
10 there. They drew the coast guard officers a diagram of the
11 chamber and the pipe. The Coast Guard said they didn't know
12 they were coming to rescue anyone. None of the coast guard
13 officers touched the water. They took no action to perform a
14 rescue effort and seemed to remain on their vessel for the rest of
15 the night.

16 Based on his conversations with Catherine Balkissoon,
17 Mr. Ali genuinely believed that she felt when the coast guard
18 arrived they would have taken over rescue operations.
19 However, this did not occur. There were a number of private
20 diving crews and persons arriving to assist. Mr. Ali observed
21 LMCS' Andrew Farah going to Catherine Balkissoon and asked
22 him whether they could be permitted to attempt an extraction.
23 His standard response was that nobody was to enter the
24 chamber.

25 Eventually, LMCS was given the go-ahead to attach the
26 new riser section of the pipeline to allow for the end of the
27 pipeline at berth 5 to be opened to allow for easier access to the

1 pipeline interior. Mr. Ali also observed the arrival of cameras
2 on Friday night and Saturday morning which had to be inserted
3 into the pipeline. He left Paria at about 7.00 a.m. on Saturday
4 morning. He, thereafter, assisted with the preparation of a risk
5 assessment for a rescue plan for Paria's consideration which is
6 at the core bundle page 1126. He states that there's logic
7 behind the explanation that it was a Delta P incident that caused
8 the men to be sucked into the pipeline, but he can't say what
9 caused it. He says that every conceivable risk to the job was
10 addressed and what occurred was not foreseen.

11 Do you agree with that summary of your evidence, Mr.
12 Ali?

13 **Mr. Ali:** Yes, I do.

14 **Ms. Maharaj:** Thank you.

15 **Mr. Chairman:** Thank you. Thank you very much.

16 **Mr. Ali:** Could I just say—

17 **Mr. Chairman:** Yes, of course, you can.

18 **Mr. Ali:** Not to change anything in the summary, I noticed two
19 things while we were going through the summary. The first
20 thing I want to address is that the method statement for the—the
21 second method statement for the second phase of the clearing of
22 the line, there is a typo on that. It says it's revision zero, but
23 that one dated January is actually revision one. So there's a
24 typo on my end. And the second thing is there is a period of
25 time between when I found out about the incident on the—

26 **Mr. Chairman:** Between when?

27 **Mr. Ali:** Between?

1 **Mr. Chairman:** Period of time between when?

2 **Mr. Ali:** Between when I found out about the incident on
3 Friday afternoon and I arrived at shipping, because I went first
4 to Badger Docks, our base of operations, and I stayed there for
5 about an hour and a half before going to shipping.

6 **Mr. Chairman:** Right, okay. Thank you.

7 **Examination By Mr. Chairman:**

8 Q. In that regard, I see from your original statement that you say
9 it's at about ten past three in the afternoon of Friday that you
10 got a call from a Mr. Dhillpaul reporting that the surface crew
11 had disappeared?

12 A. Yes.

13 Q. What was the thought as to where they were at that time, or
14 they might be?

15 A. I asked and he said they just didn't know, and Andrew was
16 checking the chamber.

17 Q. All right. Had the hyperbaric chamber been checked?

18 A. At that point in time I believe they were in the process of
19 checking the chamber.

20 Q. Right. And was the ocean around the berth at 6 being checked?

21 A. At that time, no. I found out afterwards that he did a sweep
22 around the—Andrew did a sweep around the berth after
23 checking the chamber.

24 Q. When did you first come to believe that it was possible the men
25 were inside the pipe?

26 A. Well, honestly, immediately. That was my first thought.

27 Q. Sorry?

1 A. Immediately. That was my first thought.

2 Q. That was your first thought?

3 A. Yeah.

4 Q. That they were in the pipe?

5 A. If they couldn't be found.

6 Q. Why did you think that?

7 A. If they couldn't be found outside and no one saw anyone
8 exiting the chamber—because there isn't much space between
9 the bottom of the chamber and the water. You don't have—

10 Q. You are a very softly spoken man. So please speak very clearly
11 into that microphone if you would, please.

12 A. I'm just saying that it should have been possible, or it could
13 have been possible for them to see anybody exiting the
14 chamber.

15 Q. Right.

16 A. So the fact that they didn't see anything and nothing was
17 floating out of the chamber, my thought logically the only other
18 place they could be is inside the pipe.

19 Q. And did you have any view about how they might have got into
20 that pipe?

21 A. No.

22 Q. No. All right. Did anyone say anything to you about whether
23 they were or were not inside the pipe?

24 A. No, no one said anything until I spoke to Kazim Sr.

25 Q. Kazim Ali Sr.?

26 A. Yeah.

27 Q. Are you related to him?

1 A. My uncle, yes.

2 Q. He's your uncle. All right. It follows from that, that his son
3 was your cousin?

4 A. Yes.

5 Q. I'm very sorry about that. So you say the first time you heard
6 anything about it was from him?

7 A. Yes.

8 Q. Kazim Ali Sr?

9 A. Uh-huh.

10 Q. What did he say?

11 A. He was honestly a bit distraught, and he said that since they
12 couldn't find anybody again, they assume that they had to be
13 inside of the pipe.

14 Q. Right. Well, I'm not surprised he was distraught. But that was
15 his belief?

16 A. Yes.

17 Q. At what time was this?

18 A. The call I had with him was—I can't remember the time that
19 Ms. Vijaya just [*Inaudible*].

20 Q. Well, you say in your statement—it's not a secret—you say in
21 your statement, "I called Kazim Ali at 15:50 hours."

22 A. Yes.

23 Q. So 10 to 4.00 that afternoon, something in the order of a half an
24 hour, or 40 minutes or so after you first heard?

25 A. Yes.

26 Q. And that was his belief, that they might be in the pipe?

27 A. Yes.

1 Q. Did you, between you and him, or anyone else at LMCS,
2 formulate any kind of plan as to what you might do about it?

3 A. No. At that time he was at the—on our barge at the site at berth
4 6, and he was speaking with Andrew Farah, and I would
5 assume other LMCS employees there.

6 Q. Thank you. Just a moment. Yes. Can I ask you next about the
7 toolbox meetings, please? How long does a toolbox meeting
8 normally last?

9 A. Normally about five minutes; ten minutes.

10 Q. Right. So it would only be a short résumé of the safety aspects
11 of the work being carried out on that day. Is that right?

12 A. Yes.

13 Q. Two things arise from that, it seems to me. First of all, what is
14 to be carried out on that day, and then, secondly, what the
15 implications are of the work that's to be carried out that day.
16 Do you follow?

17 A. Yes.

18 Q. So before a safety officer, of which you are one, can address the
19 safety issues, he would need to know what was being done,
20 wouldn't he?

21 A. Yes.

22 Q. How would he know that?

23 A. Our documents. Our method statement and JHA.

24 Q. Your document, method statement.

25 A. And JHA.

26 Q. Right. Would you look at, please, 1074 in our bundle please?

27 **Mr. Chairman:** Can it be put up on the screen?

1 **Examination By Mr. Chairman:**

2 Q. This is the work permit—I'm sure you are familiar with it—for
3 the work that was to be carried out on that day.

4 A. Yes.

5 Q. Do you see it says, various maintenance work on 56, 36 riser?
6 Now, they knew that this was a new work permit that had to be
7 issued because the original one, that was beyond the seven-day
8 limit of a work permit—there'd been this gap between the first
9 work permit being issued, there was a stop on the work, and
10 then there was this new permit being issued. All right? So this
11 work permit, in essence, reflects what was on the original work
12 permit. All right?

13 A. I can't say I remember what was on the original permit.

14 Q. Well, ignore that then and just have a look, please, the next box
15 which—stop just there. Thank you. So you can see there, it
16 describes a job and then specific tasks, and it sets out what
17 those specific tasks are, which we are all now very familiar with
18 and you may be yourself. It says nothing, does it, on there
19 about the removal of any of the barriers?

20 A. Yes.

21 Q. Should it?

22 A. I don't think it needs to be there, no.

23 Q. All right. Secondly, do you see in the second box it says—it
24 specifically addresses the question of barriers because under the
25 heading: "Cleared of process/hazardous materials". It says,
26 "Yes". And then "Comments" next to that is: "Migration
27 Barrier to be used."

1 A. Yes.

2 Q. Did you understand that the migration barrier had already been
3 installed?

4 A. Yes.

5 Q. In relation to some of the work that was part of this project?

6 A. Yes.

7 Q. Do you see above that it says: "Isolated by blind
8 flanges/blanks/spool removal/valve". I'm pausing there for a
9 minute. As I understand it, this is isolating the piece of "U"
10 pipe that existed between 5 and 6. All right? So that when I
11 say isolated, taken out of service from all the other pipe work
12 that exists above surface, all right, so that you literally just had
13 this "U" bend effectively, for want of a better expression.

14 A. Well, isolation doesn't necessarily mean disconnection. It
15 could just be that the valves are shut, blinds are installed, so
16 that it's not continuous with the rest of the piping.

17 Q. Well, we know, as a matter of fact, it was isolated, because they
18 put a blind flange over on 5 and they were now working on 6.

19 A. Yes.

20 Q. And the elbow bend above the surface had been cut away and
21 taken down.

22 A. So at this point, yes, we would have already removed the
23 topside [*Inaudible*]—

24 Q. So this work permit which was for the purposes of carrying out
25 the operations on that day, without it you can do nothing.
26 That's right, isn't it?

27 A. Yes.

1 Q. All right. Scroll, please, to the next box which is 3. And there
2 you can see a number of documents are attached to the
3 document. All right? I happen to have a copy of how it was all
4 at the time. So there's the work permit. On the back of the
5 work permit—is there a document on the next page, please?
6 Can you just put up the next page? No, it's not that page. Just
7 a moment. I just want to show you a document—9839. Can
8 we have 9839, please? Yes. No, it's not that. Scroll up a little
9 further please. Yes, that document. That's 9839. It's that on
10 the back of the work permit?

11 A. Yes; work permit is two-sided. So these two is just at the back.

12 Q. So it's two side?

13 A. Yeah.

14 Q. All right. So I've got that right. So the one piece of paper has
15 on the front of it the details of the work permit, and on the back
16 it's got this part. Can you just shrink it down a little for me,
17 please? Which includes a box which deals with daily work
18 suspension, doesn't it?

19 A. Yes.

20 Q. And we could see that we've been told already that that deals
21 with the suspension of work at 1522 hours after the incident had
22 happened?

23 A. Yes.

24 Q. So that is the document that is the work permit. No one look
25 like that. People fill them in, in the appropriate way for that
26 particular job?

27 A. Yes.

1 Q. Attached to that work—if we can get back to the original,
2 please; the work permit it's at 1074. Attached to that we can
3 see that at box 3 there are a number of documents which it
4 shows, yes, that are attached to it. Is that, again, a normal
5 process? Is that what normally happens?

6 A. Yes.

7 Q. You've been at LMCS not that long, have you?

8 A. No.

9 Q. I think from 2020, is that right?

10 A. 2020, yeah.

11 Q. Where were you before that?

12 A. I was in Petrotrin, and then I served a very brief stint in Paria.

13 Q. Right. So before you worked for LMCS you had actually
14 worked for Petrotrin who were the predecessors to Paria?

15 A. Yes.

16 Q. And you had a short stint with Paria as well?

17 A. Yes.

18 Q. And then you joined LMCS?

19 A. Yes.

20 Q. So can we take it that you know, as a Health and Safety Officer,
21 senior officer, you know how their systems work?

22 A. Yes.

23 Q. So it is perfectly common that the work permit would have
24 attached to it a number of other documents as necessary?

25 A. Yes.

26 Q. In this bundle of documents as necessary, included a hot work
27 certificate—we don't need to put it up—and then a method

1 statement. Is that right?

2 A. Yes.

3 Q. The method statement has been drafted by LMCS?

4 A. Yes.

5 Q. And then revised as and when necessary?

6 A. Yes.

7 Q. Is that how it works?

8 A. Yes.

9 Q. Can I ask you, please, to have a look next, then, please, at that
10 method statement. And do you see at page 1048 in our bundle,
11 you've seen these before I dare say?

12 A. Yes.

13 Q. But this particular one deals with the method of work for this
14 project, not just that day, for the whole project. All right?

15 A. Yes.

16 Q. Can I ask you, please, to turn to line 51 onwards? This deals
17 with the performing a dye penetration test. This is to check the
18 integrity of a weld, we've been told. All right?

19 A. Yes.

20 Q. I'm not particularly interested in that. I simply want to
21 understand how the process works, according to you. All right?

22 A. Yeah.

23 Q. Because you can't perform your job until you know what's
24 going to be done on that day.

25 A. Yes.

26 Q. That's what you told us. And the way in which you know
27 what's going to be done on that day is by looking at a method

1 statement. Correct?

2 A. Yes.

3 Q. Which you or your firm have drafted. Correct?

4 A. Yes.

5 Q. What do you understand the numbering on this system to
6 represent?

7 A. Well, the numbering is just the order we expect jobs to be done
8 in.

9 Q. Say that again, please?

10 A. It is the order that we expect these things to be taken in?

11 Q. The steps?

12 A. Yeah.

13 Q. What steps?

14 A. The steps to execute the job; the tasks that we have to do to
15 execute the job.

16 Q. Right. So if this document is wrong in any way, that's not your
17 fault. You are just following it as the steps to be taken?

18 A. Yes.

19 Q. So if it were wrong, those steps—somebody else's
20 responsibility?

21 A. Yes.

22 Q. Can I ask you please just to go to the next page? You see it
23 says there at 56 and 57:

24 "56. Manually remove migration barrier from line.

25 57. Manually deflate line plug and remove from line."

26 All right. These are the barriers, aren't they?

27 A. Yes.

1 Q. And they happen to be numbered 56 and 57?

2 A. Yes.

3 Q. And then after that we have:

4 "58. Manually install blind flange on riser by positioning
5 end flange on newly installed slip-on flange and securing
6 with fasteners."

7 I understand that to mean that where they cut off the piece of
8 pipe behind you on that diagram, where they cut the piece of
9 pipe at riser No. 6, they put a flange, which is like a plate that
10 goes around the pipe with holes in it, and then somebody else
11 puts another piece on top which has got similar plate with holes
12 in it, and then those holes are bolted together. Yes?

13 A. Yeah.

14 Q. Now, you've repaired the bit that was busted by having cut that
15 piece away?

16 A. We were just removing that. We weren't repairing.

17 Q. Sorry?

18 A. We were just getting rid of that. We weren't repairing it.

19 Q. You were getting rid of it, exactly, yes. But you've repaired the
20 pipe?

21 A. Yeah, the pipe itself, yes.

22 Q. All right. So that part of the job, was that to be done on the
23 day?

24 A. Yeah.

25 Q. So putting the flange, joining the two pieces together that had
26 been cut off, new flange put on, and then there was to be some
27 CARBER testing. You understand what a CARBER test is?

1 A. Yes.

2 Q. Right. Then we're going to do this CARBER testing. Couldn't
3 do that for a variety of reasons. And then after that, there was
4 going to be this other piece put on top. Is that what you
5 understood to happen that day?

6 A. Yes. By the end of the day, we would have made up the new
7 riser.

8 Q. Did you know whether or not the hyperbaric chamber was
9 supposed to stay in [*Inaudible*] or be taken off?

10 A. I don't know.

11 Q. You don't know?

12 A. No.

13 Q. But either way, did you understand from this, be it right or
14 wrong, that the migration barriers were to be removed from the
15 line before putting this thing on?

16 A. Yes.

17 Q. Would it be tricky to take them out after you put them on?

18 A. Yes.

19 Q. If somebody says no, they'll get an opportunity to ask him
20 questions about it in a moment. But it would have been tricky,
21 I suggest, to take them off afterwards?

22 A. Yes.

23 Q. No doubt you'll be told that that's not the case. But, anyway, I
24 just need to understand what that position is. So thank you very
25 much for that.

26 This document, was this attached to the work permit?

27 A. Yes.

1 Q. Lastly, this, please. In your statement, your supplemental
2 statement, in answer to questions posed to you by the legal
3 team, you say this at paragraph 64—can it be put up on the
4 screen, please? Supplemental statement, 1239. Go back one
5 page, please. Go to paragraph 60, first of all. Paragraph 60;
6 thank you; pause there. This is now Sunday 27th February, all
7 right. So we're now two days after what has happened. You
8 say this:

9 "I was told by Kazim Ali Sr that the meeting had been
10 scheduled between him, Andrew. Conan, and Paria
11 officials about a rescue plan."

12 Is that right?

13 A. Yes.

14 Q. And he says this—or you say.

15 "He told me that part of the request from Paria was to
16 come with documents as if it was a normal job."

17 So the method statement, risk assessment, and certificates for
18 divers would need to be submitted.

19 A. Yes.

20 Q. Can I ask you, in a normal job, how long would that take you to
21 put together?

22 A. Our end of the—

23 Q. Yes.

24 A. Couple hours, a day maybe, depends on the complexity of the
25 job.

26 Q. Depending on the complexity of your job. But you are to put
27 together a method statement, a risk assessment, and certificates

1 for divers as part of that normal job. And that will take you a
2 few hours—a couple, I think you said.

3 A. Yes.

4 Q. Do you mean by a couple two or more?

5 A. Two.

6 Q. And I assume this is something you do all the time?

7 A. Yeah, but I can't say for certain under normal conditions how
8 long it would have taken to do it.

9 Q. Right. Nonetheless, did you prepare those documents?

10 A. Yes.

11 Q. And how long did it take you?

12 A. I can't say I remember. It was submitted on that same
13 afternoon. So it couldn't have taken longer than three, four
14 hours.

15 Q. Three or four now. So a few hours either way. Did you—turn
16 to paragraph 64, please? Did you have any sense of any
17 urgency being expressed by anybody in this enterprise to try
18 and rescue these men?

19 A. No.

20 Q. You say at the second half of paragraph 64: They moved in a
21 way—"They" being who?

22 A. Paria.

23 Q. Paria moved in a way that was overcautious when concerned
24 with saving a life. They should not have been asking for
25 documents to conduct a rescue when you have competent
26 professionals saying it can be done.

27 Why did you say that?

1 A. I believe that Paria was taking advice from external experts—

2 Q. From?

3 A. External experts that they called in. And that's fine if they want
4 to take advice from persons who have experience. But on our
5 end I believe that since the day of the incident we, LMCS, had
6 qualified commercial divers on site, on the site looking at the
7 site, aware of the conditions, and they were saying that they are
8 prepared. It is possible to do an extraction. They are prepared
9 to attempt it with their resources that they had available.

10 Q. Well, they didn't, as a matter of fact, did they?

11 A. No, well, they couldn't. Well, they were not allowed to.

12 Q. I'm sorry?

13 A. They were not allowed to.

14 Q. Not allowed to. By?

15 A. By Paria.

16 Q. You used the word, "overcautious". What do you mean by
17 that?

18 A. Obviously, caution is necessary in something like this.

19 Q. You say that again, please?

20 A. Obviously, caution is necessary in something like this. You
21 need to be aware of the risks. You don't want to send some
22 person into a dangerous environment. But I believe the way
23 that they were handling the job and handling the preparation for
24 the job was erring too much on the side of caution when, again,
25 you have experienced personnel telling you that the risk is
26 acceptable and they are willing to do it.

27 Q. Did you liaise at all with officers from Paria, in particular the

1 HSE officers from Paria?

2 A. No. I didn't have much conversation—

3 Q. Did they liaise with you?

4 A. I don't recall if I ever spoke to any of them.

5 **Mr. Chairman:** Thank you very much. Yes. Cross
6 examination, first of all, Mr. Peterson.

7 **Mr. Peterson SC:** Thank you, Sir.

8 **Cross-Examination By Mr. Peterson SC:**

9 Q. Good morning, Mr. Ali.

10 A. Morning.

11 Q. Can you assist us with the level of your training that qualified
12 you for the position of an HSE Manager?

13 A. My training—my formal training is in Environmental and
14 Natural Resource Management. And then my only other
15 training—I don't have any formal HSE training—safety
16 training, I should say. It's all work experience with Petrotrin.

17 Q. It's all work experience. So you have not had any training in
18 the risks including Delta P specifically?

19 A. No.

20 Q. Before February, were you aware of the concept of Delta P?

21 A. Yes.

22 Q. What exposure you had to that apart from knowing of the—

23 A. Well, that's basically it; just general industry knowledge of
24 Delta P being a concern in diving.

25 Q. Right. And what you understood generally to be the risk of
26 Delta P?

27 A. The main risk with Delta P is when there's a difference in

1 pressure between two locations and a barrier separating them.
2 When the barrier is removed, the equalization of the pressure
3 causes a flow from high to low and becoming entrained in that
4 fluid is the main risk of a Delta P.

5 Q. Right. Just on that definition you just gave me there, you
6 recognize that that fits squarely on the scope of work to be
7 done, at least in the phase where this incident occurred?

8 A. Yes.

9 Q. Having recognized that it fits almost squarely in the scenario of
10 the incident that occurred, was Delta P factored into your
11 assessment as the Risk Manager?

12 A. Yes, but we believe that the risk was low because we were
13 supposed to have a pipe full of fluid. And because the pipe was
14 supposed to be full of fuel oil, there will be no space for the
15 atmosphere to flow into it.

16 Q. Right. So let's take that slowly. You did consider Delta P but
17 you consider it to be a low risk because of the clearing of the
18 line supposed to be at a certain level, leaving content?

19 A. Yes.

20 Q. Right. I'm sure the fault is mine, but I have searched all these
21 documents leading up to the 25th February and I cannot find the
22 word Delta neither Delta P.

23 A. No. There's no explicit statement of Delta P being considered
24 in the risk assessment. That is true.

25 Q. Thanks, because I thought I was missing something. But in a
26 risk assessment and a job risk—JHA you call it?

27 A. JHA or JSA.

1 Q. Right, or JSA. Once you recognize the existence of a risk or
2 the risk of a risk you're supposed to document it, and explain it,
3 and put mitigating factors in. Isn't that so?

4 A. Yes.

5 Q. Could you tell us where in your JHA or JSA you have
6 recognized, you have documented the risk that you just admit
7 that you considered and considered to be low? Where in those
8 you have embodied that and explained it away or put mitigating
9 factors in?

10 A. Again, I'll say, we thought that it was not necessary to include
11 it because it seemed unnecessary to us at the time. So there's
12 no explicit statement of Delta P being accounted for.

13 Q. All right, I accept that. But in hindsight, you recognize that you
14 were wrong?

15 A. I recognize that we could have put it, yes.

16 **Mr. Chairman:** Sorry, I missed that. You recognized what?

17 **Mr. Ali:** We recognized that we should have put it.

18 **Mr. Chairman:** You should have?

19 **Mr. Ali:** Yes.

20 **Mr. Chairman:** Does that mean that following this incident
21 you as an HSE Officer, senior officer, would ensure that the
22 question of Delta P was always in a risk assessment where
23 pipes are involved?

24 **Mr. Ali:** Yes. Well, we will put it in any diving risk
25 assessment.

26 **Mr. Chairman:** Say again?

27 **Mr. Ali:** We could include it in any diving risk assessment.

1 **Mr. Chairman:** All right. Thank you.

2 **Continued Cross-Examination By Mr. Peterson SC:**

3 Q. Right. So you said you should have put it looking back at
4 things now?

5 A. I said we could have put it, yes.

6 Q. You could have put it. Well, that's the difference. That's what
7 I'm struggling with. We know that you could have put it
8 because the paper is there and you could have put it. My
9 question is, not that you could have done it, but whether you
10 should have done it. You understand the distinction I'm
11 making, which is not a fine one?

12 A. Yes, I understand the distinction.

13 Q. Right. So do you accept that you should have put it?

14 A. Sure.

15 Q. Right. And do you accept—you did answer to the learned
16 Commission earlier that in your risk assessment if the—you
17 work off the method statements to develop your risk
18 assessment?

19 A. Yes.

20 Q. And you said if the method statement is wrong, you work with
21 that and develop your risk assessment off of that?

22 A. Yes.

23 Q. Isn't part of your responsibility to also scrutinize and peruse the
24 method statement to see that something there may be wrong
25 that could cause a risk because of the steps being in a particular
26 order?

27 A. I could question the method statement, yes.

1 Q. You could question the method statement. I could understand
2 that, because if the plugs are to be removed at the wrong time, it
3 could create a problem?

4 A. Yes.

5 Q. Because those barriers are put there for a purpose?

6 A. Yes.

7 Q. Right. Did you scrutinize 116 method statement? It has the
8 number 116. When I say 116, that's what I'm referring to.

9 A. The line clearing?

10 Q. Beg your pardon?

11 A. Which one is 116?

12 Q. The January one, the last one that you said supposed to have
13 revision one in the brackets as opposed to zero? We could pull
14 it up.

15 A. You can remind me about which one that was? I mean, I read
16 through all of them. The answer is yes. I just can't remember
17 which one you're speaking about.

18 Q. The last one. Let us call it the last one we are working with.
19 Did you scrutinize that to see if any of those steps were, in fact,
20 out of place?

21 A. I wouldn't say out of place. I could question why they were in
22 place, but I'm not making a call about whether something is
23 right or wrong.

24 Q. Oh. So you have no—you're not required to have any input
25 into the method statement?

26 A. Required, no.

27 Q. But you would agree with me that depending on how the steps

1 are set out in the method statement by the mere order of them,
2 that could create a risk; apart from the fact of the step, the order
3 in which the step is set out could create a risk?

4 A. Yes.

5 Q. Right. So I'll go back to my question. So as part of your duties
6 is to recognize whether the order in that method statement has
7 created a risk for which you have a responsibility to cater for.
8 Isn't that so?

9 A. Yes.

10 Q. Right. When you look at 116 even before the job or since then,
11 have you seen an order there that created a risk that you should
12 have considered?

13 A. I see something that we did consider. That's why I asked
14 about—well, I asked Kazim about whether or not—

15 Q. We are not hearing you.

16 A. I saw a risk and I could query the reason why the steps are in
17 the order that they are in and if we could shuffle them around.
18 But it's not my place to make the final decision about whether
19 or not it is moved or—

20 Q. So let's go to the method statement and you would tell us what
21 risk you recognize and what discussion you had with Kazim.
22 This is Kazim Ali Sr?

23 A. Senior.

24 Q. Okay. Could you assist by scrolling for me to the steps? You
25 could start around—you could start around 51, 52. You could
26 jump to 51, 52; if that is the area in which you had the
27 discussion with Kazim Ali Sr.

1 A. I can't say I remember every discussion I had about it.

2 Q. I know, I know. I expect that you wouldn't. But I'm focusing
3 on the discussion with respect to the risk with respect to why
4 we are here today. Did you have any discussion with respect to
5 anything in the method statement with Kazim Sr. that you
6 recognize to create a risk?

7 A. I can't recall.

8 Q. You can't recall. In particular, you never discussed the
9 installation of the plug and/or the removal of the plug?

10 A. I can't recall.

11 Q. But you would agree with me that the installation and/or
12 removal of those plugs must be, if nothing else, the most
13 significant part of that method statement?

14 A. No.

15 Q. Okay. What you consider to be the most significant part of that
16 method statement?

17 A. The breathing air and maintaining the habitat inside the
18 chamber.

19 Q. The breathing air and—all right, I'm glad you take me there.
20 The breathing air you consider to be the most important part of
21 that?

22 A. [*Inaudible*], yes.

23 Q. The inflatable plug was placed for what purpose as you
24 understood it?

25 A. It was a fire protection to stop the vapours from hydrocarbons
26 in the line from coming into the oxygen rich environment.

27 **Mr. Chairman:** I'm sorry. I'm not hearing you. It happens

1 when somebody on that side is asking the questions, you zone
2 away from the microphone. So move the microphone, if that's
3 easier. Just move it in the direction that's helpful or yourself,
4 whichever. But you need to speak into it.

5 **Mr. Ali:** Yes, sorry. What I'm saying, it was supposed to be a
6 fire protection measure to stop the hydrocarbon vapours that
7 would have been in the line from the hydrocarbon in the line
8 from coming up to where we were doing hot work during the
9 removal of the top section of the riser, the leaking section, and
10 during the welding.

11 **Continued Cross-Examination By Mr. Peterson SC:**

12 Q. Wasn't it also to preserve the pristine nature of the air in the
13 chamber?

14 A. No.

15 Q. So if you had no hot works, the hydrocarbon could just come up
16 in the chamber where the men are working and that doesn't
17 matter?

18 A. We had positive pressure being maintained and the air is
19 constantly being exchanged.

20 Q. But you have a hyperbaric chamber checklist, don't you?

21 A. Yes.

22 Q. Do you want to help us as to some of the factors on that list,
23 relevant to the question I just asked you about the pristine
24 nature of the air in the chamber?

25 A. If you could bring up the checklist.

26 **Mr. Chairman:** It's at 1225; 1225, I believe. Hyperbaric
27 Chamber Operations Checklist. Is that what you want? 1225 in

1 Witness Statement Bundle Volume II. It's appended to his
2 statement. There it is. Mr. Peterson, it's on the screen.

3 **Mr. Peterson SC:** Yes.

4 **Mr. Chairman:** The copy that we have in our bundle is a bit
5 blurry. So I think you're probably better off trying to look at it
6 on the screen.

7 **Mr. Ali:** Yes. Well, they're not numbered, but the breathing
8 air checklist, the breathing air check, oxygen content, backup
9 breathing air—

10 **Mr. Chairman:** I'm not hearing what you're saying. Sorry.
11 You have a naturally soft voice, which is, I'm sure, very
12 endearing to many people, but it's not now helping us at the
13 moment. All right?

14 **Mr. Peterson SC:** You could have some water too, if your
15 throat is dry.

16 **Mr. Ali:** I apologize.

17 **Mr. Chairman:** No, you don't have to apologize for your
18 voice. Just help us so that we do hear what you have to say.

19 **Mr. Ali:** Yes. So centred on the screen there in the hyperbaric
20 chamber checklist, what I'm talking about is the breathing air
21 quality for breathing air checks, and so on, and having backup
22 air, and that sort of thing.

23 **Continued Cross-Examination By Mr. Peterson SC:**

24 Q. Right. But having a vent open to allow hydrocarbons to get
25 into the chamber is not a factor to take into account when
26 addressing air quality?

27 A. It could have been, but that is not what we put the migration,

1 the inflatable plug. That's not what the inflatable plug was for.

2 Q. All right. But why the—if the inflatable plug is only for that
3 purpose, not to keep out anything from coming up, what the
4 mechanical plug is for?

5 A. The mechanical plug was protection for the inflatable plug for
6 the hot works being conducted above it.

7 Q. Right. So you are saying that the inflatable plug in this scenario
8 played no role with respect to keeping the hydrocarbons out of
9 the chamber?

10 A. Yes, that's what it did. But it did that for the purpose of fire
11 protection, not for breathable air.

12 Q. Only for fire protection?

13 A. Yes.

14 Q. All right. But it serves both purposes?

15 A. It serves both purpose in this—

16 Q. You put it there for one?

17 A. Yeah.

18 Q. So that takes me to the clearing of the line.

19 **Mr. Chairman:** I'm sorry, Mr. Peterson. Your checklist has
20 as one of the criteria gas monitoring equipment present and
21 capable of monitoring vented chamber air. Sorry, I'm doing
22 that from a rather small print of this document. If this gas
23 monitoring equipment in the chamber—

24 **Mr. Ali:** No, outside of the chamber. On the top of the
25 chamber on the cubic part of the chamber, there is an air vent
26 that can be opened from the inside and also controlled from the
27 outside to let atmosphere from inside the chamber out. And so

1 we monitor using a hand-held monitor—Paria actually does
2 this—a hand-held monitor to check VOC, volatile organic
3 content, from the air inside the chamber.

4 **Mr. Chairman:** So the air inside the chamber is not being
5 constantly checked for its oxygen content?

6 **Mr. Ali:** No, it can't be, because we also have a tripod, a fixed
7 monitor system that we can put there. But it's usually checked
8 with the hand-held and the monitor is usually a little bit—

9 **Mr. Chairman:** Because what Mr. Peterson was asking you
10 was whether or not the barrier is put in there to stop the
11 hydrocarbons coming into the chamber—the hydrocarbon air.

12 **Mr. Ali:** Yeah.

13 **Mr. Chairman:** Right. You say, well, it is, but it's only really
14 to check against fire rather than a lack of oxygen or a question
15 of whether the divers who might be working in that chamber
16 might be overcome by fumes.

17 **Mr. Ali:** Yeah.

18 **Mr. Chairman:** So it's nothing to do with that?

19 **Mr. Ali:** No.

20 **The Chairman:** All right. Thank you for that. I just wanted
21 to be clear about that.

22 **Mr. Ali:** The primary function is the fire protection.

23 **Continued Cross-Examination By Mr. Peterson SC:**

24 Q. So the inflatable plug is only inserted in the hyperbaric chamber
25 if there are hot works to be undertaken?

26 A. Yes.

27 Q. According to your theory?

1 A. Yes.

2 Q. Which I'm not accepting, but that's your theory.

3 A. Yes.

4 Q. What is this alternative pressure you told me about, positive
5 pressure, that you said you didn't have to be concerned about
6 hydrocarbons coming into the chamber for breathing purposes
7 because you had the positive pressure. What is that? Explain
8 that to us.

9 A. We constantly have air, breathing equality air being pumped
10 into the chamber from above. And so that maintains a—that's
11 how we keep it dry and clear of water, and the bottom of the
12 chamber is open. So it is not a sealed—it is not a sealed; it's
13 not a door.

14 Q. The bottom of the chamber is opening to the sea?

15 A. Opening to the sea.

16 Q. So that's a flooring. It's not open above sea level. It's in sea
17 level. So the bottom of the chamber is—the flooring of the
18 chamber is, basically, apart from the metal you're standing on,
19 is water?

20 A. Yeah.

21 Q. Right.

22 A. And so, because of that, so long as we continue to pump in air it
23 bubbles out from the bottom, that is constantly. So it is a
24 constant exchange of air. We always have fresh air coming in
25 and atmosphere coming out.

26 Q. Yeah. That's the way you ventilate all chambers in that
27 scenario?

1 A. Yeah.

2 Q. Right. But because you ventilate all chambers that way, you're
3 telling this Commission that you had no difficulty with a
4 system where hydrocarbon is coming in as it wants because
5 you're bringing in some air from on top? That's what you're
6 telling the Commission?

7 A. Yeah. There was not very much concern about the vapours
8 because of the material itself, the fuel oil. It's not prone to
9 giving out very much vapours at normal temperatures.

10 Q. And why do you need gas monitoring equipment in the
11 chamber?

12 A. We don't have gas monitoring in the chamber.

13 Q. But is that on your checklist?

14 A. No, that is outside.

15 Q. No, but I mean it's to access what's in the chamber; it's to test
16 what is in the chamber.

17 A. Yeah, it's a backup just in case.

18 Q. It's a backup just in case?

19 A. Yeah. Again, for fire protection in case flammable material
20 gets inside.

21 Q. So the plug is not one of your backup systems—the inflatable
22 plug?

23 A. It is the system to prevent flammable material from getting
24 inside, yes.

25 Q. It's what?

26 A. It is the system to prevent flammable material from getting
27 inside the chamber.

1 Q. Not flammable material; hydrocarbons—well, yes. But for the
2 breathing—you see, that's the difference. You are telling this
3 Commission that keeping out the hydrocarbons was purely
4 because of hot works.

5 A. Yes.

6 Q. And I ask you, so in the scenario of no hot works, let the
7 hydrocarbon flow. Isn't that so?

8 A. Hydrocarbon vapours were not a concern to us because of the
9 nature of the material in the line.

10 **Mr. Chairman:** I think we've got as far as we're going to get.

11 **Continued Cross-Examination By Mr. Peterson SC:**

12 Q. Neither was Delta P?

13 A. Sorry?

14 Q. Neither was Delta P a factor?

15 A. So long as we had a full [*Inaudible*]; yes.

16 Q. Right. What system was put in place to monitor the
17 displacement of the content in the line to eliminate Delta P?

18 A. What system?

19 Q. Was employed to monitor the displacement of the contents of
20 the line?

21 A. We had manual supervision the entire time.

22 Q. Beg your pardon?

23 A. Manual supervision. It was overseen by both Paria and LMCS.

24 Q. You were a part of that risk assessment?

25 A. Risk assessment, yes.

26 Q. Yes. How was the line to be cleared?

27 A. Air blowing from berth 5 into a different line originally.

1 Q. I beg your pardon?

2 A. Air blowing.

3 Q. Yes.

4 A. Inject air at berth 5, it displaces the head at the riser at berth 5
5 down which pushes oil at berth 6 up and into a different line.

6 Q. Right. And what system, if any, to eliminate the risk of air
7 remaining between the top of the berth 5 and the last body of
8 oil?

9 A. Manually checking; yeah.

10 Q. A manual check?

11 A. Yeah.

12 Q. Where was that recorded?

13 A. I can't say.

14 Q. Where was that in your assessment for manual checks to be
15 done at berth 5 after the blowing of the air?

16 A. I believe it's in the method statement that we checked for the
17 level. You can only blow so far down.

18 Q. I beg your pardon?

19 A. We could only blow so far down before you start losing
20 suction. So you would just check the level and then if we have
21 enough—

22 Q. I'm talking about berth 5, not 6. You're blowing from berth 5
23 pushing the product up to berth 6?

24 A. Yeah.

25 Q. What method or what in your risk assessment did you cater for
26 checking to eliminate a void between the top of 5 and the last
27 area of body of oil in the horizontal line?

1 A. Just settling of the line.

2 Q. Umm?

3 A. There is nothing in place for that. It was just the settling of the
4 oil in the line.

5 Q. Right. But you realize that that could create a void that could
6 lead to Delta P?

7 A. Potentially, yes.

8 Q. I beg your pardon?

9 A. Potentially.

10 Q. Potentially. Did you, in your risk assessment, consider that
11 potential?

12 A. I don't believe it's there, no.

13 Q. In hindsight, now that we're in these air-condition
14 surroundings, that is a possible explanation for the Delta P
15 event that occurred?

16 A. I don't want to speculate.

17 Q. You what?

18 A. I don't want to speculate and say that, no.

19 Q. No, no. Well, we have to speculate now, because we don't
20 know, right?

21 **Mr. Chairman:** We don't.

22 **Mr. Peterson SC:** Beg your pardon, Sir?

23 **Mr. Chairman:** We don't have to speculate.

24 **Continued Cross-Examination By Mr. Peterson SC:**

25 Q. Well, you call it speculation, but you recognize that it's a good
26 explanation, a good possibility for the event?

27 A. I wouldn't say that, no.

1 Q. What caused the event?

2 A. I can't say.

3 Q. Why did you discount that scenario I just put to you?

4 A. Why did I discount—

5 Q. The scenario I just suggested to you.

6 A. The volume of air required.

7 Q. How much air was required?

8 A. You would have had to displace the line volume of the
9 horizontal section. We didn't do that much pumping.

10 Q. Had to what? I beg your pardon? I didn't hear that.

11 A. The volume of air that would have been required for that—

12 Q. For a Delta P?

13 A. For the scenario that we're talking about specifically.

14 Q. Yeah. Would have been?

15 A. We didn't inject that much air.

16 Q. How many barrels you removed?

17 A. I can't say. I wasn't present.

18 Q. And how can you say that amount of air wasn't injected?

19 A. Because there were two slops barge worth of oil that was
20 removed.

21 Q. Okay. Well, all right. Because of two slop barges of oil,
22 according to you, that were removed, that's what informed your
23 conclusion that you all didn't blow so much air to explain the
24 scenario I put to you that you say is speculation?

25 A. Based on the information I have, yeah.

26 Q. Right. Do you know that the evidence before this Commission
27 is that before they had those two barges of oil, they had been

1 pumping into 66 back on shore into the tank farm?

2 A. Yes.

3 Q. You knew that? So you know it's not only the two barges you
4 referred to?

5 A. Yeah.

6 Q. Mr. Ali, I am trying not to suggest something to you.

7 **Mr. Chairman:** Mr. Peterson, I think you should, in fairness
8 to him, distinguish between the pumping of material above the
9 sea level and the material below. I know there's both, but you
10 ought to make that clear.

11 **Mr. Peterson SC:** I will be going to all of that, Sir.

12 **Continued Cross-Examination By Mr. Peterson SC:**

13 Q. You say you only know about the two slop barges?

14 A. Volume-wise, yes.

15 Q. Volume-wise. But they will remove oil from topside; they
16 remove oil from the elbow; and they remove oil from 6 into 5.
17 You know that?

18 A. Yes.

19 Q. Right. The two slop barges is only part of the product that was
20 removed. You know that?

21 A. From my understanding, yes.

22 Q. Right. But you did not know that they were also pumping via
23 66?

24 A. Yeah, that was the—from my understanding, the topside of the
25 line. We had to do clearing first before you could remove the
26 line, otherwise we would have released oil.

27 Q. Yeah, but that's what you are saying, but all of that was not

1 from topside only. You know that?

2 A. No, I don't know that.

3 Q. All right. Well, we have evidence in here. But what—

4 **Mr. Chairman:** What was his answer to that? He did or he
5 didn't know about the removal of oil from the subsea level?

6 **Mr. Peterson SC:** No, not subsea, Sir. I think he said—

7 **Mr. Chairman:** Well, it's above the line and below the line.
8 Above—

9 **Continued Cross-Examination By Mr. Peterson SC:**

10 Q. What did you say?

11 A. What is the distinction in asking [*Inaudible*].

12 **Examination By Mr. Chairman:**

13 Q. Right. I want to understand, please, because Mr. Peterson has
14 been asking, and it's quite important. All right? You knew—I
15 think you said you knew that there was material being pumped
16 from 5 by blowing through to 6 which ended up in line 66. So
17 it was being blown out and straight back into a tank back on the
18 shore.

19 A. Yeah.

20 Q. You knew that?

21 A. Yeah.

22 Q. I think that's what you told Mr. Peterson?

23 A. Yes.

24 Q. Was that oil that was being pumped on shore oil from above the
25 water line or below the water line?

26 A. Well, I believe it was above.

27 Q. Above, right. Did you know of any material being pumped

1 from below the water line through that method into the tanks on
2 shore? Were you aware of that?

3 A. No. I thought that we had switched over to the barges.

4 Q. Right. So you understood—contrary to what we've heard so
5 far—but you understood that the oil that was being pumped into
6 the tank was oil from above the surface?

7 A. Yeah.

8 Q. Any oil that was pumped into the tank from below the surface
9 you are unaware of?

10 A. Volume-wise, yeah.

11 **Mr. Chairman:** Right. Thank you. I think that's where you
12 wanted to be, isn't it, Mr. Peterson?

13 **Continued Cross-Examination By Mr. Peterson SC:**

14 Q. How you know this?

15 A. How I know what?

16 Q. What you just told the Chairman.

17 A. When I spoke to our people, our supervisor, I was informed
18 about the change in using the barges afterwards.

19 Q. After the event?

20 A. Yeah.

21 Q. After the event?

22 A. Yeah.

23 Q. But you don't know—you said how much volume was pumped
24 back onto shore?

25 A. No.

26 Q. So you don't know if it came from on top or some of it in the
27 line.

1 A. I can't say for sure, no.

2 Q. So since you cannot say that—that's why I'm trying to get you
3 to say and that's why I'm—you don't know how much air was
4 pumped into 5 and the horizontal? You don't know.

5 A. No.

6 Q. Because you don't know how much content was removed?

7 A. Well, based on the information I had, it was two barges worth
8 of oil.

9 Q. Well, we went through that a while ago.

10 A. Exactly.

11 Q. But you don't know where those two barges—do you accept
12 now that not only two barges of oil were removed?

13 A. No. I don't know the volume.

14 Q. Okay. Well, we have evidence to the contrary.

15 A. Good for you.

16 Q. Did anybody tell you only two barges of oil was removed?

17 A. No.

18 Q. You understood the oil was to be removed to create what
19 situation for the installation of the plugs?

20 A. We needed to clear enough space in the line so that we have
21 clearance of about five-ish feet. The exact volume wasn't
22 necessary. About five-ish feet of space between the top of the
23 oil at berth 5 and 6, really, but berth 6 more importantly.
24 However, we wanted to install the inflation plug.

25 Q. You don't know that they were trying to get an ullage of 30
26 feet?

27 A. I can't say I know the exact figure. We needed clearance to

1 install the plugs below where we wanted to do the cut and
2 above where the oil stopped in the line.

3 Q. You heard anything about removing 300 barrels of oil?

4 A. No.

5 Q. First time you're hearing that is here?

6 A. No, not the first time I'm hearing that is here.

7 Q. Where you heard it before?

8 A. I know it came from the ITB proposal.

9 Q. What?

10 A. Our proposal for the ITB.

11 Q. Right.

12 A. Paria's ITB.

13 Q. Sorry, I didn't hear you.

14 A. Our proposal from Paria's ITB is, I believe, where it came
15 from.

16 Q. Right. But your method was to take it down to 30 feet. Well,
17 you say you didn't know about the 30 feet—take it down to a
18 point to insert the plugs?

19 A. Yeah.

20 Q. Right. Were you a part of the risk assessment in installing and
21 removing the plug?

22 A. Yeah.

23 Q. What was the risk engaged in installing the plugs? Any?

24 A. Nothing significant. It was mostly heavy lifting because it had
25 to be installed via crane.

26 Q. Right. And you had to assess the installation process for the
27 plug to assist in the proper installation of the plug from a risk

1 perspective?

2 A. I had to assess the?

3 Q. You had to assess the procedure for installing the plug from a
4 risk perspective?

5 A. Yeah.

6 Q. And also correspondingly removing those plugs?

7 A. Yes.

8 Q. Right. And in order to access, in order to properly assess the
9 installation and removal you have to be familiar with the
10 structure of the plug.

11 A. Yes.

12 Q. So the best way to do that is to go to the manufacturer's
13 literature on the plug?

14 A. Yes.

15 Q. Did you do that?

16 A. Yeah. I had mostly Kazim, Kazim Junior, Kaz, information on
17 that for the plug.

18 Q. So you didn't go to the data?

19 A. No, I didn't acquire the data. The plug was purchased before I
20 joined the company, so we had the information already.

21 Q. Did you have the literature?

22 A. Yes.

23 Q. You never went online and researched the plug and the
24 manufacturer's specifications?

25 A. Not before.

26 Q. You went after?

27 A. Yeah. We already had it, is what I'm saying. We purchased

1 the plug and we got it with the plug.

2 Q. Oh, no. I thought when you say not before, I thought you
3 meant you went online after.

4 So you were involved in the process for installation of the plug
5 and removal? Not the actual execution, but the plan?

6 A. The risk assessment, yes.

7 Q. Yes. Did you know that the plug was installed initially on the
8 13th February?

9 A. Yes.

10 Q. And the work actually executed on the 15th?

11 A. Yes.

12 Q. Some twelve days later. Did you factor that—did you assess
13 that period as a risk? The installation; the time period between
14 the installation; and the men going into the chamber to execute
15 the work twelve days later?

16 A. No.

17 Q. In hindsight, not speculation, in hindsight, you realize that there
18 was a risk there that should have been assessed?

19 A. I can't say that for sure.

20 Q. You can't say that for sure. Since this incident you have not
21 researched or tried to assist us as to whether that was a risk that
22 you all missed?

23 A. As far as I know, the plug held in place; it was inflated; it was
24 doing its job. So I can't say that it was a risk.

25 Q. How you know that?

26 A. They were executing their work and we had a camera on them.
27 We know that the plug was in place.

1 Q. Beg your pardon?

2 A. The men who were executing the work, they removed the
3 mechanical plug and then they had to remove the inflatable
4 plug.

5 Q. Did the inflatable plug—you don't know if it remained at its
6 same inflatable level from twelve days before?

7 A. No. But what I'm saying is I know that from the actual
8 execution of work, we know that the men saw the plug. It was
9 holding; it was in place; and it had to be removed.

10 Q. Now, the manufacturers of the plug—you know the brand of
11 the plug?

12 A. Lansas.

13 Q. Right. You ever came across literature about deflating and
14 removing the plug with a very bold warning on the literature of
15 the manufacturers?

16 A. Yeah.

17 Q. You came across that?

18 A. I submitted it to the Commission, yes.

19 Q. You submitted it to the Commission. Right. You knew about
20 this between the 13th and the 25th?

21 A. Yes.

22 Q. You knew of this warning before the 25th. Who did you tell
23 about it?

24 A. Kazim. But Kazim was the one who procured the plug, so he
25 was already aware.

26 Q. I wasn't hearing you, sorry. Slowly.

27 A. Kazim Jr.; Kazim Jr.

1 Q. You told Kazim Jr. about this warning?

2 A. No, I didn't speak to him about it directly, no. We didn't have
3 a conversation about it.

4 Q. Yeah, well, that's what I'm trying to get. You are the
5 manager—the HSE Manager. You are aware of what I'm about
6 to read to you, which you said you submitted to the
7 Commission, and you did not bring it to the attention or ensured
8 that it was implemented between the period of the 13th to the
9 25th?

10 A. It was already addressed during the method statement
11 development.

12 Q. What was addressed during the method statement?

13 A. How the plug was going to be removed.

14 Q. What in the method statement dealt with this warning in the
15 manufacturer's specification?

16 A. I can't say.

17 Q. We will go.

18 A. No, I can't point to a specific point in the method statement.

19 Q. I beg your pardon?

20 A. I know we had talks about it.

21 Q. Come again? I'm not getting—

22 A. I cannot point out a line in the method statement. What I'm
23 saying is during the development when we had discussions
24 about the method statement, and so on, it would have come up.

25 Q. But you said that the implications of this warning I'm about to
26 take you to that you supplied is factored in the method
27 statement?

1 A. Yeah.

2 Q. Well, that's why I want to take you there, because I have lost—
3 I have missed it.

4 A. What I'm saying is I can't point out a line that answers your
5 questions—

6 Q. Well, the answer to that is there is nothing in the method
7 statement that takes into account that warning. Isn't that so?

8 A. [*Nodded*].

9 Q. Don't give them nod. We have to record it.

10 A. If that is your conclusion, yeah.

11 Q. I beg your pardon?

12 A. That is your conclusion, yes.

13 Q. No, not mine, I don't want to put words in your mouth. If there
14 is representation in the method statement that factors in this
15 warning, I want to be fair to you for us to show the
16 Commission.

17 A. No.

18 Q. There is none. Isn't that so?

19 A. No.

20 Q. Right. Because the warning is this: Before attempting to
21 remove any pipe plug, always make sure all back pressures or
22 test pressures have been completely released and that there are
23 no forces working against the pipe plug before deflating. If
24 there is still back/test pressure against the plug, when it deflates
25 it can shoot out of the pipe like a project. There is nothing in
26 the method statement that's picking up this warning?

27 A. No. There is the fact that it's—the pressure exists acting

1 downward on the plug so that it would move towards the fluid.

2 **Examination By Mr. Chairman:**

3 Q. The warning is one which is designed to forewarn you of the
4 prospect of the plug being fired out of the pipe—

5 A. That's what I understand, yes.

6 Q. —by having pressure underneath greater than the pressure on
7 top. Are you saying that because you were working inside the
8 hyperbaric chamber that the pressure that was pushing down by
9 virtue of the air pressure inside the hyperbaric chamber, there
10 was no prospect of it being—I think the wording there is
11 project, but they mean projectile? Yes.

12 A. Yeah, and that's what I'm trying to say. I understand that the
13 pressure is—if the pressure is on the left it would shoot to the
14 right. And the intention of this is to ensure that no personnel
15 are hurt by it becoming a bit moving. And so—

16 Q. What was the pressure inside the hyperbaric chamber?

17 A. About 8psi.

18 Q. In terms of atmospheres, how many is that?

19 A. I think it's 1.6.

20 Q. Per atmosphere?

21 A. Yeah.

22 Q. PSI?

23 A. Yeah.

24 Q. Right. So about five?

25 A. I don't know the conversion. I'm sorry.

26 Q. Well, divide eight by 1.6; about five?

27 A. I can't say.

1 Q. Well, you were at school a lot closer than I have been. And so,
2 I'm relying on you. But, I mean, we all understand the pressure
3 that we're at here. We all get a sense of difference in pressure.
4 When we go on an airplane your ears give you trouble, and so
5 on, you know that you're at different air pressures, okay, and
6 they pressurize the cabin of an airplane is obviously in reverse.
7 Isn't it, right? They pressurize it in order so that we can go and
8 not have our ears screaming at us. And anybody who dives
9 understands that at the surface we're one pressure and you go
10 down 10 feet and you're at two pressures. You go down
11 another 10 feet you're at three, and so on. So this was being
12 pressurized to about five times the normal pressure that we
13 experience at sea level?

14 A. I don't know what to say. I don't know what to say. I don't
15 know the conversion.

16 Q. All right. Thank you.

17 A. The five times is what is throwing me off. At sea level you're
18 supposed to be at one atmosphere, and I believe at—because
19 the bottom of the chamber was about 13ish feet below the
20 surface, from what I could find that's about 1.6 atmospheres
21 down there. So the increase is .6 atmospheres from my
22 understanding.

23 Q. All right.

24 A. So the pressure inside the chamber would have been 1.6.

25 Q. Repeat the last thing?

26 A. So the pressure in the chamber, we expect it to be at 1.6
27 atmospheres.

1 Q. One point six atmosphere?

2 A. Yeah.

3 Q. The pressure in the chamber is only just only one ordinary
4 atmosphere. Is that what you're saying?

5 A. Yeah, because it's a very—the base of it is open to sea water at
6 a relatively shallow level.

7 Q. Was the water level inside the chamber lower than the water
8 level outside—sorry. Was the water level inside the chamber
9 lower than the water level outside the chamber?

10 A. Well, there is no water level inside the chamber. It would have
11 been—

12 Q. It was a bit, because the chamber was sitting—the edge of the
13 chamber were sitting in the water?

14 A. Yeah, so it was flush with the bottom of the chamber.

15 Q. Yes.

16 A. And that was about 13 feet below surface level, mean surface
17 level.

18 Q. Thirteen feet below the surface on the outside of the chamber?

19 A. Yes, about.

20 Q. Right. So whatever pressure was inside was pushing down all
21 the water that would have been 13 feet higher but for the air
22 pressure on the inside?

23 A. Yes.

24 Q. I suggested probably a little bit more than 1.6 atmospheres.
25 But, never mind; we'll get that from somebody who might be
26 an expert.

27 A. Yeah. I am not the best person to speak to that.

1 Q. As I understand it, the pressure above is pressing down such
2 that you have managed to move the volume of water that would
3 have been inside that, by 13 feet. That's right, isn't it? Moved
4 it down by 13 feet? So that they can work in there dry?

5 A. Yeah.

6 **Mr. Chairman:** Right. Okay; got you. Sorry, Mr. Peterson.

7 **Mr. Peterson SC:** Thank you, Mr. Chair.

8 **Continued Cross-Examination By Mr. Peterson SC:**

9 Q. The warning with respect to the example of the plug becoming
10 a projectile, that is with respect to pressure coming up through
11 the pipe?

12 A. That is what I understood, yes.

13 Q. But the warning is that there must not be—you must make sure
14 that the back pressure or test pressure have been completely
15 released and that there are no forces working against the plug;
16 no forces working against the plug. What do you understand
17 that to mean? Not only back pressure through the pipe?

18 A. What I'm saying—yes, that's a valid interpretation. What I'm
19 saying is the main—my understanding of the warning is to
20 prevent damage to personnel should the plug move and become
21 a projectile as they say. And for that purposes, if the pressure
22 was coming from inside the pipe, we had the mechanical plug
23 on top of it blocking it until everything needed to be removed.
24 So it was less of a concern for us.

25 Q. The other way around?

26 A. The other way around.

27 Q. Which we know is the major concern now. But I also want to

1 take you to the literature with respect to monitoring the plug,
2 monitoring the plug. That's why I took you to the period
3 between the 13th February and the 25th. And hear what the
4 manufacturers said about this monitoring the plug.

5 Once the installation and inflation of the plug is complete and
6 you are working the application, the plug should be monitored
7 regularly. The required inflation pressure should be checked
8 every four hours at a minimum, but more often in critical
9 situations.

10 So, were you aware of this at the time when you all installed
11 that plug on the 13th?

12 A. I can't say I was aware of the four hours, but monitoring the
13 pressure, yes. There's a gauge on the plug.

14 Q. Right. When did—in your risk assessment, did you build in a
15 schedule for monitoring the pressure?

16 A. No. I don't usually go into that detail in a risk assessment. The
17 literature for use of equipment, it stands by itself.

18 Q. Sorry, sorry, I'm not—

19 A. The literature for use of equipment and material it kinda stands
20 by itself. I don't always include that—I don't ever include that
21 in the risk assessment itself.

22 Q. You don't ever include, in this case—not the data, you know.
23 You use this to develop your risk assessment.

24 A. Yeah, but what I'm saying is I don't have like a schedule in the
25 risk assessment, because that is—the literature and the
26 documentation already exist for it.

27 Q. Right. So what steps did you take as the manager of—the SNE

1 at LMCS, to get this literature warning to monitor that plug
2 every four hours to the workmen who supposed to be doing it?

3 A. No explicit instruction was written; no. It was verbal.

4 Q. It was verbal. Who you gave that verbal instruction to?

5 A. Kaz is the one who gave the verbal instruction.

6 Q. What verbal instruction he gave?

7 A. To monitor the plug.

8 Q. How often?

9 A. I can't say.

10 Q. But you appreciate that you can't, based on what you told me
11 earlier about the inflatable plug being protected by the
12 mechanical plug, you cannot monitor the inflatable plug?

13 A. Without removing the mechanical plug.

14 Q. Without removing the mechanical plug. So was it envisaged
15 that the mechanical plug would be removed every day or every
16 other day in those 13 days to check that?

17 A. No, it wasn't supposed to last 13 days, no.

18 Q. No, I know. That's the point. I'm glad you take me there. But
19 it lasted 13 days. Did you do any developed, amended, revised
20 risk assessment, the fact that the job now extended—there's a
21 break of 13 days?

22 A. No.

23 Q. But you realize that you should have?

24 A. Hindsight.

25 Q. And you realize that the inflatable plug could not be monitored
26 pursuant to the manufacturer's specifications because of the
27 mechanical plug on top?

1 A. Yes.

2 Q. And all of this that I just described there, informing the men
3 about the literature, the removing of the mechanical plug to
4 check every day or every two days, let's say, although they say
5 four hours, let's give you that—all of that was totally within the
6 domain of LMCS?

7 A. Yes, it was our plug.

8 Q. I want it clear. Not Paria?

9 A. Yes.

10 Q. There was an incident in breach of Paria's PTW, permit to work
11 system. You know about that? In February.

12 A. 17th?

13 Q. Yes.

14 A. Yes.

15 Q. What was it?

16 A. It was a mobilization of LMCS' barge before the permit to
17 work had been fully signed off.

18 Q. Before the permit to work had been fully signed off. Who was
19 the offender?

20 A. Mr. Dexter Guerra.

21 Q. Mr. Dexter Guerra. You didn't ban him from the job?

22 A. No.

23 Q. In fact, he was there head and shoulder on the 25th?

24 A. Serving in a different capacity, yes.

25 Q. Serving in?

26 A. A different capacity.

27 Q. But same man, but different capacity?

1 A. Same person.

2 Q. And you responded using Kazim Ali's email to Paria, Mr.
3 Randolph Archibald, talking about the incident. You remember
4 that?

5 A. Yeah.

6 Q. In fairness to you, do you want to see the email?

7 **Mr. Chairman:** Well, I think he should. Is this the email you
8 served us yesterday?

9 **Mr. Peterson SC:** Yes, Sir.

10 **Mr. Chairman:** Thank you.

11 *[Document shown on screen]*

12 **Continued Cross-Examination By Mr. Peterson SC:**

13 Q. You're familiar with it?

14 A. Yeah.

15 Q. And Mr. Archibald was taking you—well, this is in evidence,
16 so you don't need to go through everything. I'm really
17 interested in immediately taking you to question three where
18 Mr. Archibald was asking whether you would introduce a self-
19 check or checklist system to be implemented. And that was
20 aimed at trying to prevent this happening again. And in your
21 answer you recognize that you don't feel it's necessary because
22 the permit itself serves as the most powerful control document.
23 That's your view?

24 A. Yes.

25 Q. And you still hold that view?

26 A. Yes. It controls the execution of work.

27 Q. It controls the execution of work. And you understand that

1 notwithstanding what may be in the method statement, that
2 there could be reflection in the PTW which governs how the
3 work is to be executed?

4 A. Yes.

5 Q. Because in the method statement there may be steps that when
6 the work start to be executed you realize that one should have
7 come before the other, as the case may be.

8 A. Sure.

9 Q. That happens in the industry.

10 A. Yeah.

11 Q. So in this case, as you have recognized, the most powerful
12 control document is the PTW which will, let us say, correct that
13 error in the flow. Right? Do you agree with that—my phrasing
14 of it?

15 A. I'm not sure I could agree with that.

16 Q. Well, when we say correct the error, reverse an error or reverse
17 an order of a step?

18 A. I would say that the permit to work is Paria's way of controlling
19 what works we get to be executed. I'll just say that.

20 Q. And the order of the work?

21 A. No.

22 Q. Okay. The permit to work that you were shown earlier, permit
23 to work 9320, and we see in it barriers—we could bring it back
24 up if you need to see it; but permit 9—1074. Could we scroll
25 down a bit? You see, "Migration barriers to be used"?

26 A. Yes.

27 Q. What is that referring to?

1 A. So I honestly couldn't tell you. Considering that it's the line
2 talking about hazardous materials, they wanted it to be used
3 while we're in contact with hazardous materials.

4 Q. So you don't understand migration barriers there to be the
5 plugs?

6 A. Yeah. I know that the migration barriers they're talking about
7 are the plugs, yes.

8 Q. Okay.

9 A. Is the "to be used part" is unclear.

10 Q. Come again?

11 A. It's the "to be used" part that I'm saying I'm somewhat unclear
12 about.

13 Q. Okay. But you're not unclear about the barriers?

14 A. No.

15 **Mr. Peterson SC:** Could we scroll down? I want to go to
16 the—no; the heading.

17 **Continued Cross-Examination By Mr. Peterson SC:**

18 Q. Now, you were telling the Commission earlier that you did not
19 see in the narrative up there, the specific task. You did not see
20 the removal of the plugs in that heading. That's correct?

21 A. Yeah.

22 Q. But—if we can scroll to 1075. Stop, please. You see that
23 highlighted version there?

24 A. Yes.

25 Q. "Installation of Migration Barriers..."

26 A. Yeah.

27 Q. Do you agree with me that the installation of the barriers and

1 the removal of the barriers are significant events?

2 A. No.

3 Q. Okay. So it is an insignificant event that they included on the
4 top narrative there?

5 A. Yeah.

6 Q. Why you say the installation of the migration barriers is an
7 insignificant event?

8 A. I'm not saying it's insignificant in terms of the safety criticality.
9 I'm saying it is part of a larger task. The removal of the
10 barriers is a step towards the completion of the riser in the same
11 way that there is no talk about using a crane on the permit, but
12 we obviously have to use a crane, and we were granted
13 permission to use a crane. There's no talk about the
14 compressor but we had to use a compressor. So it's not that—
15 they physically cannot fit every single thing that needs to be
16 done in those lines.

17 Q. We know that. Everything cannot be there, that's why I'm
18 talking about significant things.

19 A. Well, your definition of significant is different from my own.

20 Q. Well, that's why I'm asking you. Do you consider the
21 installation of the barriers significant?

22 A. No. I just said no.

23 Q. And the removal same thing; not significant?

24 A. No, it's part of a larger job task, sir.

25 Q. But do you realize that the installation of the barriers was one
26 of the major things that you all were preparing to do by blowing
27 down the lines?

1 A. Yes, which was part of the task.

2 Q. And you realize that the removal of the barriers is the trigger
3 that caused this event why we're here today?

4 A. I'm not going to say that, no.

5 Q. You don't consider the removal of the barriers resulted in this?

6 A. I don't want to say that, no.

7 Q. Why you don't want to say that?

8 A. Speculative.

9 Q. That is speculation?

10 A. I don't—well, I think that is speculative. I don't want to say
11 what the cause of the incident was. I can't say that.

12 Q. But do you know that it occurred during the course of deflating
13 the inflatable plug?

14 A. Yes.

15 Q. Which is preparation towards removal?

16 A. Yes.

17 Q. So do you accept now that removal is significant?

18 A. I still would say no.

19 Q. Okay. I can't convince you against your will. But I'm putting
20 to you that it is significant. Let me leave it at that. You don't
21 accept that, right?

22 A. Significant is subjective.

23 Q. Does LMCS have an emergency rescue plan for events?

24 A. Not in this case, no. We had emergency response plan.

25 Q. You have an emergency response plan. You had one for this
26 job?

27 A. Yes.

1 Q. Which was what?

2 A. What was what?

3 Q. Which was what? What was that plan?

4 A. It's included here. I don't know.

5 Q. Right. But in that plan, of course, you did not cater for Delta P
6 as something to respond to?

7 A. No. The plan is based on the risk assessment.

8 Q. Based on the contractual relationship with Paria for this job, the
9 first and major responsibility for emergency response is that of
10 LMCS?

11 A. Yes.

12 Q. And Paria's role was merely to be a supportive role?

13 A. If we need to escalate, yeah, escalate the response.

14 Q. Right. When this event occurred, did you form an incident
15 command centre or team?

16 A. LMCS, no.

17 Q. You all don't have that system?

18 A. No.

19 Q. So there is no—I think you described in your statement that
20 things were just evolving. So there is no set structured
21 development of a plan?

22 A. No. The facility is not ours, so we can't take control of it.

23 Q. No, I'm not talking about control yet. I'm talking about a plan.
24 It could be done virtually, telephone. It could be done anyhow.
25 So that's—we're not dealing with the—

26 A. Oh, no. That plan was developed in person on the barge at the
27 time of the incident.

1 Q. Right.

2 A. Yeah.

3 Q. You got to berth 6 around what time?

4 A. I don't remember the time.

5 Q. Approximately?

6 A. I don't know. Sometime around seven clock, twilight; it was
7 getting dark.

8 Q. Oh, it was getting dark? So your communication as to the event
9 and what has been happening was purely over the phone? With
10 whom?

11 A. Phone; yeah.

12 Q. With whom?

13 A. With?

14 Q. With whom?

15 A. Initially it was Victor and then Kazim Jr., and then I tried
16 calling other people. I can't remember all who I called. I was
17 trying not to bother them too much, because they were—

18 Q. All right. And when you got to Paria you went to the shipping
19 building?

20 A. No, I went to Badger Docks first and then later I went to
21 shipping building.

22 Q. Then to the shipping building. When you got to the shipping
23 building there were any LMCS representatives there?

24 A. No.

25 Q. You're sure about that?

26 A. At the time I was there, yeah; none that I saw.

27 Q. Wasn't there a Gonzales?

1 A. No. We were told he might have been there, but when we went
2 to the shipping building, we found out that he was not there.

3 Q. Oh; okay. And when you went to the barge, what was
4 happening?

5 A. Went to the?

6 Q. When you went to No. 6—

7 A. Uh-huh.

8 Q. —what was happening when you got there around seven
9 o'clock?

10 A. Not much was happening at the time actually. I arrived and,
11 well, some LMCS, some barrier; a lot of people were there that
12 I can't identify. But in terms of activity, nothing was
13 happening.

14 Q. But you said in your statement you did not see anybody going
15 into the water, and you did not see anybody preventing them
16 from going into the water. That's true?

17 A. That is true.

18 Q. What were people doing? Just standing around?

19 A. Essentially. There was a lot of phone conversations that I was
20 not privy to.

21 Q. Yes. You said that you had inserted yourself into a
22 conversation with the coast guard.

23 A. Yes.

24 Q. And the coast guard was not attempting to do any rescue.

25 A. Yes.

26 Q. Did you, as the manager of HSE at LMCS, LMCS men
27 missing, did you make any request of the coast guard?

1 A. No. I was speaking to Catherine. They were in control at the
2 time.

3 Q. Beg your pardon?

4 A. I was speaking to Catherine Balkissoon. They were in control
5 at the time. I didn't—

6 Q. When you say they were in control? I'm not getting that last
7 part. They were—

8 A. They were in control of the incident at the time. Paria assumed
9 control of their facility, so I was dealing with Paria.

10 Q. But you said you inserted yourself. Not that you were dealing
11 with Catherine Balkissoon and then you going—she dealing
12 with the coast guard. You inserted yourself when the coast
13 guard arrived, and she was speaking to the coast guard. When
14 you inserted yourself, did you request of the coast guard—
15 according to you, they were doing nothing—whether they going
16 to rescue?

17 A. I can't remember conversation with the coast guard. No.

18 Q. So your insertion into the conversation was just to listen?

19 A. Yeah.

20 Q. What did you hear?

21 A. Basically, what I said. They arrived on site. They were
22 asking—they were seeking more information. I believe they
23 knew Catherine from beforehand, or they at least had her
24 contact to know to ask for her, so when they asked for her, I
25 was just around, and so I could have been present. So they had
26 a conversation.

27 Q. That is seven o'clock. Did you speak to Kazim Ali Sr.—

1 A. That is past seven o'clock. That was a while afterwards.

2 Q. After seven. Did you speak to Kazim Ali Sr. and get from him
3 whether he had a plan developed at this stage?

4 A. Yeah. We would do a lot of conversations back and forth over
5 the phone.

6 Q. All right. Did you communicate to the coast guard, since you
7 know that they are divers and rescue people that we have a
8 plan—Kazim Ali Sr. has a plan, we could tell you about it for
9 you to execute?

10 A. I don't think I said that. No.

11 Q. But you had the knowledge of the plan; you had the presence of
12 Coast Guard, and you did not do anything about that?

13 A. No, well, Andrew Farah was the one really in charge and
14 speaking.

15 Q. Andrew Farah?

16 A. And speaking; yeah, and just speaking to them.

17 Q. You heard Andrew speaking to the coast guard?

18 A. No, I wasn't really listening. Like I said, it was very chaotic. I
19 wasn't everywhere at all times.

20 Q. Okay. Tell me something, there is a process called pulling a
21 permit or suspending works. You know about that process?

22 A. I wouldn't call that a process, but, yes; I'm familiar with the
23 thing.

24 Q. A step; when is that implemented?

25 A. Whenever Paria wants.

26 Q. No, no. That may be so, because they are the ones entitled to
27 do it. But in HSE practice when works are being executed and

1 an event has occurred, isn't there a process of pulling the
2 permit; either suspending or terminating the works and then an
3 investigation is conducted?

4 A. Yeah.

5 Q. So it's not what Paria wants. Don't put it that way.

6 A. No, what I'm saying, you were asking about this specific
7 incident—

8 Q. No. I ask about the concept of pulling a permit.

9 A. Right. And so the concept of pulling a permit, Paria can decide
10 for any reason to pull a permit. It doesn't have to be a
11 particular reason.

12 Q. Right. But that is an accepted system?

13 A. Sure. Yes.

14 Q. In your industry.

15 A. Yeah.

16 Q. Because it is a system that is designed to prevent works from
17 being continued when an event has occurred?

18 A. Yes. To stop work from continuing regardless, is my point.
19 They can just do it whenever they want.

20 Q. Right. Because the—just like with the barge, they have stopped
21 work when you moved the barge wrongly?

22 A. Yeah.

23 Q. When I say you, your people.

24 A. Yeah.

25 Q. Right. And it was investigated.

26 A. Yeah.

27 Q. Reports were done. You did your adjustments by removing the

1 offender and work resumed. So the missing divers was one of
2 the kind of event or the type of event, sorry, that will trigger the
3 suspension of the works, pulling the permits, or pausing of the
4 works. Whatever we want to call it. Isn't that so?

5 A. Yes.

6 Q. Right. Because you see we heard about—and I don't want to
7 quote—they pull the permits to make it appear as if it was some
8 vindictive step. It is a normal step in works like this kind?

9 A. Yes.

10 Q. Because I think you, in your statement, said the permit was
11 pulled so that work will stop.

12 A. Yes.

13 Q. Right. And also, in that process, when a permit is pulled, all the
14 material at that barge concerning the works, went to the Paria's
15 office—taken by Paria? I think you said in your statement.

16 A. Materials as in the permit documents, yes.

17 Q. Documents. But that is also a standard procedure?

18 A. Yes.

19 Q. So there is nothing wrong—I didn't say you say it was wrong,
20 but in your statement you narrate it. But there was nothing
21 wrong in Paria pulling the permit and taking the material away
22 from the barge?

23 A. No.

24 Q. Right.

25 **Mr. Peterson SC:** Give me one minute, please, Sir. I'm just
26 checking to make sure I don't need to spend time that I don't
27 need to spend.

1 **Continued Cross-Examination By Mr. Peterson SC:**

2 Q. You said Terrence—who was responsible for overseeing this
3 job from Paria's side?

4 A. I believe, um, I don't know how to describe it. The permit—the
5 contract rests with Terrence, like to execute, and below him
6 there was Houston Marjadsingh and Rajiv Mangalee.

7 Q. And you are familiar with Paria's—you are training on Paria's
8 permit to work system?

9 A. Yes.

10 Q. So you're familiar with the term of site authority and—area
11 authority, sorry; site area authority—site authority and area
12 authority.

13 A. Yes.

14 Q. You're familiar with those two concepts?

15 A. Yes.

16 Q. And those are the persons with the most senior authority with
17 respect to the permit?

18 A. With respect to the permit, yes.

19 Q. You attended the toolbox meeting on the 25th?

20 A. I reached late, but yes.

21 Q. You wasn't there for the—you were there for the one at berth
22 6?

23 A. Yeah.

24 Q. And also at berth 5?

25 A. No, I didn't go to berth 5.

26 Q. You didn't go to berth 5. And you don't know if it was at the
27 toolbox meeting that the removal of the plugs were to take

1 place? I see that you signed it, but, of course—

2 A. I don't know at the toolbox meeting that—

3 Q. That the plugs were to be removed that day?

4 A. Yeah, the plugs were scheduled to be removed that day, yes.

5 Q. That is not reflected in the toolbox notes?

6 A. I can't speak to that, no.

7 Q. You haven't seen them?

8 A. No, I have seen them, but again, just like the permit we don't
9 itemize every single item that we speak of. It's a summary. It's
10 not an exhaustive list.

11 Q. Well, I'm just reminded, you said you came after Kazim Ali
12 had spoken.

13 A. Yeah. Well, I assume.

14 Q. Right. So well, in fairness to you, you may not have heard that.
15 In your statement you said that you spoke about—well you
16 attributed certain things to Ms. Catherine Balkissoon—

17 A. Uh-huh.

18 Q. —at paragraph 55 of your supplemental statement. You said
19 based on my conversation with Catherine you understood that
20 Coast Guard would take over the rescue operations?

21 A. Yes.

22 Q. Well, our instructions are that she didn't have that conversation
23 with you.

24 A. No, it wasn't a conversation. I'm just saying that I felt that she
25 thought—the message that she kept relaying to us was that the
26 coast guard is on their way, and when they come they will take
27 over. I'm saying that I feel that she actually thought that was

1 going to happen; that when the coast guard came Paria would
2 surrender to them to let them take over.

3 Q. That's the impression you formed?

4 A. That was the impression I got, yes.

5 Q. Okay. And I'm also instructed, contrary to what you said in
6 your statement that a standard response was nobody was to
7 enter the chamber; I'm instructed that that's not true.

8 A. I don't know how to interpret that.

9 Q. Well, it is either your version is true or hers.

10 A. I'm not saying she was robot repeating that all the time. I'm
11 just saying—

12 Q. I didn't say that either.

13 A. Well, this is what I'm saying. I don't know how to interpret
14 what you are saying. I'm saying that the response that we got
15 from Paria consistently was that nobody was to enter the
16 chamber and that they had instructions that nobody is to enter
17 the chamber; nobody is to dive.

18 Q. But you are saying she told you that, or she was saying that?

19 A. She was, yes.

20 Q. Well, our instructions are that she didn't. So do you accept that
21 she didn't tell you that?

22 A. No, I'm not accepting that.

23 Q. She's the one that you say told you that?

24 A. As well as other people, yes.

25 Q. Now, in paragraph 60 of your statement—your supplemental
26 statement, you spoke of a plan, and I think you told the
27 tribunal—the Commission—that it would take you about two

1 hours to put a dive plan together because—give or take—that
2 Paria wanted a plan for the diving on that Sunday.

3 **Mr. Chairman:** More than just for the diving; in the plan he
4 said that there was a method statement, a risk assessment, and
5 certificates for divers.

6 **Mr. Peterson SC:** Yes. I'll come to that. I was dealing with
7 the plan.

8 **Continued Cross-Examination By Mr. Peterson SC:**

9 Q. And you said that this was for the same rescue plan. Did you
10 see the correspondence between Paria and Kazim Ali Sr. that
11 morning concerning the preparation of those documents you
12 were asked to prepare?

13 A. No, I can't remember seeing correspondence.

14 **Mr. Peterson SC:** Mr. Chairman, could 5875 of the core
15 bundle—bundle of submissions, sorry; the bundle of
16 submissions, 5875. Yes. That's it.

17 **Mr. Chairman:** Just a moment. Yes.

18 **Continued Cross-Examination By Mr. Peterson SC:**

19 Q. You see the heading of that email from Kazim Ali dealing with
20 dive for scuba tank retrieval?

21 A. Yes.

22 Q. That wasn't the plan on Friday. The plan on Friday was to
23 retrieve divers, not just scuba.

24 A. No. From my understanding of this, this was like phase one,
25 because they had had a meeting prior to this that I was not privy
26 to. I wasn't privy to the one afterwards, either, but they had
27 had a meeting prior to this where someone, I'm not sure who,

1 raised a concern about the scuba tank that was in the elbow—in
2 the first elbow as soon as you come down the riser, and so this
3 was like phase one, just to remove that before they allow them
4 to continue anything further.

5 Q. Right. But that's the meeting that you weren't at. But the
6 preparation that you were doing was with respect to retrieving,
7 as you say, leh we go with that, phase one, to retrieve the tanks?

8 A. Yes.

9 Q. Right. So that is not the same plan—when you say in your
10 statement—you may have misspoken or misspoke—this was
11 the same rescue plan which was being suggested by LMCS
12 since Friday.

13 A. Yeah. It was working towards that same thing.

14 Q. Oh. That's what you meant?

15 A. Yeah.

16 Q. But the preparation—the preparation that you were putting all
17 those things together, the risk assessment, the method
18 statement, if we go to them you will see it has nothing to do
19 with life; it has to do with the tanks.

20 A. Right. So what I'm saying—

21 Q. You accept that?

22 A. Yes, I accept that. Because this was just to remove the tank
23 first before they allow them to continue to do anything else.

24 Q. And you were also aware—well, you may not be aware,
25 because you weren't at the earlier Sunday morning meeting
26 when Kazim Ali Sr. said that he doesn't think the men are alive
27 at that stage.

1 A. No.

2 Q. But you heard about that?

3 A. Well, I heard about it during the Commission, actually.

4 Q. You weren't supposed to be saying—you're not supposed to
5 say that.

6 A. I'm not supposed to say that, but—

7 Q. But the removal of the tanks; if you saying that in your witness
8 statement at paragraph 60 is the same plan from Friday, so you
9 are saying on Friday there was a plan to remove tanks first?

10 A. No. This is what I'm saying. On the morning of the 27th—

11 Q. Sunday.

12 A. From my understanding, is when they raised the issue about the
13 tank. And so that's why they wanted something documented to
14 remove the tank first before they allowed anything else.

15 Q. And you know that the presence of the tank was revealed from
16 camera footage that went down into the pipe?

17 A. Yes. Yes.

18 Q. You know that?

19 A. Yes.

20 **11.25 a.m.**

21 Q. As an HSE expert, I see you tried to say Paria—you tried to
22 convey that they were concerned about their image with OSH
23 and that's what they were concerned about, but as a trained risk
24 analyst, what was wrong with developing that plan to go
25 down—to send people down there to remove the tanks first?
26 Anything wrong with what they asked you to develop?

27 A. About this?

1 Q. Yes.

2 A. No.

3 Q. I just have about less than 5 more minutes, Sir, if so much. You
4 had any encounter with—the last area I want to deal with you is
5 with respect to—I don't know if you have any training and
6 experience with the—I'm sorry. I don't know if you have any
7 experience in this area, rescue and evacuation from enclosed
8 confined areas. You have any training or expertise in that?

9 A. No training, no.

10 Q. How you go about developing a team of rescuers to go into
11 confined space?

12 A. Umm.

13 Q. Their experiences and all of that?

14 A. No.

15 Q. And whether they should be drilled before and have
16 experience? You don't, don't know anything of that?

17 A. No.

18 Q. Anybody in LMCS has that expertise?

19 A. I can't say off the top of my head, no. I, I do want to mention,
20 though, as you're talking about the plan, I wasn't developing
21 the plan.

22 Q. Yeah I know that.

23 A. Right, just—

24 Q. Yeah, Mr. Mr. Ali Sr. was developing the plan, but they just ask
25 you to do that assess—that—

26 A. Yeah. Yeah.

27 Q. You understand that? We're not holding you for things you're

1 not responsible for, you know.

2 **Mr. Peterson SC:** That's all I have for this witness, please Sir.

3 **Mr. Chairman:** Good. We will have a break.

4 **Mr. Peterson SC:** Yes.

5 **Mr. Chairman:** Fifteen minutes, please?

6 **11.28 a.m.:** *Enquiry suspended.*

7 **11.44 a.m.:** *Enquiry resumed.*

8 **Mr. Chairman:** Mr. Ali, I've been given some instructions to
9 ask you to make sure that you do speak into the microphone,
10 not so close that it starts to distort. You know what I mean?
11 You know you've noticed I think a couple of times yourself, so,
12 aim like I am, at the microphone, all right, speak slower if you
13 can because otherwise—what we're trying to do is to record all
14 of this so it can be transcribed later on, you see, so that when
15 I'm writing my report I've got everything that you say and
16 we're missing bits and that's not going to be good. So, um,
17 please try and speak directly into the microphone but not too
18 close, all right? Thank you very much.

19 Is there anyone else that wished to ask any questions of Mr.
20 Ali? Yes? Who do we have?

21 **Ms. Alfonso:** Sir, Nyree Alfonso.

22 **Mr. Chairman:** You're Nyree Alfonso?

23 **Ms. Alfonso:** Nyree Alfonso—

24 **Mr. Chairman:** Yes.

25 **Ms. Alfonso:**—for the SWWTU.

26 **Mr. Chairman:** Representing the union?

27 **Ms. Alfonso:** Yes indeed.

1 **Mr. Chairman:** Right.

2 **Cross-Examination By Ms. Alfonso:**

3 Q. Good morning, Mr. Ali.

4 A. Good morning.

5 Q. Mr. Ali, I noticed that you said you had experience working in
6 what would be Petrotrin between 2010 and 2018 and then a
7 short stint, always on contract with Paria?

8 A. Yes.

9 Q. Yes. Could you give me an idea—in the HSE, to be fair to you,
10 in the HSE department, yes?

11 A. Yes.

12 Q. Could you tell us, you know, at what level you would have
13 served in that department or those departments for that matter?

14 A. Well I started in the Petrotrin HSE refining and marketing
15 division as a trainee initially, and then I was offered a contract
16 position as a safety specialist or as a HSE specialist and then as
17 an ESA, an environmental safety assistant, which were
18 basically all the positions available in HSE at that time that
19 required I be an onsite person auditing jobs, auditing the permit
20 to work system, making sure all documentation was in place
21 and so on. I was a team member on risk assessments and JHAs
22 that were done for all tasks in the planning and marketing
23 division depending on where I was stationed and just general
24 HSE safety man work.

25 Q. Okay. If you could help me out, would that level be at a—well,
26 it isn't a managerial level?

27 A. No.

1 Q. It was like a supervisory level?

2 A. We were technically technical support supporting operations in
3 just managing the HSE part of the work—

4 Q. I see.

5 A. —in safety-related matters too.

6 Q. Okay. Thank you, Mr. Ali. Mr. Ali, I would have heard
7 something in response to my learned friend, Mr. Peterson. I
8 was trying to understand, you know, the barriers, the role of the
9 barrier, barriers actually, with regard to vapour that could come
10 up from the pipeline. I'm sorry, I'm an attorney, didn't do
11 much physics or chemistry or anything like that, but, is the
12 vapour coming up or the vapour that can come up from that—
13 well that from atmosphere, that site, would that be heavier or
14 lighter than air?

15 A. It would be denser than air.

16 Q. It would be denser than air. Okay, so if it's denser than air it
17 would do what, it would float at the top of the chamber, it
18 would sink to the bottom of the chamber? Which one would it
19 be?

20 A. No, it would have vented to [*Inaudible*] air.

21 Q. Okay. So if it sank in the chamber, what would happen to it?

22 A. Well, with the way the chamber is designed it would be pushed
23 out with the circulation of air.

24 Q. I see. I see. And there was some mechanism to monitor the
25 quality of the air?

26 A. Yes.

27 Q. To make sure that it wasn't more vapour than oxygen or any

1 other gas?

2 A. Yes. The quality of the air going into the chamber was
3 monitored as well as the quality coming out of the chamber was
4 monitored.

5 Q. Okay thank you, Mr. Ali. Mr. Ali, I noticed there were two
6 manuals which we have several copies of in different places in
7 the papers.

8 A. Yes.

9 Q. The safe system of work manual and an HSE manual.

10 A. Yes.

11 Q. Okay. And it is your evidence that in the time that you worked
12 with LMCS, you would have updated that manual from time to
13 time?

14 A. Yes.

15 Q. So that's between January 2020 and one assumes the current
16 time?

17 A. Yes.

18 Q. To your knowledge, because you are the HHSE person in
19 charge of HSE in LMCS, has any change in any of—either of
20 those manuals taken place consequent upon the incident that
21 happened on the 25th of February?

22 A. No, actually. We haven't updated the manuals until we get a
23 full investigation with recommendations that we could
24 consider.

25 Q. Okay. So LMCS, in your area, I can't saddle you with the
26 entire position of the company, would not have gleaned any
27 lessons from the incident that happened on the 25th of February

1 and onwards?

2 A. Of course we would have, but we haven't updated the
3 document until we get a fuller picture of this [*Inaudible*].

4 Q. Okay. I can see even from your narrative, Mr. Ali, that there
5 was—you described, I think at one point in time, a flurry of
6 activity—

7 A. [*Nodding*]

8 Q. —and some chaos—

9 A. [*Nodding*]

10 Q. —on the barge and Badger docks and various places. If that is
11 the case, did you, you know—in these manuals is there any—
12 no enhancement or change of the emergency response plan?
13 Because that's part of your manuals?

14 A. Yes, but what I'm saying is I know obviously we'll need to
15 make changes that we learn, as we make learnings about the
16 incident but we haven't updated the manual as yet until we get
17 a better investigation because I haven't been able to investigate
18 and we weren't allowed onto the compound to do an
19 investigation prior, after the incident because the gates were
20 locked. So we haven't been able to complete an investigation
21 and so I don't have like recommendations to be included in the
22 updates.

23 Q. Now I know—I, I understand what you're saying, Mr. Ali, that,
24 you know, you haven't gone on to the compound and so on, but
25 in terms of the management, let us say something that going
26 forward the company is still working and still doing jobs, I
27 imagine?

1 A. No, actually right now we are not.

2 Q. Okay, I see. So if the company were to undertake another job
3 involving diving, there are no take aways that you have from
4 this incident in terms of how you would respond if there was an
5 emergency?

6 A. Yes there are. They're just not put in writing as yet.

7 Q. They're not put in writing yet?

8 A. We don't have any plans right now to pursue work and we're
9 under a prohibition notice from OSHA for the [*Inaudible*]—

10 Q. I'm having the same problem as the Commissioners expressed.

11 A. I'm very sorry.

12 Q. You do speak softly but you also speak, like most Trinidadians,
13 quickly. So just repeat what you said there again so I could
14 hear what you said?

15 A. If I could remember what I said now. I believe what I was
16 trying to communicate is that we don't have intentions right
17 now to pursue work that would, um, like increase the priority of
18 making those changes. So right now it's really super priority to
19 update our documents. We're really looking at just making
20 sure a full investigation and a clear picture of what happened
21 took place through the Commission.

22 Q. Okay. That's unusual but anyway, on the 25th of—from my
23 understanding we received several times, I wouldn't carry you
24 to the document, you know, number 51, 52, 53 coming down
25 the method statement, from your understanding, Mr. Ali, on the
26 25th were there any hot works to be done on the, well, on the
27 riser, at berth 6?

1 A. No. To my knowledge there was no hot works—

2 Q. Okay.

3 A. —to be done for the 25th.

4 Q. And you maintain your position that the purpose of the two
5 barriers, both the mechanical and inflatable one, was a
6 protective barrier between hot works and the contents of the
7 line?

8 A. Yes.

9 Q. Okay, thank you. Just to help me understand something, Mr.
10 Ali, because you're a unique person in that you've worked for
11 Paria or worked in the health and safety department of Paria
12 and Petrotrin, as well as LMCS, so—and you're familiar with
13 permit to work system from both sides I must say, I would have
14 to say.

15 A. Yes.

16 Q. When—okay, so when a permit—I hear all kinds of
17 terminology so I'll use the easiest one. When the permit to
18 work was pulled, I think the time was 3.22, if I recall on the
19 endorsement, does that mean—okay, so I understand the works
20 must come to a stop. Whatever you were contracted to do—to
21 Paria to do in terms of the repairs to the pipe and so on, that had
22 come to an end?

23 A. Yes.

24 Q. Okay. Would that pulling of the permit also mean, I mean, like
25 an equal sign literally, that you could no longer conduct any
26 work at all, meaning putting divers in the water, calling divers,
27 bringing divers, bringing equipment to do the rescue, that

1 would also be included in the stoppage of work or removal of
2 the permit?

3 A. Strictly speaking, no. Actually strictly speaking, yes, because
4 we can't do anything without a permit, according to the
5 procedure itself but realistically emergency response is not
6 something that you would get a permit for. No one writes a
7 permit for emergency response.

8 Q. Well actually that was my impression from reading the
9 documentation, so I don't want to use the word exemption but
10 I'll use it anyway. So I would have thought that if there was an
11 emergency situation then a specific permit would not have to be
12 issued to allow you to rescue somebody? If somebody is
13 drowning in the water you don't have to get a permit to go and
14 get a diver or throw a life ring or, you know, whatever is the
15 right thing to save that person, would you?

16 A. No. So our emergency response started immediately when
17 Andrew got into the water and checked around and did his
18 sweep around the berth. We had no permits for that.

19 Q. Okay.

20 A. So, so, emergency response we started, we initiated without a
21 permit as one would not have been given for that.

22 Q. Okay. Since I say you're a unique person so far in terms of
23 who have given evidence, that you know this permit to work
24 from both sides, if it is that—okay, at some point in time, a
25 conclusion is made that the divers are in the pipeline. A permit
26 would have been required to go down into the pipeline, as far as
27 you know?

1 A. As far as I know, no.

2 Q. So—and I know you came rather late on the barge, on LMCS’
3 barge?

4 **Mr. Chairman:** I’m sorry to interrupt you.

5 **Ms. Alfonso:** Sorry.

6 **Examination By Mr. Chairman:**

7 Q. May I just ask in relation to that question that’s just been asked,
8 no permit is required for a diver to go into the pipe, is that what
9 you’re saying?

10 A. I would expect no.

11 Q. No?

12 A. No.

13 Q. But permission?

14 A. Permi—yes, because at the point in time that we were looking
15 at sending divers into the pipe, Paria had seized control through
16 their emergency response, their emergency command system.

17 Q. The emergency command system had kicked in, for want of a
18 better expression?

19 A. Yes.

20 Q. And therefore it was in the hands of Paria?

21 A. Yes.

22 Q. So you would have needed permission from them to do
23 anything in respect of effecting a rescue? Is that what you
24 understand?

25 A. Yes, yes, because they had a presence on site controlling work.
26 We needed permission in that specific instance.

27 **Mr. Chairman:** I’m sorry to have interrupted you.

1 **Ms. Alfonso:** Not at all, Sir.

2 **Continued Cross-Examination By Ms. Alfonso:**

3 Q. So, and the honourable Chairman has actually brought me to
4 the point. So, okay, so needed—you didn't need a permit or
5 needed permission, I accept that. So who—from that flurry of
6 activity that you witnessed, who did you think you could get
7 that permission from?

8 A. Well, it would have been the incident commander who I
9 understood to be on land. I didn't know who it was at the time.
10 And from our understanding, Catherine Balkissoon was the,
11 like I say, the senior person representing the incident command
12 team on the barge.

13 Q. Okay.

14 A. So that's why we went to her.

15 Q. Would Mr. Piper be the incident commander? Now that—you
16 say you didn't know at the time?

17 A. Yes.

18 Q. Do you know that—him to be the incident commander now?

19 A. Yes. After the fact we learned that Mr. Piper was the
20 commander, that he came in to work and he was—he took up
21 that position.

22 Q. And, for want of a better term, the point person on site was
23 Catherine Balkissoon?

24 A. Yes. Catherine and I believe Visham, but he wasn't always
25 there.

26 Q. I'm sorry, I lost you on the tail end there.

27 A. Gathering and Visham, but Visham wasn't always—

1 Q. Or hor, yes, I see, Visham. Yes, yes. And did, to your
2 knowledge you were—because you came, I say, late in the, late
3 in the fray, did you see—were you, I don't want to ask you
4 any—well, did you ask permission of either of those Paria
5 persons, either Catherine or Visham, did you ask them for
6 permission to do anything?

7 A. Yes.

8 Q. And what was that?

9 A. I asked them why we are not allowed to go into the water. I
10 asked them why we weren't allowed to do the dive because we
11 had divers on site who had indicated to me that they were
12 willing and that they wanted to go but they were being held
13 back and so I went to her to ask, well why are they being held
14 back? Why aren't we being allowed? Can we send them? And
15 the response, as I said, was that—the response that I always got
16 was that we just—instructions was handed down that no one is
17 to be allowed to enter the water and to perform a dive.

18 Q. Was any reason proffered up by Ms. Balkissoon or Mr.—I've
19 forgotten Visham's last name?

20 A. Harrichan.

21 Q. Harrichan, Mr. Harrichan?

22 A. Um, no, not that I recall being given.

23 Q. Just nobody is allowed to go down?

24 A. Yeah. It was an instruction. I didn't really get a full reasoning
25 behind it.

26 Q. Okay. Was the coast guard in anywhere in your—in the time
27 that you were there, I'm not asking what anybody else told

1 you—did the coast guard have any role to play while you were
2 there?

3 A. Not that I could see.

4 Q. Did they say anything or give any instruction?

5 A. They were speaking with Catherine.

6 Q. I see. But they never spoke to you?

7 A. Not—no, not in a direct way.

8 Q. I see. You would—well no you would not have heard. Mr. Ali
9 would have, sorry, Mr. Kazim Ali Sr. would have said, when he
10 gave evidence, that immediately as he came on site a simple
11 plan was devised. I know you weren't there. A simple plan
12 was devised in order to get the divers out or at least to make an
13 attempt to go down into the pipe, put somebody down feet first,
14 give them air, tether them with rope so that they could be pulled
15 out and so on. You're aware of that plan?

16 A. Yes I am.

17 Q. Okay. To your knowledge, is there anybody you know that
18 stopped that plan from being implemented?

19 A. No, I can't point you further.

20 Q. Okay. Thank you. In going through your health and safety
21 manual, I saw some references to some familiar—some familiar
22 references. One of them was IMCA code. Which is a code—

23 **Mr. Chairman:** What is that?

24 **Ms. Alfonso:** It's actually a code of practice for offshore
25 diving.

26 **Mr. Chairman:** What does it stand for, the acronym?

27 **Ms. Alfonso:** I think it's Offshore Diving International—

1 International Code of Practice for Offshore Diving. I hope I
2 have it right. I know the other Commissioner might correct me
3 if I'm wrong.

4 **Commissioner Wilson:** Well yeah let me correct you.
5 International Marine Contractors Association (IMCA).

6 **Ms. Alfonso:** Okay. IMCA, okay. So I—thank you very
7 much for that, Commissioner Wilson. Thank you very much.

8 **Continued Cross-Examination By Ms. Alfonso:**

9 Q. I saw that reference and in your manual and it's specific to what
10 you identified as critical services which is diving, yes?

11 A. Yes.

12 Q. Okay. Now, Mr. Ali, is it that, and I did look, you know, like
13 everybody else, took a little Google and so on, I didn't see—I
14 saw that reference in your manual. I didn't see any. what shall I
15 say, any reflection in the manual of the code, of the contents of
16 the code. Could you tell—

17 A. Yeah.

18 Q. —could you help me with—is there anything that you—that
19 LMCS has put in their, in their health and safety manual or their
20 safe work manual which is reflective of the code? Because the
21 code is like a guideline?

22 A. Yeah well the code—

23 Q. A best standard, best industry standard guidelines.

24 A. Yes, well best practice is what I'm about to say. So the
25 documentation that we have for diving at LMCS was developed
26 by Mr. Andrew Farah because he's our diving supervisor. I
27 myself don't have much—I myself don't have any experience

1 in diving and so I defer all matters of diving to Mr. Andrew
2 Farah and so those documents are included just by reference, as
3 you say, and we pull best practice from them as needed to be
4 applied to diving jobs.

5 Q. Could you—I know you—you're like myself. I have no
6 experience in diving. Is there anything in particular you could
7 point out in your manual that was culled or taken out or
8 extracted from that code?

9 A. No, I can't say specifically.

10 **Mr. Chairman:** Can I ask where this is going? If there's
11 something in particular that you say should be in it and isn't,
12 then by all means put it. I mean, it's a sort of vague question to
13 say look a code of conduct by some other agency and then
14 asking him what bits have you extracted from it or not extracted
15 from it. If there's something particular you want—

16 **Ms. Alfonso:** So—

17 **Mr. Chairman:**—then put it to him.

18 **Ms. Alfonso:** Okay. Thank you very much, Sir.

19 **Continued Cross-Examination By Ms. Alfonso:**

20 Q. Mr. Ali, I didn't see—I, I—okay, you said you don't know
21 what particular parts would have been removed from that code
22 or absorbed or copied into the manual?

23 A. Yeah.

24 Q. Okay. If I told you that I didn't see anything, any area reflected
25 in the manual that came from there, what would you say?

26 A. It's the same set of—same scope of work manual, the 31st item,
27 item number 31 is supposed to be our diving best practice

1 guide.

2 Q. Uh-huh. Okay. So, what I was seeing in this code was a lot of
3 stuff—oh, I don't say stuff—a lot of items about harnessing and
4 these conditions you would put somebody with, you know,
5 with, you know, you know, with using harness, using ropes,
6 using, you know, these kinds of things. Do you have anything
7 like that reflected in your manual?

8 A. No, nothing to that extent. They're just general best practices
9 and then as they apply our expert Mr. Farah will apply as
10 necessary.

11 Q. But you are the person principally who would have formulated
12 or reformulated, let me be fair to you, formulated or
13 reformulated the aspects of the safety manual, either one of
14 them, yes?

15 A. Yeah.

16 Q. Okay. I'll leave it there. I notice in your emergency response
17 plan, Mr. Ali, at 1179 of your, I think that is your original
18 witness statement, 78, I beg your pardon, 1178 towards the end,
19 so the last six or seven bullet points. You see those, Mr. Ali?

20 A. Yeah.

21 Q. Okay. So, I take it these were the risks—these were some
22 measures if certain things happened in the hyperbaric chamber?

23 A. Yeah.

24 Q. I still like habitat, but anyway, assistance to be rendered by
25 standby divers in accordance with diving certification,
26 additional external assistance to be requested by onsite
27 supervisor as needed. You see those two items?

1 A. Yes.

2 Q. And that's like the second to last, the third to last and second to
3 last items.

4 A. Yes.

5 Q. Okay. Did you have—LMCS to your knowledge have a
6 standby diver on the 25th of the second—well, the 25th of
7 February this year?

8 A. Yeah. There are supposed to be two standby divers on the
9 crew. Right, I don't know who was that. They rotate position.
10 Sometimes people are part of the active work in the chamber
11 and sometimes they're out to kinda rotate people, so I don't
12 know exactly who they were at the time of the incident, but we
13 had two standby divers, and in addition to that Mr. Farah
14 himself is of course a certified diver and he is not on the dive
15 team, he's supervising, and, um, Mr. Guerra who we spoke
16 about from the incident is also a certified diver.

17 Q. Okay. So, I probably got it wrong. I thought the two standby
18 divers were Mr. Farah and Mr. Guerra.

19 A. No they were, they were just extra people to see how a, like
20 extra divers who are going to be onsite, they were there to
21 function in a, well Farah as a supervisory role and Dexter just to
22 be knowledgeable about the job, and then we had standby
23 divers who were part of the crew who would have been suited
24 up and ready to assist at a moment's notice.

25 Q. And you couldn't help us what are the names of those two
26 divers would be?

27 A. No, they were—

1 Q. Or were?

2 A. Yeah, they were rotating, so I not sure.

3 **Examination By Mr. Chairman:**

4 Q. Well one of them was Kazim Ali, wasn't it?

5 A. Well so we heard afterwards, yeah.

6 Q. At the time of the incident he was the fifth man in the water?

7 A. Yeah.

8 Q. He was supposed to be the standby diver. I think we've seen
9 footage of him with a spanner in his hand going down into the,
10 um—

11 A. Yeah.

12 Q. —into the chamber.

13 A. At the time—

14 Q. —to pass the spanner to one of the people who was working.

15 A. Yeah. At the time of the actual incident he would have been
16 there. What I'm saying is that they kinda rotate positions.

17 Q. Yes, but we know that he was one of the standby divers at the
18 time?

19 A. Yes.

20 **Mr. Chairman:** Yes. Thank you.

21 **Ms. Alfonso:** Okay, thank you very much Mr. Commissioner,
22 Mr. Ali.

23 **Continued Cross-Examination By Ms. Alfonso:**

24 Q. Could you tell me in that second to last bullet point, onsite
25 supervision, somebody—external assistance to be requested by
26 onsite supervision, who is that onsite supervision, that's LMCS
27 or Paria?

1 A. LMCS, yeah.

2 Q. I see. So LMCS in their response strategies have outlined that
3 they would reach out to additional divers who may either be off
4 duty, LMCS people or additional divers who are not employed
5 by LMCS?

6 A. Yes.

7 Q. Okay. To your knowledge, Mr. Ali, were there such divers who
8 were on the scene on Friday night or Friday evening?

9 A. Yes.

10 Q. The 22nd—

11 A. Yes.

12 Q. —who somebody would have called out?

13 A. Yes. The prominent names like Corey and Michael and so on
14 are the ones that we call.

15 Q. Michael Kurban?

16 A. Yeah.

17 Q. Yeah, okay.

18 **Ms. Alfonso:** Thank you very much, Mr. Ali. Thank you for
19 indulging me and thank you to the Commission.

20 **Mr. Ali:** You're welcome.

21 **Mr. Chairman:** Yes, Mr. Ramadhar.

22 **Mr. Ramadhar:** Thank you very much, Chairman, for your
23 kind indulgence. I seem to—there we go. Prakash Ramadhar
24 on behalf of the family of Kurban and Yusof Henry, yes?

25 **Cross-Examination By Mr. Ramadhar:**

26 Q. You have said something quite interesting and you are a bit—
27 you are knowledgeable in some level of sciences. Is that

1 accurate?

2 A. Yes.

3 Q. Yes. And you appreciate science requires us, if we have to find
4 the cause of something, to take nothing for granted? You
5 appreciate that?

6 A. Right. Yeah.

7 Q. We've been hearing about the failure of this plug. What was
8 the outer limit of the pressure that that plug could endure before
9 it fails?

10 A. I can't say offhand.

11 Q. But you appreciate all mechanisms will have a breaking limit?

12 A. Yes.

13 Q. Good. Now, you appreciate equally that water is at least 800
14 times more dense than air?

15 A. Yes.

16 Q. Science tells us that fluids cannot be compressed but air or a
17 gas could be, yes?

18 A. Yes.

19 Q. Within the plug area, that is on the underside of that plug, was
20 there a positive or a negative pressure acting upon that plug?

21 A. Within the line at berth 6?

22 Q. Thin the line, I beg your pardon, yes.

23 A. It would have been—well, relative to the chamber it would
24 have been less. I don't want to say positive or negative.

25 Q. Right. So, within it, there'd be pressure from the chamber
26 pressing down—

27 A. Uh-huh.

1 Q. —on to the plug?

2 A. Yes.

3 Q. Correct? Now, are we to be guaranteed that that circuit, if I
4 may call it that, between 6 and 5 berths would have been
5 cauterized, um, closed?

6 A. The content of the—

7 Q. Within, within that U, as the Chairman so lucidly put on the
8 board.

9 A. Yeah.

10 Q. Was that a closed circuit?

11 A. Yes. The line at, um—

12 Q. [*Inaudible*]

13 A. —five is blanked.

14 Q. What would be the effect, for instance, if there was an
15 immediate and sudden breach of that circuit, not at the plug end
16 but at another end?

17 A. The, um—well, assuming that the plug holds—

18 Q. Yes.

19 A. —right, there would have been just seepage.

20 Q. Seepage?

21 A. Yeah.

22 Q. That all depends now on the break point of the plug, isn't it?

23 A. Yes.

24 Q. Right. So that, the plug didn't shoot out as a projectile,
25 meaning that there was a positive force pushing it out, is that
26 accurate?

27 A. Yes.

1 Q. So therefore it was pushed in, either by the pressure within the
2 Chamber and/or a negative pressure created within the pipe. Is
3 that accurate?

4 A. Yes.

5 Q. Inelegantly yesterday I said, we did the final [*Inaudible*] but I
6 really did mean, and I apologize, Commissioners, to say what
7 or who was responsible, which is why we're here. Is that
8 circuit connected to some valving—

9 A. No.

10 Q. —so that it could open or close?

11 A. No.

12 Q. Okay. Another witness has told us that there's a valve on one
13 of the lines, on that line.

14 A. On the U, after it has been disconnected?

15 Q. Further up, wherever it was that there's a valve. Are you in a
16 position to help us with that?

17 A. No. To my knowledge, the line was broken at 5 and at 6.

18 Q. Sorry?

19 A. The line was broken at 5 and at 6.

20 Q. Five and 6?

21 A. The pipe was disconnected, yeah.

22 Q. Thank you very, very much.

23 **Mr. Ramadhar:** Mr. Chairman, I'm most grateful to you.

24 **Mr. Chairman:** Anyone else? Ms. Persaud? Yes, thank you.

25 **Mrs. Persaud Maraj:** Thank you.

26 **Examination By Mrs. Persaud Maraj:**

27 Q. Mr. Ali, I just have a few questions. Earlier in your statements,

1 in your questioning, in your answer to Mr. Peterson, you said
2 that the permit to work controlled the works to be executed.
3 That's correct?

4 A. Yes.

5 Q. Right. My question to you is, in relation to the work that is
6 being done, what controls that?

7 A. Our—

8 Q. Your meth—sorry?

9 A. Our method statement is supposed to control the work that
10 LMCS is executing.

11 Q. And that's basically—

12 **Mr. Chairman:** I didn't catch any of that at all. You have to
13 do that all over again, I'm afraid, so if you concentrate on what
14 I've asked that you speak clearly into that microphone without
15 being too close, please?

16 **Mr. Ali:** I'm trying, I'm trying.

17 **Continued Examination By Mrs. Persaud Maraj:**

18 A. What I'm saying is that our method statement is the instructions
19 that we give for our work to be executed.

20 Q. Right. And that will tell you the methodology?

21 A. Yes.

22 Q. And is it fair to say that the methodology is developed during
23 the course of the work, before the work is carried out?

24 A. Before the work is carried out.

25 Q. All right. So, are you part and parcel of any process involved in
26 the development of the method—methodology in that
27 statement?

1 A. The development, no.

2 Q. All right. Do you have any role in the communication with
3 respect to the development of that method statement,
4 communication between Paria and LMCS?

5 A. Oh yes. I usually submit it, the documents are submitted to
6 Paria's, the person in, in—who holds the contract eventually,
7 Terrence Rampersadsingh, and then he does the distribution of
8 the documents for approval by Paria internally, and they just let
9 us know when everything has been approved.

10 Q. All right. And you were actually involved in that process in
11 this contract?

12 A. Yes.

13 Q. All right. Can he be shown the document at page two nine two
14 four to five of the updated supplemental witness bundle?
15 Updated witness bundle, two nine two four, right. This is an
16 email. If you can go to the bottom I think the chain of emails
17 starts at the end of the document. Are you familiar with this
18 email?

19 A. Yes.

20 Q. Was it you—I'm seeing a name there at the end the page,
21 Ahmad. That would have been you who sent this email to, the
22 sender is Terrence Rampersadsingh?

23 A. Yes.

24 Q. And he was the planner in relation to this project?

25 A. Yes.

26 Q. All right. Can we scroll up now? To the questions. All right.
27 So, in this portion of the email, this was the first one that was

1 sent, you were sending the method statement, the job safety
2 analysis and—I'm sorry, I can't read that from here.

3 **Mr. Chairman:** Lift plans.

4 **Mrs. Persaud Maraj:** And lift plans thank you. Right.

5 **Continued Examination By Mrs. Persaud Maraj:**

6 Q. So that was submitted to you via email, that's correct?

7 A. By email.

8 Q. By email. And thereafter we have a response coming from,
9 well, we have another email from you to Mr. Rampersadsingh.

10 That would have been on the 4th of January, 2022 at 3.59 p.m.,
11 3.59 p.m.?

12 A. Yes.

13 Q. Right. And in that email, you're answering questions in
14 relation to the method statement.

15 A. Yes.

16 Q. Right. And if I can quickly read this out to you, it says to
17 answer the questions asked. Can you say who was—who were
18 these questions asked to?

19 A. They were asked to—these questions were asked by Paria to
20 LMCS over, I believe it was, a zoom call, a zoom meeting.

21 Q. So it was not in writing? These questions were not given in
22 writing?

23 A. No.

24 Q. But you're responding to the questions that were put verbally
25 and they concerned the methodology that was contained in the
26 method statement, if we're to get this correct?

27 A. Yes.

1 Q. All right. And you said, in answer question one, to question
2 one, will the inflatable plug also be raised to the top of the new
3 riser section when cutting and welding for the new flange above
4 water? The answer is yes. Both the inflatable plug and the
5 solid barrier would be reinstalled at the top before hot works
6 begin. Step 86 has been updated to reflect this. (Now
7 indicates—and in brackets you said “(Now indicates that steps
8 15 to 28 will be repeated, which includes both plug and a
9 barrier installation)”. I don’t want to put words into your
10 mouth. Can you explain to us what it is that, that you were
11 communicating to Mr. Rampersadsingh in relation to the
12 methodology?

13 A. Um, well, it’s basically exactly as the question stated. I can’t
14 remember who exactly from Paria’s end made this—asked this
15 question but the original version zero of my document didn’t
16 explicitly state that we would reinstall the plugs at the top,
17 because after the top section of the riser was attached and the
18 works that was taking place on the 25th, we had to execute a
19 second cut much higher up.

20 Q. Right.

21 A. So we had that we would install the barriers for the bottom cut,
22 remove them but I didn’t put a line saying that we were going
23 to reinstall them when we do the second set of hot work, and so
24 this was just to clarify that, yes, that yes, our intention is to
25 reinstall the plugs before we do the second set of hot works.

26 Q. So in other words, the plugs had to—the barriers had to have
27 been removed from the subsea area?

1 A. Yes.

2 Q. As you understand it now?

3 A. Yes.

4 Q. And then reinstalled to the top?

5 A. Yes.

6 Q. All right. If we go further up in the email chain, we see that
7 there's an email that was forwarded to, on this very chain, from,
8 that would be Mr., Terrence Rampersadsingh again at 4.20
9 p.m.—

10 A. Yes.

11 Q. —on the 4th of January, 2022 and it says:

12 “Please review respective attachments, MS meaning method statement
13 was reviewed updated and acceptable. So that methodology
14 that you described with the removal of the plug and then the
15 reinstallation was accepted by Paria?

16 A. Yes it was.

17 Q. All right. And that was in fact the work in question that was
18 carried out on the twen—well, that was the work that was being
19 carried out on the 25th of February?

20 A. Yes.

21 Q. All right. I know in your answer to Mr. Peterson earlier you
22 said you can't speak to if anybody from LMCS from the top of
23 your head is qualified as confined space or has confined space
24 certification. I notice from your statement you did mention that
25 Conan Beddoe was present. Would you be able to say to the
26 Commission if you're aware that he has confined space
27 certification?

1 A. No. I'm not very familiar with Conan.

2 Q. That's fine. All right. In the course of these proceedings,
3 you're aware that OSH has been investigating this incident that
4 occurred on the 25th?

5 A. Yes.

6 Q. And as a result of that investigation, you're aware that they
7 had—they have an investigation report that was commissioned
8 and produced by In-Corr-Tech Limited?

9 A. Yes.

10 Q. Right. Have you ever—have you seen that report?

11 A. I skimmed through the short version of the report.

12 Q. All right. I would like to take him to the In-Corr-Tech report
13 please at—it's at page one three nine eight of the supplemental
14 core at page one three nine eight. So just look at this document.
15 This is the—is this the document that you're familiar with as in
16 the In-Corr-Tech report from the incident?

17 A. [*Document handed to Mr. Ali*] Er, yes. I haven't seen the full
18 report but this looks like the report.

19 Q. All right. I would just like to quickly take you to page 1398.
20 We're there? Under the rubric—3.3 under the rubric “Inflatable
21 Plugs” and at the point—but before I read this, you're aware
22 that the plug was retrieved after the bodies were taken out and
23 so forth from the pipeline at 36 Sealine?

24 A. Yes, I was told.

25 Q. And that was supplied to In-Corr-Tech?

26 A. Yes.

27 Q. For the purposes of investigation?

1 A. Yes.

2 Q. All right. So I know Mr. Peterson has put a number of
3 questions about the plug this morning to you, right? And I'd
4 like you to read 3.3 for the Commission, please?

5 **Mr. Chairman:** All of it?

6 **Mrs. Persaud Maraj:** Well, we can go to—

7 **Mr. Chairman:** Can we just identify the bits that matter?

8 **Commissioner Wilson:** The first sentence of 3.3.3, 3.3.3.

9 **Continued Examination By Mrs. Persaud Maraj:**

10 A. "Both tests, in the open and the test within the 30-inch
11 pipe, showed no evidence of leaks or defects which could
12 have been contributory to the accident."

13 Q. Continue please?

14 A. "It has to be noted that this plug held its seal from the
15 date it was installed in the riser to the date of the
16 accident."

17 Q. All right. So in other words there was no defect to the plug?
18 That's what the report is saying there?

19 A. Yes.

20 Q. And can he be taken to 3.3.5 which is on page one three nine
21 nine? And I'd like you to read the second sentence in that
22 report please for the Commission's benefit?

23 A. Three point three point five?

24 Q. Three point three point five, yes. The second—

25 A. "The important point here is that the plug held its seal
26 under the operating habitat pressure up to and until
27 attempts were made to deflate it, to facilitate removal

1 from within the riser.”

2 Q. Right. So in other words, to the benefit of our understanding
3 and your understanding of what it's saying, I know this is not
4 your report, but your understanding of what is being said here
5 in relation to the integrity of the plug, the investigator is saying
6 that the plug retained its integrity?

7 A. Yes.

8 Q. Yes? All right. In relation to a question asked by my learned
9 friend in respect of the updates to the manuals, the safety
10 manuals from LMCS, you said it's not a priority to have the
11 manual updated at present. Would you be able to say why it's
12 not a priority?

13 A. As I said before, LMCS is not currently actively seeking work
14 for which the manuals would be the guidelines for and so we're
15 spending all of our effort and time on the Commission right
16 now, and so, when we get more information, updates like this
17 following an incident especially, are particularly dependent on
18 accident investigation and the recommendations made in those
19 investigations and their reports, so until we have a proper idea
20 of exactly what happened and we have, I mean in this case
21 probably would be multiple reports stating what
22 recommendations should be put into place, those would guide
23 how we update our manuals and our work in future.

24 Q. All right. And my final point of clarification, in relation to a
25 question that my learned friend asked you, Mr. Peterson, in
26 relation to the amount of content taken out from the riser, the
27 two barges, just for clarification, because it wasn't clear, the

1 two barges of oil that you have mentioned that was taken out,
2 that was from, your understanding, the riser or the top side
3 only?

4 A. My understanding is that the barges were from the riser as they
5 were clearing space.

6 Q. Right.

7 **Mrs. Persaud Maraj:** I think that's all for the clarifications.

8 **Mr. Chairman:** Thank you, Ms. Right, anything else, Mr.
9 Maharaj?

10 **Mr. Maharaj SC:** I have no questions.

11 **Mr. Chairman:** Thank you very much. There are some
12 questions from my do-Commissioner here. I wonder if you can
13 help him, please?

14 **Examination By Commissioner Wilson:**

15 Q. Good morning, Mr. Ali.

16 A. Morning.

17 Q. I'm happy to hear that you actually had a stint at Paria which
18 could probably help clear up some stuff with me. In your HSE
19 experience working both with an operator and a contractor, is it
20 the norm where an operator depends solely on the contractor to
21 provide a risk assessment or is this usually a collaborative
22 agreement in your experience?

23 A. It's usually a collaborative experience.

24 Q. Right. And this is in, again in your experience working with
25 Paria and contractors?

26 A. Yes.

27 Q. So usually you bring all the stakeholders to the table to generate

1 and participate in a risk assessment?

2 A. Well no, not usually.

3 Q. Okay.

4 A. It may not be like a fully collaborative desktop update.

5 Q. Uh-huh.

6 A. But they would be worked on by multiple people before a final
7 version is issued.

8 Q. By all stakeholders—

9 A. By all stake—

10 Q. —of the project?

11 A. Yes, yes.

12 Q. But in this case they indicated that LMCS was the one that
13 generated the risk assessment for approval—

14 A. Uh-huh.

15 Q. —by the operators. Is that a usual practice?

16 A. That is the practice they put into place recently, yeah.

17 Q. Put into place recently?

18 A. Yeah, well, Paria.

19 Q. Paria put. In your experience as an HSE professional, is that
20 industry best practice?

21 A. I can't say. I can't say. I don't want to speak outside of my—

22 Q. Okay. No problem. When—so I'll deal with LMCS now and
23 your role at LMCS. When you are generating a risk
24 assessment, do you do that in a silo or do you collaborate with a
25 team?

26 A. It's collaborative with a team, but again, it's not usually a
27 desktop, so I would usually do a first draft and send it for

1 review around for the different people to put in their input or,
2 you know, recommendations.

3 Q. So just to be clear, your risk assessments are not done like in a
4 room with all the stakeholders of the project giving input into
5 your risk assessment? You generate it and you send it around
6 distribution by email or hard copies or—

7 A. Well it depends on who I'm trying to reach and how it's best to
8 reach them.

9 Q. Okay, so, it's not really in one room just—

10 A. Yeah.

11 Q. —distribution—

12 A. Yeah.

13 Q. —and approval?

14 A. Yeah.

15 Q. All right. Do you think that is best practice to do that and/or
16 you can achieve optimal identification of hazards and
17 mitigation through that sort of methodology?

18 A. Yeah, I believe it's possible to achieve that, that's why—it's
19 probably better to have everybody sitting in a room, but,
20 especially after COVID that is not really [*Inaudible*]—

21 Q. Understood.

22 A. —how we could get it done.

23 Q. Understood. All right, so, that's that question. The other
24 question, um, again, in your experience as an HSE professional,
25 when we went to the sequential steps and those sequential steps
26 changed, I heard conversations and that conversations were
27 had, and then they referenced the email, but in your experience

1 as an HSE professional, how do you usually capture a
2 sequential step changes to advise your team of documenting
3 and controlling those changes? Because the changes are really
4 to represent once a change is not like for like, how is that
5 captured and managed?

6 A. Well if the change is not like for like we have to revise the
7 document.

8 Q. Uh-huh.

9 A. Usually by—

10 Q. Which document?

11 A. The method statement.

12 Q. Right.

13 A. The method statements that we would generate, so that's why
14 we have multiple versions. If there are any queries or if there
15 are any changes to the methodology, we revise the document.
16 If there are like for like changes, we—it's been practiced, I
17 don't think it's the best practice but we—

18 Q. Sorry, you don't think it's best practice?

19 A. I don't know—I don't think you count it as best practice but if
20 it's a like for like change—

21 Q. Uh-huh.

22 A. —and it's agreed on in the morning of, for instance, we will
23 basically revise the documents live and just countersign the
24 document. So a person from Paria would sign, a person from
25 LMCS would countersign to agree on the changes that are
26 being made.

27 Q. And how are those changes distributed or communicated to

1 your workforce on the site—

2 A. Well, a—

3 Q. —capturing, let's just say those changes, there are some risks
4 that could arise in that, is there a process that captures
5 everything that you now can effectively communicate those
6 changes to your—to the worksite?

7 A. Toolbox talks.

8 Q. Okay. Well thank you for that. I want to revisit the incident
9 report. As an HSSE manager, I think I'm hearing, and I'd like
10 you to clarify it for me, you are depending on the findings of
11 this Commission to assist LMCS with their incident report
12 and/or the learnings, anything that comes out of an incident
13 report with that?

14 A. Yeah, well, you all and whoever else does reports because we
15 aren't able to first-hand investigate or report the incident
16 ourselves. I can't really generate—I could generate one-sided
17 based on what we did and how it would change our end, but in
18 terms of like getting a bigger overall picture of what happened
19 and recommendations, that we need to put into place like
20 systemwide, I would be advised by recommendations coming
21 out from people who investigate it further.

22 Q. All right, I'd take that ,but I'd like to offer further any
23 considerations for initial incident reports or anything that
24 coming out whilst this process is going on, what did LMCS do,
25 or you or your appropriate delegates, do to initially collect all
26 the information pertaining to the incident so that LMCS can
27 carry out an incident report or even a root cause? And I'm tell

1 you why I'm going with this. It's that you are a STOW
2 member and I think in getting that STOW accreditation you
3 would have been integral in contributing to getting that STOW
4 membership. To be effective as a STOW member, you would
5 have to be versed in incident investigation report, you know, so
6 that's why I was a bit taken aback when you told me you're
7 depending on the Commission to provide you with your
8 incident report, your root cause analysis.

9 A. Well I don't want it to come across as we are depending on the
10 Commission.

11 Q. And that's what I'm trying to clear up, yeah?

12 A. What I'm saying is that we are not right now in a position
13 where making these changes are a huge priority for us because
14 these changes would affect work. As—

15 Q. Yeah, so just to clarify, sorry to cut you, I'm not talking about
16 the safety management system in terms of improvements there,
17 lessons learned, I am talking about an incident happened, we
18 had fatalities, we had injuries, did LMCS do an incident report?

19 A. Yeah, we did a preliminary incident.

20 Q. Preliminary incident report. Okay, great. Thank you. The final
21 thing I want to take you to is on the emergency response, 1179.
22 Right. I want to look at the last bullet point and I think in your
23 role at LMCS, I'm particularly interested in medical
24 intervention to be requested on site supervision in all cases of
25 breathing airway difficulties and/or cases of suffocating under
26 water for any length of time. So, in this emergency response,
27 did you have a hyperbaric practitioner, a doctor on call, so that

1 this emergency response could be activated?

2 A. No. My understanding is that a—well we don't have a formal
3 relationship but OSTL would have been the on-call person that
4 we contacted for use of the hyperbaric chamber.

5 Q. No hyperbaric practitioner, doctor, because medical
6 intervention to be requested by on-site supervision, so, let's just
7 say, bam, an incident happened. It doesn't even have to be the
8 Delta P. Incident happened. Who does your supervisor call?

9 A. I don't want to be too presumptuous, but I believe it's Dr.
10 Coombs. You could, um, refer to Andrew Farah for
11 clarification on that, but I believe it's Dr. Victor Coombs.

12 Q. Okay. So in your capacity as the HSE manager, is there a
13 communications plan, an emergency response plan, that shows
14 incident and the doctor is Dr. Coombs with his emergency
15 response number readily available?

16 A. No.

17 Q. No. So, that's what I was kinda wondering. I mean, the
18 emergency response plan seems quite light.

19 A. Yes.

20 Q. Yeah? All right, thank you for your time, Mr. Ali.

21 **Mr. Chairman:** All right, look, does anyone have anything
22 arising from any of that? No? Thank you. Well, thank you
23 very much for coming, Mr. Ali. I think it took a little bit longer
24 than we anticipated but thank you for coming anyway, and
25 you're now free to go or you can stay as you please, but thanks
26 for your contribution.

27 **Mr. Ali:** Thank you.

1 **Mr. Chairman:** Right. The gentleman will take you. I think
2 next we have Mr. Ramdhan is that right? I think given the time
3 what we're going to do is we'll have the summary, is he to be
4 summarized, let's have his summary then we'll break for what I
5 hope we will all agree is going to be a 45-minute lunch,
6 [*Crosstalk*] so let's have his summary and then we can break
7 off and have our lunch. Do you anticipate that he might be a
8 little while?

9 **Mr. Peterson SC:** Not from us, Sir. We think he's quite
10 fulsome in his statement so—

11 **Mr. Chairman:** Mr. Maharaj, I think you have some questions
12 for him, do you?

13 **Mr. Maharaj SC:** Yes I have questions for him. I would
14 probably be about 45 minutes with him.

15 **Mr. Chairman:** Right, um, so, and everybody else five or 10
16 minutes something in that order, maybe a bit longer? I see a
17 head being shaken by Ms. Persaud.

18 **Commissioner Wilson:** I may be a little longer.

19 **Mr. Chairman:** All right, all right, okay, I get the picture.
20 Well we'll take stock once Mr. Maharaj sits down, all right, as
21 to what we're able to do for the rest of the day. All right,
22 then—

23 **Mr. Maharaj SC:** Ms. Vijaya Maharaj will do the summary.

24 **Mr. Chairman:** All right, thank you very much. Has
25 somebody gone to get Mr. Ramdhan?

26 [*Mr. Johnathan Ramdhan enters enquiry room and is sworn*]

27 **Mr. Ramdhan:** I, Johnathan Ramdhan, solemnly swear that

1 the evidence I shall give to the Commission in this case shall be
2 the truth, the whole truth and nothing but the truth.

3 **Mr. Chairman:** Thank you, Mr. Ramdhan. Did I pronounce
4 your name right, Ramhan?

5 **Mr. Ramdhan:** Ramdhan.

6 **Mr. Chairman:** Ramdhan.

7 **Mr. Ramdhan:** Yeah.

8 **Mr. Chairman:** Mr. Ramdhan, you're going to hear shortly a
9 summary of the evidence that you have provided to us already,
10 all right?

11 **Mr. Ramdhan:** Okay.

12 **Mr. Chairman:** That summary is going to be read by Ms.
13 Maharaj. Listen to it carefully, please? If you agree with it
14 then she'll ask at the end if you do and if you do, great, if not,
15 please point out any flaws or anything you think we need to
16 know about, all right? After that, Mr. Maharaj, unrelated, I
17 hasten to add, is going to be asking you some questions on
18 behalf of the Commission. When that's finished, we'll have
19 some questions from others who are interested in these
20 proceedings. All right?

21 **Mr. Ramdhan:** Okay.

22 **Mr. Chairman:** That's the lay of the land. We're going to
23 take our lunch break after this summary has been read to you
24 because we're right up against lunch now, all right? But it'll
25 only be about 45 minutes.

26 **Mr. Ramdhan:** Okay, good.

27 **Mr. Chairman:** All right, thank you very much. Mrs.

1 Maharaj.

2 **Ms. Maharaj:** Mr. Johnathan Ramdhan submitted a witness
3 statement to the Commission dated 30th September, 2022 and
4 it's in the witness statement bundle at page one four six eight
5 Volume IV. Mr. Ramdhan is Paria's operations team
6 supervisor in the terminal operations department. They
7 reported to Visham Harrichan who is Paria's offshore team
8 lead. Mr. Ramdhan says that following his training in the
9 permit to work procedure on 10th November, 2021, he was
10 authorized to sign and issue permits to work.

11 Mr. Ramdhan explained that part of the pre-work done
12 by LMCS involved the draining of product from the pipeline at
13 berths number 5 and 6 in accordance with Paria's work
14 instruction dated 5th January, 2022 which was developed by the
15 offshore section of the terminal operations department and that
16 document is at core bundle number one three thee—1033. Mr.
17 Ramdhan states that the draining of the pipeline at berths 5 and
18 6 by LMCS was done in two phases between the 18th of
19 January to the 3rd of February, 2022 by air-blowing the
20 contents into a slop barge.

21 He said that LMCS then removed the elbows connecting
22 36 Sealine to berths 5 and 6 so as to isolate the pipeline to be
23 repaired, which meant that the pipeline would be totally
24 isolated from the berths leaving a U-shaped pipeline in the
25 water. Isolation check lists dated 12th November, 2021, 31st
26 January, 2022 and 10th February, 2022 were prepared and
27 approved by Paria after each phase of the process and those can

1 be found in the core bundle at pages 1023 to 1025.

2 On the 25th of February, at 8.00 a.m., Mr. Ramdhan
3 posted his subordinate, Mr. Kirt Scott, an offshore operator
4 employed by Kenson at berth 6 to monitor and safeguard the
5 operational establishment during the course of the works being
6 done by LMCS. At 8.00 a.m. Mr. Houston Majardsingh
7 brought the relevant permits to work for Mr. Ramdhan's
8 signature as site authority. This included the main permit to
9 work, number nine three two zero, for the various maintenance
10 works at berth 6.

11 Mr. Ramdhan explains that the permit to work is valid for
12 a maximum of seven days and that permit to work number nine
13 three two zero was a duplicate of a nth permit issued during the
14 course of the maintenance works that expired prior to the
15 February the 25th. Mr. Majardsingh gave Mr. Ramdhan a
16 briefing on the status of the job and tasks as described in that
17 permit and also indicated that LMCS would not be doing any
18 hot works that day.

19 Mr. Ramdhan confirmed that the elbows were still
20 disconnected from the pipeline and that the berths were in a
21 safe and inactive state with all the valves closed. He also
22 confirmed with Mr. Majardsingh that the migration barrier was
23 still installed and would be used for the course of the day's
24 work.

25 Mr. Ramdhan says it was critical for the barrier to be
26 used during the works to be conducted pursuant to permit to
27 work nine three two zero, since, even after the draining of the

1 line there was still product in the line. He says the removal of
2 the migration barrier could pose a danger to divers by allowing
3 hydrocarbon vapours to escape into the divers' working area in
4 the habitat. He says that this in turn could cause a toxic
5 working environment and/or a flammable working environment
6 during hot works.

7 He also stated that he checked to ensure that all of the
8 valid documents were attached to the permit to work. This
9 included the job safety analysis at core bundle page 1062, hot
10 works certificate and LMCS method statement which is at core
11 bundle 1048 which sets out the step by step approach to execute
12 a task process or procedure. After receiving the briefing from
13 Mr. Majardsingh, Mr. Ramdhan performed his duties as site
14 authority which is set out in Paria's permit to work procedure
15 which is at the core bundle page 30. In his witness statement,
16 Mr. Ramdhan lists some of these duties and described how he
17 carried out those duties in relation to permit to work nine three
18 two zero.

19 With respect to his duty as site authority to ensure that a
20 suitable and sufficient job safety analysis was prepared, he
21 stated that he was not trained nor did he possess the expertise to
22 assess the suitability or sufficiency of the job hazard analysis
23 attached to that permit. He says that this was the responsibility
24 of Paria's HSEQ and technical and maintenance departments
25 and that his role was to ensure that a job hazard analysis had
26 been so approved which he did.

27 Mr. Ramdhan filled out section (b)(1) of the permit to

1 work and wrote the status as line drained and the instruction—
2 sorry, wrote the status of the line as line drained and the
3 instruction migration barrier to he used. In section (b)(2) of the
4 permit to work, he wrote, “Care to be taken when weather
5 conditions change.”

6 In relation to his duty as site authority to ensure through
7 face to face discussions and/or site visit that the person in
8 charge of the activities at the job site knows about the exact
9 location of the works, the hazards present and the precautions to
10 be taken, Mr. Ramdhan says that Mr. Majardsingh was in
11 charge of the activities on the job site and he had his discussion
12 with him face to face.

13 Mr. Ramdhan further explains that the main hazard
14 present was the escape of fumes into the habitat which could
15 cause a toxic environment or during hot works become
16 combustible. He says he discussed the hazards which could
17 affect the job with Mr. Majardsingh and made a point of writing
18 on the permit that the migration barrier was to be used.

19 In relation to his duty as site authority to periodically
20 monitor the ongoing work, Mr. Ramdhan states that he
21 monitored the work through Kirt Scott who reported to him
22 periodically and sent information about the maintenance of the
23 site conditions and precautions.

24 In respect of his duty as site authority to suspend the job
25 if unsafe conditions developed, or were likely to develop, Mr.
26 Ramdhan says that Kirt Scott did not report to him any unsafe
27 conditions prior to the incident and he had no reason to suspend

1 the job prior to the occurrence of the incident on February the
2 25th. Mr. Majardsingh [*sic*] stated that he signed and handed
3 the permits to work to Mr. Majardsingh for supervision of the
4 execution of the works described therein and performance of
5 his other functions under Paria's permit to work procedure. He
6 told him to ensure that safety talks were held prior to starting
7 works, so as to ensure that everyone knew the plan for the day,
8 the hazards of the job and the precautions that needed to be
9 taken.

10 Following the accident that day, Mr. Ramdhan went to
11 berth 6 to investigate what happened. He arrived at 3.12 p.m.
12 and spoke to Kirt Scott who indicated he observed a splash on
13 the screen and that LMCS was not giving him information. Mr.
14 Ramdhan said that LMCS' personnel appeared to be in shock
15 and displaced and he tried unsuccessfully to get information
16 from LMCS.

17 Mr. Ramdhan further stated that when he arrived he did
18 not observe any diving going on and no one appeared to be in
19 charge or actually responding or attempting to respond to the
20 incident. He further states that no one came to him as the Paria
21 representative on the barge and said what happened, what
22 information they had so far and what plan they had for the
23 search and rescue of the missing divers.

24 Mr. Kazim Ali Sr. told him that five divers were missing
25 in the water and he had—and he only had one more diver
26 available who was Andrew Farah. Mr. Ali also indicated to
27 him that Mr. Farah had checked inside the habitat and did not

1 see any of the missing divers. Mr. Ramdhan says that Mr. Ali
2 did not make any requests of Paria for information, assistance
3 or for LMCS to be part of the incident command team. He also
4 stated that there was no response from LMCS to his request to
5 be able to see the camera footage of inside the habitat before the
6 splash was seen and LMCS did not respond to his several
7 requests for more information, including his request that they
8 seek additional divers to assist.

9 Mr. Ramdhan stated therefore that the only information
10 he managed to gather was the missing divers were in the water
11 and he therefore activated Paria's emergency response plan by
12 instructing Leeandra Singh to have launches and tugs
13 dispatched to perform searches within the harbour for the
14 missing divers. At about 4.15 p.m. Paria's Visham Harrichan
15 arrived on site and he, Mr. Ramdhan, passed on the information
16 he had to him.

17 At 4.48 p.m., Lieutenant Hargreaves of the Trinidad and
18 Tobago Coast Guard called Mr. Ramdhan and requested
19 information. Mr. Ramdhan stated that Mr. Hargreaves
20 indicated that there was a dive crew on the way to berth 6 but
21 they would not be able to enter the water without the approval
22 of Hargreaves' supervisor.

23 At approximately 5.22 p.m., Mr. Ramdhan heard
24 shouting and banging from the habitat. The only diver LMCS
25 had at this time was Andrew Farah and he had been requested
26 to go onshore to meet with the incident command team. Mr.
27 Ramdhan therefore immediately instructed Mr. Farah to return.

1 At approximately 5.26 p.m., a pirogue arrived with Michael
2 Kurban and another diver. They were apprised of the situation
3 by LMCS and immediately entered the water to attempt a
4 rescue. Later at about 5.36 p.m., Mr. Ramdhan saw Michael
5 Kurban emerging from the habitat with Christopher Boodram
6 who was covered in oil and who shouted, “Where Blacks?
7 Where Blacks”, and “Them fellas right behind.”

8 Mr. Ramdhan overheard Visham Harrichan telling
9 Michael Kurban and the other divers that the incident
10 commander instructed him to inform them that they were not
11 permitted to enter the pipeline due to the high risks involved
12 and Michael Kurban aggressively responded by saying his
13 father was inside the pipeline and that Paria could not tell him
14 to not go in the pipeline.

15 Mr. Ramdhan did not observe any reaction of the coast
16 guard to the instruction passed by Mr. Harrichan. He said that
17 no one attempted to intimidate, threaten or physically interfere
18 with the divers to get them to stop entering the pipeline. He
19 also stated that the diving continued without interference for
20 about 45 minutes after Mr. Harrichan passed on the
21 instructions.

22 At about 6.30 p.m., Mr. Kurban came out of the water
23 and he didn't resume diving after that. Mr. Ramdhan overheard
24 Mr. Kurban saying that he went in and saw no one and they
25 encountered some air tanks lodged in the pipeline which made
26 it hard to pass and check further. Mr. Ramdhan also made two
27 trips to berth 5 but he did not hear any noises coming from the

1 riser. He left the site at about, sometime at about 9.30 to 9.30
2 p.m. on Friday.

3 Mr. Ramdhan, is that an accurate summary of your
4 evidence?

5 **Mr. Ramdhan:** Yes it is.

6 **Mrs. Maharaj:** Thank you.

7 **Mr. Chairman:** Beautifully timed if I may say so. We'll take
8 our short break now. Can we resume, then, at quarter to 2.00
9 please? Quarter to 2.00. Thank you, Mr. Ramdhan, and we'll
10 see you at a quarter to 2.00.

11 **Mr. Ramdhan:** Thank you very much.

12 **12.56 p.m.:** *Enquiry suspended.*

13 **1.42 p.m.:** *Enquiry resumed.*

14 **Mr. Chairman:** Is Mr. Maharaj going to join us?

15 **Mr. Bissessar:** In a second, sorry, um—

16 *[Pause]*

17 **Mr. Maharaj SC:** Mr. Chairman and Commissioner, I do
18 apologize.

19 **Mr. Chairman:** All right, good.

20 **Examination By Mr. Maharaj SC:**

21 Q. Mr. Ramdhan, I just want to ask you a few questions.
22 According to your—first, what are your qualifi—do you have
23 any qualification in subsea maintenance works.

24 A. No, I have no qualifications in subsea maintenance work. I'm
25 in operations.

26 Q. And do you have any experience?

27 A. In?

1 Q. Subsea maintenance work?

2 A. No, I have no experience in subsea maintenance. I am in the
3 operations department.

4 Q. In your witness statement at paragraphs nine to 13, you told us
5 that you gave some evidence—well you gave some evidence of
6 the process of the draining of the line between berths 5 and 6
7 based on the information which you obtained from maintenance
8 personnel.

9 A. And through handovers from my peers.

10 Q. And through?

11 A. Handovers, the shift handovers—

12 Q. Right.

13 A. —from my peers.

14 Q. Can you tell us who at Paria personnel supervised or monitored
15 the draining of the line?

16 A. I can't say. It would have been done prior and I had limited
17 involvement in that.

18 Q. Can you help us as to how many barrels of oil were removed
19 from the line when it was drained?

20 A. I can't say because I wasn't present during the draining process.

21 Q. And you did not have any access to any records to that effect?

22 A. Records? No.

23 Q. No. Can you help us as to whether the line was mostly cleared
24 or there was, there was one—you mentioned there was some
25 amount of liquid content in the line. Can you give us an idea
26 of, if you know, how much?

27 A. I can't quantify it.

1 Q. You cannot quantify it?

2 A. However, from the handovers they expressed that they drained
3 it in accordance with the procedure and it was handed over
4 from operations to the contractor in the maintenance of—

5 Q. Sorry. Now, in your witness statement, at paragraph eight, you
6 said, as part of the pre-work, LMCS undertook to drain product
7 from the pipeline at berths number 5 and 6 in accordance with
8 Paria work instruction effective the 5th of January, 2022. Is
9 that an accurate statement?

10 A. Yeah.

11 Q. And you went on to say, which was developed by the offshore
12 section of the terminal operations department. Is that an
13 accurate statement?

14 A. Yes.

15 Q. So Paria developed the instructions for the draining of the line?

16 A. Yes, yes, according to it.

17 Q. Right. Now those instructions, I—we have it—those
18 instructions are at CB 1033.

19 A. [*Document handed to Mr. Ramdhan*]

20 Q. That is the—those are the instructions?

21 A. Yes, these are the instructions.

22 Q. I want you to look and you would see that they even have
23 diagrams attached to it. Am I correct?

24 A. Yes.

25 Q. Yes. And I want you to—you see “Purpose: Paria intends to
26 change out”, and what’s mentioned there, so it refers to these
27 works that we are talking about in this case, correct?

1 A. Yeah, the draining, yes.

2 Q. Yes and then you see “Responsibilities”?

3 A. Yeah.

4 Q. The terminal operations manager—that would be of Paria, not
5 so?

6 A. Yes.

7 Q. —has the overall responsibility for ensuring that this procedure
8 is established by reviewing and approving this work instruction.

9 A. Yeah, it says that, yeah.

10 Q. And then you see: “...ensuring the offshore team lead
11 understands the requirement of this work instruction.” Okay?

12 A. Yeah.

13 Q. And then it goes on:

14 “The offshore team lead has direct responsibility to
15 ensure compliance with the procedure by reviewing and
16 approving this work instruction, ensuring the offshore
17 operation team supervisor understands the requirements
18 of this work instruction.

19 A. Yes.

20 Q. And then under—it gives a procedure and it has a heading,
21 “Procedure”.

22 “The following are the steps that should be followed for
23 the clearing of line 36 between berths 5 and 6.”

24 And then, you would see that the—for the next few pages, you
25 have a very detailed procedure up to page 1038 and then you
26 have the diagrams, correct?

27 A. Yeah.

1 Q. But I have not been able to see in this procedure, or these
2 documents or the instructions which were given, any amount to
3 be drained, any quantity of the oil to be drained. Could you
4 help us? Because you are the one who was given this document
5 and you, you would be familiar with the contents of it, not so?

6 A. Well, this document was prepared by someone else.

7 Q. I know. I'm not saying you prepared it—

8 A. Right.

9 Q. —but it was handed to you?

10 A. Yes, so, basically this document was to oversee the draining
11 process.

12 Q. Yes, to oversee it.

13 A. Right.

14 Q. So you'd be familiar with its contents?

15 A. Right, but—

16 Q. Did it—sorry.

17 A. Yeah, but it didn't have a—it didn't have a specific amount to
18 be drained.

19 Q. So you—

20 A. And I've said before I wouldn't be able to say specifically how
21 much was drained because I wasn't present. I had a limited
22 involvement in the draining process.

23 Q. But you had to oversee the process?

24 A. I don't recall because, as I said, we had four—we work shift so
25 we have four days on four days off, so, sometimes the work that
26 is conducted here might happen during the four days off.

27 **Examination By Mr. Chairman:**

1 Q. Yes, that might be so, but obviously nobody's expected to work
2 seven days a week but if you are four days on and then you are
3 handing it over to somebody else, presumably you tell that
4 other person how far you've got?

5 A. Right.

6 Q. Right. And then when they hand back over to you four days
7 later they tell you how far they've got?

8 A. Yeah, but sometimes the—

9 Q. Yes or no?

10 A. —work is not completed.

11 Q. Yes or no?

12 A. Yes.

13 Q. Right. Of course, sometimes the job is completed and there's
14 no handover to you. I can get that.

15 A. Yes.

16 Q. But do your best to help us here. It's not very helpful for you to
17 say, "Well I don't know because it might have been doing the
18 time somebody else was doing. I mean you had, you had
19 partial control over this, didn't you?"

20 A. The draining possess?

21 Q. Yes. On the site.

22 A. Not to my—no, not to my knowledge. I wasn't involved in the
23 draining as I said before.

24 Q. No, I'm not saying you did the draining.

25 A. Yeah.

26 Q. Didn't you have oversight?

27 A. No, as I said, like I wasn't present during the draining process

1 or I had limited presence of which I can't recall.

2 Q. Right. Who had oversight?

3 A. The personnel who had been working as the site—

4 Q. No, no, no. There's a difference between the man who's
5 actually turning the tap—

6 A. No, no, no.

7 Q. —and the person who has control over the process.

8 A. Yes.

9 Q. So did you have control over the process?

10 A. Operations department had control over the process.

11 Q. Right. Are you operations department?

12 A. Yes.

13 Q. What did you rank in the operations department?

14 A. Operations team supervisor.

15 Q. Right, well you answer his question.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Didn't you just tell us under oath that you had to oversee this?

18 A. The?

19 Q. The draining of the, the line and the carrying out of these
20 instructions?

21 A. Yes, the operations department, yes.

22 Q. And that was your department?

23 A. Yes.

24 Q. So—and you cannot help us to tell us how much oil was
25 drained up—during the period of time you were overseeing it?

26 A. I, as I said, I wasn't involved in overseeing of the drain,
27 however, from handovers, I can't say the quantity of oil that

1 was removed.

2 Q. And how was the oil removed?

3 A. Basis handover again and talking to maintenance personnel, it
4 was air-blown from berth number 5 to berth number 6 and
5 then ashore, and then afterwards they were part of the process
6 where it was drained to a slop barge as well.

7 Q. So Paria officials were involved in the draining process?

8 A. Yes.

9 Q. And Paria officials were witnessing the draining process?

10 A. Er, I wouldn't say witnessing.

11 Q. They were present?

12 A. They were—well yeah, they were present, yeah, overseeing.

13 Q. Right. Do you know whether there—and where was the oil—
14 where the oil—where did the liquid content of the draining
15 process ended up, in slop barges or where did it end up?

16 A. Some ended up in the tank farm in a tank and some ended up in
17 a slop barge.

18 Q. Would Paria have records of what quantities of this oil ended
19 up in slop barges?

20 A. Not to my knowledge.

21 Q. Not to your knowledge?

22 A. Not to my knowledge.

23 Q. Would they have record of how much oil that was drained went
24 to the tank farm?

25 A. To the tank farms, they're supposed to. Onshore supposed to
26 have that since they normally do a open gauge and a close
27 gauge on the tank.

1 Q. At paragraph 13 of your witness statement you said upon
2 completion of the draining procedure there was still product in
3 the line. On what basis you say so?

4 A. This is again from handovers and talking to maintenance
5 personnel.

6 Q. So you remember what happened at handover?

7 A. Yeah, some handovers, yeah.

8 Q. Some handovers. So could you assist us with any quantity that
9 you could remember, from your handovers, of how much oil
10 was drained?

11 A. No. I, I can't say the quantity but, um, you see operations was
12 overseeing the draining process by the contractor, the same
13 LMCS, and they would have been doing their, their ullaging
14 order to determine if the right amount of oil was removed.

15 Q. You are familiar with the work permit—

16 A. Yes.

17 Q. —that was issued, not so?

18 A. Yes.

19 Q. That's at page nine eight three eight.

20 **Mr. Maharaj SC:** I'm referring to this because it has all the
21 attachments in it. [*Crosstalk*] Nine eight three eight. It's the
22 full bundle.

23 **Mr. Chairman:** It's the bundle of documents? Well I've got
24 them in that order.

25 **Mr. Maharaj SC:** I have the same thing.

26 [*Document handed to Mr. Ramdhan*]

27 **Mr. Chairman:** Page 1074 of our core bundle. It's 1074.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. You recognize your handwriting on that document?

3 A. Yes.

4 Q. And do you see in section A(a) “Line drained comments”?

5 A. Yes.

6 Q. How did you know that the line was drained to put on this
7 document?

8 A. From hand—as I mentioned before from handovers and talking
9 to maintenance personnel.

10 Q. Did you consider at the time that you were dealing with this
11 that the quantity or the amount of oil that was drained from the
12 line was an important factor, an important matter?

13 A. It was important that it was cleared so that their area to work
14 would have been clear to work at that time.

15 Q. It was important for the line to be cleared?

16 A. For the maintenance work to, to, to commence.

17 Q. For the maintenance work to commence. So the clearing of the
18 line was critical for the maintenance works to commence?

19 A. Well in order for them to change the section of the riser it
20 needed to be—the portion of that line needed to be clear.

21 Q. The portion of the line had to be cleared?

22 A. Yeah.

23 Q. The line was being drained both—you know when I talk about
24 top side and—there were two areas of the line being drained,
25 one was top side and one was under water between berths 5 and
26 6, am I correct?

27 A. Well, the—yes, yeah, you’re correct, yeah.

1 Q. That's correct?

2 A. Yeah.

3 Q. Look behind you and you'll see a sort of drawing of it. You see
4 you have—it's top side and then you have the underwater
5 shaped like the U?

6 A. Yes.

7 Q. Right. So the line which was being drained was both the
8 underwater portion of the line between berths 5 and 6 and the
9 line top side above the water?

10 A. Well the information I have is that the top side, they had to
11 clear the top side to remove the elbows.

12 Q. Okay.

13 A. Once the elbows were removed then they would drain partially
14 to the point under they had—where they had to perform their
15 maintenance work.

16 Q. Where they had to perform their maintenance work?

17 A. Yes.

18 Q. Okay. Let's go to—would it—how many days were you
19 involved in—how many days, as far as you were concerned, the
20 line was being drained?

21 A. I can't, I can't recall.

22 Q. So you can't recall how many days, would you, would you be
23 able to help us whether there were—

24 A. Okay, so, um, so just, I just trying to go back to my statement,
25 um—

26 **Mr. Chairman:** You can use your statement.

27 **Mr. Ramdhan:** Okay.

1 **Mr. Chairman:** It's not a memory test. At all.

2 **Mr. Ramdhan:** Okay.

3 **Mr. Chairman:** If you go to paragraph nine, that might help
4 you answer the question.

5 **Continued Examination By Mr. Maharaj SC:**

6 A. Right, yes, so, again, according to handovers and talking to the
7 maintenance personnel, yeah, so it was drained from the 18th to
8 the—between the 18th and to the 3rd of February.

9 **Examination BY Mr. Chairman:**

10 Q. So 18th of January of this year to the 3rd of February this year?

11 A. To the third of February.

12 Q. So that represents a period of what two, two and a bit weeks?

13 A. Yeah.

14 Q. Two and a half weeks?

15 A. Yes.

16 Q. So quite a lot of four-day handovers.

17 A. As I said, Sir, in—non-consecutively which would mean that it
18 was drained, sometimes they stopped.

19 Q. Still quite a lot of four-day handovers?

20 A. Again I'll have to check back my schedule to see.

21 Q. Well there's nothing to check, is there? If this was being
22 drained, as you've been asked, between the 18th of January and
23 the 3rd of February—

24 A. Uh-huh.

25 Q. —that represents, does it not, two weeks?

26 A. Yeah.

27 Q. Right? So in that two-week period, last time I looked, that's 14

1 days, divide that by four and there were at least four periods
2 when there've been handovers?

3 A. Actually, divide it by eight, four days on four days off.

4 Q. Yes, four days on, four days off, but in between you'd still have
5 to make a handover, either to you or from you?

6 A. Well in between would be the personnel who was on duty that
7 day.

8 Q. Yes I appreciate that, but if you've got a 14-day period, after
9 the four day, if you were working the first four, you'd be
10 handing over to somebody else, wouldn't you?

11 A. Well—okay, so on the 25th was my first day back to work after
12 my four days off.

13 Q. Right.

14 A. So if you date back then that was the period of time when the
15 work had stalled—stopped, non-consecutively.

16 Q. You'd not been working—so had you worked on the 18th of
17 January?

18 A. The 18th? I believe so. Yeah, maybe the 18th, yeah.

19 Q. Right. Did you work on the 19th of January?

20 A. Nineteenth? I have to—yeah, I believe so.

21 Q. You did. But did you work on the 20th of January?

22 A. Yes, yes.

23 Q. Did you work on the 21st of January? I don't want to go
24 through every day, but, come on, help us as best you can. You
25 must have made a number of handovers in that two-week
26 period, either to you or from you?

27 A. Yeah, however, I don't recall because—

1 Q. Well that's a different matter. If you can't remember then
2 please say so, but, what I'm struggling with is, is what appears
3 to be a little bit of obfuscation that is you're deliberately trying
4 to hide from something or other.

5 A. No, I didn't have information.

6 Q. Good. Well I hope not. So let's start again, all right? Is the
7 position that these lines were being drained between the 18th of
8 January and the 3rd of February? That's what's in your
9 statement.

10 A. Well, again, according to the information I gathered, yes.

11 Q. Right. Thank you.

12 A. Non-consecutively.

13 Q. Well I'm assuming that what you put into your statement is
14 what you believed to be true.

15 A. Yeah, non-consecutively.

16 Q. Well I'm not suggesting it was done every day but it was done
17 between those days, was it not?

18 A. Yes.

19 Q. Thank you. So, in that two-week period, do you agree you
20 were working off and on each four days?

21 A. Off and on, yeah.

22 Q. Right. So it must follow, doesn't it, that whenever it was that
23 you were working, you either handed over to somebody to carry
24 on for the next four days or they handed it back to you?

25 A. According to, um, to again, according to handovers and the
26 information that I have, the work was, I believe, suspended on
27 the 15th.

1 Q. Work was suspended, yes.

2 A. Yes the draining of the line was suspended on the 15th.

3 Q. So it wasn't being drained between the 18th and the 3rd?

4 A. I not sure. I can't say.

5 Q. Well it's what you put in your statement.

6 A. Yeah, again, this was just, as I said before in the statement I
7 provided a summary with regards to, with regards to the works
8 that were happening between there.

9 Q. Mr. Ramdhan, Mr. Ramdhan, you wrote this statement on the
10 30th of September of this year, correct?

11 A. No. This statement was prepared prior.

12 Q. Prior to that?

13 A. Yeah, yeah.

14 Q. So prepared even earlier than that?

15 A. Yeah.

16 Q. But you signed it on that day, did you?

17 A. On the 30th?

18 Q. Thirtieth of September. I think that's the day I got on mine
19 anyway, unless somebody's got a different date. Thirtieth of
20 September. Yes. That's the day you signed it?

21 A. Uh-huh.

22 Q. Prepared, was it? Who by?

23 A. By me.

24 Q. Right.

25 A. Johnathan Ramdhan.

26 Q. So you took a little while to prepare it, which would have been
27 more than those, on that day? Is that what we're to understand?

1 A. Yeah.

2 Q. Right. So you prepared the statement and then signed it as
3 being accurate. I assume you read through it first, did you?

4 A. Yeah.

5 Q. And you thought to yourself, "Well I—what I've put in here
6 must be right", because if you didn't think it was right you
7 wouldn't have put it in, would you?

8 A. Right.

9 Q. Thank you. So, did you rely on any documents when you were
10 making this statement or did you just make it up as you went
11 along from memory?

12 A. Well I would have relied on, um, on, again, handovers and
13 documentation.

14 Q. Documentation. Would it have been—

15 A. Pointing out the days since I wasn't there and I needed to give a
16 summary of like the nature of the that was—

17 Q. Yes. What were you being asked to do in this statement? What
18 was the purpose of you writing this statement?

19 A. To state what happened.

20 Q. Yes. As best you knew it?

21 A. Yeah.

22 Q. Given that your position in operations. It doesn't necessarily
23 mean everything you yourself did but what you understood to
24 happen, is that right?

25 A. Yeah.

26 Q. That's what you put in there. So can we take it that what's in
27 here is accurate as far as you're aware?

1 A. Yeah.

2 Q. Right. Now is there anything about paragraph nine you want to
3 change?

4 A. No.

5 Q. Good. Then we'll work on the premise that you believe the line
6 was drained between the 18th of January and the 3rd of
7 February. Yes?

8 A. Okay.

9 Q. Great. And that means that during that time if you were
10 working off and on every four days, you would have either had
11 it handed over to you or you to them, correct?

12 A. Correct.

13 Q. Marvellous.

14 **Mr. Chairman:** It's taken a little while but would you like to
15 carry on, Mr. Maharaj?

16 **Mr. Maharaj SC:** I'm much obliged.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. Well, could you help us for the days that you work, if you could
19 help us as to how much oil you are of the view or liquid content
20 from the line was drained?

21 A. I can't recall.

22 Q. You can't recall?

23 A. No.

24 Q. No, no amount?

25 A. No, I can't re—I can't recall the quantity.

26 Q. Okay. Could you help us? You were overseeing this operation
27 you said. Could you help us with how much liquid content was

1 in the line at the time when you started this overseeing in line
2 36 between berth 5 and 6?

3 A. You're referring to some—you're referring to a point in the
4 statement?

5 Q. No, I'm asking you.

6 A. Okay, huh, what's the question?

7 Q. The question is, could you help us with the amount of liquid
8 content that was in the line between berth 5 and berth 6 when
9 the process of draining the line began?

10 A. No.

11 Q. So what did you do in—what was your job in respect of?

12 A. Well, as I said, I had limited, limited involvement in the
13 draining process, so, when it started it didn't start with, with
14 um, with my, with my team or my shift working.

15 Q. Okay, let's go to something else. All right?

16 A. Yeah.

17 Q. On the work permit that I showed you—

18 A. Right.

19 Q. —and you said there's your handwriting, you see?—

20 **Mr. Chairman:** Could we identify what is his handwriting if
21 it's all or some of it?

22 **Mr. Maharaj SC:** Yes, yes.

23 **Mr. Chairman:** What is your handwriting—

24 **Mr. Maharaj SC:** Okay.

25 **Mr. Chairman:**—that's on there?

26 **Continued Examination By Mr. Maharaj SC:**

27 Q. A pat from the description of the works, the rest of, on A1, A1

1 is your handwriting?

2 A. No, A? A, no. A would be prepared by the applicant.

3 Q. I'm sorry, A—sorry, B1 is your handwriting, B1, B2, B3?

4 A. In B3, the hot work certificate number is wrote in by the
5 applicant. A little different handwriting.

6 Q. All right, let me get this specifically.

7 A. Yeah.

8 Q. On B1, "Line drained" is your handwriting?

9 A. Yes.

10 **Mr. Chairman:** That's not B1, one that's A1.

11 **Mr. Maharaj SC:** No, Mr. Chairman, that's B1.

12 **Mr. Chairman:** Is it?

13 **Mr. Maharaj SC:** Ah, I've misread it. You're right, you're
14 right. Thank you very much. Yes sorry. So B1, yes.

15 **Mr. Maharaj SC:** Line drained.

16 **Mr. Chairman:** Section A and then B is divided into different
17 sections. Forgive me.

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. "Line drained" is your handwriting?

20 A. Yeah.

21 Q. "No" is your handwriting?

22 A. Yes.

23 Q. The next line, "Yes", is your handwriting?

24 A. Yes.

25 Q. "Migration barrier to be used" is your handwriting?

26 A. Yes.

27 Q. Right. On the form again if you go to B3, you see it has there,

1 um, the, all of the handwriting in, where it has the column
2 “Certificate number NA”, are those your handwriting?

3 A. Yes, except the hot works certificate handwriting, two six three
4 four.

5 Q. All right. And then if you go to the next column just at the side,
6 would that be your handwriting?

7 A. Yes.

8 Q. Right. Then if we go to B4, “Additional Precautions, care to be
9 taken when weather conditions change”, is that your
10 handwriting?

11 A. Yes.

12 Q. And your signature is at five. Am I correct?

13 A. Yes.

14 Q. Right. The ticks at B4, would that be your ticks?

15 A. Yes.

16 Q. Right. Okay. So let us—now the description in section A of
17 the works, that’s not your handwriting?

18 A. No.

19 Q. Whose handwriting is that, you know?

20 A. That would be the applicant, Houston.

21 Q. Now who is the applicant?

22 A. Houston.

23 Q. Houston Majardsingh?

24 A. Yeah.

25 Q. Right. Now, if you go to—let’s take the questions at B number,
26 B1, the third column, “Cleared of process, hazardous materials,
27 yes, migration barrier to be used”, am I correct that what you

1 are, in effect, dealing with there was whether any hazardous
2 materials would go into the pipe or would be a hazard in the
3 chamber?

4 A. Could you repeat the question?

5 Q. Where you, where you answered “Yes, migration barrier to be
6 used”, am I correct in relation to the context of that question,
7 you were using the answer in reference to whether any
8 hazardous materials would be either—would be going into the
9 pipeline or would be in the chamber?

10 A. “Cleared of possess/hazardous materials” means that the lines
11 to be worked on, they needed to be clear of the process hazards.
12 Like the section of line they were working on, they needed to
13 be clear of process hazards, which is essentially the fuel that
14 was in the line.

15 Q. Oh, I see.

16 A. Yeah.

17 Q. Okay, I see.

18 A. They needed to be clear to work on.

19 Q. It need to be cleared to?

20 A. It needed to be clear in order to do your maintenance work.

21 **Mr. Chairman:** Sorry, can I—cleared where? Because you
22 say migration barrier cleared above the migration barrier or
23 below it.

24 **Mr. Ramdhan:** Well the section line they needed to work on
25 which would be everything above the line, the part that they
26 needed to cut to perform their works, so everything there
27 supposed to be clear and because, um—well because, again,

1 from the procedure and handover there was still product in the
2 line, the migration barrier should be used as a precaution.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. As a precaution for what?

5 A. For—

6 Q. For things—hot works going into the line?

7 A. Well my, the two—two precautions was the toxic fumes from
8 the fuel entering the workspace as well as the toxic fumes could
9 create a flammable environment in the event that you have any
10 hot works going on.

11 Q. Oh, so those are the hazards you were thinking of?

12 A. Yes, yeah, that's one of the hazards of that.

13 Q. Those were the hazards. And “Line to be”—where you had
14 “Line to be drained”, you understood that was one of the
15 instructions which were given to you as an employee of Paria to
16 oversee the line being drained?

17 A. Well, the line being drained, right, um, so if—when a applicant
18 comes to me with the instruct—well, with the specific task to
19 be done, we looked at what was required and the requirement in
20 this case was the line to be drained which was completed prior
21 and, um, seeing that the project was already ongoing, they
22 already drained the line, they already had the plugs in place,
23 sorry, the migration barrier in place and they already had a
24 hyperbaric chamber there and they were already doing welding
25 inside, so that's a indication that, yes, the line had to be drained
26 as prepared by the procedure.

27 Q. And the applicant in this case of this, um, was Mr.

1 Majardsingh?

2 A. Yes, yes.

3 Q. And he's an employee of?

4 A. That's Kenson working for Paria.

5 Q. Kenson working for Paria?

6 **Examination By Mr. Chairman:**

7 Q. So that I understand that, when it says, "Line drained", you
8 mean by that when you put that in there—

9 A. Yeah.

10 Q. —that the line had already been drained?

11 A. Line drained, yeah—

12 Q. Yes.

13 A. —and according to the procedure. That's like the conversation
14 we had. Because when someone comes to do a permit we have
15 that conversation of what is the job to be done and the
16 requirements, eh?

17 Q. I understand. Yeah. So, you—but why you're putting that
18 there is because you had understood it had already been done?

19 A. It's already been done, yes.

20 Q. Right. I see. And having said that, you don't actually mean, do
21 you, that the line had been completely drained?

22 A. No.

23 Q. Only partially drained?

24 A. Partly drained. It still had product in the line

25 Q. Yes, thank you.

26 **Mr. Maharaj SC:** Much obliged.

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. Now, if you go down to B3, and you see you have “Safe work
2 method statement”. See that?

3 A. Yes.

4 Q. So you—but that was asking for any safe work method
5 statement? The question was whether there was any safe work
6 method statement, correct?

7 A. If it was attached to the documents.

8 Q. Yes. And you say, “See attached”?

9 A. Yeah.

10 Q. And attached to the document was a hot work certificate?

11 A. Yeah.

12 Q. Method statement 116—you could look at it if you don’t
13 remember.

14 **Mr. Chairman:** Sorry, I was distracted for a moment.

15 **Mr. Maharaj SC:** I’m sorry. I was showing the witness 116.
16 I was showing the witness the permit to work, the hot works
17 certificate and then I—and I was now showing him 116, the
18 method statement, attached to it. And it’s up on the screen.
19 Okay.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. And you had a job safety analysis, correct?

22 A. Yes.

23 Q. So as you understand it, you were representing, by signing this,
24 that there was a safe work method statement attached to the
25 work permit?

26 A. There was a method statement attached to the work permit
27 according to the documents that are attached to it.

1 Q. And as far as you were concerned it was asking for a safe work
2 method statement? You were representing Paria and you were
3 representing that it was attached?

4 A. I need to explain. Go ahead? Yeah. So, again, I'll make
5 reference to the permit to work system and our permit to work
6 training. With regards to method statement and GHAs, those
7 are reviewed prior, prior to the beginning of a project by the
8 technical and maintenance team who's the expert in the field,
9 and once they deem it fit, they would approve it and then it
10 would come to us as an approved document via an approved
11 applicant who is the—approved applicant meaning he's trained
12 in the permit to work system, so, according to our training, once
13 it comes via an approved applicant, we verify verbally that
14 these are the approved documents, we don't need to go through
15 the documents. Those are attached.

16 Q. I could understand.

17 A. Yes.

18 Q. So you assume it was approved without being seen?

19 A. I did not—no I didn't assume. It came to me via an approved
20 applicant so via his confirmation that these were approved
21 documents, I mentioned it was attached.

22 Q. Okay; and the approved applicant was Mr. Majardsingh?

23 A. Yes, in this case.

24 Q. Okay. Now, if you look at A2, "Residual Hazards", did you
25 have to fill this out or did you have to consider whether there
26 were any other hazards or anything like that?

27 A. B2, B2, right?

1 Q. Sorry, B2. B2.

2 A. Okay, yes, so—

3 Q. Yes, it's B2.

4 A. All right so, so as long as, um—my main concern was the toxic
5 fumes and combustible environment and as—once the
6 migration barrier to be used, this was adhered to, I didn't see
7 any residual hazards again.

8 Q. Okay. So just to—

9 A. Operationally.

10 Q. So just to get it clear, on that date, you had no idea of
11 differential pressure or Delta P?

12 A. No.

13 Q. No. And you are not, you are not qualified or you had no
14 experience in that?

15 A. No.

16 Q. So you could not really detect or assess whether there was any
17 Delta P hazard?

18 A. I know nothing about Delta P—

19 Q. Okay.

20 A. —at that point in time.

21 Q. Okay. Now, I notice here that one of the things that was
22 required was an isolation—process isolation checklist. If you
23 look at B3.

24 A. Right.

25 Q. Could you help us if you know anything about the importance
26 of such a certificate?

27 A. No, a process isolation certificate indicates when a valve is

1 closed, if a slip blank is in place. However, in this case the
2 elbows were removed so that superseded any process isolation
3 that was involved during the preparation process. When I say
4 elbows, sorry I mean the elbows at 436 Sealine at berth number
5 5 and berth number 6. So it basically cuts off any process from
6 interfering the with the line to be worked on.

7 Q. So as far as you were concerned, an isolation certificate one
8 way or the other, a certificate, isolation certificate, did not have
9 to be attached to the permit to work?

10 A. No, and, um, um, no, no, because it was done superseded by the
11 elbows being removed.

12 Q. Who is—if there was to be an isolation certificate, who would
13 sign that? Who would normally sign that?

14 A. A process isolation normally done by the operations
15 department.

16 Q. The operations department?

17 **Mr. Chairman:** That's you?

18 **Mr. Ramdhan:** Yes. It wasn't attached to the document but
19 there, as I said before, existed a process—well there existed a
20 process isolation or it would have to be superseded by the
21 removal of the elbows.

22 **Continued Examination By Mr. Maharaj SC:**

23 Q. Okay. I want to go to another area of your evidence. At
24 paragraph 16 of your statement—[*Crosstalk*]
25 you said at about 800 hours Mr. Majardsingh brought to you the
26 following permits to work and issued as the site authority. So
27 you were the site authority on that date?

1 A. Correct.

2 Q. So on the date of the works, that's the 25th of February, you
3 were the site authority?

4 A. Correct.

5 Q. In respect of the work permit?

6 A. Yeah.

7 Q. Right. Now, as the site authority, you are aware of the—you
8 are aware of the functions and duties of the site authority?

9 A. Yes.

10 Q. And we can find that in core bundle one, page 30, and you see
11 at paragraph five dot three on page 30, "The site authority
12 shall", and I'll just go through a few of it, right?

13 A. Yeah.

14 Q. "Ensure that a suitable and sufficient JHA has been prepared
15 for the job." Do you have any expertise to assess a job safety
16 analysis?

17 A. Could I explain? Okay. Right. So we—all right, as the site
18 authority we have no training or experience in the preparation
19 of a JHA, however, this was raised again in our HSE permit to
20 work system and the HSE department indicated that once the
21 documents were approved by the relevant parties and comes to
22 us via an approved applicant, and it's checked to see if it's
23 approved, it is rendered sufficient and, well, suitable and
24 sufficient.

25 Q. So could you tell me whether you complied, as the site
26 authority, with any of these duties mentioned in five three?

27 A. Five three. I complied with all.

1 Q. You complied with all?

2 A. Yeah.

3 Q. So the site authority—so, by ensuring that there is a sufficient
4 JHA you are saying you complied with that because you
5 accepted?

6 A. No. It's from—it's our instruction and from our permit to work
7 system that it indicates that because we are not the expert in
8 those areas, meaning the—in terms of assessing the risk, once
9 it's assessed and reviewed by the HSE department and it is
10 approved by them, and again it comes to us via an approved
11 applicant, it is deemed suitable and sufficient.

12 Q. So, as far as you are concerned, you have no discretion in the
13 matter? As long as it comes you're a rubber stamp and you
14 approved it?

15 A. It is not a rubber stamp, but—

16 Q. What you had—

17 A. —it is—it's basically, it was already approved by the relevant
18 departments, so essentially I basically just ensure that it's there
19 with the package.

20 Q. Okay, let's go down—I don't want to go through all.

21 A. Yes.

22 Q. Because, yeah—

23 **Examination By Mr. Chairman:**

24 Q. Just help me hat that though. You said it goes—it has to come
25 from an approved supplier?

26 A. Yes.

27 Q. But, er—and goes through which department?

1 A. It goes through technical and maintenance and HSEQ.

2 Q. Technical and maintenance?

3 A. Yeah. And HSE.

4 Q. And H?

5 A. HSE. HSE department.

6 Q. Health and safety executive.

7 A. Yeah.

8 Q. Of Paria?

9 A. Yeah.

10 Q. Thank you.

11 **Mr. Maharaj SC:** No problem.

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. Well, help us with this one.

14 A. Yeah.

15 Q. “Ensure by face to face”, if you look—go down about two,
16 three, four, five, six, seven, about eight bullet points—

17 A. Uh-huh.

18 Q. —“Ensure by face to face discussion and onsite visit that
19 the person in charge of the activities at the job site knows
20 the exact location of the work, all the hazards that may be
21 present and all the precautions to be taken during the
22 work. This includes the discussion of the job hazard
23 analysis with the person receiving the permit.”

24 Now, you already told us you dint have any expertise in this
25 matter.

26 A. No I—

27 Q. So how do you perform that function?

1 A. Okay. I indicated that I have no expertise in establishing the
2 suitable and sufficiency of it. Now, the JHA comes to me, we
3 would run through the obvious risks with regard to if there's
4 any hot work going on, you have a fire hose there—I hope I
5 answering your question.

6 Q. Go ahead.

7 A. Yeah. Ensure that there's a fire hose there, you have your HSE
8 personnel doing your, doing your gas test and the—all other
9 precautions to assess the risk that is on the JHA.

10 Q. I see. I see. Then look at two more bullet points:

11 "Periodically monitor ongoing work, either in person or
12 through its team, to determine whether site conditions
13 and precautions have been maintained."

14 A. Right. Yes. So site conditions, as the name states site
15 authority, we are responsible for the operational site. Now, I'm
16 just going and expand a lil bit. Now, Paria business is not
17 maintenance work, it's a terminal. So basically I being the site
18 authority I'm in charge of the terminal operations meaning that
19 they are berthing of vessels, unberthing of vessels, so the site
20 conditions could change if there are any operational activities,
21 however, at the morning of this, um, when this permit came to
22 me, our due diligence was checked with regard to any
23 turnaround movements we're having, which we had none on
24 that particular day, and, um, so that's one of the reasons again
25 why the permit was issued as was because our conditions, our
26 site operations was not affecting the maintenance activity. Now
27 with regard to periodically monitoring the site, and again I refer

1 to the site conditions and precautions maintained, was the—I
2 had an operator Kirt Scott on site, and he would just check to
3 see if there are any vessels coming in the area to raise an alarm
4 to shipping building.

5 Q. Okay. So you were concerned with any vessels, but what about
6 any hazard in respect of the job which had to be done?

7 A. No, well, vessels woulda been a hazard. When a vessel passing
8 it would disturb the water.

9 Q. Not that—that's a hazard. So, in respect of what I just read,
10 precautions have been maintained, conditions and precautions
11 have been maintained. Were you in a position to personally see
12 whether precautions and conditions have been maintained?

13 A. Well I had my operator on site and he will—

14 Q. Oh, I see.

15 A. —be reporting to me.

16 Q. You had your operator. But you are the site authority?

17 A. Yes I'm the site—as it states here, periodically monitor ongoing
18 work, either in person or through his team—

19 Q. Okay.

20 A. —to determine whether the site conditions and precautions
21 have been maintained.

22 Q. And the, and, and the person who you're talking about is a
23 Kenson/Paria employee?

24 A. Kenson working for Paria.

25 Q. Kenson working for Paria. And, um, as far as you know, Mr.—

26 A. Kirt Scott.

27 Q. —Mr. Scott, he—working for Paria, he takes instructions from

1 Paria?

2 A. He's a competent operator taking instructions from Paria.

3 Q. Right. And taking instructions as to how to do the work and
4 what work to do?

5 A. Taking instructions to monitor the site.

6 Q. To monitor the site?

7 A. The operational facility and safeguard the operational facility.

8 Q. Yeah. Was the migration barrier a precaution?

9 A. It was a precaution to be—yes, it was a precaution to be
10 instated by the maintenance team.

11 Q. You monitored the migration barrier in the doing of the—in
12 implementing the works?

13 A. There were no way to monitor the migration barrier. It was—in
14 order to access the migration barrier you have to dive and go
15 into the chamber.

16 Q. But doesn't Paria have someone to monitor the work with a
17 video camera, a video on?

18 A. No. Paria never had any personnel monitoring the camera
19 there.

20 Q. So when these works were being done in the chamber, Paria
21 didn't have anybody monitoring?

22 A. I only speak for operations. Operations was not monitoring the
23 maintenance activity.

24 Q. So as the site authority that day—

25 A. Uh-huh.

26 Q. —you were not aware whether Paria was going to be
27 monitoring the work while it was being done?

1 A. I'm aware that the applicant is responsible for a period—well,
2 continually monitoring his site and that's why we have different
3 roles and functions. So he would have been monitoring that
4 with—well, continually monitoring it with the contractor who is
5 in charge to supervise the operation.

6 Q. Were you aware that Kirt Scott was monitoring this work?

7 A. Kirt Scott was not monitor—his duty was not to monitor the
8 maintenance work. Kirt Scott is operations.

9 Q. If you look at the functions of the site authority again—

10 A. Yes.

11 Q. —about five bullet points from the end:

12 "Periodically monitor ongoing work either in person or
13 through his team to determine whether the site conditions
14 and precautions have been maintained."

15 And you just said precaution, the migration barrier was a
16 precaution. Well, did you have to monitor that?

17 A. Well, it's one of the precautions, however, it's supposed to be
18 maintained on the maintenance site.

19 Q. So as—

20 A. So our site—

21 Q. Okay. So as far as you were concerned, as far as you are
22 concerned from your duties—

23 A. Uh-huh.

24 Q. —you did not have to be involved in monitoring the
25 precautions in respect of the migration barrier?

26 A. Could you repeat the question?

27 Q. As far as you are concerned, as the site authority, you did not

1 have any duties to monitor the precaution in respect—any
2 precaution—in respect of the migration barrier?

3 A. Okay, so I need to explain. So, a site authority, as the site—as
4 it says, is to monitor the site and ensure it's operationally safe.
5 I'll make reference back to the ter—terminal has operations
6 which needs to be clear in order for your maintenance activity
7 to take place.

8 Q. And the—

9 A. Once it is clear, meaning that the site we have no vessel
10 turnaround movements and also vessel movement within the
11 area, because that will be a hazard as well because if a vessel
12 moves in the area you have the disturbance of water and it
13 might affect the diving activity—

14 Q. I could understand what you're saying.

15 A. Yeah? So—

16 Q. So as far as you were concerned the site was not the work site
17 itself?

18 A. The site was the facility to ensure that it's operationally safe.

19 Q. I see.

20 A. However, as placed in the permit to work, the migration barrier
21 to be used in order to—that to be enforced is the applicant
22 would have to enforce it with his contractor who would be
23 supervising the job and ensuring that the stipulation on the
24 permit was abided by.

25 Q. Okay, Mr. Ramdhan. We have your evidence and you have
26 been very helpful. Can I go to something else?

27 A. Yeah.

1 Q. Right. At—

2 **Mr. Chairman:** Have you finished with the work permit?

3 **Mr. Maharaj SC:** Yes, yes.

4 **Mr. Chairman:** Because there's something I'd like to clear
5 up.

6 **Mr. Maharaj SC:** Sure, sure.

7 **Examination BY Mr. Chairman:**

8 Q. Mr. Ramdhan, what is the point of attaching to the work permit
9 the safe work method statement?

10 A. Well, that's to show that the job was an approved job, it had
11 approval—it had approved documents coming with the permit
12 so it was approved by maintenance.

13 Q. So the on—I want to be clear please? The—can we put up the
14 work permit again, please? You've signed the work permit?

15 A. Yeah, yeah.

16 Q. All right? And so you are saying you are allowed to do this
17 work, all right? That's effectively what it means, isn't it?

18 A. Providing our site is safe, yeah.

19 Q. Yes. And safety is your by-line, your—

20 A. Yes.

21 Q. —watchword. So, included in this list of documents that are
22 attached to the work permit is the method statement?

23 A. Correct.

24 Q. What this is describing it as, though, is a safe work method
25 statement, yes?

26 A. Yeah.

27 Q. That's not something different from the method statement, is it?

1 A. I don't think so, no.

2 Q. No. I mean the method statement please if we can bring it up,
3 page 1048—we're all getting familiar with this now, so that's
4 the method statement LMCS provided, isn't it?

5 A. Yeah.

6 Q. Yeah. And when you, as it were, say "See attached" on the
7 work permit, you mean this document, don't you, the one that
8 was on the screen now?

9 A. Yes.

10 Q. And so, although that's called method statement, what it means
11 for your purposes as the safety officer of the site here—

12 A. Well the site official or site authority, yeah.

13 Q. —the site authority, forgive me, yes, is that this method
14 statement represents a safe work method statement?

15 A. Uh-huh.

16 Q. Yes?

17 A. Yeah.

18 Q. And as with the other documents, do you take it that that
19 method statement represents the way in which or what work is
20 to be done and the way in which it's to be done?

21 A. A method statement is a list of proposed jobs to happen to get a
22 particular job done.

23 Q. Right.

24 A. However, only the permit allows or permits a job to happen.

25 Q. Say that again?

26 A. Only the permit, the permit to work document, the permit
27 itself—

1 Q. Right.

2 A. —allows particular activities to happen. So, when the applicant
3 comes requesting permission to do a job—

4 Q. Yes.

5 A. —he explains verbally what they are going to do today.

6 Q. Uh-huh.

7 A. And that would be the specific tasks they are going to be
8 doing—that is going to be done today.

9 Q. Right. And that's, that's—

10 A. And that will be translated into these permits.

11 Q. All right. Well, there's a dispute, clearly a dispute about what
12 was or was not going to be done on that day.

13 A. Yeah.

14 Q. And I don't—I'm not asking about that.

15 A. Okay.

16 Q. What I want to ask you about is that this document, the method
17 statement that we're looking at on the screen now is what you
18 understand to be the safe work method statement?

19 A. It would be the method statement but—

20 Q. N no, no, no, no, please?

21 A. —it would—

22 Q. Please listen to my question.

23 A. Yes.

24 Q. But what you have put on this document in your own
25 handwriting is, "See attached".

26 A. Yeah.

27 Q. The document that we're looking at that's on the screen is the

1 document that you mean by when you say, “See attached”?

2 A. Uh-huh.

3 Q. Is this something different to a safe work method statement?

4 A. No, it will be the same.

5 Q. Right. It is exactly the same. So when you say, “See attached”,
6 you mean that this document represents a safe work method
7 statement?

8 A. Yes, essentially.

9 Q. Right. Do you understand, scroll through a little, please, it
10 doesn't matter where, we just—that there are a sequence of
11 events seemingly that appear be on this list? Do you
12 understand it to be that?

13 A. Well, I understand it to be a series of jobs to be done to perform
14 the activity.

15 Q. Do you understand it to be sequential?

16 A. No.

17 Q. You don't?

18 A. No.

19 Q. So any of those jobs could be done in a different order and it
20 wouldn't make any difference to you at all?

21 A. Well it's not that the method statement wouldn't make a
22 difference to me. Is the task that they are coming to do on that
23 particular day would be the essential information.

24 Q. Yes, I understand that. But, in terms of this document—

25 A. Yeah.

26 Q. —it doesn't—to you, does not represent a sequence of events?

27 A. No.

1 Q. As to the order in which they should occur?

2 A. No, that's not my understanding of it.

3 Q. Right. So, we can put that out of our minds from your point of
4 view that you never regarded this in that way? Anybody who
5 was keeping an eye, a watchful eye, for whatever reason, over
6 the works that were taking place, should not regard, according
7 to you, should not regard this as a sequence of works to be
8 done?

9 A. I can't say what the maintenance personnel does with it.

10 Q. Well you're the site manager, you see, or the site authority.

11 A. I'm the site authority for the maintenance person.

12 Q. And the site—one of the by-lines, the watchword as you agreed
13 with me, is safety?

14 A. Right.

15 Q. Right. So obviously if something that was being done that was
16 not authorized for that day or was not on this document, you
17 would want to know, wouldn't you?

18 A. Could you repeat the question?

19 Q. Yes. It's not a difficult one. If something was being done that
20 was not on this method statement or was being done not
21 according to what had been determined for that day, you would
22 want to know?

23 A. No.

24 Q. You wouldn't want to know?

25 A. The method statement—

26 Q. No, no answer my question first. You can add whatever rider
27 you like afterwards.

1 A. Umm.

2 Q. Answer my question, please, and then you can say whatever
3 you want to say. All right? I'm not going to stop you or shut
4 you out. I just need to understand this, all right, so that I
5 understand why this might be attached to the work permit. Is it
6 that you're saying that you're not interested in whether they do
7 a job of work that has not been authorized that day?

8 A. The method—

9 Q. That might appear on the method statement?

10 A. The method statement doesn't authorize any job.

11 Q. No, but it's attached to the work permit.

12 A. Right but it doesn't authorize.

13 Q. No, I appreciate that, but without it being attached to the work
14 permit there wouldn't be a work permit?

15 A. Correct.

16 Q. Right. So it's attached for a purpose?

17 A. Uh-huh.

18 Q. And the purpose is, in order for you to be able to say there is a
19 safe work method?

20 A. It's a maintenance document, it's a guide for a maintenance
21 work.

22 Q. A guide? A guide to whom?

23 A. For maintenance department.

24 Q. For the maintenance department?

25 A. Yeah for the works to be done.

26 Q. Are you saying that's nothing to do with you?

27 A. The method statement? No the method statement doesn't

1 have—

2 Q. No I'm not saying the method statement. I'm saying the
3 maintenance that's, being carried out. Is that—are you
4 interested in the work that's being carried out?

5 A. Yes, and it's stipulated on the permit itself.

6 Q. Right. And so if something that was to happen that was not on
7 that permit, not approved by that permit, would you want to
8 know?

9 A. If?

10 Q. If something was being done that is not authorized by this
11 permit, the one that we have been looking at, it's not on there,
12 right? Removal, it's no secret, removal of the barriers was not
13 apparently approved for that day.

14 A. Right.

15 Q. So we've been told.

16 A. Right.

17 Q. So, if it was happening that they were taking these barriers off
18 on that day, would you want to know that?

19 A. Yes.

20 Q. Because if—

21 A. I would.

22 Q. —you knew that what would you do?

23 A. Right, so, and that brings us to the duties of—the different
24 duties of the persons—

25 Q. What would you do if you knew that they were doing
26 something they were not permitted to do?

27 A. Yeah, I'll stop the work.

1 Q. Right, you'd stop the work?

2 A. Correct.

3 Q. We've heard about stops. This is in your, your right, your
4 authority you can say stop now, right now?

5 A. Uh-huh.

6 Q. Yes? So if it had come to your attention that there was work
7 being done that should not have been done, you would have put
8 a stop on it?

9 A. Exactly, yeah.

10 Q. Right. So you are interested, aren't you, in what work is being
11 done?

12 A. In the work being done, yes.

13 Q. Yes. How do you know what work is being done?

14 A. Well the work that was being done was stipulated on the
15 permit.

16 Q. Right. But do you monitor it, keep any eye on it at all or you
17 just let them get on with it, "Do what you like and, well, if it
18 goes wrong too bad", but, I mean—or are you keeping any
19 watchful eye or any oversight on the work at all?

20 A. Okay, so that would be the duty of the applicant and the
21 contractor official.

22 Q. Right. So it all falls back onto the people who are actually
23 contracting it. And so this man, Mr. Majardsingh, who's from
24 Kenson and who puts all of this on here, would he be interested
25 in what was going on?

26 A. Interested in the?

27 Q. In what was work—what work was being done or not being

1 done.

2 A. Well, yeah he would be overseeing the maintenance activity.

3 Q. He would be overseeing it not you?

4 A. Not me.

5 Q. Right. So you would rely on him to tell you, to give you a call
6 and say, "Hey, by the way Mr. site authority, they're doing
7 something that they're not allowed to do"?

8 A. Or something was done that wasn't permitted.

9 Q. Or they're in the middle of doing it, and if you got that call
10 what would you do?

11 A. I would stop the work.

12 Q. Right. So, either you or somebody from Kenson, Mr.
13 Marjadsingh or his, er, one of his deputies or someone
14 presumably is keeping an eye on what's going on?

15 A. Or the contractor official as well.

16 Q. Sorry?

17 A. Or the contractor official as fell.

18 Q. Well, obviously the contractor who's doing the job, right? It's
19 the contractor who's doing, carrying out the work, isn't it?

20 A. Yes, but—

21 Q. Right. And if he's doing something wrong, if he's going
22 further than he's permitted to go, who stops him?

23 A. Okay, so—

24 Q. Or does he stop himself?

25 A. So—can I explain?

26 Q. Yes you can.

27 A. Good. So, the site authority issues the permit with stipulated

1 guidelines, all right, which would be the migration barrier to be
2 used. Now—

3 Q. Well it was being used?

4 A. Correct. So now, um, after that the applicant would be talking
5 to the contractor officials because it's a trained applicant and
6 it's a trained contractor in the permit to work system, so each of
7 them has their responsibility during the maintenance work so
8 once—if the contractor official did the thorough briefing he
9 would—the workers would have a understanding that this is the
10 work stipulated on the permit and this is the only work is to be
11 done on the permit.

12 Q. Hmm.

13 A. And once that was done correctly, then it would not have
14 resulted in, say, they doing something that wasn't authorized on
15 the permit.

16 Q. Yes. But, I mean, every step of the job that's being done on
17 any day for any permitted is not stipulated on the permit isn't
18 it? It doesn't say turn the bolt to the right or to the left, doesn't
19 it?

20 A. Well, significant tasks are mentioned—

21 Q. Significant tasks are mentioned. All right. In any event, to just
22 get back to the point I'm trying to understand, is that you're
23 saying that if the contractor goes wrong, there is no mechanism,
24 as far as you, you can tell me, to stop the contractor going
25 wrong?

26 A. Or. no. What I'm saying is the contractor official has a duty
27 and a responsibility.

1 Q. No, I understand that. You've said that now. I've got that
2 point.

3 A. Yeah, yeah.

4 Q. Right? But what you're saying is that you want to put a fox in
5 charge of the henhouse. If the reality is that it's the contractor
6 is the one doing the job and you've got the contractor
7 overseeing his own work, his own people, if he thinks he's
8 doing the right thing there's nobody going to stop him, is there?

9 A. No, but being an approved—a contractor via the permit to work
10 system you're supposed to know your responsibility.

11 Q. Yes, I dare say he will tell us that he does—what his
12 responsibilities are, but what I want to know is whether there is
13 any way in which you, I don't mean you personally but your
14 team or anyone from Paria, is keeping an eye on what's being
15 done, whether there is a violation of the work permit so that you
16 can exercise your right and duty to stop the works where it goes
17 beyond what has been permitted?

18 A. Could I just refer to the permit to work system?

19 Q. Yes you can.

20 A. Okay. So I'll start with just the contractor official.

21 Q. Where are we?

22 A. That's 5.6.

23 Q. Five point six. Contractor official page 31 of the core bundle,
24 yes. Yes, I see that.

25 A. Right. So if you take it one, two, three, four, four from the
26 bottom is a 8 of 14, on the next page. Yeah, there. There's
27 something here stating to promptly notify the applicant and site

1 authority of any hazards that may arise or of any changing
2 conditions that increase risk. So being a trained contractor
3 official and knowing that it's only what is stated on the permit
4 is allowed—

5 Q. All right.

6 A. —if anything changed there, he's supposed to notify the
7 applicant and essentially me in order to stop the work.

8 Q. All right. That's what you relied on, is it?

9 A. Yes.

10 Q. Do you think that's enough?

11 A. Well, this is the system we had at the time.

12 Q. No, no I appreciate that that was the system at the time. Do you
13 think it's enough?

14 A. Based on our system, yes.

15 Q. So you, now knowing what has happened, as you presumably
16 do, do you think that that merits any change?

17 A. Yes, I guess it merits some change. Everything isn't perfect
18 and—

19 Q. No, life isn't perfect. I get that.

20 A. Yeah and everything does improve with time.

21 Q. Yes, but do you think it merits change to the way in which you
22 organize yourselves when you've got a contractor and you're
23 getting him to police himself and if he goes off-piste with his
24 work permit and you don't know about it, you can't exercise
25 your authority?

26 A. Yeah, well it's supposed to be—the messages supposed to
27 translate back down to me.

1 Q. Yeah. Right. So, one obvious thing might be that if there were
2 more close oversight over the work that's actually being done
3 on a particular day related to the work permit, you might be
4 able to better exercise your authority?

5 A. Yes. The site authority would have to maintain the site—well,
6 once the message comes to the site authority, yes, he would
7 be—

8 Q. Well, it's a relatively small step, isn't it, because Mr. Kirt,
9 what's his name, Scott, he was there, wasn't he?

10 A. Yes, but he—

11 Q. And I appreciate your saying that he didn't have that
12 responsibility.

13 A. Yeah.

14 Q. I'm trying to understand, you see, our job, Mr. Wilson's job and
15 mine at the end of this, is to make recommendations as well as
16 to find out what happened. All right? I want to know from you
17 in your senior position as site authority whether or not
18 recommendations to change the way in which this operates is
19 something we should consider. Do you follow?

20 A. I follow.

21 Q. And what I'm asking you is this, is that since you had Mr. Kirt
22 Scott there anyway looking at a screen and monitoring the air
23 content in and out of the chamber, it would have been but a
24 small step to have provided him with the work permit for that
25 day, wouldn't it?

26 A. Um, I think you have some, some, some wrong in that line
27 because he wasn't there to look at any screen. He was there

1 just to maintain the site conditions.

2 Q. Yes, but we know he did have a screen in front of him.

3 A. He did not have a screen in front of him.

4 Q. Well, apparently he did, according to his statement.

5 A. Nope. No, he didn't.

6 Q. You've his statement.

7 A. Yeah. He didn't have a screen in front him. His job on that day
8 was never to monitor the maintenance—

9 Q. No, no, I know what his job—I know what his job was on that
10 day.

11 A. Uh-huh.

12 Q. What I'm asking you is whether or not it would be but a small
13 step for him to be given an additional task, like having the work
14 permit with him so that he could keep some sort of oversight on
15 what's being done, and he could alert you if something was
16 being done that was not permitted.

17 A. I need to say again, there's different roles for different
18 personnel.

19 Q. All right.

20 A. Our operations department is operations. We can't oversee a
21 maintenance job.

22 Q. I got you. It's not a particularly helpful answer, but thank you
23 anyway.

24 A. Okay.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. I just want to ask you two questions on this issue and pass on to
27 another issue.

1 A. Okay.

2 Q. Okay? As the site authority, could you have permitted the
3 work, if you were just presented with the first sheet, just the
4 work permit?

5 A. No.

6 Q. No. You had to have the method statement and the job safety
7 analysis and the other documents, am I correct?

8 A. Yeah.

9 Q. Right. Would you agree with me that at section A it does not
10 state method of works?

11 A. It says specific tasks.

12 Q. It describes the works, it describes some works, works, not so?

13 A. No, that's the specific tasks that—

14 Q. I'm asking you a specific question. Would you agree with me
15 that it does not state method of works?

16 A. It does not state method of works.

17 Q. And from looking at this you did not know the sequence of the
18 works?

19 A. No, but there were specific tasks to be done.

20 Q. Yes. Okay. All right. Let's go to something else, Mr.
21 Ramdhan. After the incident, were you aware that the permit to
22 work was pulled or withdrawn?

23 A. No.

24 Q. You don't—no or you don't know?

25 A. I don't know.

26 Q. Well can I show you the permit to work at page 1072 of core
27 bundle three? [*Document handed to Mr. Ramdhan*] And I'll

1 read the job on that work permit at the top, right?

2 A. Uh-huh.

3 Q. Tell me if I'm correct:

4 "To carry out diving activities

5 Specific tasks, to carry out diving activities to assist with

6 the maintenance of the work."

7 Right? You signed that too, not so?

8 A. Yes.

9 Q. Huh?

10 A. Yes.

11 Q. Could you not help us, was this not withdrawn or pulled?

12 A. It was—I only see—to the bottom? Could you scroll to the
13 bottom? I see nothing here, no sign.

14 Q. We are trying to get it on the screen. In the meantime while
15 they look for that I can ask, this work permit though authorized
16 works by LMCS or activities which would permit it to carry out
17 diving activities to assist with the project, not so?

18 A. Yes.

19 Q. Yes. The question is, look at it. Do you know whether it was
20 withdrawn or pulled on the 25th of February?

21 A. You going and scroll down? Sure. Let me see.

22 **Mr. Chairman:** It's page what?

23 **Mr. Maharaj SC:** Sorry, page 1072 of core bundle three.

24 **Mr. Chairman:** And is not 1073 the reverse of that and it's
25 unsigned, unmarked?

26 **Mr. Maharaj SC:** The other side is 1073.

27 **Mr. Chairman:** Yes and that's untouched?

1 **Mr. Maharaj SC:** Untouched.

2 **Continued Examination By Mr. Maharaj SC:**

3 Q. You cannot tell because nothing is endorsed at the back, is that
4 correct?

5 A. Yeah, nothing written, yeah, nothing written.

6 Q. So you're not in a position to answer that question?

7 A. No.

8 Q. No. But you would agree that this was a work permit to permit
9 authorizing diving by LMCS?

10 A. To carry out diving activities to assist with the 36 Sealine
11 maintenance works.

12 Q. Right. Thank you very much, Mr. Ramdhan.

13 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

14 **Mr. Chairman:** Thank you. There will be some other
15 questions for you, Mr. Ramdhan. You want to go first?
16 Introduce yourself, please?

17 **Cross-Examination By Mrs. Persaud Maraj:**

18 Q. Good afternoon Kamini Persaud marriage and I'm for LMCS.
19 Mr. Ramdhan, I'll take you to the very permit that we have on
20 screen, which is the dive permit. This was issued on the
21 morning of the 25th of February, 2022. Is that correct.

22 A. Yes.

23 Q. All right. So you signed at column section B5 and endorsed the
24 date the 25th of February?

25 A. What date you're on?

26 Q. The date is missing from the top.

27 A. Yeah. Yes.

1 Q. Yes, all right. So on the column the section B4r which speaks
2 of additional precautions, you have there:

3 "Call sipping via radio and inform when divers are
4 entering the water. Dive flag to be erected."

5 That's your handwriting?

6 A. Yes.

7 Q. And those were the precautions that you had in relation to the
8 diving?

9 A. Yes.

10 Q. So I'll take you to the next work permit which is 9302, also
11 issued on the 25th of February, the very next document. I
12 would like to take you to the section B4 of that work permit.
13 Now this is the work permit in question in relation to the work
14 to be done by the contractor within the chamber, that's correct?

15 A. Yes.

16 Q. Right. Additional precaution, can you say what you have
17 written there?

18 A. "Care to be taken when weather conditions change."

19 Q. And that's in relation to what, what aspect.

20 A. When weather changes, um, the water could get choppy and it
21 could interfere with any activities in subsea or any diving
22 activities as well.

23 Q. But in your precaution that you placed on the permit to work
24 for the diving that we just went through—

25 A. Uh-huh.

26 Q. —you did not put that as a condition of precaution. Do you see
27 that?

1 A. Okay, yeah.

2 Q. Should that not have been placed on that permit?

3 A. Yeah, it could be there, yeah.

4 Q. As I understand it, there's a separate permit in relation to the
5 diving and this—that what I—that which I just—you just read,
6 is in relation to the diving?

7 A. However you needed to dive in order to go in the chamber to do
8 the work.

9 Q. Right. As I'm on the method statement, let me take you to the
10 endorsement at five with the authorization, that's section B5.
11 Do you see after your signature and the date and time, you have
12 an endorsement there in relation to time? Can you read that for
13 us?

14 A. The 25th to the second 2022, 0720.

15 Q. Zero seven two zero?

16 A. Uh-huh.

17 Q. So that, we take that as 7.20?

18 A. Yeah.

19 Q. A.m., yeah?

20 A. Yeah, there, yeah.

21 Q. All right. I'd like to take you to your witness statement at
22 paragraph 16. That would be—

23 **Mr. Chairman:** Paragraph what?

24 **Mrs. Persaud Maraj:** Page 1471.

25 **Mr. Chairman:** Which paragraph did you say 16?

26 **Mrs. Persaud Maraj:** Paragraph 16, please.

27 **Continued Cross-Examination By Mrs. Persaud Maraj:**

1 Q. In your statement to the Commission, do you have the
2 statement in front of you?

3 A. I'm seeing it on the screen.

4 Q. All right. Do you see what time you have there in relation to
5 the applicant being presented to you?

6 A. At about zero eight hundred? Yeah, approximate time.

7 Q. Right. And that's different from 7.20?

8 A. Yeah but it's approximate, at about 0800 hours, approximate.

9 Q. Well it's a substantially different time, 7.20 and 8.00 a.m.

10 A. Again, some of these were taken from memory so it would be
11 an approximate time.

12 Q. Let me take you to paragraph 20 of your statement. Now I
13 understand you to say that you're not very well aware of the
14 work to be carried out. Would that be fair—

15 A. Repeat the question?

16 Q. I understand you to be saying to the Commission you're not
17 very well aware of the works to be carried out. Would that be
18 fair?

19 A. No, I didn't say that.

20 Q. Okay. So, are you very well aware of the works that were to be
21 carried out?

22 A. I knew—on that particular day?

23 Q. On that particular day on the 25th.

24 A. Yeah it has the specific tasks listed on the permit to work.

25 Q. All right. So look at your paragraph 20.

26 A. All right.

27 Q. You have a number of tasks there to be done and I take you

1 to—well, let me just indulge. In relation to the job at berth
2 60—er, at berth number 6 as described in the PTW number
3 9320:

4 “Houston told me that LMCS would be removing the 30-
5 inch solid blank, also called the blind flange or solid
6 blind, from the top of the riser inside from the hyperbaric
7 chamber, conducting a pressure test on the riser flange,
8 weld and installing the 30-inch riser pipe. He also said
9 that if they had time to do so LMCS would remove 50-
10 inch flange from the top of the hyperbaric chamber. He
11 said that LMCS would not be doing any hot work that
12 day but if hot work were to be done, he, Houston, would
13 inform me.”

14 Good? I take you to the—to your statement that LMCS would
15 remove the 50-inch flange from the top of the hyperbaric
16 chamber. And my question to you is, that in relation to the
17 explanation that you gave as to the work to be done, isn't that
18 the first thing that has to be done in order for the risers to be
19 switched, the blank? Well, first of all, did you mean 50-inch
20 flange or blank?

21 A. The blank.

22 Q. Blank. Right. So we could correct that, right? And wouldn't
23 that have been the first thing to be removed before there can be
24 the switching of the risers?

25 A. Yeah, if they had to switch the—yeah if they had to switch the
26 risers.

27 Q. Right so you would like to correct that?

1 A. No. And on completion they would remove it as well. They
2 would remove it totally.

3 Q. Well we have to remove it in order to switch around?

4 A. No, on completion of the day's work when they switched the
5 riser, when they put on the riser they would have removed the
6 50-inch blank as well.

7 Q. Right. That is what you understood to be—

8 A. That's what he told me.

9 Q. That's what he told you, Mr.—

10 A. Houston.

11 Q. —Mr. Majardsingh?

12 A. Yeah.

13 Q. When you spoke to Mr. Majardsingh that morning, you said—
14 because you said part of the process that you were engaged in is
15 him having a conversation with you as to the work to be done.
16 Did he mention to you that there was a switch in relation to the
17 method statement and the order? I know you said that you're
18 not really concerned with the orders that has been placed in that
19 document but did he explain anything to that effect to you?

20 A. No. He indicated the specific tasks that they were going to do
21 that particular day.

22 Q. And that, that is what you've detailed at paragraph 20?

23 A. Yeah.

24 Q. Right. So for all intents and purposes you were not aware of
25 the—of any particular order in which the work was to be
26 carried out?

27 A. No. Again, could I expand?

1 Q. Go ahead.

2 A. Right. So, so, when an applicant brings a document to a site
3 authority, well me in this case, we hear what job they are going
4 to be doing, right, and based on that we make our operational
5 checks to make sure the job could go on because terminal
6 operations is, again, berthing and unberthing of vessels, so once
7 they bring the proposed specific tasks to be done via
8 conversation and on the permit itself, we check to see if they
9 have any operations in the area. Once they have no operations
10 in the area, again we would check the site, make sure the site is
11 operationally safe and make sure that the line is clear, which
12 was done prior, well prepared prior. So—

13 Q. So—

14 A. —with regard to that, whenever the specific tasks come to us
15 and our site preparations are okay, meaning it is safe and it
16 doesn't have an operational, any operational task inhibiting the
17 job to be done, we give okay.

18 Q. All right. So, there are two—I'm hearing from you there are
19 two aspects of this permit in terms of its operation.

20 A. Uh-huh.

21 Q. First, that the site in which the works are to be carried out is
22 safe, which is operational?

23 A. Operational—these—operational.

24 Q. That's essentially what you're saying to us?

25 A. Operationally safe, yes.

26 Q. Sorry?

27 A. Operationally safe meaning we have no operations going on in

1 that—

2 Q. Right. And that the second aspect would be that the work that
3 is to be carried out is done in the manner that it has to be carried
4 out and that is what the—Mr. Chairman would have gone
5 through with you in relation to the barriers?

6 A. Well, maintenance would have their method of doing their job.

7 Q. Right. But I think you've already accepted that in relation to
8 the work to actually be carried out, which is specified in the
9 method statement, it has to—there is that correlation and you
10 must be able to ensure that it is done in the manner that it ought
11 to be done?

12 A. No. I think we clarified that they jump from step to step in the
13 method statement.

14 Q. Okay. Specifically in relation to the barrier, you've placed on
15 this document, right, "Barrier to be used". Your understanding
16 is the barrier to be used, the precaution in relation to the work,
17 not in relation to operations of the area, correct?

18 A. Repeat the question, please?

19 Q. The barriers to be used that you had endorsed on the permit to
20 work system document—

21 A. Right, the migration barrier to be used.

22 Q. Migration barrier, that is the—specific in relation to the work
23 that is being carried out by LMCS?

24 A. Well—

25 Q. And not in relation to the operation of the job site?

26 A. Well, the thing is, if you have a obvious risk involved, you
27 would point it out, and the obvious risk there was if they're

1 doing work in the chamber, they needed to have the migration
2 barrier in place in order to continue doing work or even do
3 work at all.

4 Q. So this was an—these are your words—this was an obvious risk
5 to—

6 A. This is a obvious risk from—

7 Q. —to Paria?

8 A. To me, to me.

9 Q. To you?

10 A. To me, yeah. I worked site authority on that day.

11 Q. And you're Paria?

12 A. I'm Paria, yes.

13 Q. Right. So for all intents and purposes if LMCS, and I think Mr.
14 Chairman has dealt with this with you, if LMCS was to be
15 doing something that they ought not to be doing on that day,
16 vis-à-vis the removal of the barrier, then you should have been
17 able to step in at that point and stop it, correct?

18 A. Well, following the permit to work process, it would have to be
19 raised by the contractor official, then to the applicant, then to
20 me, to say stop.

21 **Mr. Chairman:** I think we have covered this.

22 **Mrs. Persaud Maraj:** Yeah, well we have. I accept that.

23 **Examination By Mr. Chairman:**

24 Q. Can I ask you though, please—

25 A. Yeah.

26 Q. —so that I have this again clear in my own head, looking at the
27 work permit and the process by which it's obtained, the

1 applicant to get the work permit isn't the contractee at all, it's
2 this man, Majardsingh, who works for Kenson, correct?

3 A. Works for Kenson that works for Paria, yes, so he comes for
4 permission to do the job.

5 Q. No, no I understand. I just want to understand the process.

6 A. Okay.

7 Q. Right?

8 A. Okay, yes.

9 Q. So the process is that the applicant for the work permit, and it's
10 described as an applicant on the work permit, you can put it
11 back up please, 1074, the applicant for the work permit is not
12 the contractee, that's not LMCS, it is Mr. Majardsingh who
13 works for Kenson?

14 A. Right.

15 Q. And Kenson works for you, Paria?

16 A. Yeah, but that's—well, yes.

17 Q. Am I right about that?

18 A. Kenson, he—well that's in the maintenance department, Paria
19 maintenance department.

20 Q. Yes but it's all the firm, the same company, isn't it?

21 A. Different, yeah, different departments.

22 Q. Of course there are different departments. I understand that
23 much. I might be a bit slow but I am getting it. Majardsingh
24 works for Kenson, Kenson is employed by Paria?

25 A. Yeah.

26 Q. The contractee ultimately signs, I think at the bottom of this
27 document? Can you just scroll down? I think there's

1 somebody there. I can't remember his signature, but right at the
2 very foot it says, "Contractor Official". Is that the contractee,
3 that's somebody from LMCS, is it?

4 A. Yeah that's the contractor official trained in the permit to work
5 system.

6 Q. Right. Okay. But the top part of this document, scroll back the
7 other way please, is filled out by this Kenson employee, isn't it?

8 A. Right.

9 Q. So, so that I have it, Kenson employed by Paria are making the
10 application for the work permit and the monitoring of the work
11 that's being done by the contractee, not the applicant, is being
12 covered by the contractee? Are you with me? So we've got
13 LMCS looking after themselves and we've got Kenson
14 employed by Paria making the application?

15 A. Well I wouldn't say they're looking after themselves.

16 Q. Well, that's what you did tell me earlier on, that they're
17 monitoring the work that they're doing.

18 A. No.

19 Q. It's their responsibility. You pointed out to me that made—

20 A. Well—

21 Q. —me look at some other document.

22 A. According to the permit to work system they would have to
23 indicate any change to the applicant—

24 Q. Yeah, yeah, yeah.

25 A. Yeah.

26 Q. Absolutely. But they're the ones who are monitoring that,
27 they're monitoring themselves over here doing the job and the

1 application is being made by Kenson of Paria and Paria employ
2 Kenson. That's how the system works. I'm not blaming you
3 for this, you understand?

4 A. Yeah, yeah, yeah. That's how the system works.

5 Q. I understand that that is the system and I want to consider the
6 system.

7 A. Yeah.

8 Q. You understand, part of our remit—

9 A. Yes.

10 Q. —is to consider the system, how it works or doesn't work, all
11 right? But that is what's happened here, isn't it?

12 A. Yeah.

13 Q. Thank you very much. Sorry to interrupt you.

14 A. Could I just add one more point?

15 Q. Yes of course you can.

16 A. Right, so, just a over you—the Kenson person from the
17 maintenance department brings the permit and then, well, after
18 we vet it operationally, deem it safe to do the job—

19 Q. Yes.

20 A. —we would sign, well, taking out in consideration our
21 operational precautions and then the process after is for the
22 applicant to explain to the contractor the essentials on the
23 permit, which is the specific tasks, the precautions that is
24 rendered on the permit—

25 Q. Uh-huh.

26 A. —that gives permission for the permit to be done under those
27 specific—on those specific precautions—

1 Q. Hmm.

2 A. —and the contractor as well, being a trained contractor official
3 in the permit to work system, accepts the permit.

4 Q. Yes. I'm not excusing anybody here—

5 A. Okay.

6 Q. —or blaming anybody here.

7 A. Right.

8 Q. I simply want to understand the process—

9 A. No problem.

10 Q. —and how it works—

11 A. Okay.

12 Q. —or doesn't, as I say.

13 A. Okay.

14 Q. But that's the position, and, as I say I don't blame you. You're
15 just applying the process.

16 A. Yes.

17 Q. Yes, thank you.

18 **Continued Cross-Examination By Mrs. Persaud Maraj:**

19 Q. At your paragraphs 54, 55, 56 and 57 of your witness statement
20 you've detailed what it is that you experienced after the
21 incident which occurred on the 25th and in that—in, in your
22 details what you basically say is that Kazim Ali Sr., Dexter
23 Guerra, Andrew Farah refused to engage or communicate with
24 you.

25 A. Well, they—there were refusals, and then I get an answer from
26 Kazim Ali stating that the divers went missing in the water and
27 he had only one diver available, which was the, um, which was

1 Farah, Andrew Farah, and he already checked in the chamber
2 and didn't see no one there.

3 Q. All right.

4 A. And then afterwards I started to gather information from other
5 people because I wasn't getting—

6 Q. Okay, no, stop right there.

7 A. Okay.

8 Q. So that information that you just said there, at this point,
9 looking back to the day in question, was there any more
10 information that could have been supplied to you by Mr. Ali or
11 any other person present there?

12 A. No. They refused to give me information.

13 Q. No, that's not my question. My question to you, looking back
14 to the information that was—you just said Mr. Ali gave to
15 you—

16 A. Uh-huh.

17 Q. —was there any other information available to him that he
18 could have given to you that he kept back at that point in time?

19 **Mr. Chairman:** With the greatest respect, I think in—how on
20 earth can he possibly know that?

21 **Mrs. Persaud Maraj:** Well—

22 **Mr. Chairman:** How can he know what Mr. Ali has in his
23 mind?

24 **Mrs. Persaud Maraj:** My question is in relation to what
25 information he would have had—

26 **Mr. Chairman:** You have to rephrase, you have to rephrase it.
27 He can't answer that.

1 **Mrs. Persaud Maraj:** I'll rephrase that.

2 **Continued Cross-Examination By Mrs. Persaud Maraj:**

3 Q. Can you recall the time in which you would have gone on to the
4 area, the site?

5 A. Okay, well my statement said 1512.

6 Q. So that's just after 3.00?

7 A. Yeah.

8 Q. And when you attended the site you saw Mr. Kazim Ali, Dexter
9 Guerra and Andrew Farah?

10 A. After I spoke with Kirt Scott and tried to find out information
11 on the berth then I saw them on the berth—on the barge, yeah.

12 Q. And you're saying that Kazim Ali told you that the divers were
13 missing, is that correct?

14 A. Well after, after progressively trying to get information from
15 them, yes, he told me the divers were missing in the water.

16 Q. All right. Could you confirm that at the time you were trying to
17 get information from them they were in conversation with each
18 other?

19 A. I can't—everybody was talking, I guess, in distance. I can't
20 confirm.

21 Q. When you were observing, we're not there.

22 A. Right.

23 Q. You were there, right, so you go into the barge, you go into the
24 site in which—in—that the incident took place?

25 A. Umm.

26 Q. And you're seeing LMCS' personnel gathering?

27 A. Right.

1 Q. You can identify these three persons that I just called?

2 A. Yeah.

3 Q. Andrew, Kazim, Dexter, correct?

4 A. Yeah.

5 Q. Right. I'm asking you, when you go in there and you're trying
6 to get information from them, if you were observing them
7 communicating, speaking with each other?

8 A. Well some of them was talking. I can't specify.

9 Q. I'm asking you about those three.

10 A. I can't specify, no.

11 Q. All right. So I'm going to put it to you that they were in a
12 conversation and they were communicating with each other and
13 I'm going to—you can answer that.

14 A. I can't—I, I don't know if they were engaged in any
15 conversation together.

16 Q. All right. And I'm also going to put to you that they were and
17 that they were actually speaking to each other about—but they
18 were in communication with each other for the purposes of
19 dealing with the issue of the missing divers.

20 A. Okay.

21 Q. All right.

22 **Examination By Mr. Chairman:**

23 Q. You were the site authority?

24 A. Yeah.

25 Q. You tell us in your statement that you were asking people, some
26 of the LMCS people—

27 A. Yeah.

1 Q. —what was going on and they were not answering you.

2 Correct?

3 A. Yeah.

4 Q. Right. Did you tell them that you were the site authority?

5 A. They—yes I, I told them I was the site authority and they knew
6 I am the site authority from—

7 Q. They knew that anyway?

8 A. Yeah, from, from issuing permits.

9 Q. So you were saying to them, “Look, I need to know what’s
10 going on”?

11 A. Yeah.

12 Q. “Tell me what’s going on.”

13 A. Yes.

14 Q. And they didn’t tell you?

15 A. They didn’t respond.

16 Q. They didn’t respond or—

17 A. They didn’t respond. They were walking away from me and
18 after several attempts then the only information I got was that
19 the guys were missing in the water and they only had one diver
20 available. They had checked inside the chamber and they
21 didn’t see anyone present.

22 Q. Right. That’s the extent of the information you got?

23 A. Yeah, that’s the extent.

24 Q. That they were not being operative? Is that what we’re to take
25 from there?

26 A. Well, they weren’t—yeah they weren’t being cooperative.

27 Q. Not with you anyway?

1 A. To give me information, no.

2 **Mr. Chairman:** All right, thank you. Is there anything else
3 about that that we need to know?

4 **Continued Cross-Examination By Mrs. Persaud Maraj:**

5 Q. You said in your statement that you attended to berth number 5
6 at least on two occasions on that day?

7 A. Yes, in the statement, yes.

8 Q. And that was because you had received reports that there were
9 noise or knocking coming from being observed at that riser?

10 A. I overheard personnel, LMCS personnel, indicating that they
11 were hearing knocking from berth number 5 riser, yes.

12 Q. All right. And you also said that you attempted to hear that
13 noise, to try to decipher that noise?

14 A. Yeah, with information and personnel missing, I tried to, as best
15 as I could to for—to go check.

16 Q. How did you check—

17 A. Okay.

18 Q. —to ascertain?

19 A. I went across to berth number 5 via launch.

20 Q. Which launch?

21 A. That—I can't recall at the time, but one of our Paria launches.

22 Q. All right.

23 A. Yeah? Um, right by the riser area there's a scaffolding.

24 Q. Uh-huh.

25 A. So I climbed on there and I was trying to knock with some,
26 some, some bolts in order to make a noise so I could try to
27 attempt to get some noise back to me and I didn't hear no, no,

1 um, no other knocking besides mine.

2 Q. And you did anything in particular to hear that noise?

3 A. Yeah. I placed my ear down on the flange itself and listened to
4 hear any noise that was coming back.

5 Q. On the flange at the riser at berth number 5?

6 A. Correct, yes.

7 Q. And you said that it was concrete coated?

8 A. The, the line itself is concrete coated.

9 Q. Not the riser?

10 A. Not the—well, it had—well, it had—

11 **Mr. Chairman:** It would seem that part of the riser is coated.
12 near to the top. The flange isn't coated.

13 **Mr. Ramdhan:** Yeah, the flange isn't coated, yeah.

14 **Continued Cross-Examination By Mrs. Persaud Maraj:**

15 Q. But not the riser?

16 A. The riser is coated up to a point and then it goes to a flange with
17 a blank on it.

18 Q. And you heard nothing?

19 A. I heard nothing.

20 Q. Was there any other person present—with you at the time that?

21 A. At that time it would have been me and the launch crew, the
22 launch crew and I.

23 Q. And there was no LMCS personnel?

24 A. At that time, no.

25 Q. What time was that?

26 A. I can't say. I was check back—um, right, so that would have to
27 have been after the coast guard same on site, so I just trying to

1 get a ballpark time with regard to it so that would be after—and
2 that would be after—

3 **Mr. Chairman:** Before or after Mr. Boodram came out of the
4 pipe?

5 **Mr. Ramdhan:** That was after.

6 **Mr. Chairman:** It was after?

7 **Mr. Ramdhan:** After, yes.

8 **Mr. Chairman:** It's probably enough, isn't it?

9 **Mrs. Persaud Maraj:** I have no further questions.

10 **Mr. Chairman:** Anybody else? Yes, Sir. Introduce yourself
11 please?

12 **Mr. Pegus:** Good afternoon Mr. Chairman. Chase Pegus on
13 behalf of Kenson.

14 **Cross-Examination By Mr. Pegus:**

15 Q. In answer to learned Senior, you referred to Mr. Majardsingh as
16 an approved applicant, yes?

17 A. Yes.

18 Q. He was in fact approved by Paria?

19 A. Correct.

20 Q. Right. Now, in your oral evidence in referring to Mr.
21 Majardsingh, you were not suggesting that Mr. Majardsingh
22 approved the documents attached to the permit to work?

23 A. No.

24 Q. Right.

25 **Mr. Pegus:** Mr. Chairman, just one last area. Can the witness
26 be shown the permit to work procedure which could be found at
27 page 20?

1 **Mr. Chairman:** On the screen.

2 **Mr. Pegus:** Yes. And I am looking specifically at section 5.1.

3 **Mr. Chairman:** It was on the screen. Right, here they are.

4 **Continued Cross-Examination By Mr. Pegus:**

5 Q. I'm looking at bullet point number six from the bottom, which
6 reads:

7 "Stop the work if there are changes in site conditions that
8 increase the risk or if new hazards are identified and
9 promptly notify the site authority of these changes."

10 A. Correct.

11 Q. You see that provision there, yes?

12 A. Yes.

13 Q. And you accept that that is the only condition under which Mr.,
14 Majardsingh could have stopped the work on the day in
15 question?

16 A. Could you repeat?

17 Q. I'm suggesting to you that under provision 5.1, bullet number
18 six from the bottom, which reads—this refers to the applicant:

19 "Stop the work if there are changes in site conditions that
20 increase the risk or if new hazards are identified and
21 promptly notify the site authority of these changes."

22 A. Yeah, yes, so he would only stop the work if he knew that the
23 conditions changed.

24 **Mr. Pegus:** Much obliged. That would be all, Mr. Chairman.

25 **Mr. Chairman:** Thank you. Yes. Mr. Ramoutar.

26 **Mr. Ramadhar:** Thank you so much.

27 **Cross-Examination By Mr. Ramadhar:**

1 Q. Good afternoon, Sir. Prakash Ramadhar on behalf of the family
2 Kurban—

3 A. Good afternoon.

4 Q. —and for Yusuf Henry. Mr. Pegus just pointed out one area of
5 authority given to Kenson to stop work which he read to us.

6 A. Uh-huh.

7 Q. Right? What was the authority given to Kenson to observe the
8 work actually being done?

9 A. Could you repeat?

10 Q. Of course. What was the authority or par given to Kenson to
11 observe the work actually being done to see there was a change
12 in circumstances?

13 A. Well, from the permit to work system the applicant is
14 responsible for doing this, these duties listed here and, as such,
15 if anything changes from the permit to work system.

16 Q. Yes. Let me make it quite clear. You appreciate safety is one
17 of the highest importance on the job site?

18 A. Yes.

19 Q. Kenson is there basically as an agent for Paria to ensure that
20 things go well?

21 A. Applicant, yes, he's the applicant.

22 Q. Well, forget applicant. Kenson, yes? Well what authority was
23 given to them? Because you've told us, and Chairman I'm so
24 grateful to you and of course my guru, Mr. Ramesh Maharaj in
25 his cross-examination, that you did not have anybody with eyes
26 on the work but allowed the contractor to continue whatever
27 they are to do, and only when this disaster occurred then you

1 came in?

2 A. Well, it's a maintenance activity—

3 Q. Yes, Sir—

4 A. —and being the applicant—

5 Q. —you are site authority. Don't tell me about maintenance here.

6 **Mr. Peterson SC:** Let us—

7 **Mr. Ramadhar:** With all due respect, Mr. Peterson, allow me
8 this.

9 **Mr. Peterson SC:** The witness is [*Inaudible*] to answer the
10 question.

11 **Mr. Ramadhar:** All right, of course, let's hear it.

12 **Mr. Peterson SC:** Mr. Ramadhar may not like the answer
13 but—

14 **Mr. Chairman:** I think that's a fair point, Mr. Ramadhar.

15 **Mr. Ramadhar:** Yes, of course.

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. It's a maintenance issue. You are site authority, correct?

18 A. I didn't say it's a maintenance issue, it's a maintenance activity,
19 and as site authority, we are in—we—site authority is
20 operations. We had no expertise to—

21 Q. There you go.

22 A. —to monitor a maintenance activity.

23 Q. Beautiful. So it was not your "wuk", to quote in Trinidad
24 terms?

25 A. I wouldn't say that—

26 Q. Whose job was it, then?

27 A. There are different departments.

1 Q. Yeah whose job? You are the site authority. Whose job was it
2 to look on to ensure that nothing went wrong in the procedure
3 that is so stipulated, whether sequential or otherwise? Whose
4 job was it, the contractor?

5 A. Could you, um, just specify the question again, Sir?

6 Q. Of course. Whose job was it to ensure the procedure was
7 properly carried out, whether sequential or not, on the work
8 permit?

9 A. It's—well it is the job of the applicant to ensure that—

10 Q. Right.

11 A. —the maintenance activity went according to—

12 Q. Good.

13 A. —their plan which was in reference to the specific tasks
14 identified on the permit.

15 Q. Thank you. Was Kenson given any authority to have eyes on
16 the job?

17 A. I can't, I can't say.

18 Q. Whose, who is it—

19 A. It's a maintenance task.

20 Q. —that would be able to tell us this?

21 **Mr. Chairman:** Well, just a minute.

22 **Mr. Ramadhar:** Sorry, My Lord.

23 **Examination By Mr. Chairman:**

24 Q. We're looking at a document that's on the screen which is the
25 permit to work procedure which you've referred to and a
26 number of people have referred to?

27 A. Yes.

1 Q. On at paragraph 5.1, that deals with the applicant. We know
2 the applicant to be Mr. Majardsingh?

3 A. Uh-huh.

4 Q. And he works for Kenson. At bullet point—sorry about 12, 10,
5 you could scroll to the next page please, about four down from
6 the top of the page, do you see it says there:

7 “Continually monitor the job to ensure that it is
8 performed in a safe manner and within the conditions
9 prescribed in the work permit certificates and JHA Risk
10 Management. He may sign the renewal section
11 indicating that he has audited the job.”

12 So he has an overall responsibility to oversee, is that right?

13 A. Yes because he would be in charge of the maintenance activity.

14 Q. Continually monitor?

15 A. All right.

16 Q. Right? So that I understand what’s being asked of you—

17 A. All right.

18 Q. —is, is, did he have authority to stop the job?

19 A. Yeah, everyone has authority to stop the job.

20 Q. Everybody?

21 A. If we deem something—

22 Q. Even the most junior person, if they see something wrong,
23 about to go wrong—

24 A. Yes.

25 Q. —it is, they have the authority—

26 A. A right to say stop.

27 Q. —to say stop?

1 A. Yes.

2 Q. It would ultimately come to you or to somebody more senior
3 eventually to determine when it should start again, if it does?

4 A. Right—

5 Q. But even the most junior person on the job has the authority to
6 say stop?

7 A. Yes.

8 Q. But, the applicant has, under Paria's own permit to work
9 procedure, been given specific authority, and obligation? It is
10 an obligation, isn't it?

11 A. Yes.

12 Q. On them to continually monitor the job and so if Mr.
13 Majardsingh was the person who understood that the barriers
14 should not be removed, he was the one to have told you or to
15 stop the job when they were being removed, wasn't he?

16 A. Yes, he would have to.

17 Q. And he would have had to have some responsibility, if not a
18 duty as I say, to monitor the work, wouldn't he?

19 A. Yes. Well, according to the permit to work system, yes.

20 Q. Yes.

21 A. He would have.

22 Q. Well, you're—you're—I mean not you personally—

23 A. Yes.

24 Q. —but, you know, your firm's permit to work system and you
25 being the site authority would have wanted to know?

26 A. Yeah.

27 Q. That's where they are, isn't it?

1 A. Yes.

2 Q. Yes thank you. I'm sorry, I—

3 A. In addition, there's also the duties of the contractor official as
4 well.

5 Q. Look, I'm not seeking to excuse anybody here.

6 A. Yeah, yeah.

7 Q. All right? And neither am I seeking to blame anybody here.
8 I'm trying to understand how the system works or doesn't.

9 A. Okay.

10 Q. All right. So Mr. Ramoutar was asking—

11 **Mr. Ramadhar:** Ramadhar Sir.

12 **Mr. Chairman:** Yes, thank you.

13 **Mr. Ramadhar:** Ramadhar.

14 **Mr. Chairman:** Ramadhar.

15 **Mr. Ramadhar:** Yes, thank you.

16 **Mr. Chairman:** So, I've been getting it wrong all this time?

17 **Mr. Ramadhar:** I know one—

18 **Mr. Chairman:** You're too kind not to have corrected me
19 thank you. Ramadhar.

20 **Continued Cross-Examination By Mr. Ramadhar:**

21 Q. Yes. So, as we have it, let me get this clear. You're the site
22 authority but you had no oversight. Is that accurate?

23 A. I'm responsible for the site.

24 Q. Listen to my question. You had no oversight. As the ultimate
25 authority, it's a big name, site authority, you had no oversight?

26 A. Oversight on?

27 Q. On everything.

1 A. I have oversight on the site.

2 Q. Okay let me make it quite clear. To ensure no one dies on your
3 site. The thing is, you had no oversight to ensure that no one
4 dies on your site?

5 A. We—the thing is—could I, could I explain?

6 Q. Please do?

7 A. There are various responsibilities in a permit to work system.
8 My responsibility as the site official was because the nature of
9 Paria's business is not maintenance, we have to ensure the site
10 is operationally safe in order to start the maintenance activity.
11 As site authority, that's our responsibility, to ensure the site is
12 safe for the maintenance work to happen. Now the
13 maintenance work, we have no experience in maintenance work
14 as the site official or the site. Operations has no, um, no—
15 sorry, operations has no experience in a maintenance activity.

16 Q. Right so—

17 A. We would not be able to supervise a maintenance job.

18 Q. I hear you. I hear you. So we're back to the position site
19 authority, that's not his "wuk" to quote what we say in
20 Trinidad.

21 A. I didn't say that.

22 Q. Whose job is it then?

23 A. The?

24 Q. Whose job is it to have oversight to ensure these things don't
25 recur?

26 A. In the maintenance job. It would be—

27 Q. Forget about maintenance. I don't—I'm not interested in the

1 titles. I'm interested in responsibilities.

2 A. Ummm.

3 Q. Who has the responsibility to ensure that these things do not
4 recur?

5 A. It's a system. It's a control of work. Everybody has—

6 Q. And the system failed, you agree? Or the system succeeded
7 excellently, to quote Mr. Wei?

8 A. I can't say. I don't have all the facts.

9 Q. You do not—well, let's see what facts you have. Four men are
10 now dead. You agree that's a fact? Do you agree that is a fact?

11 A. It is a fact.

12 Q. You're the site authority. You must have done some
13 introspection, if not more, to ascertain where the systems failed
14 to have allowed that, you agree?

15 A. Repeat the question?

16 Q. Certainly. You must have done some study, some introspection
17 to ascertain how come a system that you rely upon allowed four
18 men to have died, isn't that correct? Yes or no?

19 A. Could you rephrase?

20 Q. Mr. Chairman? Yeah, of course, I have life, I have time so I
21 would do so. Has there been any analysis—you know the word
22 analysis?

23 A. Yes.

24 Q. —as to how come the system, which you clearly rely upon,
25 failed to have allowed four men to have died? Have you done
26 any such analysis yes or no?

27 A. Myself, no. There would have been other, there would have

1 been other departments—

2 Q. You cared that men died under, in your site?

3 **Mr. Peterson SC:** Could the witness be allowed—if my friend
4 doesn't—is not interested in the answer, a simple process is to
5 withdraw the question or don't put it at all.

6 **Mr. Chairman:** Yes, I, I—again—

7 **Mr. Ramadhar:** Yes, yes of course of course. My friend and I
8 we're best friends for long and—

9 **Mr. Chairman:** Yeah, I know, you might be best friends
10 outside of court but inside, you know—

11 **Mr. Ramadhar:** And that is why I would not respond in the
12 way I would normally.

13 **Mr. Chairman:** Try to restrain your enthusiasm—

14 **Mr. Ramadhar:** Of course.

15 **Mr. Chairman:**—a little, please?

16 **Mr. Ramadhar:** Thank you. I'm of that age now. You're
17 right, right.

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. So, um, Sir, you did not, as site authority, consider where the
20 systems failed? Forget about others having to do it, you
21 personally, Sir?

22 A. It's not my responsibility to—

23 Q. Oh, it's not your “wuk”?

24 A. —the site—

25 Q. Not your “wuk”?

26 A. —if it be the system has failed, the system is a bigger part of
27 things.

1 Q. And you appreciate a clock—

2 A. And it's a collective agreement.

3 **Mr. Chairman:** You have to let him answer the question. If
4 you're going to ask it, you got to let him answer it.

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 A. Right, so the system itself is a bigger part, everyone has their
7 responsibility to develop the system.

8 Q. Yeah.

9 A. So I can't singularly analyze to determine the faults in the
10 system.

11 Q. Have you made any effort?

12 A. Effort?

13 Q. Yeah. To analyze?

14 A. To analyze it?

15 Q. Yeah.

16 A. Um, well the system—as in my position the system is to be
17 followed as it is.

18 Q. Right. So you know, as we've agreed, the system has failed
19 four men and their families and the country, you agree with
20 that?

21 A. If I agree that the system has failed?

22 Q. Failed yes?

23 A. I, I can't, I can't say to be honest.

24 Q. It has succeeded?

25 A. I, I have, I have not—I don't have all the facts on the system to
26 say or draw a conclusion to something like that.

27 Q. Four men died, a foundational fact.

1 A. With regard to the system—

2 Q. Right? I don't want to be repetitive because others may be
3 irritated by it, but I have to get to you, the fact that four men
4 died following your system—

5 A. Not my system, Paria's system.

6 Q. Well I call you by—you are Paria sitting in that seat today with
7 all due respect. Following Paria's system, four men died. You
8 are site authority. You went through that process in your mind
9 in your quiet moments to ascertain where things went wrong,
10 what could be done better to ensure no recurrence?

11 A. I couldn't do that because it wasn't my experience to do so. I
12 am involved in operations and—

13 **Mr. Chairman:** No, no it's not an entirely fair question, is it?
14 I mean, he is one individual in a very large organization.

15 **Mr. Ramadhar:** Of course.

16 **Mr. Chairman:** It is their responsibility to review the position,
17 all right? I dare say every single person who has been
18 concerned in this case have a personal introspection as to
19 whether they did their job properly or not, and if that's what
20 you're asking him, by all means ask him personally.

21 **Mr. Ramadhar:** Thank you.

22 **Mr. Chairman:** It's probably not going to advance the case
23 very much, though, is it?

24 **Mr. Ramadhar:** It may not but it's important to this extent.

25 **Continued Cross-Examination By Mr. Ramadhar:**

26 Q. Because you appreciate whatever organization there is, as
27 you've indicated, is made up of many parts and the parts have

1 to work together to ensure that the totality works as whole?

2 You agree with that?

3 A. Yes.

4 Q. Yes. Good. Like a clock, you remove one little piece, it
5 doesn't work well? You agree with that?

6 A. Okay, yes.

7 Q. Yeah. Now you are the site authority. You arrived shortly
8 thereafter this accident and you are saying that LMCS didn't
9 wish to speak with you?

10 A. I, I didn't say that. I said I attempted to talk to them—

11 Q. Uh-huh.

12 A. —and they didn't provide information until further when they
13 only indicated to me that the divers who was working in the
14 chamber went missing.

15 Q. But were they being cooperative? I think that was already
16 asked but for my refreshment?

17 A. At the time, no. I was constantly asking. I wasn't getting no
18 feedback.

19 Q. Who specifically were you asking?

20 A. I listed it in the statement.

21 Q. Yeah, give me the names?

22 A. That was Kazim Ali, Farah, Dexter.

23 Q. Right. Who represented Paria, apart from LMCS personnel
24 there, who represented Paria there? Kenson you've told us,
25 correct?

26 A. In maintenance or operations? Well Kenson in maintenance,
27 yeah.

1 Q. Who is on site as you arrived? Who did you first speak with?

2 A. That would be Kirt Scott.

3 Q. Representing whom?

4 A. Kenson/Paria operations.

5 Q. And you ascertained at best, as best as you could have, what the
6 status was at that time, men were missing, correct?

7 A. Yes.

8 Q. You, as site authority, you're the, you're the most senior man
9 on site at that point, isn't it?

10 A. At that time, yes.

11 Q. Yes. Was it, in your mind, the most important thing to rescue
12 possibly alive men, yes or no?

13 A. The thing is, when you reach on site with uncertainties, you
14 gather intimation—

15 Q. Correct, yes.

16 A. —to make your next—

17 Q. Yeah.

18 A. —your next move.

19 Q. Why are—you're getting information for what purpose?

20 A. For, for rescue.

21 Q. Right, good. So that was the foremost issue you had in your
22 mind, and you will get information to support the purpose of
23 rescue, is that accurate?

24 A. Correct.

25 Q. Yes. You of course know President Obama, you know who he
26 was. President Obama?

27 A. Yes.

1 Q. Right. You've heard the statement, "Trust but verify"? You've
2 heard that statement have you?

3 A. Yes, that's even before.

4 Q. Right, good. Did you trust the information you had at the time
5 when you got there?

6 A. Could you specify the, the information?

7 Q. Well you tell me what information you got when you got there
8 and whether you trusted it, speaking to Kenson, your agent?

9 A. Uh-huh. That's the question?

10 Q. Yes.

11 A. Yeah, well, the information that he gave me—

12 Q. Yes.

13 A. —was, um, he saw a splash on the screen and then he was
14 asking or enquiring about what happened to the personnel.

15 Q. Right.

16 A. He didn't get any feedback.

17 Q. As an experienced person, men in a chamber, splash on a
18 screen, you don't see anybody floating outside of the chamber,
19 you assumed they were either in the chamber or in the pipe. Is
20 that accurate?

21 A. I can't assume that.

22 Q. What could you—what did you assume?

23 A. From, from the information—

24 Q. From the information you had.

25 A. —that Kirt Scott gave me—

26 Q. Uh-huh.

27 A. —I had to gather more information and it maybe seem as

1 though it was time-consuming, however, it happened in a
2 matter of, say, on reaching on site gathering information before
3 I made my response was about 15, 15, 20 minutes—

4 Q. Congratulations. And what was your response?

5 A. Huh?

6 Q. What was your response in the 15 minutes?

7 A. Yeah, well, on gathering information, I—

8 Q. What was the response? We heard you and we congratulate
9 your 15-minute arrival.

10 **Mr. Peterson SC:** Could he be allowed to answer the question,
11 Sir?

12 **Mr. Ramadhar:** And I'm asking him specifically and he's on
13 a, on a—

14 **Mr. Chairman:** The problem is we're not getting any
15 information from him. We're getting it all from you at the
16 moment.

17 **Mr. Ramadhar:** Well—

18 **Mr. Chairman:** You've got—if you're going to ask him a
19 question he's got to be able to answer it.

20 **Mr. Ramadhar:** Thank you. Well—

21 **Mr. Chairman:** I know we're all trying to move along quickly
22 but—

23 **Mr. Ramadhar:** Yes.

24 **Mr. Chairman:**—er, you know, choose your questions a little
25 more carefully and allow him to answer them, please? All
26 right?

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. All right you've heard the Chairman's admonition, okay, so
2 let's refocus ourselves. I shall and you do, please? You arrive
3 within 15 minutes. You've told us this.

4 A. Yeah.

5 Q. Yes. What decision did you take to help rescue those men?

6 A. I tried to gather information from the contractor.

7 Q. Yeah. What decision did you take, seeing that you had failed to
8 obtain the necessary information you sought to require, what
9 decision did you take—

10 A. No, the—

11 Q. —to further the, further—to further the effort in your mind to
12 rescue?

13 A. No I'd mentioned it in my statement I'm—

14 Q. I'm not interes—with your leave—we're dealing with you here
15 live and direct.

16 A. I as I said, as mentioned in my statement, the only information
17 that I obtained was from Kazim Ali that men were missing in
18 the water.

19 Q. Uh-huh.

20 A. Thereon I dispatched our, um, launches, our emergency
21 response plan, which is dispatch all launches and tugs within
22 the area to see if we have bodies anywhere or if we could
23 recover personnel or re—or, sorry rescue personnel—

24 Q. Yeah.

25 A. —within the area because at the time the only information we
26 had is men were missing in the water.

27 Q. Right. Okay. So there you are, the most senior Paria man on

1 site. When did you next see anybody more senior than you on
2 site?

3 A. At 16, it's here in the statement, 16, Visham Harrichan arrived
4 on site—16:15.

5 Q. That is 4.15 p.m., correct?

6 **Mr. Chairman:** You're talking about Leeandra Singh?

7 **Mr. Ramadhar:** No, no, no. We're looking at the time, My
8 Lord, he was—er, 16:15 being 4.15.

9 **Continued Cross-Examination By Mr. Ramadhar:**

10 A. Yeah, approximately 16:15 that's the offshore lead at time.

11 Q. Offshore lead?

12 A. At the time, yes.

13 Q. You had a conversation with him?

14 A. Yeah. I transferred all the information I gathered to him.

15 Q. So you hand over to him?

16 A. I transferred all the information I gathered to him.

17 Q. Right. In other words it was no longer your responsibility, you
18 have a bigger boss there, is that it?

19 A. I didn't say that.

20 Q. I'm asking you.

21 A. I was still on site assisting in any way that I could.

22 Q. Right. But who then would have had authority to make
23 decisions? Was it you or in combination with this new bigger
24 boss?

25 A. Well at that time Visham Harrichan would have been in charge
26 and I assisting.

27 Q. Right. At that time, when he arrived, had it come to anyone's

1 attention that they were hearing knocking in the pipe by that
2 time?

3 A. No.

4 Q. No. You said you left there around what time?

5 A. Twenty-one thirty, around that time.

6 Q. Could you have Trini time, please, instead of military?

7 A. That would be 9.30.

8 Q. Nine thirty. So you were there when first of all knocking was
9 heard from the pipe, you agree?

10 A. I was there when someone mentioned that knocking was being
11 heard from berth number 5.

12 Q. You doubted that information?

13 A. No, I didn't doubt. I went across there and verified.

14 Q. And you verified?

15 A. Uh-huh.

16 Q. Was any step taken there and then to effect a rescue that men
17 were still alive and therefore precious life was available?

18 A. Well that was after Christopher Boodram was recovered.

19 Q. Yeah.

20 A. And that information that the divers told us that he was pulled
21 out from inside the pipeline was already passed on—

22 Q. Good.

23 A. —to the command.

24 Q. So I'm not—I shan't be longer with you except this. But when
25 Christopher Boodram came out, what time was this?

26 A. At around—I'll have to check back Sir. [*Perusing document*]
27 Seventeen thirty-six, I believe—17:36.

1 Q. Right. And you were present when he was rescued out the
2 chamber and brought out, is that accurate?

3 A. I was on the berth at the time, yeah.

4 Q. Yeah, you were there, right? So the proof of life of other men
5 was available at that time because he said men were behind
6 him, isn't it?

7 A. Well, that's what he said, yes.

8 Q. Yeah. You had reason to doubt him?

9 A. If?

10 Q. You had any reason to doubt him?

11 A. No.

12 Q. Thank you very much.

13 **Mr. Chairman:** Yes, thank you. Just pause for a moment.
14 Mr. Peterson, how long do you think you might be?

15 **Mr. Peterson SC:** I don't have anything Sir.

16 **Mr. Chairman:** You don't have anything.

17 **Mr. Peterson SC:** We don't have anything. I think the
18 witness has been—

19 **Mr. Chairman:** Right. Well, we're going to take a five-
20 minute recess and then we'll hear a little, probably not all, from
21 Mr. Scott.

22 **Mr. Pegus:** Mr. Chairman, if I may, please?

23 **Mr. Chairman:** Yes.

24 **Mr. Pegus:** Arising from Mr. Ramadhar's cross, I just want to
25 clarify one thing from this witness before he departs.

26 **Mr. Chairman:** What is it? Ask me first.

27 **Mr. Pegus:** What I want to get from this witness is that there

1 was no way for Mr. Majardsingh to supervise the removal of
2 this migration barrier and stop the works. What he said in
3 answer to Mr. Ramadhar is that anybody could have stopped
4 the work if it is they see something going not according to plan
5 with respect to the work permit.

6 **Mr. Chairman:** Ask him.

7 **Mr. Pegus:** Yes. Thank you very much.

8 **Further Cross-Examination By Mr. Pegus:**

9 Q. Now, in answer to my friend, Mr. Ramadhar, you made
10 reference to you who was a—who were a person in operations,
11 you couldn't supervise a maintenance job.

12 A. Correct.

13 Q. Right. Now, in further answer to him you indicated that there
14 were specific tasks on a work permit, yes?

15 A. Yes.

16 Q. And if it was found that the contractor, LMCS, was doing
17 something which was not according to plan, anybody coulda
18 stop them?

19 A. Correct.

20 Q. Right. Now, under the permit to work procedure, I believe the
21 learned Chairman pointed out to you, and I would read the
22 provision in the interest of time, that the applicant was to
23 continually monitor the job.

24 **Mr. Chairman:** It's on the screen.

25 **Continued Further Cross-Examination By Mr. Pegus:**

26 Q. Right, it's on the screen. You indicated that the applicant was
27 to continually monitor the job to ensure that it is performed in a

1 safe manner and within the conditions prescribed in the work
2 permit certificates and JHA risk assessment. You identified
3 that as being one of the duties of the applicant.

4 A. Yes, according to the permit to work system, yes.

5 Q. Right. And there you went on to say that the applicant could
6 have stopped the work if he noticed that there was a removal of
7 this migration barrier, yes?

8 A. Correct, if he noticed.

9 Q. Right. Now under the system that you all utilized, a lot would
10 have been—a lot would have depended, sorry, on the contractor
11 supervision in order for the applicant to stop the removal of the
12 migration barrier?

13 A. Correct, because the contractor was trained in the permit to
14 work system.

15 Q. Right. As you understand it, the contractor official provided
16 full-time supervision, yes?

17 A. That's how I understand it.

18 Q. And the only way Mr. Majardsingh could know that there was
19 going to be a removal of the migration barrier is if the
20 contractor official notified him?

21 A. Correct.

22 **Mr. Pegus:** Much obliged.

23 **Examination By Mr. Chairman:**

24 Q. Who's Scott—who is Kirt Scott?

25 A. Kirt Scott is an operator on my team.

26 Q. On your team?

27 A. Yes.

1 Q. Does he work for Paria?

2 A. He's a Kenson person—

3 Q. Kenson?

4 A. —working for Paria.

5 Q. Is he junior to Mr. Majardsingh?

6 A. Different departments.

7 Q. Completely different department?

8 A. Different department, yes.

9 **Mr. Chairman:** Thank you. Mr. Maharaj are there any
10 questions?

11 **Mr. Chairman:** No. We'll take our five-minute break and
12 then we'll have a little, but not all, I suspect, from Kirt Scott.
13 Thank you very much. Thank you for coming.

14 **Mr. Ramdhan:** Okay.

15 **Mr. Chairman:** Appreciate your attendance. You're free to
16 go. You can come and go as you please if you're interested, all
17 right?

18 **Mr. Ramdhan:** Yeah.

19 **Mr. Chairman:** So thank you very much for coming.

20 **Mr. Ramdhan:** Okay, I would just like to just say condolences
21 to the families, extend my condolences to the families of the
22 deceased.

23 **Mr. Chairman:** Very well, thank you.

24 **3.54 p.m.:** *Enquiry suspended.*

25 **4.02 p.m.:** *Enquiry resumed.*

26 **Mr. Chairman:** Hello. Would you take a seat for a moment,
27 Sir? Mr. Peterson, can I address a matter to you, please? We

1 made a request of Paria by letter on the 8th of November for the
2 IMT records. Without going through the litany of
3 correspondence that has passed between us and your instructing
4 attorney, the net result is that after all these applications and
5 being promised on no less than three separate occasions that we
6 would have at least some of the material we still do not have
7 any of it. And we're told that it is extensive and will have to be
8 provided by some sort of memory stick.

9 Now, I'm concerned because we're hearing from a number of
10 witnesses who work for Paria and it may be that this material
11 will reveal things that we would wish to ask them. I'm
12 releasing all of these witnesses at the moment but I'm really
13 very reluctant to do so and I really want these IMT records
14 provided to us this week, tomorrow if possible, and if you
15 haven't got it all, just give us what you've got.

16 **Mr. Peterson SC:** Sir, when I answered this morning about
17 Friday, I was at cross-purposes because I was—my team
18 thought that you had asked about that when they told me
19 Friday.

20 **Mr. Chairman:** Right.

21 **Mr. Peterson SC:** So I gave a commitment for the
22 supplemental statement with the survey which I think could still
23 be done, but the indication, when they told me Friday they were
24 speaking about that material.

25 **Mr. Chairman:** All right. So we can get it by Friday, can we?

26 **Mr. Peterson SC:** Yes. That's—

27 **Mr. Chairman:** That's more than reasonable.

1 **Mr. Peterson SC:**—when they said the Friday that what’s they
2 were speaking about.

3 **Mr. Chairman:** Right. Well, can I say this? I’ve no idea what
4 this material contains, and you probably don’t either. I don’t
5 know whether you’ve seen it.

6 **Mr. Peterson SC:** No I tell them, no, I tell them to assemble it.

7 **Mr. Chairman:** Right, well, I’m concerned that we’re being
8 given this material halfway through this Enquiry when we have
9 been asking for it for some time, but, be that as it I may, if I
10 don’t have it on Friday, if it’s not provided to us so that we can
11 at least start looking at it over the weekend, if we don’t have if
12 we don’t have it by Friday it will incur my displeasure, which is
13 not a happy sight.

14 **Mr. Peterson SC:** Yes, Sir I’ve, I’ve seen it. I’ve seen it, Sir.

15 **Mr. Chairman:** All right? You’ve seen it? I’m not sure you
16 have, actually. That’s me being jovial. All right? But I am
17 serious about this.

18 **Mr. Peterson SC:** Yes, Sir.

19 **Mr. Chairman:** I mean, we really must have it, all right?

20 **Mr. Peterson SC:** Sir, I, I will—

21 **Mr. Chairman:** So please—

22 **Mr. Peterson SC:** I will have my team—

23 **Mr. Chairman:**—impress upon them.

24 **Mr. Peterson SC:** You will have it.

25 **Mr. Chairman:** Thank you very much. All right, Sir, you are
26 Mr. Scott?

27 **Mr. Scott:** Yes, Sir.

1 **Mr. Chairman:** Please, would you stand for a moment while
2 you take the oath?

3 *[Mr. Kirt Scott sworn]*

4 **Mr. Scott:** I, Kirt Scott, solemnly swear that the evidence I
5 shall give to the Commission in this case shall be the truth, the
6 whole truth and nothing but the truth.

7 **Mr. Chairman:** Mr. Scott, make yourself comfortable. I'm
8 afraid I have an apology that you've been waiting I think all
9 day, have you not?

10 **Mr. Scott:** Yes, Sir.

11 **Mr. Chairman:** So I'm sorry that you've been waiting all day.
12 It's partly my fault and partly everybody else's but these things
13 take a little longer than we perhaps planned. My apology has to
14 extend a little further because I think it's unlikely that we will
15 be able to deal with your evidence completely today, which will
16 mean that you may have to come back tomorrow, all right? But
17 let's see how we get on. What we're going to do, is, Mr.
18 Bissessar there is going to summarize the evidence that you've
19 given us so far. Listen to it carefully. If you agree with it at the
20 end of his summary, tell him you agree with it and then we'll
21 see if there are any other questions from whoever needs to ask
22 you—are we asking any questions?

23 **Mr. Maharaj SC:** Yes.

24 **Mr. Chairman:** Yes, there will be some questions from Mr.
25 Maharaj, all right, and there—the other lawyers, some of them
26 may want to ask some questions as well. All right?

27 **Mr. Scott:** Yes, Sir.

1 **Mr. Chairman:** All right, thank you very much.

2 **Mr. Bissessar:** Thank you, Chairman.

3 Chairman, Mr. Kirt Scott declined the invitation to be
4 interviewed by the Commission and, in fact, a witness
5 summons was issued by the Commission to compel his
6 attendance and on the 2nd of December, 2022 Mr. Scott
7 provided a witness statement. It's an 11-paragraph witness
8 statement so rather than summarize I will simply read it. It's
9 fairly short.

10 **Mr. Chairman:** Sorry, where did you say it was again?

11 **Mr. Bissessar:** The 2nd of December. Um, it's at—forgive
12 me, it's 3029 of the supplemental witness bundle and it's on the
13 screen.

14 **Mr. Chairman:** Got it.

15 **Mr. Bissessar:** “My name is Kirt Scott. I have been an
16 offshore operator at Paria Fuel Trading Company Limited since
17 December 2018. I have been an offshore operator for the past
18 18 years. On the 25th of February, 2022 I reported for duty at
19 Paria at 600 hours. I recall arriving on berth 6 at about 8.20
20 hours. My role on the berth was to monitor the work area for
21 any signs of pollution, mainly all pollution, to be on the lookout
22 for any incoming vessels and ensure no work, other than the
23 operation within the defined area of number 36 Sealine riser,
24 was performed.

25 While performing my duties at about 14:45 hours I
26 noticed a splash on the monitor which was showing the ongoing
27 work activity inside the hyperbaric chamber. After this splash

1 that appeared on the screen, the screen went blank and I could
2 no longer see anything on the screen. Upon making this
3 observation I immediately alert LMCS' dive supervisor,
4 Andrew Farah. I also alerted LMCS' safety personnel who was
5 located on the nearby barge Adventurer One informing him of
6 my observation. I recall saying to him that something appears
7 to be wrong inside the chamber.

8 Upon alerting them, I noticed that they did not make any
9 immediate checks. I recall raising my voice demanding of them
10 that checks within the area and inside the Chamber be made. I
11 also demanded that they initiate their emergency backup plan as
12 I figured something was wrong. I recall telling them to try and
13 communicate with the personnel in the chamber via radio or by
14 knocking on the chamber. I also contacted the offshore
15 terminal supervisor Johnathan Ramdhan at approximately 14:50
16 hours and informed him that his immediate presence is required
17 at berth 6 as I was not getting any feedback from the contractor
18 with further information from the checks demanded.

19 At approximately 15:05 hours I observed the dive
20 supervisor was suited up with diving equipment and was told
21 by personnel on the barge that he was going to check inside the
22 Chamber. Shortly after, about 5 minutes, the dive supervisor
23 returned to the barge. I immediately demanded feedback from
24 the LMCS personnel on the barge, however, no feedback was
25 given. I continued to question the LMCS personnel on the
26 barge and I finally received feedback. One of the LMCS'
27 workers told me that the chamber was empty and that LMCS

1 divers who were in the chamber were all missing.

2 I recall asking what is the next step because the divers
3 could not be accounted for. I did not get an answer to this
4 question. I also recall speaking to LMCS' HSE personnel
5 requesting to view the recording from inside the Chamber in an
6 attempt to ascertain what happened, however, the HSE
7 personnel told me that only the dive supervisor can access that
8 recording.

9 At or around 15:12 hours, the OTS, Mr. Ramdhan,
10 arrived on site at berth 6. I recall informing him of my
11 observations. Upon his arrival I remained on berth 6 to provide
12 any assistance that may be required. I was not directly involved
13 in any rescue effort but assisted by locating and providing any
14 basic thing that was asked for, like rope or transmitting
15 messages from the berth to the shipping office. I recall leaving
16 the berth at around 19:30 hours.

17 I returned to Paria on the 26th of February, 2022 and Mr.
18 Ramdhan recorded a statement from me and he has exhibited a
19 true copy of that as A. Finally, I also answered questions asked
20 of me in an interview with the Occupational Safety and Health
21 Agency. A copy of those notes which was provided by the
22 Commission is attached and marked B.

23 Thank you, Chairman.

24 **Mr. Chairman:** Yes, thank you. Mr. Maharaj.

25 **Examination By Mr. Maharaj SC:**

26 Q. Mr. Scott, I just want to ask you a few questions. Okay?

27 A. Yes.

1 Q. You report for duties at Paria?

2 A. Yes.

3 Q. And you perform your duties at Paria?

4 A. Yes.

5 Q. And you are instructed by Paria officials what work to do?

6 A. Yes.

7 Q. And they also instruct you how to do the work?

8 A. Yes.

9 Q. And you have office facilities at Paria in order to perform your
10 duties? You have an office or you are there at the facilities?
11 What time you work? From what time to what time you work
12 at Paria?

13 A. Shift as a—

14 Q. Shift?

15 A. Yes.

16 Q. Now how many hours you—

17 A. Twelve hours.

18 Q. Twelve-hour shift. And during those 12 hours you're at Paria's
19 premises?

20 A. Yes.

21 Q. So on this—but they say you're a Kenson employee. Who you
22 are paid by?

23 A. By Kenson.

24 Q. So you are paid by Kenson but working at Paria?

25 A. Yes, Sir.

26 Q. Kenson is a contracting company?

27 A. Yes.

1 Q. What is your experience? You have any experience as an—
2 how long you're doing this job?

3 A. Well, at Paria, I branched over from Petrotrin into Paria.

4 Q. From Petrotrin.

5 A. Into Paria. On the port I start in 1998 as a pier man, then to
6 operator and in 2014—2012 then I start to act as dock
7 supervisor and on the closure of Petrotrin I had four years I'm
8 in the position of a dock supervisor.

9 Q. Okay. On the 25th of February, 2022 you were performing the
10 duties as what at Paria?

11 A. As a jetty—as a offshore operator.

12 Q. Offshore operator?

13 A. Yes.

14 Q. What those duties involved?

15 A. Those, those, um, those duties as a offshore operator consists of
16 taking mooring lines, standing by vessels to whether they're
17 loading or discharging cargoes and manning the berth facilities.

18 Q. Okay. But on that date, you were looking at, is it a video screen
19 when you saw this splash?

20 A. Yes, Sir.

21 Q. And you had a view of the chamber where the work was being
22 done?

23 A. Yes, Sir.

24 Q. And for how long have you—were you looking at the video
25 screen at the chamber on that date?

26 A. In between while I making, whilst making my checks I will
27 take a look because it was first time, first time I was

1 experiencing seeing the operation in the chamber, first time.

2 Q. Or it's the first time you were—

3 A. First time in the 24 years' service in the port, the first time I
4 was seeing that operation.

5 Q. So, you are not—were you monitoring the works that were
6 being done in the chamber that day?

7 A. No, Sir.

8 Q. No. Was anybody with you monitoring the works?

9 A. No, Sir.

10 Q. Do you know whether anybody was monitoring the works on
11 behalf of Paria that day?

12 A. I cannot say.

13 Q. You can't say. But from where you were—

14 A. Yes.

15 Q. —in relation to the chamber, you were topside obviously?

16 A. Yes.

17 Q. And where you were, in an office?

18 A. No, I was roaming, making my checks on the berth, but during
19 the course of the day, different people passed—partly
20 everybody who was on the berth who passed on the berth take a
21 look at the monitor screen.

22 Q. But could you explain to us how you could have seen this
23 splash? Where were you when you saw this splash?

24 A. The splash, I went, um, to check on a tarpaulin over the
25 monitoring area because the rain was falling and stopping so
26 whilst—so after checking the tarpaulin, after I would take a lil
27 look at the screen, at the screen before I make mih rounds again

1 and my eyes glanced on the screen and I saw the splash.

2 Q. And from what you are telling us, you are telling us accurate
3 information, this is the first time you were looking at the
4 chamber?

5 A. When? No.

6 Q. On the 25th of—

7 A. Um, on the 25th of February was the first time in my life I was
8 seeing inside of the chamber.

9 Q. Okay.

10 A. First time, from on the monitor on the screen.

11 Q. So that's first time you were—

12 A. First time in my life.

13 Q. And the only time—well, when you looked, before you saw the
14 splash—

15 A. Yes.

16 Q. —what did you see in the chamber?

17 A. I saw the personnels in the chamber at various time doing
18 various things.

19 Q. Did you see them, um, on screen—well you saw the pipe they
20 were working on?

21 A. I saw the top of the, um, the pipe where the flange was.

22 Q. Right. And you could have seen that they were doing some
23 work at the top of the pipe?

24 A. Yes.

25 Q. Taking out something from the pipe?

26 A. Yes.

27 Q. What you saw they were taking out?

1 A. First I saw they was working, moving some bolts from on the
2 blank. Right, and, um, during another time, um, another period
3 because every time I pass I would take a look. I saw personnel
4 operating a chain block and turning something.

5 Q. And turning something. If you see—I wonder if we could show
6 the—I wonder if the witness can see that mechanical plug on
7 the screen? I want to show you on the screen something and
8 you will tell me if you recognize it, okay?

9 A. Yes.

10 Q. Was it something like that you saw them working on?

11 A. Something like that I saw after take out of the pipe.

12 Q. I'm sorry?

13 A. Something resembling that I saw.

14 Q. Saw. And for how long you saw them working on that,
15 whenever you saw it, for how long you saw them?

16 A. I can't—

17 Q. Five minutes, 10 minutes, 20 minutes, how long?

18 A. I can't remember recall the exact amount of—

19 Q. No, I know you—

20 A. Could be about a—about an area for about a 5 minutes.

21 Q. For about 5 minutes?

22 A. Yes.

23 Q. And you saw it one time for 5 minutes or you saw it before?

24 A. No, the onlies time I saw it was when it was out of the pipe and
25 resting on the flange.

26 Q. On the flange?

27 A. Yes.

1 Q. So you saw it out of the pipe but did you see them working on it
2 too, moving it out?

3 A. I didn't know what they was working on.

4 Q. Okay. But could you see what was in the pipe when they were
5 working?

6 A. No, Sir.

7 Q. No. But how long—but from the time you saw them working
8 on the pipe to the time you saw them just, out of the pipe, in the
9 chamber, how much time, about how much time passed? I
10 know it's not exact. Tell me about how much time.

11 A. Well, whilst it was—whilst they was operating the chain block
12 and turning the thing, I would a left the area and returned. I
13 would have—because I didn't know what it is they was doing.

14 Q. Right. And then when you come back you saw it out or—

15 A. Yes, Sir.

16 Q. Yes. And how long was that from the time you saw it first and
17 you come back, about how long?

18 A. Roughly about could be about a 5 minutes or, or—

19 Q. For about 5 minutes?

20 A. Five to 10 minutes.

21 Q. Okay. I want to ask you something.

22 A. Yes.

23 Q. Do you know whether anybody from Paria, apart—well,
24 anybody who was working with Paria was monitoring that job
25 what was being done in the chamber?

26 A. Um, um, in between the, um, um, in the—during the course of,
27 um, of the, um, the operation, I saw various, various people

1 come by the screen there but I cannot, um, identify who is who
2 because I was not focused, um, on that area.

3 Q. Okay. But where is this screen? Where is this screen that
4 you're talking about? Where was the screen?

5 A. The screen was on a table on a—

6 Q. Topside?

7 A. Yes, Sir.

8 Q. But in an office, in—

9 A. No, no, no, on the walkway not too far from the riser.

10 Q. Or, on the walkway—

11 A. Yeah.

12 Q. —not too far?

13 A. From the riser. The area where you tour?

14 Q. So it's on the berth, then?

15 A. Yes.

16 Q. On berth number 6?

17 A. Yes, Sir.

18 Q. On the walkway?

19 A. Yes.

20 Q. And so people could walk and they could pass and they could
21 see what's happening?

22 A. Yeah, it was inside of the, um, the walkway, so once you, um,
23 you come on the berth you could take a look.

24 Q. Okay. Right. I want to ask you one more question.

25 A. Yes, Sir.

26 Q. You were not given any instruction by Paria that day to monitor
27 the work which was going on in that chamber?

1 A. No, Sir.

2 Q. No. Much obliged.

3 **Mr. Maharaj SC:** No further questions. Or I should ask—I'm
4 sorry, Mr. Chairman.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. Do you know whether anybody from LMCS—do you know the
7 company LMCS?

8 A. Yes, Sir.

9 Q. Do you know whether anyone from LMCS was monitoring that
10 work that day?

11 A. The majority of the time it had the guys' supervisor monitoring.

12 Q. By the camera or?

13 A. Yes, by the screen, by the, um, by the screen.

14 Q. You know the name of that person?

15 A. Um, Andrew.

16 Q. Andrew?

17 A. Yeah, yeah.

18 Q. Andrew. You know anybody—anybody else you know from
19 LMCS?

20 A. By name?

21 Q. Yeah?

22 A. Who was there?

23 Q. Yes

24 A. No, Sir.

25 Q. Um do you know anybody name from Paria who was there
26 looking at the screen? Do you know anybody? If you don't
27 know you don't know.

1 A. No, only about, um, in between I believe I saw the
2 maintenance, um, um, a maintenance technician, Houston, and
3 it had some other individuals but I not too familiar with the
4 maintenance personnel.

5 Q. Houston Majardsingh?

6 A. Yes.

7 Q. Okay.

8 **Mr. Maharaj SC:** I'm much obliged. Thank you very much.
9 Thanks, Mr. Chairman.

10 **Cross-Examination By Mr. Peterson SC:**

11 Q. Mr. Scott, good afternoon.

12 A. Afternoon, Sir.

13 Q. You said after you saw the splash on the screen you had to raise
14 your voice when you were trying to get persons to respond to
15 what you had seen on the screen. Do you remember saying
16 that?

17 A. Yes, Sir.

18 Q. Because you realized something went wrong in the chamber?

19 A. Yes, Sir.

20 Q. Who did you have to raise your voice and tell them to initiate
21 emergency backup plan? Who were you referring to?

22 A. First I notify the diver supervisor and the—

23 Q. That would be Andrew you spoke about?

24 A. Yes, Sir.

25 Q. Yes.

26 A. And the question with the emergency backup plan would a been
27 their HSE personnel, their safety personnel who was located on

1 the barge.

2 Q. All right. That was an LMCS person?

3 A. Yes, Sir.

4 Q. How many times you had to raise your voice to get their
5 attention and for them to respond?

6 A. Well, I can't recall exactly how many times.

7 Q. But it's more than once?

8 A. Basically, roughly.

9 Q. Right.

10 **Mr. Peterson SC:** Thank you, Mr. Chairman. That's all.

11 **Mr. Chairman:** Anyone else?

12 **Cross-Examination By Mrs. Persaud Maraj:**

13 Q. Mr. Scott, good afternoon.

14 A. Afternoon, Ma'am.

15 Q. Kamini Persaud from LMCS, representing LMCS. You said
16 you had to raise your voice but then at paragraph seven
17 paragraph seven you said shortly after, about 5 minutes, the
18 dive supervisor returned to the barge. "I immediately
19 demanded the feedback", but then you later said—well, you
20 don't later say it. Did you observe him taking a walk around
21 the area and looking back from where he was sit—first of all,
22 was Mr. Andrew Farah sanding or sitting?

23 A. He was walking towards the monitor.

24 Q. All right. And then you observed him walking around the area
25 looking into the water around the monitor, where the monitor
26 was situated?

27 A. Um, I did not observe that.

1 Q. Did you observe him speaking or shouting to anyone across the
2 barge, to the barge?

3 A. I can't recall right now.

4 Q. Did you observe or heard anyone from the barge speak to Mr.
5 Farah?

6 A. Not from where I was.

7 Q. Did you observe Mr. Farah go into the water, put on his gear
8 and go into the water?

9 A. Yes.

10 Q. And how long would that have been after the splash was
11 observed?

12 A. That could have been approximately, approximately about a 15
13 to 20 minutes after.

14 Q. Fifteen to 20 minutes after.

15 A. Approximately, approximately.

16 Q. All right. Thank you. That's all.

17 **Mr. Chairman:** Well you had a long day just for a relatively
18 short contribution but I'm grateful nonetheless. Thank you
19 very much for coming.

20 **Mr. Scott:** You're welcome.

21 **Mr. Chairman:** All right, you are free to go.

22 **Mr. Scott:** Thank God.

23 [*Laughter*]

24 **Mr. Chairman:** I think you're not the only one who's going to
25 say that tonight. Thank you. Please go. Yes. You can go out
26 this way, come on. That's it. All right. Well, happily we've
27 managed to at least conclude at a reasonable hour. So we will

1 stop today and we will start—I think we'll stick with 9.30
2 tomorrow morning. I see you shake your head Mr.—

3 **Mr. Peterson SC:** No my colleagues blaming me for this but
4 that's not the only burden—

5 **Mr. Chairman:** I think your shoulders are broad enough.

6 **Mr. Peterson SC:** That's not the only burden I have been
7 asked to carry, Sir.

8 **Mr. Chairman:** Well, it's at your suggestion we're at 9.30
9 otherwise it might be 9.00. All right 9.30 please tomorrow
10 morning. Thank you very much indeed. Please feel free to go.
11 I'm going to collect my papers myself.

12 **4.28 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 6**

2 **9.28 a.m.:** *Enquiry commenced.*

3 **Mr. Chairman:** Good morning, everyone. Can I tell you all
4 that, on the 30th of November, the Commission wrote to Mr.
5 Zayed Khan who wrote a report which we've referred to as the
6 In-Corr-Tech report, and we asked him a number of additional
7 questions which are in a letter, as I say, dated the 30th of
8 November. Today we received a reply to those queries. Both
9 of these documents will be put up on the website today so that
10 you can see what we asked and what the answers were.
11 They're not without interest so you might want to avail yourself
12 of the opportunity to do that. If anybody needs a hard copy, I
13 dare say we could arrange it for you. All right, thank you very
14 much.

15 This morning our first witness, I believe, Mr. Maharaj, is
16 Andrew Dopson. Is that right?

17 **Mr. Maharaj SC:** Yes, Mr. Chairman.

18 **Mr. Chairman:** Okay, well, then let's get to it, shall we?

19 **Mr. Maharaj SC:** Ms. Vijaya Maharaj will read the summary.

20 **Mr. Chairman:** Yes.

21 [*Mr. Andrew Dopson enters Enquiry room and affirms*]

22 **Mr. Dopson:** I, Andrew Dopson, do solemnly, sincerely and
23 truly affirm that the evidence that I shall give to the
24 Commission in this case shall be the truth, the whole truth and
25 nothing but the truth.

26 **Examination By Mr. Chairman:**

27 Q. Good morning, Mr., is it Dobson or Dopson.

1 A. It doesn't matter. It sounds the same.

2 Q. It matters to everybody else here, not least because I get
3 everybody's name wrong all of the time, so I am the worst
4 person for that, for which I'm eternally embarrassed but would
5 you—it's Dopson is it.

6 A. Dopson, yes.

7 Q. I say Dopson as in—

8 A. Yes.

9 Q. Marvellous. Well, thank you for coming, Mr. Dopson. What's
10 going to happen next is this. Is Mrs. Maharaj going to read?
11 Right. Mrs. Maharaj is going to read a summary of your
12 evidence to the Commission so far in your statement and
13 elsewhere, and listen to it carefully, please? If you agree its
14 contents she will ask at the end do you agree and if you do then
15 fine, and then we'll go to any additional questions that will
16 need to be asked by any other counsel who are here. All right?

17 A. Yes, Sir.

18 Q. So that's the procedure. If there's any problems or issues arise
19 just let me know and we can stop, all right?

20 A. Definitely.

21 Q. Thank you very much.

22 **Mr. Chairman:** Thank you, Ms. Maharaj.

23 **Ms. Maharaj:** Thank you. On the 4th of September, 2022 Mr.
24 Andrew Dopson submitted a statement to the Commission
25 dated 2nd December, 2022. That witness statement is in the
26 supplemental witness statement bundle at page 2020—3020.
27 Mr. Dopson had declined to be interviewed by the Commission.

1 Mr. Dopson is a health safety and environmental
2 technician employed at Paria since 2019. He's employed by
3 Kenson Operation Limited but assigned to Paria. In the
4 execution of his duties Mr. Dopson was under the direction,
5 sorry, the direct supervision of Paria's HSE coordinator, Mr.
6 Paul Yearwood. He took all of his instructions from Mr.
7 Yearwood who would normally tell him what his duties are on
8 a daily basis.

9 On the 25th February, 2022 based on the instructions
10 which he received from Mr. Yearwood, Mr. Dopson had the
11 limited function to periodically check the hyperbaric chamber
12 to ensure that the air quality in the chamber was safe and to
13 make checks to ensure that the hot work conditions were
14 satisfied and maintained by LMCS. Mr. Dopson was present
15 when toolbox meeting commenced at about 8.00 a.m. on
16 LMCS' barge on the 25th of February. The meeting was led by
17 LMCS' HSE officer, Mr. Paul Dhillpaul, and LMCS' Managing
18 Director Mr. Kazim Ali Jr.

19 At this meeting the activities for the day was discussed
20 followed by a prayer. Following that meeting, Mr. Dopson
21 accessed the area of the hot works which included the air
22 compressor area on LMCS' barge and the operation of the
23 crane to ensure that all hot work conditions were met by the
24 contractor prior to the commencement of work by the
25 contractor. Mr. Dopson was satisfied that all safety conditions
26 were met and he revalidated the hot work certificate for work to
27 commence by LMCS.

1 At 9.30 a.m., Mr. Dopson performed an atmospheric
2 test of the interior of the hyperbaric chamber via valve located
3 on the top cover of the said chamber. He deemed the
4 atmosphere inside the hyperbaric chamber safe for work and
5 updated Paria's offshore terminal supervisor, Mr. Johnathan
6 Ramadan of same.

7 Work commenced in the hyperbaric chamber from 10.00
8 a.m. until about 1.45 p.m. During this time, Mr. Dopson did
9 periodic atmospheric checking/testing to ensure that the
10 atmosphere inside the said chamber did not change and/or was
11 safe for work to continue therein. He also produced in his
12 witness statements at page 3027 a daily activity report for 25th
13 of February, 2022 containing a log of the checks and the times
14 they were made by him. Mr. Dopson says he also ensured that
15 all hot work conditions/precautions remained unchanged.

16 At around 1.45 p.m. the works in the chamber stopped
17 and Mr. Dopson observed the divers Kurban, Henry and
18 Nagassar exit the chamber. He then left berth 6 and returned to
19 shore for lunch. He stated that he didn't have to be on the site
20 at all times as his role on that day was to make periodic checks.
21 At about 2.50 p.m., Mr. Dhillpaul informed Mr. Dopson on his
22 cell phone that LMCS' diving supervisor, Mr. Andrew Farah,
23 reported that he observed a splash on the remote monitor which
24 showed the activities inside the chamber and thereafter they lost
25 communication with the divers.

26 Mr. Dopson immediately informed Mr. Ramadan as well
27 as Mr. Yearwood of the information received and he then

1 returned to berth 6 at 3.12 p.m. to meet Mr. Dhillpaul to gather
2 more information as to what occurred. At 4.55 p.m., Mr.
3 Dopson observed three divers, Cody, Ramoutar and Michael
4 Kurban arrive on the scene to assist in a search and rescue. At
5 around 5.10 p.m., Mr. Dopson heard a knock sound and a voice
6 which appeared to be in distress coming from the hyperbaric
7 chamber. Upon hearing this, he climbed onto the scaffolding
8 leading from the berth to the top of the chamber and made
9 contact. He shouted, "Help coming", to which a voice replied,
10 "Okay". Mr. Dopson then observed that Christopher Boodram
11 was pulled out of the chamber by Cody and Ramoutar.

12 Mr. Dopson assisted Mr. Boodram upon a launch vessel.
13 He performed a body scan assessment to determine if Mr.
14 Boodram sustained any trauma. He used a knife to expose his
15 body suit and observed trauma to the left side of his face, the
16 left arm, left torso and right ankle. There was no exposed
17 bones or bleeding. Mr. Dopson used a rag to clean Mr.
18 Boodram's mouth, eyes and ears due to the presence of
19 hydrocarbon on his entire suit and body. Mr. Boodram
20 appeared to be in pain.

21 Mr. Boodram was transported back to shore and handed
22 over to Paria's ambulance staff by Mr. Dopson. Mr. Dopson
23 then returned to berth 6. At approximately 7.00 p.m., Mr.
24 Dopson took five empty scuba cylinders from LMCS' barge
25 back to shore for refilling. He says these cylinders were used
26 by the rescue divers on site. At 8.15 p.m., Mr. Dopson boarded
27 a vessel to return to berth 6 where he remained until around

1 10.15 p.m. He had no further involvement in the matter and he
2 returned to work at Paria on the 7th of March.

3 Mr. Dopson, is this an accurate summary of your
4 evidence?

5 **Mr. Dopson:** Yes, definitely.

6 **Ms. Maharaj:** Yes thank you.

7 **Mr. Chairman:** Mr. Maharaj, are there any questions?

8 **Mr. Maharaj SC:** Yes, Mr. Chairman. Thank you.

9 **Examination By Mr. Maharaj SC:**

10 Q. Mr. Dopson, is it correct that even though you were employed
11 by Kenson, you worked full-time at Paria in the HSE
12 department as an HSE technician?

13 A. Not full-time, as and when required, but yes, in the HSE
14 department at Paria.

15 Q. And you took instructions, when you worked there, from Mr.
16 Paul Yearwood?

17 A. That's correct.

18 Q. He gave you instructions for what to do and how to do it?

19 A. Yes.

20 Q. Yes. And, you say you didn't work full-time. You worked
21 every day of the week?

22 A. Most times every day of the week but our contract with Kenson
23 states as and when required. So we may work two weeks for
24 the month or three weeks. It depends on the workload.

25 Q. Okay. But on this day in question, you were working at Paria at
26 the offices of Paria and you were taking full instructions from
27 Paria?

1 A. Yes.

2 Q. As to what to do and how to do it?

3 A. Yes.

4 Q. Correct. I want to—you were present at the toolbox meeting on
5 that day?

6 A. That's correct.

7 Q. At the toolbox meeting, what was your function? What was
8 your duty?

9 **Mr. Chairman:** Which one? Five or 6 or both?

10 **Examination By Mr. Maharaj SC:**

11 Q. At berth 6, sorry, at the toolbox meeting at berth 6.

12 A. Yes. So my presence there, in my normal duties I don't have to
13 be there but why I went is because I would like to know what
14 the contractor is actually about to do, so I can have a idea or if I
15 have to discuss any further hazards with regard to our facilities
16 there. Right? So I made myself present there to be involved in
17 that toolbox meeting.

18 Q. But you got instructions from Mr. Yearwood to go there?

19 A. Yes, definitely. Definitely.

20 Q. So your instructions from Mr. Yearwood, who was the superior
21 officer at—a senior officer at Paria—

22 A. Yes.

23 Q. —to go to the toolbox meeting and to report to him what was
24 happening?

25 A. Yeah. That's normal.

26 Q. So, what was your function then at the toolbox meeting, to see
27 what work was to be done or what was your function?

1 A. Yes, um, basically to document, like what work needs to be
2 done, and ensure that the permit and the hot works certificate
3 was in alignment to what work was to be done by the contractor
4 on that day.

5 Q. Yes.

6 **Mr. Chairman:** The work permit and?

7 **Mr. Dopson:** The hot work certificate.

8 **Examination By Mr. Maharaj SC:**

9 Q. So, you regarded your duty was to ensure that the matters
10 referred to in the work permit were complied with?

11 A. Yes.

12 Q. And therefore you spent some time monitoring the works which
13 were being done?

14 A. Well I wouldn't want to say monitoring because there was a
15 waiting period. This is not a regular job where you just go on a
16 construction site and you start to function. They were to do
17 certain things before they actually entered the chamber. Right?
18 So, in between, I would have been doing periodic checks.

19 Q. You know Mr. Manmohan Balkaran?

20 A. Yes I do.

21 Q. And he—what he is at Paria?

22 A. I believe he is the maintenance lead.

23 Q. Yes. Did you perform day-to-day monitoring of the works?

24 A. No.

25 Q. At Paria?

26 A. Of this, of this particular task?

27 Q. Yes.

1 A. No, I did not.

2 Q. So on that date, what I want to get from you, and I want to—if
3 you could answer me—

4 A. Yes.

5 Q. —on that day you went to the toolbox meeting, you knew what
6 were the works to be done because that was discussed at the
7 meeting?

8 A. Yes.

9 Q. And did you have a duty to monitor the works after the toolbox
10 meeting?

11 A. No. My duty was to do periodic checks as per the permit to
12 work.

13 Q. Periodic checks on what?

14 A. On the work area, so the hot work tasks which were the
15 operation of the crane barge and the operation of the
16 compressor.

17 Q. So your monitoring—are you telling us, your monitoring and
18 your instructions from Paria—

19 A. Yeah.

20 Q. —was just to monitor what?

21 A. The hot work activities which were the operations on the crane
22 barge and the operation of the air compressor as well as the
23 atmospheric testing which is the air that exits the chamber.

24 Q. So your work did not—

25 **Mr. Chairman:** Just a moment let me just understand that,
26 thank you.

27 **Examination By Mr. Chairman:**

1 Q. So just reiterate please for me what you say you were
2 monitoring?

3 A. Right? So, there were certain conditions that the contractor had
4 to meet and upkeep, for example, we had hot work.

5 Q. I don't want examples. I just want you to tell me please what
6 were you monitoring?

7 A. Monitoring to ensure that the contractor upkept the conditions
8 that were required on the hot work certificate.

9 Q. Right.

10 A. And also to ensure that the quality of air inside the chamber
11 remains the same at all times or remains unchanged.

12 Q. Thank you.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. Did you have to monitor whether the migration barrier—you
15 know what was the migration barrier?

16 A. Yes, yes I do.

17 Q. Did you have to monitor whether the migration barrier was
18 being used?

19 A. No.

20 Q. So you did not get any instructions to monitor the migration
21 barrier?

22 A. No.

23 Q. No.

24 **Mr. Chairman:** Well before you move on from that please,
25 can I just understand that?

26 **Examination By Mr. Chairman:**

27 Q. See, we've been told that the migration—one of the purposes of

1 the migration barrier was to ensure that there were no fumes—

2 A. Yeah.

3 Q. —emanating from the pipe into the chamber. Yes?

4 A. Yes.

5 Q. You would agree with that presumably?

6 A. Agreed.

7 Q. Right. So obviously—were you aware that the migration
8 barrier was already in place?

9 A. Yes, I was already aware.

10 Q. It would of course concern you, I imagine, if that migration
11 barrier were removed?

12 A. Yes it would have caused concern definitely.

13 Q. Because that would mean that there was at least the possibility,
14 if not probability, of fumes emanating from the pipe into the
15 chamber?

16 A. Definitely.

17 Q. So any removal of the barrier would be something that you
18 would wish to know about?

19 A. Yes.

20 Q. And if you did know about it, what would you have done?

21 A. Well, first I would have asked the contractor supervisor to halt
22 the operation.

23 Q. Right, stop?

24 A. Yes.

25 Q. So the minute you were—had you been made aware that
26 someone in that chamber was removing the barriers, you would
27 have said stop?

1 A. Definitely.

2 Q. Because, as far as you were concerned, that might impact on the
3 air quality, if nothing else, in the chamber?

4 A. Definitely.

5 Q. Right. Were you told that the barrier was being removed?

6 A. No.

7 Q. Were you ever told that the barrier would be removed that day?

8 A. No.

9 Q. No. So do we take it then that your understanding of the
10 position is that there should have been no removal of that
11 barrier?

12 A. Correct.

13 Q. Right. Um, we've also heard evidence that the removal of that
14 barrier took some time to do—

15 A. Yes.

16 Q. —because they're two for a start. How often—you said you
17 were carrying out periodic checks. How often were your
18 periodic checks?

19 A. So based on the report that is on the screen there, I believe I did
20 it every hour but I remained on the berth because normally
21 there's a transportation issue. If we go to shore and come back,
22 I may not be able to get in the specific time frame that I looking
23 at.

24 Q. Yes. Were you aware, then, that before lunch on the 25th the—
25 one of the barriers had been removed?

26 A. No, I wasn't aware of that.

27 Q. You say you checked for what was going on, periodically about

1 every hour you say. Is that right?

2 A. Yes, correct.

3 Q. So am I to understand you were actually stationed on berth 6?

4 A. No. I was back and forth, on the barge and on berth 6 because
5 the operation of the crane barge and the operation of the
6 compressor was on the barge.

7 Q. Right. So between the two, but I mean they're next to each
8 other, aren't they?

9 A. Yes.

10 Q. Literally stemming off the barge stepping onto the berth then
11 back again, right?

12 A. Correct.

13 Q. All right, so in the period of time that you were there, and I
14 think it was up until lunchtime, is that right?

15 A. Yeah, about lunchtime.

16 Q. So had the men stopped work for their own lunch before you
17 left? You're nodding. You have to say yes or no.

18 A. Can you repeat the question?

19 Q. Yes. The men who were working in the hyperbaric chamber,
20 they stopped for lunch, we know they stopped for lunch at a
21 particular time, had you—did you—were you there when they
22 stopped for lunch?

23 A. I left when they stopped or lunch, so I—

24 Q. When they stopped for lunch you stopped for lunch?

25 A. Yeah.

26 **Mr. Chairman:** Thank you. I'm sorry, Mr. Maharaj.

27 **Mr. Maharaj SC:** Much obliged.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. But after lunch you went back in the hyperbaric chamber?

3 A. Technically, no, not inside.

4 Q. Not inside?

5 A. No, Sir. I'm not a diver.

6 Q. Okay.

7 **Mr. Chairman:** You went back to the berth.

8 **Mr. Dopson:** [*Nodding*]

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. You went back to the berth?

11 A. Before, before I returned to the berth I got a phone call that
12 there was, that there was an emergency and the divers were
13 missing.

14 Q. Okay.

15 **Examination By Mr. Chairman:**

16 Q. You could put time on that, can't you? I think you stopped
17 work when they stopped work which is about at about, um—at
18 about, um—

19 A. One forty-five?

20 Q. —1.45, yes.

21 A. Yeah, around that.

22 Q. That's the sort of time. They remained on the barge, didn't
23 they?

24 A. Yes.

25 Q. And then you got one of the Paria boats back to the—

26 A. No, I actually left on the LMCS pirogue.

27 Q. All right, well, whichever.

1 A. Yeah.

2 Q. You left on a boat and went back to shore?

3 A. Yes.

4 Q. To have your own lunch?

5 A. Yes.

6 Q. But before you could get back you heard that there had been
7 problems?

8 A. Yes.

9 **Mr. Chairman:** All right, thank you very much.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. As an HSE technician, you knew that Paria had a screen to
12 monitor the works that were going on in the chamber?

13 A. I believe that screen belonged to LMCS so—

14 Q. But do you know what was the purpose of that screen?

15 A. I am of the belief that it was to monitor the activity inside and
16 to maintain line of sight between the dive supervisor and the
17 workers in the chamber.

18 Q. And who used that screen to monitor the works?

19 A. That would have been the dive supervisor from LMCS. I
20 believe his name was Andrew as well.

21 Q. So Paria did not use that screen to monitor the works?

22 A. No, I hardly so even see anybody.

23 Q. So as far as you are telling us, was there any system that you
24 knew that Paria monitored the works continually during its
25 operations that day?

26 A. No, not that I know of.

27 Q. Not that you know of.

1 A. No.

2 Q. Now, Mr. Balkaran swore to an affidavit—I'm sorry, he signed
3 a witness statement in these proceedings and I want you to tell
4 me if what he said is true. At page 1436 paragraph 43, he says
5 that you were assisted by Rajiv Mangalee and Houston
6 Marjadsingh in performing the day-to-day monitoring of the
7 works. You want to put it up? One four three six paragraph 43.

8 **Mr. Chairman:** And whose statement is this?

9 **Mr. Maharaj SC:** Manmohan Balkaran.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. Look at three.

12 A. Yes, um—

13 Q. Paragraph 43:

14 "Performed day-to-day monitoring of the works along
15 with the terminal operations personnel such as Kirt Scott,
16 Kenson, and HSE personnel such as Andrew Dopson."

17 A. Yes. So the part where my name is there, Andrew Dopson, yes,
18 I will do day-to-day monitoring. So the first day of the job
19 activity would have been on the 15th and the second day would
20 have been on the 25th.

21 Q. So—

22 A. So those are the days.

23 Q. —your understanding of your duties on that day was not to
24 monitor the works continuously?

25 A. No. That is not in my job description nor the, in the competent
26 person duties which I performed. Er, the competent person
27 duties is part of the permit to work procedure. So to actually

1 monitor, I am not aware of that.

2 Q. Okay. If you had the duty that day to monitor the works that
3 was being done in accordance with the work permit and if you
4 had seen on the screen that the plugs were being removed, what
5 would you have done?

6 A. I would immediately contact the contractor official and have the
7 job stopped.

8 Q. Good. I want to refer you to an activity report which you did at
9 10, CB 2, 1021. CB 2, 1021. And that was a report you did in
10 respect of berth 6 on the 15th of February, 2022.

11 A. Yes.

12 Q. And you would see there that you did a very detailed report, not
13 so?

14 A. Yeah.

15 Q. In effect you stated what you saw, the activities, and everything
16 that you saw. So won't you agree with me that your job really
17 was to monitor the works to ensure that the works were done in
18 compliance with the work permit?

19 A. From the permit to work system, no. That is the duty of the
20 applicant and the contractor official.

21 Q. That's the duty of?

22 A. The applicant and the contractor official.

23 Q. That's how you understood it to be?

24 A. Yes. My function is basically to carry out the duties of the
25 competent person.

26 Q. To carry out the duty of the competent person. And who is the
27 competent person?

1 A. According to the permit to work system, the competent person
2 is the one who develops precaution and conditions prior to hot
3 work taking place in class one division one areas.

4 Q. I want to refer you—are you familiar with the permit to work
5 rules?

6 A. Yes.

7 Q. Volume I at page 29 and you see at 5.2:

8 “A competent person in Paria’s to work system is an
9 individual who has the required training, knowledge,
10 experience and qualifications to identify the hazards and
11 to develop effective precautions for high standard
12 activities such as hot work, confined space entry and
13 electrical works.”

14 Correct?

15 A. Yes.

16 Q. But wouldn’t that be a Paria official?

17 A. Well, basically, er, I functioned under Paria so I will be one of
18 the persons who were trained in this system and was authorized
19 to be a competent person in the permit to work system and to
20 carry out the functions of same.

21 Q. Did you consider you had the expertise to be a competent
22 person?

23 A. Yes. So, after the training, we would a have an assessment, this
24 assessment would have been submitted to Paria and then they
25 give authorization to perform same duties.

26 Q. So you are agreeing with me then that you had the expertise to
27 monitor the work?

1 A. To a point, yes.

2 Q. And you are, you are of the, well, you believe you were a
3 competent person in accordance with the permit to work rules?

4 A. Yes, yes.

5 **Mr. Chairman:** Can I just come back to the role that you
6 understood yourself to have, all right?

7 **Mr. Dopson:** Yes.

8 **Examination By Mr. Chairman:**

9 Q. Mr. Dopson, in this document here competent person—

10 A. Yeah.

11 Q. —that's you for these purposes, isn't it?

12 A. Yes.

13 Q. Right? Now, if we scroll to the bottom of that particular
14 passage, the one on the bottom there says periodically check the
15 site and equipment to ensure the conditions for certification
16 have not changed?

17 A. Yes.

18 Q. And that's what you were telling us earlier?

19 A. Yes.

20 Q. That you're performing this function periodically?

21 A. Yes.

22 Q. What I want to understand is that you said your periodic checks
23 were about every hour. What were you checking every hour?

24 A. Checking to make sure that the atmospheric condition inside the
25 chamber had not changed. So basically I will climb on the
26 scaffolding and there's a valve on top that you could just crack
27 and I'll take an atmospheric testing there, so that will give me

1 an idea of the type of air inside the chamber. Right? The other
2 one is to ensure that the conditions for hot work on the barge
3 have remained unchanged as well. So, should I give an
4 example?

5 Q. Well, let's take—you can give me an example in a minute. Can
6 we just take one thing at a time? So you climb onto the
7 scaffolding to test the air quality inside the chamber?

8 A. Yeah.

9 Q. And in order to do that there's some sort of little tube or
10 something—

11 A. Yes.

12 Q. —that you put on and there's a meter?

13 A. Yes.

14 Q. And you read the meter and it says it's okay.

15 A. Yes.

16 Q. And indeed you kept a record of that, didn't you?

17 A. Yes.

18 Q. And that record shows that you checked it at eleven o'clock,
19 11.55 and at 1255, all right?

20 A. Yes.

21 Q. So we needn't go to it but it supports what you're saying that
22 you did this every hour or so.

23 A. Yes.

24 Q. All right? And did you regard checking the air quality inside
25 that hyperbaric chamber hourly as sufficient?

26 A. Yes.

27 Q. Because of what? Why wouldn't it be every half an hour, for

1 example?

2 A. Okay, so, the first thing is that there wasn't any actual hot work
3 inside the chamber.

4 Q. Right.

5 A. That would have been done on the 15th. So on the 15th we
6 would a check it—

7 Q. Oh, that was all over?

8 A. Yes. So the welding, the cutting, the grinding was all over.
9 And then earlier that morning LMCS conducted an air quality
10 test on the air that is coming from the compressor and that was
11 deemed fit, so I make a decision and I say every hour.

12 Q. So that was you?

13 A. Yeah.

14 Q. Nobody's telling you do it hourly or half-hourly or whatever?
15 You make that decision?

16 A. Yeah, yeah.

17 Q. Right. I'm not criticizing, I just want to understand. So you do
18 that every hour?

19 A. Yeah.

20 Q. Right, that takes I don't know, about 10 minutes or so I
21 suppose?

22 A. About 5.

23 Q. Five, right. And then in between that you're saying you then go
24 on to do your other checks?

25 A. Yes.

26 Q. Which are?

27 A. So I'll check on the barge to make sure that the compressor is

1 functioning as it should, meaning no leaks or no additional—

2 Q. It's not working?

3 A. Yeah. I will also check the crane barge for the same thing,
4 make sure the extinguishers are where they're supposed to be.
5 There was a standalone gas monitor on the barge as well, make
6 sure that is on and functioning as it's supposed to be.

7 Q. Right.

8 A. Right? And make sure no one moves the fuel where it's not
9 supposed to be, so the fuel is supposed to be a safe distance
10 away from the ignition source.

11 Q. Constantly looking round, making sure everything's all right?

12 A. Yeah.

13 Q. So you were aware, weren't you, there was a screen that was
14 being monitored?

15 A. Yes I was aware.

16 Q. And there was also this man, um, Kirt—

17 A. Scott.

18 Q. —Scott?

19 A. Yeah.

20 Q. Who was there as well, wasn't he?

21 A. Yes he was on the berth.

22 Q. What was he doing?

23 A. I wasn't sure but I understand it to be that normally when we
24 have work on a berth or near a facility where there's offshore
25 operations, they will have a offshore operator present to do like
26 maybe pollution checks and so on.

27 Q. Right?

1 A. Yeah?

2 Q. So you just assumed that that was the case?

3 A. Yes.

4 Q. So did you see the screen that was on the—it was on the barge I
5 think, wasn't it?

6 A. No, the screen was on the berth.

7 Q. On the berth itself?

8 A. Yes, yes.

9 Q. All right. So, and did you see that screen?

10 A. Yes once or twice I would have seen what was taking place.

11 Q. So when you looked at the screen what could you see?

12 A. The last thing I saw while looking at the screen was the
13 removal of the solid blank. Right? So you could actually see
14 the guys around the top of the riser working.

15 Q. Right. And then removing a solid blank?

16 A. Yeah.

17 Q. That's the cap, as it were, on top?

18 A. Yes.

19 Q. Right. And that was the last you saw when you were looking at
20 that screen?

21 A. Yes.

22 Q. Right. Of course, having the screen available gave you an
23 opportunity to see what was actually being done if you wanted
24 to?

25 A. Yes, I agree.

26 Q. But Mr. Yearwood didn't instruct you to make regular checks,
27 even if they were only periodic?

1 A. No.

2 Q. Did you yourself think it might have been prudent to do so?

3 A. Yes.

4 Q. And did you?

5 A. No.

6 Q. Right. Thank you.

7 **Mr. Chairman:** Thank you, Mr. Maharaj.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. But when you saw the blank being removed, you would have
10 known that, according to the work permit the barrier must not
11 be removed, must be used?

12 A. Yeah, the barrier, the barrier have to be used. The blank is
13 something totally different.

14 Q. You agree with that?

15 A. Yes.

16 Q. Did that, did it not occur to you as the technician on the scene
17 representing Paria and you are in—supposed to be ensuring
18 compliance with the work permit that you would wait and see
19 what was happening to see whether they were going to remove
20 the barrier?

21 A. Well I, I know it to be that once the solid blank is removed, the
22 top of the riser that they have suspended in the chamber will be
23 the next step.

24 Q. So you assumed?

25 A. No, er, based on the information given on the toolbox talk, as
26 soon as the toolbox talk was finished I document that
27 immediately, I have One Drive on my phone so I document that

1 immediately because I am not the subject matter expert to say
2 which are the steps they take, so they tell me. So that's—I have
3 it documented on my report as consecutive steps. So based on
4 that information, I know, based on the toolbox meeting, that the
5 next step was to place the new section of the riser onto the
6 flange and make the coupling or install the bolts.

7 Q. Yes.

8 A. And gaskets.

9 Q. So therefore you wanted to ensure that that was complied with,
10 that, in effect, the next step was complied with? Wasn't that
11 your job?

12 A. [*Shaking head from left to right*]

13 Q. If you had to monitor for compliance with the job you think that
14 Paria wanted to be done, you had to remain there and see
15 whether they were, in effect, removing the migration barrier?

16 A. But removal of the migration barrier was not part of the plan.

17 Q. I know. That is what you are saying. That is not the point. The
18 question I'm asking you, you have told us on evidence that you
19 saw the—this, um, this covering of the pipe being removed?

20 A. Yes.

21 Q. And under that covering were the migration barriers?

22 A. Yes.

23 Q. Right. So you saw that being removed. Won't you have
24 known then that if they had removed the barriers that could
25 have caused a problem?

26 A. Yes, the removal of the barriers yes it would have caused a
27 problem.

1 Q. Yes. So you saw them removing that, you know that the job
2 which has to be complied with is to bring the other part of the
3 pipe to connect it and you didn't stay to see what was
4 happening?

5 A. That is not my duty. I was there to do periodic checks. The
6 contractor official supposed to be the one ensuring that they
7 conformed to their steps.

8 **Mr. Chairman:** Can I—I'm sorry to keep interrupting.

9 **Examination By Mr. Chairman:**

10 Q. When you saw the blank plate, I'm going to call it that because
11 that's what I understand, right, being removed from the flange
12 that was left from previously—

13 A. Yes.

14 Q. —because there's a flat plate, so they've got to take it off
15 before they can do anything?

16 A. Yes.

17 Q. All right? So they take that plate off, all right? That exposes at
18 least one of the barriers that are in the pipe?

19 A. Yeah.

20 Q. You thought that the next job that was going to happen was the
21 lowering of the new section, which had been prefabricated, on
22 to the flange that existed?

23 A. Yeah.

24 Q. How big is that new section?

25 A. Well it would have been the same diameter as the old section.

26 Q. Right.

27 A. And maybe 12 or 15 feet tall or 20 feet, 20 feet tall.

1 Q. Twenty feet tall?

2 A. Yeah.

3 Q. Did you understand that before they could do that the
4 hyperbaric chamber needed to be removed or were they going
5 to do it inside the chamber?

6 A. No, they will bolt it together inside the chamber.

7 Q. Right.

8 A. Then the hyperbaric chamber will be removed.

9 Q. And is it a straight section that was being fitted on?

10 A. Yes, Sir, straight.

11 Q. So about 15 feet tall, inside the hyperbaric chamber this piece
12 will be—

13 A. Yes.

14 Q. —lowered down on to it and bolted?

15 A. Yes.

16 Q. So, how did it get into the hyperbaric chamber?

17 A. Okay, so, prior to all this conversation, the first thing that
18 would have been done in the morning, they would have
19 removed the old section so the old section was pre-rigged
20 inside. So the first task for the day was the removal of the top
21 cover of the hyperbaric chamber—

22 Q. Right.

23 A. —and remove the old section, to place that onto the barge and
24 they rigged the new section, then they placed it back and then
25 closed the cover.

26 Q. I'm not quite following you. It's probably me. I'm sure it is
27 me.

1 A. Yeah.

2 Q. So when you went there on the day one, 25th of February,—

3 A. Yes.

4 Q. —day one, 25th of February, was the old section still in place?

5 A. Yes. It was in the hyperbaric chamber.

6 Q. Right. But had been removed?

7 A. No. They had—that was the first thing to be done, remove the
8 old section.

9 Q. Right. And that old section was fitted where?

10 A. It was rigged inside the hyperbaric chamber.

11 Q. Hanging there?

12 A. Yeah. Because the newly welded flange had a back.

13 Q. Right. So they took the old section away?

14 A. Yeah.

15 Q. How did they do that?

16 A. Via the use of the crane. Right? So normally they would
17 unbolt the section, er, unbolt the top cover of the hyperbaric
18 chamber and remove the entire thing. So the top cover will
19 come out together with the old section, the top cover of the
20 hyperbaric chamber.

21 Q. Is the hyperbaric chamber opened, then?

22 A. It could be opened via a series of huge bolts, I don't know, it
23 could be—

24 Q. But it wasn't?

25 A. No it wasn't opened.

26 Q. Right. But this piece of pipe had been the old section that was
27 being removed—

1 A. Yeah.

2 Q. —how did they get it out of the hyperbaric chamber?

3 A. Right so they unbolted the top cover of the hyperbaric
4 chamber—

5 Q. Yeah.

6 A. —and lift everything in one. So the top of the hyperbaric
7 chamber is circular, it's connected to the hyperbaric chamber
8 via a series of bolts, and there are two maybe three-quarter inch
9 holes in the top cover where the wire ropes are attached to the
10 pipe and the crane.

11 Q. So they pull it right out?

12 A. Yeah. So the cover of the hyperbaric chamber came off as
13 well.

14 Q. Right.

15 A. And then they rest that entire assembly onto the crane barge.
16 They removed the old section of the piping and put the new
17 section.

18 Q. And you saw all of this happening?

19 A. Yes.

20 Q. Right. So that's what I want to get to, you see? So that after
21 you'd seen the blank, this piece come out, the new piece has to
22 go in?

23 A. Yes.

24 Q. Did you understand there to be a CARBER test that had to take
25 place?

26 A. Yeah there had to be a CARBER test so the CARBER test
27 would have been before they attached the two pieces together.

1 Q. Right.

2 A. The new section and the welded flange.

3 Q. So, well, somebody had to perform that CARBER test?

4 A. Yes.

5 Q. Did you know who was going to do that?

6 A. No. I did not know but I saw when the technicians came on site
7 but they were not divers.

8 Q. No?

9 A. So—

10 Q. They're not LMCS people?

11 A. No.

12 Q. So there were different people coming on board?

13 A. Yes.

14 Q. To do the CARBER test?

15 A. Yes.

16 Q. Did you know whether there were any—whether any part of the
17 barriers had been removed before that CARBER test?

18 A. No.

19 Q. Okay. Anyway, um, thank you very much.

20 **Mr. Maharaj SC:** Much obliged.

21 **Continued Examination By Mr. Maharaj SC:**

22 Q. I want to show you the permit to work rules again under
23 “Competent Person”.

24 A. Yes.

25 Q. And what the competent person shall do. If you look at bullet
26 point two:

27 “Identify any deficiencies in equipment or method

1 statement for the job and the potential adverse
2 consequences.”

3 Okay?

4 A. Yes.

5 Q. So what I want to ask you, I want to get back to the point, but
6 what I want to ask you, you know from what happened
7 afterwards—

8 A. Yeah.

9 Q. —that the migration barrier was removed?

10 A. Yes.

11 Q. And it caused the persons to be sucked into the pipe?

12 A. Yeah.

13 Q. Would you agree with me that if, as you said, you had seen on
14 the video screen that they had removed the top of the riser—

15 A. The solid blank?

16 Q. Yes, the solid blank.

17 A. Yeah.

18 Q. —and you had remained there to see what was happening, you
19 could have stopped the work?

20 A. I agree.

21 Q. You agree. And if you had stopped the work, this accident
22 would not have occurred?

23 A. I agree.

24 Q. So are you telling us today that as far as you know—how long
25 you're working in Paria?

26 A. Since November 2019, so approximately three years.

27 Q. So as far as you are aware of, Paria did not have anybody

1 assigned to monitor the compliance of this job in accordance
2 with the work permit that day?

3 A. I can only answer from the HSE department.

4 Q. Yes. So what is your answer?

5 A. So I was to do periodically checks, so if you are saying monitor
6 means constant, you mean constant monitoring?

7 Q. Continuously.

8 A. No.

9 Q. Continually?

10 A. No.

11 Q. No. Well let's go to after the accident. All right?

12 A. Yes.

13 Q. You could probably help us with this. You're aware that work
14 permits were suspended after this accident occurred?

15 A. Yes.

16 Q. And the suspension of those work permits would have meant
17 that LMCS could not have continued any more works?

18 A. They could not have continued any more works with regard to
19 the operation of the hyperbaric chamber as well as the exact
20 specific task on the work permit. So they could not have
21 continued that.

22 Q. And that would include diving activities?

23 A. I am not sure. Um, I only know of one permit that was
24 suspended upon being informed by the applicant on that day
25 and that was the work in the hyperbaric chamber. I am not sure
26 about the diving permit.

27 Q. Were you aware of any of LMCS' plan after the accident for

1 rescue?

2 A. No.

3 Q. No. Were you aware of any of Paria's plans after the accidents
4 for rescue?

5 A. No.

6 Q. No.

7 **Mr. Maharaj SC:** No more questions for this witness.

8 **Mr. Chairman:** Just one minute. [*Perusing documents*]

9 **Examination By Mr. Chairman:**

10 Q. Yes. You were present when Mr. Boodram came out of the
11 pipe?

12 A. Definitely.

13 Q. And I think you helped in making an initial scan of him to see if
14 he was injured and so on?

15 A. Yes.

16 Q. Did you have some first aid treatment—first aid experience
17 yourself?

18 A. Not just first aid, emergency medical technician.

19 Q. Right. So you have some knowledge in that field, right?

20 A. Yeah.

21 Q. Well that was good I'm sure. Can you just help me about this?
22 Your role at this point in time was really finished, wasn't it?

23 A. Yes.

24 Q. Your specific task that you were there for—

25 A. Yes.

26 Q. —had already concluded?

27 A. Yes.

1 Q. There was nothing left to monitor, was there?

2 A. Right.

3 Q. But did it seem or did anyone suggest to you that someone
4 should accompany Mr. Boodram to the hospital or wherever he
5 was being taken, not least someone like yourself who had some
6 medical experience? Did you go on the barge with him, for
7 example?

8 A. Yes, so I went on one of Paria launches, that would have been
9 the Wahoo, so I went and handed him over to the medical staff
10 at the landing area.

11 Q. Right.

12 A. Yeah? And I give them all the pertinent information like, um,
13 he sustained an injury to one of his ankles and there was a lot of
14 trauma to his body, right?

15 Q. Yeah, he was obviously covered in oil and so on?

16 A. Yes.

17 Q. You helped to clean him up as best you could in his face and so
18 on?

19 A. Yes.

20 Q. But he was talking, though, wasn't he?

21 A. Yeah, definitely.

22 Q. Yeah. And I dare say he was distraught but he was talking?

23 A. He was.

24 Q. Conscious?

25 A. Yes.

26 Q. Lucid?

27 A. Yes.

1 Q. Did you, or anyone to your knowledge, seek to obtain from him
2 such information as he might have been able to give about the
3 conditions in the pipeline and his colleagues?

4 A. I would not know what happened when I handed him over to
5 the staff but on our journey to the, um, to the launch landing
6 from berth 6—

7 Q. Yes.

8 A. —he would have informed me that everybody in the pipe is still
9 alive. Right?

10 Q. Just pause please? Just as so I have a sense of time scale—

11 A. Yes.

12 Q. —from the moment he came out and you were able to attend to
13 him—

14 A. Yes.

15 Q. —as a medic—

16 A. Yes.

17 Q. —to the point in time when you handed him over to the
18 ambulance, what sort of period of time are we talking about?

19 A. It coulda be between eight and 10 minutes. That's the normal
20 time to reach from berth 6 to—

21 Q. Right.

22 A. Yeah.

23 Q. And he went on one of the launches, did you say?

24 A. Yes.

25 Q. Yes. Not—were the coast guard there at that time?

26 A. I believe the coast guard was there at that time.

27 Q. Anyway he went on one of the launches?

1 A. Yes.

2 Q. So it would have been, let's say, 10 minutes at the outside—

3 A. Yes.

4 Q. —between your getting hold of him yourself and handing him
5 over to the ambulance people?

6 A. Yes.

7 Q. And in that 10-minute period he would have informed you, you
8 were telling me, that the others were alive?

9 A. Yes, and, er, they could not account for Rishi, well he said
10 Blacks, right, Blacks was Rishi's nickname.

11 Q. Rishi? You knew Rishi.

12 A. Yeah.

13 Q. Rishi.

14 A. They—he could not account for him.

15 Q. Couldn't account for Rishi?

16 A. No.

17 Q. But he used the word Blacks?

18 A. Yeah.

19 Q. That's his nickname, isn't it?

20 A. Yes.

21 Q. Yeah. What else did he tell you?

22 A. That Mr. Kurban was right behind him in the pipe.

23 Q. Kurban was right behind him?

24 A. Yeah.

25 Q. Did he say anything about where in the pipe, whether it was in
26 the vertical section or the horizontal section?

27 A. No, he didn't specify. Um, I believe he was more concerned

1 about getting the point that we should go back in there.

2 Q. Yeah.

3 A. You know?

4 Q. Not to put too fine a point on it, was he shouting, “Go get—go
5 back and get them. Go and get them”, words to that effect?

6 A. Yes.

7 Q. Well he was obviously distressed.

8 A. Yes.

9 Q. But he was able to answer anything you might have asked him?

10 A. I, I believe the only thing he didn't really know was the actual
11 time of day.

12 Q. How long he was down there?

13 A. Yeah.

14 Q. Right.

15 A. And when he came out he didn't know like what time of day it
16 is, right, but he was able to give his phone number of his next
17 of kin.

18 Q. He gave you his phone number of next of kin?

19 A. Yeah, which would have been his wife.

20 Q. So he gave you his wife's phone number?

21 A. Yeah.

22 Q. How many digits would that be?

23 A. Seven.

24 Q. Right. Seven-number?

25 A. Yeah.

26 Q. Anyone else?

27 A. Um, well, the first thing he asked is where we taking him so I

1 advised that most likely San Fernando General might be the
2 best place, right, because they would treat with emergency then,
3 and it's then only he gave me his wife number. He also told me
4 that she's a nurse there.

5 Q. She's?

6 A. She's a nurse at the San Fernando General Hospital.

7 Q. She's nurse—

8 A. Yeah.

9 Q. —at that hospital?

10 A. Yeah.

11 Q. So he told you she was a nurse at the hospital. Did he say
12 anything about concern about his air pressure having been
13 down for any length of time?

14 A. No. He didn't, he didn't, um, explain anything about that.

15 Q. Did you tell him how long he'd been missing?

16 A. Yes.

17 Q. Did he express any concern when you told him that?

18 A. The only expression I was seeing from him is a lot a pain, right,
19 so there was a lot a bawling.

20 Q. He was obviously in pain, wasn't he, yeah?

21 A. Pain. Pain, distress, frustration.

22 Q. When you say frustration, frustration with what? Did he
23 express that?

24 A. Well, I, I believe if somebody is telling you the same thing over
25 and over and you're not really giving them any reaction—

26 Q. Right.

27 A. —they tend to get frustrated so he keep on saying—

1 Q. All right, I mean, that hadn't resolved, wasn't it?

2 A. Yeah. He was keep on saying, "Go for them. Go for them.
3 Send back somebody in there." He kept saying that on and on.

4 Q. At the time when you were—when he first came out, how many
5 people were on the barge and the berth?

6 A. There were probably five of us on the berth. There were two of
7 us on the scaffolding. One other guy was with me. I can't
8 remember his name. There were a few people in LMCS
9 pirogue, maybe around four or five.

10 Q. Right. Were any divers, obvious divers, there?

11 A. In the water?

12 Q. No, on the berth or on the barge.

13 A. Um, no, the divers were in the water.

14 Q. They were already in the—

15 A. Yes, so—

16 Q. Once you got him out?

17 A. Yeah. I believe it was, um, Ramoutar and Cody. I hope that's
18 his correct name.

19 Q. All right. It matters not.

20 A. Yeah.

21 Q. But, anyway, there were divers there?

22 A. Yes.

23 Q. But his preoccupation, if I can put it like that, was go and get
24 them?

25 A. Yeah.

26 Q. Yeah. No one instructed you to travel with him?

27 A. No.

1 Q. Or to seek to obtain from him such other information as might
2 be obtained as to the condition of the pipeline that he had
3 managed to escape from?

4 A. No.

5 Q. Did he say anything to you about air pockets?

6 A. No, he didn't say.

7 Q. Did he say anything to you about air supply in bottles?

8 A. No, he didn't say.

9 Q. Or how he had dragged himself along that pipe, anything like
10 that?

11 A. No, he didn't say.

12 Q. All right. But was he talking with you in the 10 minutes or so
13 that it took you to get him to the ambulance?

14 A. Yes.

15 Q. Continuously, and you talking to him?

16 A. Yes.

17 Q. No doubt trying to reassure him as well?

18 A. Yes, definitely.

19 **Mr. Chairman:** Thank you for that. All right, thank you.
20 Right, so, um, I think what we'll do is we'll have, um, first of
21 all counsel for LMCS, Ms. Persaud Maraj is going to ask you
22 some questions first, all right?

23 **Mr. Dopson:** Yes.

24 **Mr. Chairman:** That's the lady sitting over there.

25 **Mrs. Persaud Maraj:** Thank you, Mr. Chair.

26 **Cross-Examination BY Mrs. Persaud Maraj:**

27 Q. I just have one question for you and that's pertaining to the

1 meeting, the toolbox meeting on the morning in question.

2 A. Yes.

3 Q. You were present?

4 A. Yes.

5 Q. All right. Was there any other personnel from Paria present?

6 A. To my knowledge, no.

7 Q. Okay. That's all.

8 **Examination By Mr. Chairman:**

9 Q. I think you said earlier that you would ordinarily attend such a
10 meeting, is that right?

11 A. Yeah.

12 Q. But both Mr. Yearwood and yourself thought it prudent to do
13 so?

14 A. Yes. Er, just basically to confirm the activities that the
15 contractor was doing, to make sure it is or it was in alignment
16 with the permits, the specific tasks listed on the permits.

17 **Mr. Chairman:** Yes, anyone else? Yes, don't forget to
18 introduce yourself. I think Mr. Ramadhar, I think you wished
19 to speak for—because I see your hand up.

20 **Mr. Ramadhar:** Yes I do—

21 **Mr. Chairman:** Right.

22 **Mr. Ramadhar:**—like my learned friend.

23 **Mr. Chairman:** Right, that's Mr. Chase Pegus isn't it? Yes.

24 **Mr. Ramadhar:** I'll go after the chase.

25 **Mr. Chairman:** After the chase, yes. I don't suppose that's
26 the first time, isn't it?

27 **Mr. Pegus:** Mr. Chairman, I believe I should go after Mr.

1 Ramadhar as it's my witness.

2 **Mr. Chairman:** Well, I don't know that it's anybody's witness
3 other than ours, but, um, are you asking to go after Mr.
4 Ramadhar?

5 **Mr. Pegus:** Yes please.

6 **Mr. Chairman:** I don't have any difficulty with that. Mr.
7 Ramadhar?

8 **Mr. Ramadhar:** Neither do I, please.

9 **Mr. Chairman:** Very well.

10 **Mr. Ramadhar:** And my learned friend has indicated she
11 too—

12 **Mr. Chairman:** Right, well, I'm not sure how much more we
13 can extract from this witness, thank you very much but all of
14 you need to keep it short, thank you, please.

15 **Mr. Ramadhar:** Thank you very much.

16 **Cross-Examination By Mr. Ramadhar:**

17 Q. Good morning, um—

18 A. Good morning.

19 Q. —Mr. Dopson?

20 A. Sir.

21 Q. I am Prakash Ramadhar looking after the interest of Kurban's
22 family.

23 A. Yes.

24 Q. And of course Yusuf Henry.

25 A. Yes.

26 Q. First of all, let me thank you for giving comfort, as you've
27 indicated, to Christopher. And I'm going to be very, very brief.

1 **Mr. Chairman:** A little louder please?

2 **Mr. Ramadhar:** Of course.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. Christopher Boodram, as you've indicated, was coherent, clear
5 in his communications. You have to say yes or no.

6 A. Yes, Sir.

7 Q. Yes. And insisted repeatedly for persons to go back to get his
8 colleagues, correct?

9 A. Yes, Sir.

10 Q. When he came out of that pipe area, who else from Paria or
11 Kenson were in that area of the accident?

12 A. Sir, I cannot confirm. My main focus was to go down to that
13 vessel, get on board to get him to shore. I didn't pay attention
14 to the barge. I was actually on the berth on top of the
15 hyperbaric chamber when I saw him in the water.

16 Q. Yes. And, of course, this would have been traumatic for you
17 also?

18 A. Definitely, yeah.

19 Q. Did anyone attempt—because there were several other persons
20 there, correct?

21 A. [*Nodding*]

22 Q. —to ask of him, that is Christopher Boodram, the conditions in
23 the pipe from which he had just come?

24 A. Er, on the vessel that I was on, there was the captain, the
25 deckhand and the engineer. They were all assisting me. There
26 were other people on the pirogue that received Christopher first
27 from the water.

1 Q. Yes.

2 A. I am not sure if they would have asked him questions with
3 regards that.

4 Q. All right. Let me take you back to the habitat area when he was
5 pulled out, yes?

6 A. Yes.

7 Q. You say there were several persons there. One would imagine
8 by this time there would have been several persons from Paria
9 or Kenson, together with you, if not necessarily in conversation
10 with you? You agree with that?

11 A. Yes, Sir.

12 Q. Did anyone attempt to speak to him to elicit information from
13 him as to the condition of the pipe from which he had just been
14 rescued?

15 A. I cannot confirm.

16 Q. Thank you very much. And at no stage, from the moment you
17 first saw him exiting the water to the time he got to the
18 ambulance, did he lose consciousness?

19 A. No, Sir.

20 Q. No. Did you accompany him on the journey to the hospital
21 with the ambulance?

22 A. No.

23 Q. Did anybody do so?

24 A. Er—

25 Q. —connected to Kenson or Paria?

26 A. Er, I would not have been sure of who went with him. I would
27 have just handed him over to the ambulance staff at the launch

1 landing facility.

2 Q. Was there anyone from Paria or Kenson at that area where there
3 was the handover to the ambulance?

4 A. I believe Mr. Yearwood was there and one of my co-worker, I
5 believe, is Sandiford. They received him.

6 Q. They received him?

7 A. Yeah.

8 Q. You appreciate learning the conditions of the pipe would have
9 been quite important for a rescue effort?

10 A. Yes, I agree.

11 Q. Yes. And as far as you are concerned, no one of the numerous
12 persons who were there, from the moment he was rescued to
13 the time he was handed over to the ambulance, made any such
14 enquiry?

15 A. Well I could only speak from my, um—

16 Q. From your awareness. I ask you—

17 A. —my awareness. I can only, um—my first, my primary
18 concern was to ensure that he was stable.

19 Q. Absolutely. And he clearly, from what you told my learned,
20 um, Chairman, he was?

21 A. Yes.

22 Q. He was coherent throughout?

23 A. Yes.

24 Q. And he had not lost consciousness so therefore he was?

25 A. Yes.

26 Q. And just to be clear, no one to your awareness from the moment
27 he was rescued to the time he was handed over to the

1 ambulance sought to enquire of the conditions within the pipe?

2 A. As stated before, Sir, from the moment he was pulled from the
3 water to the LMCS pirogue, I wasn't aware of what transpired
4 there because I was on the Wahoo so—

5 Q. To be fair to you?

6 A. To be fair.

7 Q. I appreciate all of that. But the time from when the incident is
8 supposed to have occurred, the accident may I put it like this, to
9 the moment that Christopher was retrieved was how long?

10 A. Could have been about two hours.

11 Q. Was there anyone there within your hearing discussing, well,
12 what might be the condition within the pipe to endeavour a
13 rescue?

14 A. There were multiple people on site. Um, I know, um, Mr.
15 Kazim Ali senior was there.

16 Q. Sir, I'm not asking you now for a list.

17 A. Okay.

18 Q. I'm asking you whether there was discussions about the
19 ascertaining of the conditions within the pipe to endeavour a
20 rescue.

21 A. On my end, no one.

22 Q. No.

23 **Mr. Ramadhar:** Mr. Chairman, I'm most grateful to you.
24 Thank you.

25 **Mr. Chairman:** Ms. Alfonso, did you have something to ask,
26 Ms. Alfonso?

27 **Ms. Alfonso:** Yes, my friend, Mr. Ramadhar, has actually

1 taken all but two of my questions.

2 **Mr. Chairman:** Does that leave zero or?

3 **Ms. Alfonso:** I have two remaining, Mr. Chairman.

4 **Mr. Chairman:** Two remaining?

5 **Ms. Alfonso:** Yes, Mr. Chairman.

6 **Mr. Chairman:** Right, very well.

7 **Cross-Examination By Ms. Alfonso:**

8 Q. Good morning, Mr. Dopson.

9 A. Good morning.

10 Q. My name is Nyree Alfonso and I represent the interest of the
11 SWWTU. Two very brief questions: in your witness statement,
12 you would have referred to a conversation with Mr. Dhillpaul
13 of LMCS?

14 A. Yes.

15 Q. Were you—did Mr. Dhillpaul relay certain things to you about
16 what was going on on the, on the—well, in the habitat and with
17 the divers when you spoke to him?

18 A. The exact information given by Mr. Dhillpaul to myself was
19 that a splash was observed on the camera and the screen went
20 blank.

21 Q. Okay. So you got some information from him?

22 A. Yes.

23 Q. Before you returned yourself?

24 A. Yes. He also indicated that the divers in the chamber were
25 missing.

26 Q. Thank you very much, Mr. Dopson. And lastly, I've heard
27 what—I'm not going to go over what information you said.

1 You said you received certain information in the eight to 10-
2 minute trip on the launch, on Paria's launch. That information
3 that you relayed to us, did you relay that in turn to anybody
4 else?

5 A. Yes. I would have passed on that information to the person
6 who I get my instruction from, which is Mr. Paul Yearwood.

7 Q. I see. And you would have relayed that orally or in writing or
8 both?

9 A. Via the radio.

10 Q. Via the radio. Okay.

11 A. Yeah.

12 Q. Verbally.

13 **Ms. Alfonso:** Thank you very much, Mr. Dopson, thank you.

14 **Mr. Chairman:** Mr. Peterson.

15 **Mr. Peterson SC:** Thank you very much, Mr. Chairman.

16 **Cross-Examination By Mr. Peterson SC:**

17 Q. Morning, Mr. Dopson.

18 A. Morning, Sir.

19 Q. We'll be short. The—tell me something, you said when Mr.
20 Boodram was retrieved from the water he first went on to the
21 LMCS pirogue?

22 A. Yes.

23 Q. Why you referred to it as the LMCS pirogue?

24 A. Because that pirogue belongs to them, to LMCS.

25 Q. And the personnel on it did you recognize that they were LMCS
26 people?

27 A. Yes, Sir.

1 Q. Right. And at that time you also observed people diving in the
2 water?

3 A. Yeah.

4 Q. Right. LMCS people?

5 A. Yes.

6 Q. Did you see coast guard officers pulling them from the water,
7 preventing them from continuing to swim?

8 A. No I didn't.

9 Q. Right. You spoke of taking five tanks from that area later in the
10 evening to be refilled and those were used, you said, by the, by
11 some rescue divers. The rescue divers you're referring to in
12 that statement are the persons you saw diving from LMCS in
13 the water?

14 A. Yes, Sir.

15 Q. All right. We also said that you—that note is a
16 contemporaneous note which is a word I tend to like, it means it
17 was done very shortly after the event?

18 **Mr. Chairman:** Contemporaneous means at the same time.

19 **Mr. Peterson SC:** Well, relatively contemporaneously. We
20 have evolved to—

21 **Mr. Chairman:** Relative contemporaneously

22 **Mr. Peterson SC:** Yes.

23 **Continued Cross-Examination By Mr. Peterson SC:**

24 Q. That note you said was made when?

25 A. Which note? This is—

26 Q. The note, yeah, your note—you could scroll up.

27 A. Or is it my report?

1 Q. Your report.

2 A. Yeah.

3 Q. It was made on the 25th?

4 A. Yes, er, it was made on the 25th and submitted somewhere
5 around the 7th or 8th—

6 Q. Right. And you made that note—

7 A. —when I came back out.

8 Q. —you said, using a programme on your phone?

9 A. Right, so, um, there's something called One Drive—

10 Q. Yeah.

11 A. —where when you have all the documents stored in one place
12 you could access it on any device, right? So I would have done
13 a report for the 15th.

14 Q. Right.

15 A. So I just edited the main parts which is the items that were
16 discussed in the toolbox talk—

17 Q. Right.

18 A. —because I will forget that.

19 Q. Right.

20 A. Right? The other things were documented after, for example,
21 the table with the atmospheric check readings and so on.

22 Q. Right.

23 A. Yeah?

24 Q. But, absent from that, that is very important for us for what it
25 doesn't say. It does not have the removal of the barriers on that
26 day as an activity to be done?

27 A. Yes.

1 Q. And if that was discussed at the toolbox meeting, that is
2 something that would have likely find its way into your daily
3 report?

4 A. Yeah.

5 Q. Well not likely, certainly would have found its way in there?

6 A. Yes. So I am not a expert in this field—

7 Q. Yes.

8 A. —of subsea.

9 Q. Yes.

10 A. So it was important for me to gather the steps as discussed in
11 the toolbox meeting.

12 Q. Right.

13 A. And there is a order where it has to go.

14 Q. And—

15 A. And it is of my opinion that if we skip a step here we in trouble.

16 Q. Right, so you were focused to record what was said?

17 A. Yes.

18 Q. And also, the last two questions.

19 **Mr. Chairman:** Just let me—well, I mean, I just want to make
20 a note of that.

21 **Examination By Mr. Chairman:**

22 Q. You said in your opinion if you skipped a step that would be
23 trouble.

24 A. Trouble.

25 Q. How would you know?

26 A. Er, from the discussion in the toolbox talk there was a
27 explanation of—

1 Q. No, no, how would you know they skipped a step?

2 A. I would not know.

3 Q. Yet you regarded it as important?

4 A. Yeah.

5 **Continued Cross-Examination By Mr. Peterson SC:**

6 Q. You also had the responsibility of checking the quality of the
7 air in the chamber?

8 A. Definitely.

9 Q. Right. So, maintaining the pristine condition of the air is
10 something that you would be focused on also?

11 A. Yes.

12 Q. Removal of the barriers are likely to compromise the quality of
13 the air in the chamber?

14 A. Definitely.

15 Q. So anything or any talks in that toolbox meeting with respect to
16 the removal of those barriers would be something that will he
17 standing out to you like a sore thumb?

18 A. Yes.

19 Q. Or a red flag?

20 A. Yes.

21 **Mr. Peterson SC:** Thank you, Mr. Chairman.

22 **Mr. Chairman:** Thank you very much for coming. Or, I'm
23 sorry. My colleague has a question. Oh, forgive me, I'm so
24 used to not calling upon you. Mr. Regus yes, there is another
25 question from Mr. Regus.

26 **Mr. Pegus:** Mr. Pegus.

27 [*Laughter*]

1 **Mr. Chairman:** Mr. Pegus. It's bound to have been wrong.
2 I'm sorry. I was hoping to get through a whole day without
3 getting a name wrong.

4 **Mr. Pegus:** Yeah.

5 **Mr. Chairman:** But I've already failed and we haven't even
6 had the morning break yet. So, forgive me please, it's Pegus?

7 **Mr. Pegus:** Pegus, yes.

8 **Mr. Chairman:** You're sure? [*Laughter*]

9 **Mr. Pegus:** Very much, yes.

10 **Mr. Chairman:** All right. I apologize.

11 **Examination By Mr. Pegus:**

12 Q. Mr. Dopson, good morning.

13 A. Good morning.

14 Q. You indicated in your statement that on the day in question you
15 took your instructions from Mr. Yearwood?

16 A. Yes, that's correct.

17 Q. Did Mr. Yearwood instruct you at any time to constantly
18 monitor the screen on the berth?

19 A. No, Sir.

20 Q. As you understood your function on the day in question, it did
21 not include constantly monitoring that screen on the berth?

22 A. No, Sir.

23 **Mr. Pegus:** Thank you very much.

24 **Mr. Chairman:** Is there anything else? I think that my
25 colleague here, Mr. Wilson, has some questions for you.

26 **Examination BY Commissioner Wilson:**

27 Q. Hi, good morning, Mr. Dopson. I just want—

1 A. Morning.

2 Q. —to test quickly the emergency response plan or what looked
3 like it. In getting Mr. Boodram to shoreside where he was
4 taken to the San Fernando General Hospital, that ambulance or
5 that emergency response on that side, that was enacted by Paria
6 or LMCS to your knowledge?

7 A. To my knowledge it was Paria.

8 Q. Paria?

9 A. Yeah.

10 Q. Did you hear any discussions or any awareness, because he's a
11 diver, that, um, they contacted a hyperbaric doctor or an
12 industrial medical professional or anything in the event or in
13 service of treating with any potential decompression illnesses of
14 a diver?

15 A. No, I wasn't aware if those arrangements were made or being
16 made.

17 Q. Okay. I know that you have no, um—you heard no discussions
18 of the sort?

19 A. No.

20 Q. Okay, thank you. Right.

21 **Mr. Chairman:** I think that is the conclusion of your evidence.
22 I want to thank you for being frank and forthright.

23 **Mr. Dopson:** You're welcome.

24 **Mr. Chairman:** Thank you very much for coming. You're
25 free to go or stay as you please, all right? Thank you very
26 much indeed.

27 *[Mr. Andrew Dopson leaves enquiry room]*

1 **Mr. Chairman:** All right, Mr. Maharaj, I think our next
2 witness is Harrichan?

3 **Mr. Maharaj SC:** Next witness is Mr. Harrichan.

4 **Mr. Chairman:** Harry?

5 **Mr. Maharaj SC:** Harrichan.

6 **Mr. Chairman:** Yes.

7 **Mr. Maharaj:** Abd Mr. Ronnie Bissessar would do the
8 summary.

9 **Mr. Chairman:** We'll take his evidence and we'll have a
10 break at around 11.30-ish. Have you got questions for him as
11 well?

12 **Mr. Maharaj SC:** Yes, yes.

13 **Mr. Chairman:** All right, so let's, um, let's have him and his
14 summary and then we'll have your questions, thank you. Mr.
15 Harrichan, please? Yes.

16 *[Mr. Visham Harrichan enters enquiry room and is sworn]*

17 **Mr. Harrichan:** I, Visham Harrichan, solemnly swear that the
18 evidence I shall give to the Commission in this case shall be the
19 truth, the whole truth and nothing but the truth.

20 **Mr. Chairman:** Thank you. *[To Enquiry orderly]* Would you
21 take those papers away please? Thank you.

22 **Examination By Mr. Chairman:**

23 Q. Good morning, Mr. Harrichan.

24 A. Yes, good morning.

25 Q. Good morning. What's going to happen next is this, is that Mr.
26 Bissessar is going to read a summary of the evidence that you
27 provided so far, all right?

1 A. Yes.

2 Q. So please listen to that carefully. If you agree with it, hopefully
3 you will, at its conclusion say so. And if you don't, let me
4 know, all right?

5 A. Yes, Sir.

6 Q. Hopefully that will take just a few minutes and then there'll be
7 some questions from Mr. Maharaj who sits next to Mr.
8 Bissessar, all right?

9 A. Yes.

10 Q. And then others that might want to ask you questions. I hope
11 that we'll be able to dispose of your evidence this morning but
12 that may not be possible but we'll do our best, all right?

13 A. Sure.

14 Q. All right, well thank you very much.

15 **Mr. Bissessar:** Thank you, Chair.

16 Mr. Visham Harrichan was Paria's acting offshore team
17 lead on 25th February, 2022 reporting to Mr. Collin Piper. Mr.
18 Harrichan PO MFAI D-D a witness statement dated 28th
19 October, 2022 to the Commission but declined to be
20 interviewed by Counsel to the Commission. That witness
21 statement is at WB 1618.

22 **Mr. Chairman:** Which volume is it? Four.

23 **Mr. Bissessar:** Volume IV.

24 **Mr. Chairman:** Thank you.

25 **Mr. Bissessar:** On 9th May, 2022 after the accident on 25th
26 February, 2022 Mr. Harrichan left Paria and took up operations
27 elsewhere. Mr. Harrichan says that his duties as acting offshore

1 team lead included authorizing permits and certificates,
2 monitoring and controlling all aspects of quality management
3 systems, evaluating areas of non-conformance and initiating
4 appropriate corrective action, implementing and ensuring
5 adherence to HSSEQ standards and maintaining marine
6 emergency response capability.

7 Pre-accident involvement: Mr. Harrichan was involved
8 in prework activities for the clearing of number 36 Sealine riser
9 between berths 5 and 6 as well as the isolation of the pipeline
10 from the berths. He says that in January 2022 he was an
11 operations team supervisor and part of his duties was to prepare
12 the draft procedure for the clearing of the pipeline between
13 berths 5 and 6 by LMCS. This draft procedure, after revision,
14 was finalized as a work instruction number QOFW:001 which
15 he signed on 7th January, 2022. This is at core bundle 1033.

16 The draft procedure was reviewed and revised by Mr.
17 Harrichan and then submitted to Mr. Jason Beckles who was
18 acting as the offshore team lead at the time and then to Collin
19 Piper for approval. He says that the line was cleared by LMCS
20 and he does not recall having any specific involvement in the
21 execution of that process. Mr. Harrichan recalls that the line
22 clearing by LMCS in accordance with work instruction number
23 QOFOW:001 was consistent with Paria's permit to work
24 procedure which required the mitigation of the credible risks
25 associated with performing hot works in a sufficiently
26 flammable or combustible environment.

27 Therefore, the clearing of the line was one of several

1 precautions intended and designed to safeguard LMCS'
2 employees, other workers and personnel in the vicinity of the
3 works and to safeguard the facility from the credible risks of
4 fire and/or explosion. Mr. Harrichan says he reviewed and
5 approved the precautions and conditions listed on each hot
6 work certificate HWC. He also reviewed the job hazard
7 analysis JHA. He said he signed each of the HWCs as area
8 authority.

9 Mr. Harrichan explains that he was also involved in
10 prework activities for the isolation of the line done by LMCS.
11 He signed three isolation checklists dated 11th November,
12 2021, 31st January, 2022 and 10th February, 2022 respectively
13 which shows the steps taken to isolate the line.

14 Post incident involvement: Mr. Harrichan first heard of
15 the accident at about 3.10 p.m. on Friday, 25th February, 2022
16 and immediately called Mr. Collin Piper who was the incident
17 commander leading the incident command team, the ICT, and
18 he, Mr. Harrichan, arrived at berth 6 at about 4.15 p.m. He said
19 that he, Mr. Harrichan, played a supportive role in relation to
20 the ICT.

21 Mr. Harrichan says that he attempted unsuccessfully to
22 get information on the accident from LMCS' employees
23 including Andrew Farah. He said that none of them made any
24 requests of him or asked him for assistance. Mr. Harrichan
25 explained that he informed the incident commander that two
26 rescue divers were making preparations to enter the water. He
27 also notified the incident commander of Christopher Boodram's

1 rescue at approximately 5.36 p.m.

2 Mr. Harrichan says he relayed to Dexter Guerra that the
3 incident commander did not want anyone diving into the
4 pipeline because it was too dangerous. Mr. Harrichan describes
5 the borescope operations at about 11.00 p.m. on the Friday,
6 25th February, 2022. He said that when he arrived at berth 6 he
7 saw that the topside cover of the habitat was being removed by
8 LMCS' employees and when it was removed LMCS'
9 employees assisted Atlantic LNG personnel with deploying the
10 borescope into 36 Sealine riser.

11 He says that the borescope went vertically all the way
12 down the riser and then horizontally along the line. He said the
13 line appeared to be filled with water with no evidence of air
14 pockets. He set he saw what appeared to be an oxygen tank
15 about 20 feet along the horizontal section and unsuccessful
16 attempts were made to manoeuvre the borescope past the
17 object.

18 Good, thank you. Mr. Harrichan, can you confirm
19 whether that summary is a fair and accurate representation of
20 your witness statement?

21 **Mr. Harrichan:** It is.

22 **Mr. Bissessar:** Thank you, Mr. Harrichan.

23 **Mr. Chairman:** Mr. Maharaj.

24 **Mr. Maharaj SC:** Much obliged, My Lord.

25 **Examination BY Mr. Maharaj SC:**

26 Q. The hot works certificates were issued by Paria?

27 A. Yes.

1 Q. And according to you at paragraph 24 of your witness
2 statement, prior to the issuance of the hot works certificates, the
3 line was cleared of hydrocarbons in accordance with the work
4 instructions as described above and those work instructions
5 were issued by Paria?

6 A. Yes.

7 Q. And then you said the clearing of the line of hydrocarbons was
8 therefore consistent with Paria's PTW procedure which
9 required the mitigation of the credible risks associated with
10 performing hot works, correct?

11 A. Correct.

12 Q. And then I asked you to note your paragraph 25 and then you
13 said:

14 "Therefore, the clearing of the line was one of the several
15 precautions intended and designed to safeguard the
16 employees of LMCS, other workers and personnel in the
17 vicinity of the works and to safeguard the facility from
18 the credible risks of fire and/or explosion that could
19 result from hot work that was required and authorized to
20 be done by LMCS under the permits to work issued on
21 that day in question."

22 So am I correct, based on your statement, to say that Paria made
23 a decision that the line, the Sealine, had to be cleared?

24 A. Yes, in collaboration with LMCS.

25 Q. Yes. And the Sealine which had to be cleared was Sealine 36
26 both topside and underwater between berth 5 and berth 6?

27 A. Yes.

1 Q. And therefore there were steps taken by Paria in collaboration
2 with LMCS to have the line drained?

3 A. Yes.

4 Q. And the instructions for the line being drained, which you are
5 referring to, and I'll show it to you, it's at CB 3, page 1033.

6 **Mr. Chairman:** It's not in that bundle I don't think. It will be
7 brought to you in a moment.

8 **Mr. Harrichan:** Okay.

9 **Mr. Chairman:** And it will come up on the screen. It's on the
10 screen now. Which passage did you want to refer him to?

11 **Mr. Maharaj SC:** Ten thirty-three. It's a—

12 **Mr. Chairman:** We've got that page on the screen at the
13 moment.

14 **Mr. Maharaj SC:** Oh sorry.

15 **Continued Examination BY Mr. Maharaj SC:**

16 Q. Could you look at, um, the scope was to clear line 36 between
17 berth 5 and berth 6. Those were the instructions, not so?

18 A. Yes.

19 Q. Right. And the responsibilities for clearing the line were that
20 the terminal operations manager had the overall responsibility
21 for ensuring that this procedure is established and they stated
22 the procedure?

23 A. Yes.

24 Q. Which Paria agreed to?

25 A. Yes.

26 Q. And which Paria instructed to be done?

27 A. No. This was in collaboration with LMCS.

1 Q. Yes, in collaboration with LMCS.

2 A. Yes.

3 Q. But Paria instructed it to be done?

4 A. Yes, the line.

5 Q. Yes. And then the offshore team lead had—that's the offshore
6 team lead of Paria, am I correct?

7 A. Yes.

8 Q. —had the direct responsibility to ensure compliance with the
9 procedure by review and et cetera, as stated there, correct?

10 A. Yes, correct, yes.

11 Q. And then you see the procedure—

12 **Mr. Chairman:** Sorry, Mr. Maharaj, before we move on—

13 **Examination By Mr. Chairman:**

14 Q. Who was the terminal operations manager?

15 A. Mr. Collin Piper.

16 Q. Mr. Piper?

17 A. Yes, Collin Piper.

18 Q. Right. So—because the two people that are mentioned there
19 are the terminal operations manager, that's Mr. Piper, and the
20 review—the offshore team lead and that's you?

21 A. No, that would be Jason Beckles.

22 Q. Mr. Beckles?

23 A. Yes.

24 Q. You were sharing it with him?

25 A. Yes. So when this procedure was drafted, Mr. Beckles was the
26 acting offshore team lead at that time.

27 Q. When this document was being drafted?

1 A. Yes.

2 Q. Did you share that role, though, with Mr. Beckles?

3 A. At that time when this was drafted?

4 Q. Yeah. No, not when it was drafted, I mean generally did you
5 share?

6 A. Yes, I, um—after Mr. Beckles acted, I would have taken up the
7 offshore role in February the 1st.

8 Q. February the 1st?

9 A. Yeah.

10 Q. Right. So that I'm clear, please, there was no full-time offshore
11 team lead at the time?

12 A. No. It was a vacant position that the team lead at that time left
13 Paria.

14 Q. Right.

15 A. So it was vacant and the offshore operations supervisors were
16 rotating in that position.

17 Q. Right. How many of you were there?

18 A. What five.

19 Q. Five of you?

20 A. Yes.

21 Q. So you were each taking on the role for what, a month at a
22 time?

23 A. There wasn't a decided period so sometimes it'd be two
24 months. My stint was two months.

25 Q. Right. So—and you started your stint on the 1st of February?

26 A. Yes.

27 Q. So you were the offshore team lead from the 1st of February—

1 A. Yeah.

2 Q. —to the 1st of April?

3 A. Till the end of March, yes.

4 Q. End of March, 1st of April, right.

5 A. Yes.

6 Q. Okay. Thank you very much. But Mr. Beckles was your
7 predecessor in that role?

8 A. Yes.

9 Q. And you would have been described as the acting offshore team
10 lead?

11 A. Subsequent to that, yes.

12 Q. Yeah, all right thank you very much. Was this a job that you
13 coveted?

14 A. Sorry?

15 Q. Did you want the job?

16 A. Yes, I wanted the job.

17 Q. Right.

18 A. Yes.

19 Q. Well, only because if you're in an acting role—

20 A. Uh-huh.

21 Q. —if you want the job, you want to try and impress, I'm
22 assuming.

23 A. Yes, I tried to do the job to the best of my ability.

24 Q. Yes, good. Thank you very much.

25 **Mr. Chairman:** All right, thank you. I'm sorry, I just needed
26 to—

27 **Mr. Maharaj SC:** Much obliged.

1 **Continued Examination BY Mr. Maharaj SC:**

2 Q. And you see there was a procedure—

3 A. Uh-huh.

4 Q. —stated in the instructions and it—there was a step by step
5 procedure to be followed. You see under “Procedure”?

6 A. Yes.

7 Q. And I’ll take you to the procedure, right?

8 A. Yeah.

9 Q. Go to the next page. And you would see under different
10 headings throughout until at page 1038 a stage by stage
11 procedure like a method statement as to how to do it, correct?

12 A. Yes, that’s correct.

13 Q. And the method include air blowing?

14 A. Yes.

15 Q. Yes. Air blowing of the contents of the pipeline?

16 A. Yes.

17 Q. I have looked and you were involved—I notice this was
18 reviewed by you, your signature is there on the first page?

19 A. Yes, that’s correct.

20 Q. And unless I miss it, I have been looking to see whether
21 anywhere in these pages, this step by step procedure, there is as
22 to how much, what is the quantity of oil which existed and what
23 is the quantity of oil which had to be drained.

24 A. No.

25 Q. Could you help me if you could find that in these documents?

26 A. No, that was not identified.

27 Q. That was not identified?

1 A. No.

2 Q. Could you help us today to tell us, if you know, how much oil
3 was drained?

4 A. Er, no, I don't know.

5 Q. And therefore you can't help us as to how much oil was in the
6 pipeline which had to be drained?

7 A. No.

8 Q. How much liquid content?

9 A. No, not volume, no.

10 Q. But I also looked in these documents prepared by Paria, in
11 collaboration with LMCS, to see whether there is any mention
12 of a risk of a differential pressure if too much oil was drained
13 from the line. Are you in agreement with me there's no
14 mention of that?

15 A. There's no mention.

16 Q. So I would be correct in saying, Mr. Harrichan, that in the
17 preparation of this document for the execution of the works,
18 Delta P hazard was not identified?

19 A. Correct, that was not identified.

20 Q. Now, you're aware now—after the events of the 25th of
21 February, you are aware that there is expert evidence in these
22 proceedings to show that because of the void of the—or the
23 absence of liquid content in the line it created the Delta P
24 hazard?

25 A. Uh-huh. Yes, I saw some reports.

26 Q. And you're aware that that caused the migration barriers to be
27 sucked in, well, the—well, particularly the inflatable plug to be

1 sucked in and it created a vortex and the men were sucked into
2 the pipeline?

3 A. Yes.

4 Q. So would you agree with me that the extent of the draining of
5 the line on reflection was an important aspect to be considered
6 for the execution of these works?

7 A. Yes.

8 Q. And in the light of what has happened and your experience and
9 knowledge and what you know of what has happened, if you
10 had to do this again, you would certainly take a note of the
11 quantity of oil in the pipeline to be drained, am I correct?
12 Would you not do that if on reflection now if you have to do it
13 again?

14 A. Um, well, I was of the impression that the ullage was actually
15 giving you that amount in the line but, on reflection, um, I
16 suppose, yes, I would look more closely at the volume.

17 **Mr. Chairman:** I can't hear you, sorry.

18 **Mr. Harrichan:** Yes, I would look at the volume in hindsight,
19 yes.

20 **Continued Examination BY Mr. Maharaj SC:**

21 Q. But you don't know how much oil or how much of the liquid
22 content was drained from the underwater piping?

23 A. No.

24 Q. No. So, as—having regard to the position and your expertise
25 that you have and what you know, if it is that you had to review
26 this document again for a similar job, would you not agree with
27 me that one of the most important things in executing a job like

1 this to drain the line that you will have to know how much
2 line—how much content the quantity of the liquid content in
3 the line and how much you're going to drain?

4 A. Um, yes. Or you could also confirm with the level as well on
5 both ends, yeah.

6 **Examination By Mr. Chairman:**

7 Q. I'm a bit concerned about that—

8 A. Sure.

9 Q. —just doing it by level. The idea was to isolate this complete
10 pipe, was it not, ultimately?

11 A. Yes.

12 Q. Right. So, just dealing with it as a U bend for our purposes,
13 we've got the two risers 5 and 6 on either side with a piece of
14 pipe joining them together underwater, all right? This is the
15 piece of pipe. We know the diameter of the pipe, don't we?

16 A. Yes.

17 Q. We know the length, the overall length of the pipe, do we not?

18 A. Yes.

19 Q. It is a mathematical exercise to calculate how much fluid would
20 fill that pipe, is it not?

21 A. Yes.

22 Q. Right. So when you open one end and you opened it at the
23 other end, you can see where the level of the water or fluid, oil,
24 whatever it was, was in either side of this piece of pipe, correct?

25 A. Yes.

26 Q. Right. So you'll be able to measure from the top of wherever
27 you were down to that particular level of fluid on either side

1 which presumably would be the same unless the pipe is
2 higher—

3 A. Yes.

4 Q. —all right, and you'd be able to deduct that from the overall
5 amount of fluid that should be in this pipe, correct?

6 A. Yes.

7 Q. Right. So you would know then what the total amount of fluid
8 in this pipe was?

9 A. Yes.

10 Q. It would also tell you, wouldn't it, if you were to remove a
11 specified amount of fluid from that pipe where it would take
12 you down on either side?

13 A. Yeah.

14 Q. I take one pint it moves by this much. If I take two pints it
15 moves that much, correct?

16 A. Yes.

17 Q. I know you measure it in barrels but I don't really need barrels.
18 So I—so for me to understand, you, being responsible for this
19 exercise, would have wanted to know, surely, what is the total
20 amount of fluid that is in this pipe?

21 A. No, the focus was on the actual level. At the time of
22 discussions that was the focus.

23 Q. I follow that.

24 A. Yeah.

25 Q. My concern is this. If you knew what the total amount of fluid
26 was in this pipe—

27 A. Uh-huh.

- 1 Q. —and you removed, let's say, 30 barrels—
- 2 A. Uh-huh.
- 3 Q. —that should bring the ullage to a particular point, shouldn't it?
- 4 A. Yes, correct.
- 5 Q. If it didn't, what would it tell you?
- 6 A. If it didn't come down to that level?
- 7 Q. Yes. If you had the total amount of fluid in this U pipe—
- 8 A. Uh-huh.
- 9 Q. —and you removed—you knew what that was, all right, and
- 10 you removed 30 barrels—
- 11 A. Correct.
- 12 Q. —you'd know where that should take you, wouldn't you?
- 13 You'd be able to calculate it?
- 14 A. Yes.
- 15 Q. I can't. There are plenty of mathematicians, I'm sure, who can,
- 16 all right?
- 17 A. Yeah.
- 18 Q. And if it didn't go to where you expected it to go, what would
- 19 that tell you?
- 20 A. That, um, yeah, that the volumes—there's a issue with the
- 21 volume.
- 22 Q. Yes. There might have been air in the pipe?
- 23 A. Yeah.
- 24 Q. It would tell you that, wouldn't it?
- 25 A. Yeah.
- 26 Q. There could be no other explanation.
- 27 A. Yeah.

1 Q. Would that forewarn you of a danger that might exist into
2 differential pressures?

3 A. Yes, in hindsight, yes.

4 Q. Well, no, not with hindsight, with foresight.

5 A. Yes.

6 Q. Thank you.

7 A. Yeah.

8 **Continued Examination BY Mr. Maharaj SC:**

9 Q. And Mr. Harrichan, the procedure which Paria authorized in
10 collaboration with LMCS—

11 A. Uh-huh.

12 Q. —was air blowing?

13 A. Correct.

14 Q. At berth 5?

15 A. Yes.

16 Q. Correct?

17 A. Yes.

18 Q. And I am not a—I have no expertise but you could probably
19 help us.

20 A. Uh-huh.

21 Q. Wouldn't that air blowing good cause air pockets in the line?

22 A. Not that I am aware of.

23 Q. Not that you know of?

24 A. Yeah.

25 Q. Now, do you know whether Paria has records of how much oil
26 or how much liquid content was taken from the underwater
27 piping?

1 A. Um, no, I'm not sure.

2 Q. Did you take steps for a record to be kept as to how much oil or
3 liquid contents you were taking from the underwater piping?

4 A. There is records how much volume entered the tank, but that is
5 an estimate.

6 Q. Is there records of how much volume was taken out, how much
7 barrels were taken out?

8 A. Directly from the line?

9 Q. Yes.

10 A. No, I can't say that would have been directly from the line.

11 Q. Are you—we have on the record disclosed to us Paria's daily
12 work reports—

13 A. Uh-huh.

14 Q. —in respect of, in respect the removal of the liquid content. I
15 wouldn't go through them with you but I just want you—I want
16 to show them to you—

17 A. Uh-huh.

18 Q. —so you will tell me whether you know about those reports or
19 not. Okay?

20 A. Correct.

21 Q. They can be found at—it starts—in Volume II it starts at page
22 992. Nine nine two. Sorry, 994, sorry, 994. And you have
23 dates and it goes until—for some distance under the 1011, 1012
24 and it's there but have you ever seen these reports—are you—
25 sorry, I thought the witness had it?

26 A. No. It's on the—

27 Q. It's on the screen?

1 A. Yeah.

2 Q. Have you ever seen these reports?

3 A. No, I haven't.

4 Q. Well, they're part of the record in these proceedings and I just
5 want to put something to you. You know there were two
6 phases of the line clearing?

7 A. Yes.

8 Q. Phase I and Phase II?

9 A. Yes.

10 Q. Phase I was the removal of the liquid content from topside.

11 A. Uh-huh.

12 Q. And Phase II was the removal of the liquid content between
13 berth 5 and 6 underwater.

14 A. Correct.

15 Q. Right. Now, according to those daily reports, we have checked
16 it and I'm putting to you that over 800 barrels of oil was
17 removed by Paria in the Phase I air blowing of top side. Would
18 that surprise you?

19 A. Yes.

20 Q. Yes. And in the underwater piping Phase II, we have checked
21 it, over 500 barrels of oil was removed in the Phase II air
22 blowing.

23 A. Uh-huh.

24 Q. Would that also surprise you?

25 A. Yes.

26 Q. Now, you have seen—

27 **Mr. Chairman:** Sorry.

1 **Mr. Maharaj SC:** Sorry.

2 **Mr. Chairman:** [*Mr. Chairman writes*]

3 **Continued Examination BY Mr. Maharaj SC:**

4 Q. You have seen the In-Corr-Tech report in this matter, the expert
5 report?

6 A. No, I haven't.

7 Q. Well I just want to—it's at—it's in the supplemental core
8 bundle and it's at page 1394 and I just want to refer you to it.
9 Look at paragraph 2.3 on page 1394.

10 "The removal of fuel oil from line and the installation of
11 a migration barrier as stipulated in Paria's scope of works
12 section 2.1 and 3.1.12 respectively created a large
13 gaseous void in Sealine SL36. This void served as a
14 prerequisite for the latent differential pressure hazard that
15 was created when the habitat was installed and
16 pressurized to facilitate work within the said habitat. The
17 hazards associated with this void were overlooked by
18 both Paria and LMCS."

19 A. Uh-huh.

20 Q. Then I want to refer you to paragraph two five—2.5 on the next
21 page.

22 "This latent hazard existed at the onset of work within
23 the habitat and became active when the divers were
24 attempting to remove the primary seal, the inflatable
25 plug, from within the riser.

26 2.6: Not being aware of this latent differential pressure
27 condition, incorporating a gaseous void, divers proceeded

1 to deflate the plug after safe removal of the mechanical
2 seal. On reaching a deflated pressure of approximately
3 11.4 psig, the resistive force of the plug was then lower
4 than the downward force 14031 on the plug. This force
5 thrust the plug down the oily riser into the large gaseous
6 void previously created.”

7 And then it goes on to say that this created a vortex for the men
8 to be sucked into the pipeline.

9 So having become aware of that now, would you not agree that the
10 unlimited draining of the line, the underwater line, between
11 berth 5 and 6, should have been closely monitored if it had to
12 be drained?

13 A. Yes, and I thought it was closely monitored.

14 **Examination By Mr. Chairman:**

15 Q. You thought it was closely monitored?

16 A. Yes.

17 Q. By whom?

18 A. By, um, the contractor and the maintenance department.

19 **Continued Examination BY Mr. Maharaj SC:**

20 Q. Maintenance department of which?

21 A. Of Paria.

22 Q. I want to show you another document which is part of the
23 record and which I think that, since you were involved with it,
24 instruction, I want to show you because I think it's very
25 important. The scope of works, CB 2 at page 564.

26 **Mr. Chairman:** Which volume is it in?

27 **Mr. Maharaj SC:** Volume II of the core bundle.

1 [Document handed to Mr. Harrichan]

2 **Continued Examination BY Mr. Maharaj SC:**

3 Q. Five six four. Under the heading “Scope of Work”. Change
4 out section of subsea riser and tie in piping and then you have
5 the isolation list and then underneath that you see:

6 “Estimated volume of product between isolation points
7 2000 barrels.”

8 So according to—

9 A. Yes.

10 Q. —according to Paria records—

11 A. Uh-huh.

12 Q. —this is showing there were 2000 barrels of oil?

13 A. Uh-huh.

14 A. Okay.

15 Q. And according to what I am putting to you from the daily
16 records, Paria in collaboration with LMCS took out about 1300
17 barrels of oil.

18 A. Okay.

19 **Mr. Chairman:** At least.

20 **Mr. Maharaj SC:** At least 1300 barrels of oil.

21 **Continued Examination BY Mr. Maharaj SC:**

22 Q. I want to show you one other document.

23 **Mr. Chairman:** Before you move on—

24 **Examination By Mr. Chairman:**

25 Q. So that we’re clear about this, were you aware that the estimate
26 of 2000 barrels was the total amount of fluid in the pipe?

27 A. No.

1 Q. Had you not seen this document before?

2 A. No.

3 Q. Is today the first time you're seeing it?

4 A. Yes.

5 Q. So even after this incident this wasn't drawn to your attention?

6 A. No it was not.

7 Q. All right, thank you.

8 **Continued Examination BY Mr. Maharaj SC:**

9 Q. I also want to show you core bundle two Volume II page 598.

10 And these were some of the queries which were being done
11 during the tendering stage for this contract and questions which
12 were being asked, and at page 598 there was the query: "Who is
13 responsible for pumping back from berths to clear the lines with
14 water?" And the response from Paria was: "The contractor is
15 responsible for the safe removal of hydrocarbon contents from
16 the line and to ensure that the line is clear and dry." So Paria is
17 saying to the contractor, "Ensure, as part of the works, the lines
18 would have to be clear and dry."

19 A. Uh-huh.

20 Q. Do you see that?

21 A. Yes, I see it.

22 Q. Were you aware of this at the time when you were asked to do
23 this?

24 A. No.

25 Q. No.

26 A. I wasn't.

27 Q. This instruction?

1 **Mr. Maharaj SC:** Just give me one minute please, Mr.
2 Chairman?

3 **Mr. Chairman:** Sure.

4 **Mr. Maharaj SC:** [*Perusing documents and conferring with*
5 *Mr. Bissessar and Ms. Maharaj*] Just give me one minute
6 please, Mr. Chairman?

7 **Continued Examination BY Mr. Maharaj SC:**

8 Q. Look at paragraph 26 of your witness statement.

9 **Mr. Chairman:** You've read this to him already, yes?

10 **Mr. Maharaj SC:** Oh, sorry, I read this to him?

11 **Mr. Chairman:** You have, yes.

12 **Mr. Maharaj SC:** Sorry. I'm much obliged. I think that's all
13 for this witness.

14 **Mr. Chairman:** Thank you, Mr. Maharaj. Before we take our
15 break can I just ask you something else, please?

16 **Mr. Harrichan:** Yes sure.

17 **Examination By Mr. Chairman:**

18 Q. Before you, as it were, took the responsibility of dealing with
19 the line clearance here, and I asked you a number of questions
20 about the amount of oil that might have been in it, leaving that
21 aside, did you have any plans or description of how deep each
22 riser was, whether they were the same, for example?

23 A. Uh-huh.

24 Q. And what the lie of the pipe, the seabed was, in other words,
25 was it flat, was it horizontal, did it have any undulations in it,
26 anything like that? Did you have any plans helping you about
27 that?

1 A. No.

2 Q. So is that a no to all of those question? I appreciate I've put
3 them compendiously.

4 A. Yeah.

5 Q. Is it the case then that we can take it from your evidence that
6 you, at any rate, were wholly unaware of the shape of this pipe
7 completely?

8 A. No, I have an idea of the shape. I'm just—

9 Q. Well, we know it's a U?

10 A. U, yeah. Um—

11 Q. There's a difference, isn't there, between if one end is deeper
12 than the other end?

13 A. Yeah.

14 Q. Then the bottom—the piece of the pipe at the bottom would be
15 lower at one end—

16 A. Right.

17 Q. —than at the other, wouldn't it?

18 A. Yes.

19 Q. And equally if it was the other way around—

20 A. Yeah.

21 Q. —it would have a slope, wouldn't it?

22 A. Yes, correct.

23 Q. Similarly, if it was undulating, and I'm showing it quite as a
24 little wavy line, but there might have been, for example, in the
25 middle of it, a rise or a fall, mightn't there, depending on the
26 sea floor?

27 A. Yes.

1 Q. I mean, we're talking about twelve hundred feet, aren't we?

2 A. Yes.

3 Q. Were you aware of any such undulations or—

4 A. No, I wasn't.

5 Q. When you say no you were not aware, does that mean that you
6 had no idea or that you knew that there were not?

7 A. No, I didn't know if it was undulating or flat.

8 Q. Did anybody at Paria or anyone from anywhere else provide
9 you with any topography or map of the seabed to show the lie
10 of this—of the pipe or anything like that?

11 A. The drawings of the line you're talking about?

12 Q. Yes.

13 A. No, no drawings.

14 Q. Do you think it would have made a difference to your approach
15 to this if you knew there were undulations in the pipe?

16 A. Um, logically I can't see it making a difference because if
17 you're displacing from one end to the other, logically it would
18 displace any liquid in the undulations as well.

19 Q. Yes. What about the potential, though, of the air pockets
20 existing in the pipe?

21 A. Um, no, I would not have considered that, no.

22 Q. Never gave that any consideration?

23 A. No, because the liquid level would have been higher than the
24 actual horizontal section so, um, technically there will be liquid
25 on top, on both sides, which they shouldn't have any air pocket.
26 If there was an air pocket it would have existed before.

27 Q. Yes.

1 A. Yeah.

2 Q. Well if there's air pockets in the pipes—

3 A. Uh-huh.

4 Q. —I mean, pipes have air in them sometimes.

5 A. Right.

6 Q. That's why we have bleeds with valves at either end to try and
7 take that air out, don't we?

8 A. Yes.

9 Q. But anyway, none of that was calculated in your consideration
10 of what was happening here?

11 A. No. Well this, um—the scope of this job wasn't developed
12 solely by Paria. The method was actually developed by LMCS.
13 They provided the method and then Paria provided the actual
14 isolation.

15 Q. Forgive me—I follow that.

16 A. Yeah.

17 Q. Of course and—

18 A. Yeah.

19 Q. —but I—and, um, I understand why you say that?

20 A. Yeah.

21 Q. But just help me to understand—

22 A. Uh-huh.

23 Q. —there was only one company who would have the detail of
24 the—

25 A. Yes.

26 Q. —lay of the pipe, isn't there?

27 A. Yes, correct.

1 Q. I mean LMCS, whatever failings there may have been on their
2 part—

3 A. Yeah.

4 Q. —the fact of the matter is that they would not have had access,
5 without your giving it to them, of any pipeline or shape of the
6 pipe or anything like that, would they?

7 A. Yes, correct.

8 Q. You were the only ones who could have had that?

9 A. Yes.

10 Q. Thank you.

11 **Mr. Chairman:** Shall we take a short break? Quarter to
12 12.00? Please? Thank you. We're going to have a short break
13 now—

14 **Mr. Harrichan:** Okay.

15 **Mr. Chairman:**—and come back at a quarter to 12.00, please?

16 **Mr. Harrichan:** Okay, sure.

17 **11.24 a.m.:** *Enquiry suspended.*

18 **11.42 a.m.:** *Enquiry resumed.*

19 **Mr. Chairman:** All right, Mr. Harrichan, there will be some
20 questions, I anticipate, from a number of people. Ms. Persaud
21 Maraj?

22 **Mrs. Persaud Maraj:** Yes.

23 **Mr. Chairman:** Introduce yourself, please?

24 **Cross-Examination By Mrs. Persaud Maraj:**

25 Q. The name is Kamini Persaud Maraj, attorney-at-law for LMCS.

26 A. Morning.

27 Q. Mr. Harrichan, you were part of the ICT established by Paria?

1 A. No, I wasn't.

2 Q. You were relaying information, your—so, what was your
3 position in relation to the ICT, if any?

4 A. A supportive role relaying information back to the ICT and
5 executing any tasks that may be issued to me.

6 Q. So you were on site?

7 A. Yes.

8 Q. Right; and that would account for the information that you
9 relayed to LMCS?

10 A. Yes.

11 Q. I'd like you to confirm something. You had, in fact, informed
12 LMCS that your instructions from Mr. Piper it was?

13 A. Yes.

14 Q. —was that they should not do any diving. Is that correct?

15 A. No, that's not correct.

16 Q. You've not said that in your witness statement?

17 A. No. I said that—

18 Q. Uh-huh.

19 A. —Mr. Piper said he does not want any diving inside of the
20 pipeline.

21 Q. Inside of the pipeline?

22 A. Correct.

23 Q. All right. What time did you come on the scene at berth 6?

24 A. Give me one second.

25 Q. Uh-huh.

26 A. [*Perusing document*]*—16:15, one six one five.*

27 Q. That's 4.15?

1 A. Yes, 4.15.

2 Q. And you stayed throughout the night until what time?

3 A. [*Perusing document*]

4 **Mr. Chairman:** About two o'clock in the morning.

5 **Mr. Harrichan:** About two o'clock, yeah, correct, yeah, zero
6 two hundred.

7 **Continued Cross-Examination By Mrs. Persaud Maraj:**

8 Q. So you were there, and you said this in your statement, you
9 were there when the borescope came?

10 A. Yes.

11 Q. And that would have been at berth?

12 A. Number 6.

13 Q. Number 6. Besides yourself and the technician who would
14 have brought the borescope, was there any other persons
15 present, any other person present for the—when the borescope
16 went down?

17 A. Yes. There was an additional Paria person.

18 Q. Who was that additional Paria person?

19 A. Jason Beckles.

20 Q. All right.

21 A. And there were, I believe, some LMCS employees close by but
22 I can't remember who they were.

23 Q. Close by, but not with your team of the borescope operator,
24 yourself and Mr. Beckles?

25 A. Correct.

26 Q. All right. Are you in any way qualified as a diver?

27 A. No, I am not.

1 Q. Does Mr. Beckles—to the best of your knowledge, is he?

2 A. I do not know.

3 Q. All right. And at—can you remind us what time about the
4 borescope had gone down in berth 6?

5 A. I don't have an exact time but it would have been after 11.00
6 p.m.

7 Q. And it would certainly be before 2.00 a.m.?

8 A. Yes.

9 Q. Right. And during that time would you confirm that there were
10 divers, as far as you are aware, divers at the barge at berth 6?

11 A. Um, yes there were divers, yes.

12 Q. All right. And did you—being on site, did you report to anyone
13 that there were divers present at that time that the borescope
14 was going into the pipeline?

15 A. No. Um, there was another person on site on the barge liaising
16 with the divers.

17 Q. All right. But no diver was present while the borescope was
18 going to examine the pipeline to see what was being
19 transmitted?

20 A. At, at—

21 Q. When—

22 A. When it was happening?

23 Q. That's correct.

24 A. Not that I could recall.

25 Q. All right.

26 **Examination By Mr. Chairman:**

27 Q. Well can I ask you to look at paragraph 75 of your statement

1 please, because I need to be clear that this because what you
2 said seems to contradict that.

3 A. Uh-huh, sure.

4 Q. Paragraph 75.

5 “The LMCS employees together with the Atlantic LNG
6 employees made several attempts to manoeuvre the
7 borescope past the object but were unsuccessful.”

8 So were there LMCS people engaged in the task of moving the
9 borescope?

10 A. Yes. They were assisting but not viewing.

11 Q. Yeah. So we should not go away with the impression that they
12 were sort of standing over there somewhere not really part of
13 this, they were—

14 A. No, correct, yes. They were assisting with launching the
15 borescope into the riser.

16 Q. Assisting with launching the borescope into the riser?

17 A. Yes.

18 Q. How did they get the borescope into the pipe?

19 A. So it's a flexible tube—

20 Q. Yes.

21 A. —basically, so, it was manually lowered into the pipeline.

22 Q. By? By?

23 A. By LMCS employees.

24 **Mr. Chairman:** Yes, thank you.

25 **Continued Cross-Examination By Mrs. Persaud Maraj:**

26 Q. At paragraph six, 76, sorry, the paragraph just under, you said
27 you informed the incident commander of what you had

1 observed via the view footage from the borescope and he
2 informed you that a Heritage dive supervisor would be coming
3 to berth number 6. That is correct? How long af—is that
4 correct?

5 A. Yes, that's correct.

6 Q. How long after did that person arrive?

7 A. I can't recall exactly how long.

8 Q. How long—so, can you say to us when you were aware that the
9 borescope will be coming on site? Was that information
10 relayed to you?

11 A. No.

12 Q. A long before the borescope arrived were you aware that it
13 would have been coming?

14 A. When I was ashore I—that is the time I noticed the borescope
15 was coming.

16 Q. So that would have been before 4.00—

17 A. That was—

18 Q. —p.m.?

19 A. —around—that was shortly before I departed landing stage
20 2300, it would have been probably about 30 minutes before
21 that.

22 Q. So you had left the scene and gone back onshore?

23 A. Yes.

24 Q. And at that point you were aware so that would have been
25 about 11.00 p.m.?

26 A. 11.00 p.m., yes, before 11.00 p.m., just before.

27 Q. All right. And I know timing can be a little off but do you

1 know how long it took for it to actually arrive?

2 A. No, I don't know.

3 Q. All right.

4 **Mr. Chairman:** Well we know it had got there around eleven
5 o'clock at night.

6 **Mr. Harrichan:** Yes, correct.

7 **Mrs. Persaud Maraj:** This is all the questions I have for this
8 witness, please.

9 **Mr. Chairman:** Thank you. Anybody else, put up your hand
10 please? Thank you. Yep, Mr. Ramadhar, the floor is yours.

11 **Mr. Ramadhar:** Thank you so much.

12 **Cross-Examination By Mr. Ramadhar:**

13 Q. Good morning—

14 A. Good morning.

15 Q. —Mr. Harrichan.

16 A. Morning, Sir.

17 Q. My name is Prakash Ramadhar I represent, with my team, the
18 interest of the Kurban family and, of course, the daughter of
19 Yusuf Henry.

20 A. Yes.

21 Q. You still work at Paria?

22 A. No.

23 Q. When did you depart?

24 A. I departed in May.

25 Q. May?

26 A. Yes.

27 Q. Was it voluntary on your part?

1 A. Yes it was.

2 Q. Yes. Mr. Ramdhan, is he still at Paria?

3 A. Yes he is.

4 Q. Yes. Now, you arrived there, from what you told us, at what
5 time, at the scene at berth 5?

6 A. Sixteen—

7 Q. Sorry?

8 A. Sixteen fifteen.

9 Q. Four—

10 A. Four-fifteen.

11 Q. —4.15?

12 A. Yeah.

13 Q. Yeah? At that point in time you were the most senior person
14 from Paria at the scene. Is that accurate?

15 A. Yes, that's accurate.

16 Q. Were you able to get any important or helpful information from
17 your Mr. Ramdhan when you arrived?

18 A. Well information I got was divers were missing from the
19 chamber.

20 Q. Right.

21 A. Sea searches commenced, and he was unable to get any further
22 information from LMCS.

23 Q. I see. He was unable to get any further information from
24 LMCS?

25 A. Yeah.

26 Q. Did Paria, assuming that what you were told is accurate, that he
27 did not get further information from LMCS, did you make any

1 effort to ascertain what Paria itself did to inform itself as to the
2 circumstances?

3 A. Could you repeat that question? I, I, I—

4 Q. Of course.

5 A. —I'm a bit confused, sorry.

6 **Mr. Chairman:** I had to say I'm struggling to understand it as
7 well.

8 **Mr. Ramadhar:** Yes.

9 **Continued Cross-Examination By Mr. Ramadhar:**

10 Q. Simply this.

11 A. Uh-huh.

12 Q. Did Paria itself, or any personnel from Paria, make efforts on its
13 own behalf to ascertain further information?

14 **Mr. Chairman:** Well, what is Paria, I mean, it's an amorphous
15 identity of a company.

16 **Mr. Ramadhar:** It's, Sir, simply this.

17 **Continued Cross-Examination By Mr. Ramadhar:**

18 Q. Paria personnel.

19 A. Uh-huh.

20 **Mr. Chairman:** Well, can I ask you the question?

21 **Mr. Harrichan:** Sure.

22 **Examination By Mr. Chairman:**

23 Q. Did anyone from Paria seek to obtain information, so far as you
24 were aware, seek to obtain information about what was—what
25 had happened.

26 A. Yes. So, um, Johnathan Ramadan indicated he tried, he didn't
27 get any feedback, and I myself went on the barge and spoke to

1 Andrew Farah.

2 Q. Right.

3 A. But he didn't respond to me.

4 Q. I think he was lying flat on his back?

5 A. Flat on his back, yes, and his hands covering his face.

6 Q. And with his hands over his face?

7 A. Yeah.

8 Q. Do you think he might have been distressed?

9 A. Possibly.

10 Q. Yeah. Anyway he was unresponsive when you asked him
11 questions?

12 A. Yes, correct.

13 **Mr. Chairman:** Has that helped?

14 **Mr. Ramadhar:** Yes.

15 **Continued Cross-Examination By Mr. Ramadhar:**

16 Q. I think you were confused for a moment when I say Paria, I
17 mean Paria in its personnel, okay? So that as we move forward
18 you'll understand that, won't you? Yes?

19 A. Yes, yes.

20 Q. Oh, beautiful. So, having not achieved further information,
21 shortly after your arrival—

22 A. Uh-huh.

23 Q. —there came a time when you appreciated that the men most
24 likely were in the pipeline, isn't that correct?

25 A. No.

26 Q. It never came to your attention or belief that the men were most
27 likely within the pipeline?

1 A. No, not at that point.

2 Q. No? Well at what point, if any, did it come to your attention or
3 awareness that the men most likely were in the pipeline?

4 A. At the time when the shouting was heard from the chamber.

5 Q. And what time was this?

6 A. This was 17:22.

7 Q. Which is 5.22 p.m.?

8 A. Five twenty-two p.m.

9 Q. Yes. When did you first speak to Mr. Piper in relation to this
10 matter?

11 A. When I first got the—

12 Q. What time? Listen, man, you didn't read your statement before
13 you went in the box?

14 A. Yes, but I need to remember the exact—

15 Q. All right, go ahead, go ahead.

16 A. —okay? Right. So I first heard of the incident at 15:10 and
17 thereafter I called Collin Piper.

18 Q. Yes. When did you first see Mr. Piper on the scene, if at all?

19 A. Um, I can't recall. It would have been, um, I can't remember
20 what day but it would have been some day after.

21 Q. So up to the time you left that night, Mr. Piper, who is head of
22 the incident management team, had not come to the scene? Is
23 that accurate?

24 A. Yes, correct.

25 Q. Yes. And you were the most senior man on that scene till 2.00
26 a.m. the next morning?

27 A. No, until, um, Catherine Balkissoon arrived.

1 Q. Oh. She is senior to you?

2 A. Yes.

3 Q. And what time did she arrive?

4 A. Sometime around when Mr. Christopher Boodram was rescued.

5 I'm not sure exactly what time.

6 Q. Sometime just before—

7 A. No—

8 Q. —Christopher Boodram—

9 A. No. I'm not sure what time she arrived but I noticed her
10 sometime just after that.

11 Q. Just after what? Boodram—

12 A. Just after Mr. Boodram was rescued.

13 Q. Right. When Boodram was rescued—

14 A. Uh-huh.

15 Q. You were very eager, up to that point in time, being the most
16 senior man, to ascertain the condition of the men who went
17 missing, is that accurate?

18 A. Yes.

19 Q. You would have put yourself in a position to see and/or hear
20 what he had to say, is that true?

21 A. Yes, that's correct.

22 Q. Right. You heard him say men were behind and they were right
23 behind?

24 A. I didn't hear him say that directly but I heard that through
25 asking one of the other employees.

26 Q. Right. So it was, it was basically like common knowledge for
27 all those who were close to him—

1 A. Yes, correct.

2 Q. —right, that he had communicated with clarity that men were
3 just behind and that they should go and rescue them. Is that
4 accurate?

5 A. Yes, that's correct.

6 Q. Yes. You, of course, as the most senior man, forget Catherine
7 for a moment, took command of the situation, didn't you?

8 A. Yes.

9 Q. And command of the situation required., in your mind, the
10 highest priority being to what, not rescue the men?

11 A. Yes.

12 Q. Yes. What did you do to ensure that those men were rescued or
13 at least an effort made to rescue them?

14 A. Yes, so I, I coordinated with LMCS. They went down.

15 Q. Yeah.

16 A. I informed the incident commander that diving operations had
17 begun.

18 Q. Yeah.

19 A. Yeah.

20 Q. Right. Was there a moment when an instruction may have been
21 given that no one is to enter the pipe?

22 A. Yes.

23 Q. Who gave that instruction?

24 A. Um, Mr. Collin Piper.

25 Q. But he wasn't there so it came through what?

26 A. It came through me.

27 Q. Through you?

1 A. Yes.

2 Q. You were the mouthpiece of Piper who gave the instruction,
3 “No diving into the pipe” I want that very clear, correct?

4 A. Yes, I passed the—

5 Q. Yes. At that point in time, there had been no assessment as to
6 whether the pipe was safe or dangerous, isn't that true?

7 A. I, I can't say that.

8 Q. But you're the man on site.

9 A. Uh-huh.

10 Q. Was there any assessment by any personal from Paria that the
11 pipe was either safe or unsafe at that moment?

12 A. No, I don't know.

13 Q. No? But there we had in the balance you appreciate life is
14 about balance? Yes?

15 A. Yes.

16 Q. You had four men who you've been told were alive and just
17 beyond, correct?

18 A. Correct.

19 Q. And a decision and a choice was made to not save them. Is that
20 accurate?

21 A. No, I wouldn't say that.

22 Q. Well? A choice was made to rescue them?

23 A. No, I wouldn't say that either.

24 Q. So you're saying nothing?

25 A. Uh-huh.

26 Q. What are you saying? You would leave them there knowing
27 full well, hold on, this is a water environment and therefore life

1 sustaining air and oxygen—

2 A. Uh-huh.

3 Q. —was crucially important. You agree with that?

4 A. Yes, correct.

5 Q. So time is of the highest essence?

6 A. Yes.

7 Q. Yes. Did you have the luxury of an encyclopaedic examination
8 of all the circumstances?

9 A. No.

10 **12.00 noon.**

11 Q. No. So, therefore, my question still remains: At the time when
12 Christopher came out, Paria personnel did not know whether
13 the place was safe or unsafe. Is that still correct in your mind?
14 That is the pipeline.

15 A. I can't say if they determined it was safe or unsafe.

16 Q. Well, leh we talk about—not them, but you.

17 A. Uh-huh.

18 Q. You are the senior man on the site.

19 A. Uh-huh.

20 Q. Did you make that determination?

21 A. No, I didn't make that determination.

22 Q. No? So did you make a determination, as we have already
23 established, that the highest priority would be to save the men.
24 Is that still correct in your mind?

25 A. Yes.

26 Q. So who make—you didn't make a decision to rescue them,
27 because that was the highest priority.

1 A. Uh-huh.

2 Q. Yes?

3 A. Yes, correct.

4 Q. And you didn't care at that moment whether it was safe or
5 unsafe to do so?

6 A. It wasn't my decision to make.

7 Q. Whose decision?

8 A. I am following an incident command system. I'm taking
9 instructions—

10 Q. Whose decision was it to make?

11 A. The Incident Commander.

12 Q. Right. And at what time did he make that decision? There we
13 go again.

14 **Mr. Chairman:** What decision you are asking him to
15 examine?

16 **Mr. Ramadhar:** As to what time the decision was actually
17 made to not endeavour a rescue.

18 **Mr. Harrichan:** Oh, I don't know that.

19 **Mr. Chairman:** Well, I'm not sure he can answer that
20 question, can he?

21 **Mr. Harrichan:** No, no, I don't know that.

22 **Mr. Ramadhar:** Thank you, Mr. Chairman.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. When was it communicated to you that no effort be made to
25 rescue?

26 A. That was never communicated.

27 **Mr. Chairman:** Just a minute. No.

1 **Examination By Mr. Chairman:**

2 Q. Was it ever communicated to you that there would be a decision
3 not to rescue?

4 A. No.

5 **Mr. Chairman:** No.

6 **Mr. Ramadhar:** Thank you. And that's the point.

7 **Continued Cross-Examination By Mr. Ramadhar:**

8 Q. So as far as you are concerned, you didn't make any decision,
9 nor was any communicated to you to not rescue. What
10 prevented the rescue? What prevented the rescue? You having
11 not—there was no communication from your seniors to not
12 rescue. You're there; your highest priority is rescue—

13 **Mr. Chairman:** Well, again, it's not an entirely fair question.
14 He's already told us that he had had an instruction from Collin
15 Piper, who was in charge, not to allow any diver to enter the
16 pipe. Given that that's where we knew they were, then it's
17 hardly his responsibility to countermand that instruction, is it?
18 So he was simply conveying that which he was being told.

19 **Mr. Ramadhar:** Right.

20 **Mr. Chairman:** And it's not really for him to go outside that
21 decision.

22 **Mr. Ramadhar:** I appreciate that, and that's why I specifically
23 asked whether any such thing was communicated to him.

24 **Mr. Chairman:** Well, we know it was, and we know what he
25 told the divers about entering the pipe. He made it clear that
26 they were not allowed to enter the pipe because it was regarded
27 as unsafe.

1 **Mr. Ramadhar:** Thank you; and that's the point. Thank you
2 so much, Mr. Chairman.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. What time was it regarded as unsafe?

5 **Mr. Chairman:** Paragraph 60—59 first, actually.

6 **Mr. Harrichan:** Yeah. It don't have the exact time, but it
7 would have been sometime after Mr. Boodram was rescued.

8 **Continued Cross-Examination By Mr. Ramadhar:**

9 Q. Yes. Now, on what factual basis, as far as you're aware,
10 formed the opinion or decision that it was unsafe to rescue?

11 **Mr. Chairman:** Don't answer that question.

12 **Mr. Ramadhar:** Thank you, Mr. Chairman.

13 **Continued Cross-Examination By Mr. Ramadhar:**

14 Q. You appreciated that there were persons there willing, able, and
15 available, and who wished to pursue a rescue operation?

16 A. No, I was not aware of that.

17 Q. Were you aware that Mr. Kurban's son, Michael, together with
18 other divers had come onto berth 6, first of all?

19 A. At that time, I didn't know that was his son, but, yes, I saw
20 divers came.

21 Q. You certainly would have paid attention to anyone going into
22 the water?

23 A. Yes.

24 Q. Yes. You saw divers go into the water?

25 A. Yes.

26 Q. Did you ascertain as to who they were and what were they
27 doing, you being the senior Petrotrin personnel?

1 A. Yes.

2 Q. Having learned this, did you enquire of them, or did you find
3 out that they were ready, willing, able, and available to do a
4 rescue?

5 A. Yes, Sir, they were in the progress of rescue, yes.

6 Q. Yes. In your mind as the most senior person there, was it a
7 reasonable position to take that it was too dangerous to
8 endeavour a rescue?

9 A. Again, that's not my call to make.

10 Q. I'm not asking you whether it's your call. I'm asking you about
11 your opinion as the senior person on site who is feeding
12 information to the decision-makers?

13 A. No, I'm following my instructions. I wouldn't give an opinion
14 on it.

15 Q. Thank you. Did you further any information to your seniors, or
16 whomever the decision-makers were, that it was too dangerous
17 to go into that pipe?

18 A. No, I didn't pass that information to them.

19 Q. Are you aware of anyone in your chain of command who
20 passed that information from site to whomever is to make the
21 decision?

22 A. No, I'm not aware of that.

23 Q. So as far as you are concerned, no communication was made as
24 to the pipe being dangerous. Is that accurate?

25 A. Not from me.

26 Q. And as far as you are aware—

27 **Mr. Chairman:** Wasn't it already inherently dangerous?

1 **Mr. Ramadhar:** Sorry?

2 **Mr. Chairman:** Was it not inherently dangerous to dive into a
3 pipe irrespective of what had happened on that day? Is it not
4 inherently dangerous to dive into a pipe?

5 **Mr. Ramadhar:** As we say, all diving, there's inherent
6 danger, but they took a decision it was too dangerous—

7 **Mr. Chairman:** Well, I think you should address that question
8 to witnesses who are yet to come.

9 **Mr. Ramadhar:** Well, I don't know other than—

10 **Mr. Chairman:** You know who's coming.

11 **Mr. Ramadhar:** I expect, but I will foundationally prepare so
12 that when they do come we know where we stand and there'll
13 be no gap in that process.

14 **Mr. Chairman:** I think we know where we stand. I think we
15 should move to a different topic.

16 **Mr. Ramadhar:** Thank you so much, Mr. Chairman.

17 **Continued Cross-Examination By Mr. Ramadhar:**

18 Q. Now, when Christopher was rescued and brought out from the
19 water, you were very keen to ascertain the conditions of the
20 pipe from which he had just come. Isn't that accurate?

21 A. I didn't realize that he came from the pipe at that time. I
22 thought he was in the chamber.

23 Q. You made any effort to find out where they found him?
24 Because you must have certainly learnt that no one was found
25 in the chamber before that.

26 A. Yes, so afterwards I found out that—

27 Q. Pause, pause. I hear you.

1 A. Okay.

2 Q. Right. So at the time you believed he reappeared into the
3 chamber from where?

4 A. No, I didn't say that. I say—

5 Q. I'm asking you.

6 A. I didn't know at that time. It didn't come to me that he was in
7 the pipeline. When we heard the knocking I assumed that he
8 was actually in the chamber, that the guys came out from the
9 pipe into the chamber.

10 Q. Wait, you are the senior man on site. Before Christopher was
11 retrieved—

12 A. Yes.

13 Q. —you had no information that others went into the chamber to
14 ascertain whether it was empty or it was populated with
15 humanity?

16 A. Yes.

17 Q. And what was the information you knew? Wasn't it that the
18 chamber was empty?

19 A. Yes.

20 Q. Right. He's then brought out. So you thought he just
21 reappeared into the chamber?

22 A. No, I didn't say that.

23 Q. Well, I'm asking you.

24 A. I'm saying that when he was rescued I wasn't aware that he was
25 in the pipeline when he was rescued. I thought he was in the
26 chamber. He came out into the chamber and was being
27 rescued.

1 Q. Well, forgive me for having to do this. Whether he was in the
2 chamber on his own, at any stage you formed the opinion that
3 he was at some time in the pipe?

4 A. Yes.

5 Q. Right. And that would have been certainly before he was taken
6 away on the ambulance?

7 A. Yes, correct.

8 Q. Yes. Wouldn't he be the best source, as Mr. Maharaj had put it,
9 original information as to the conditions within the pipe?

10 A. Yes.

11 Q. You as the most senior operative for Paria, did you make any
12 effort whatsoever to ascertain the condition of the pipe so that
13 we could deal with the inherent dangers based on different
14 circumstances within the pipe?

15 A. Yes. So once he came out, I observed him—

16 Q. I didn't ask you what you observed.

17 **Mr. Chairman:** You got to let him answer.

18 **Mr. Ramadhar:** Thank you. Thank you. Thank you; of
19 course.

20 **Continued Cross-Examination By Mr. Ramadhar:**

21 Q. Do, please, carry on.

22 A. Yes. When he came out I saw that he was covered in oil and
23 shouting. He was saying some stuff so he was—he was
24 shouting. So he was in, like—he was okay, basically. I went—
25 I was on berth 6 at that time and I went across on the barge to
26 try and get to him. By that time the launch already took him to
27 shore.

1 Q. Oh, I see, I see. So you wish to make enquiry of him but you
2 didn't have the opportunity to do so?

3 A. I attempted to get first-hand information from him.

4 Q. Yes. Did you follow?

5 A. No, I didn't follow him.

6 Q. No. Did you communicate with anybody on shore to expect
7 and make enquiry from him when he arrives?

8 A. I informed the Incident Command Team that Mr. Boodram was
9 being taken to shore.

10 Q. Right. You called all of the team members or whom
11 specifically did you speak with?

12 A. No, I called the Incident Commander.

13 Q. Mr. Piper again?

14 A. Mr. Piper.

15 Q. To let him know, well, listen, we have a live one here who has
16 first-hand information and we could know the conditions within
17 the pipe. Is that it?

18 A. I passed the information to let him know that, yes, the injured
19 was coming ashore.

20 Q. Would it shock you to learn—and maybe we might be given a
21 different response from some other witness—that the first time
22 after Christopher was taken from berth 5, or thereabout—6,
23 sorry, that the first time anyone from incident management
24 team may have attempted to speak with him—sorry. Chairman,
25 do forgive me—not attempted, but actually from what the
26 statements claim, that the first time that Christopher was
27 actually spoken with was ten o'clock or thereabouts?

1 A. I wouldn't have that information.

2 Q. No. Were you interested to find out about his condition?

3 A. Yes.

4 Q. Were you interested to find out what he had to say?

5 A. Yes.

6 Q. Did you make any enquiry?

7 A. Yes, I asked—

8 Q. From whom?

9 A. From the personnel on the barge, "What did he say".

10 Q. Right. And you learnt, to repeat ourselves *ad nauseam*, that
11 men were right behind and saveable at that point in time.

12 Correct?

13 A. Yes, he indicated—

14 Q. You have, of course, paid close attention to the proceedings
15 thereafter. You know that there was an audio recording of
16 these men whilst they were in that pipeline. Yes?

17 A. No.

18 Q. You never even heard that there was an audio recording?

19 A. No.

20 Q. And, therefore, you never even—well, certainly if you didn't
21 know of it you didn't hear it. Would it shock you to learn that
22 there was an audio recording with these men speaking to each
23 other within the pipeline, alive, and viable?

24 A. I can't say. I mean, I have to hear it.

25 **Mr. Peterson SC:** Mr. Chairman, that's an unfair composition
26 of a question. My friend must be aware that that audio was
27 only released to the Commission the Friday before we started,

1 and it was played on the Monday. So no one knew of that until
2 the Commission was provided with it by OSH.

3 **Mr. Chairman:** Well, he can ask him if he knew of its
4 existence, and he said no. Right. It's not made generally
5 available on the website.

6 **Mr. Ramadhar:** Oh, it's not? I'm sorry.

7 **Mr. Chairman:** No. I made it clear that it wouldn't be, for
8 obvious reasons.

9 **Mr. Ramadhar:** Well, I know I heard it on the radio, so that's
10 why. Forgive me.

11 **Mr. Chairman:** Well, the part that was played in this hearing
12 during the opening, of course, that was public to everyone, but
13 we deliberately kept it short and deliberately kept it within a
14 small compass, and I've made it clear that whilst it's available
15 to the lawyers and those directly engaged in this matter, it is not
16 available, generally, to the public, and I will not make it
17 available generally to the public. It is not necessary to do so.

18 **Mr. Ramadhar:** I know. It's painful. It is beyond painful.
19 Thank you so much, Chairman.

20 **Continued Cross-Examination By Mr. Ramadhar:**

21 Q. So your function came to an end that evening at around 2.00
22 a.m.?

23 A. No, it didn't.

24 Q. Is there a white board at your office, back on shore—an event
25 board or something, whatever you want to call it?

26 A. I'm not sure.

27 Q. Was there an office of the incident command team?

1 A. Yes, there was.

2 Q. Did you ever enter that office—

3 A. Um.

4 Q. —after the incident?

5 A. On occasions.

6 Q. When did you next enter that office?

7 A. I would go in on the mornings of picking of shift to get my
8 instructions.

9 Q. Right. When next after the incident did you enter that office?

10 A. That would have been the next morning, Saturday morning.

11 Q. Saturday morning. Did you see and speak to any member of
12 the incident command team there that morning?

13 A. In the room?

14 Q. Yes.

15 A. I got—Mr. Piper instructed me at that point, yeah.

16 Q. What time?

17 A. I can't recall what time he spoke to me.

18 Q. What time did you come to duty?

19 **Mr. Chairman:** Ten o'clock.

20 **Mr. Harrichan:** Ten o'clock.

21 **Continued Cross-Examination By Mr. Ramadhar:**

22 Q. Yes. Did you have a look at any white board with the incident
23 notations on it?

24 A. No.

25 Q. Did you know at any stage as to when a decision was made by
26 the incident command team—forget when it was communicated
27 to you—but when a decision was made that it will be too

1 dangerous to endeavour a rescue?

2 A. No.

3 **Mr. Chairman:** Were you ever told that there was going to
4 be—that it was too dangerous to rescue by anybody?

5 **Mr. Harrichan:** No.

6 **Mr. Chairman:** No. Thank you.

7 **Mr. Ramadhar:** Mr. Chairman, I'm so grateful to you. Mr.
8 Harrichan, thank you, Sir.

9 **Mr. Harrichan:** Thank you.

10 **Mr. Chairman:** Anyone else? Mr. Peterson?

11 **Mr. Peterson SC:** Just one question.

12 **Mr. Chairman:** Is there something useful you can add, Ms.
13 Alfonso?

14 **Ms. Alfonso:** I don't want to add anything. I wanted a couple
15 questions answered, Mr. Chairman. I didn't have anything
16 useful to add. I was hoping Mr. Harrichan would help us with
17 some things.

18 **Mr. Chairman:** All right. Go on, then.

19 **Ms. Alfonso:** And I promise to be brief.

20 **Cross-Examination By Ms. Alfonso:**

21 Q. Good morning, Mr. Harrichan?

22 A. Yes. Good morning.

23 Q. My name is Nyree Alfonso, and I represent the interest of
24 SWWTU. Mr. Harrichan, could you tell us how long you've
25 worked with Paria?

26 **Mr. Chairman:** We've had the answer to that.

27 **Ms. Alfonso:** Okay. I'm sorry, I missed it. I probably was

1 outside the door. Okay.

2 **Continued Cross-Examination By Ms. Alfonso:**

3 Q. You worked with Petrotrin prior to Paria?

4 A. Yes.

5 **Mr. Chairman:** We have the answer to that too.

6 **Ms. Alfonso:** Okay. Thank you very much.

7 **Continued Cross-Examination By Ms. Alfonso:**

8 Q. So you've been there for some time?

9 A. Yes.

10 Q. Okay. You are Mr. Ramdhan's senior officer? He's junior to
11 you and you are senior to him?

12 A. Yes.

13 Q. At the time. I know you're no longer there.

14 A. Yes.

15 Q. At the time. At some point—where Mr. Boodram came up,
16 was that on berth 6 or was it on the barge? Where he was
17 brought up, it's closer to the barge, on the side of the barge?

18 A. He came up close to the riser, that was probably midway
19 between the barge and the berth.

20 Q. And you were on the berth?

21 A. Yes.

22 Q. What is the distance between where you were on the berth,
23 berth 6, and where Mr. Boodram would have come up?

24 A. The straight line distance you're talking 'bout?

25 Q. Yes.

26 A. Maybe about 20, 30 feet.

27 Q. Okay. So how would you get to that 20, 30 feet? You have to

1 walk across something?

2 A. You mean how I would get to the barge?

3 Q. Yes, how you'd get to the barge from berth 6?

4 A. Right. So from berth 6 you will walk along the berth. Then
5 there's a catwalk that extends maybe 200 feet, maybe, maybe
6 100 feet. There's a dolphin; you'd climb down the dolphin and
7 then get on to the barge from there and then walk back down
8 towards the berth.

9 Q. Okay. And if you're walking or climbing as the case may be,
10 how long would that take for you—for you? When you left
11 berth 6—not generally—when you left berth 6 and you were
12 making your way onto the barge, how long that have taken
13 you? You said 20, 30 feet, but it's as the crow flies. Right?

14 A. Yeah.

15 Q. But you're not jumping it over. You're walking down the
16 catwalk and you're coming across the dolphin and you're
17 reaching there. How long would it take you to get there?

18 A. A couple minutes.

19 Q. A couple minutes. Two? Three?

20 A. I can't say for sure.

21 Q. So following from Mr. Ramadhar's question to you, it would
22 only have taken you two to three minutes to leave where you
23 were on berth 6 to reach to where Mr. Boodram was brought
24 up?

25 A. Yes.

26 Q. Okay. Thank you very much for that, Mr. Harrichan. At some
27 point in time, Mr. Harrichan—and I promise I'm not going to

1 ask you much after this—did you receive an instruction from
2 Mr. Piper to—I don't want to say—I want to say to send Mr.
3 Farah, or you and Mr. Farah to make your way—Andrew
4 Farah, the diver—

5 A. Yes.

6 Q. —to the Incident Command Centre?

7 A. Yes.

8 Q. You did?

9 A. Yes.

10 Q. And that was around what time? You could help us?

11 A. Yes, sure.

12 Q. Around five, perhaps?

13 A. Let me get the time for you. Yes, around 1700.

14 Q. Okay. I'm like Mr. Ramadhar. You have to forgive us. I start
15 taking away two in my head. So it's five o'clock?

16 A. Yes 5.00 p.m.

17 Q. Okay. So at that time Mr. Farah was the only remaining diver,
18 as far as you knew, for LMCS?

19 A. Yes, correct.

20 Q. On site?

21 A. Yes.

22 Q. As far as you knew?

23 A. As far as I know.

24 Q. Yes. Did you find it at all strange to remove the one diver that
25 was present and to send him to the shore?

26 A. No, because there was no diving taking place at the time.

27 Q. There's no diving taking place. If a rescue had to be done,

1 would it be done by divers?

2 A. Yes.

3 Q. Okay. But the one diver that was available was being ferried
4 back on Mr. Piper's instruction to you?

5 A. Yes, correct.

6 Q. To the shore?

7 A. Yes.

8 Q. And at some point in time Mr. Farah, I beg your pardon,
9 received some information?

10 A. Yes.

11 Q. And that information was that knocking was heard or noise was
12 heard?

13 A. Yes.

14 Q. And he asked to come back to the barge?

15 A. I don't know if he asked—

16 **Mr. Chairman:** Forgive me. I'm sorry. Just wait a minute.
17 All of this is in his statement. The purpose of providing it to
18 everybody in advance is that they know what is in the
19 statement. You haven't asked anything yet, with the greatest of
20 respect, that has given us any fresh or new information. The
21 purpose of permitting cross-examination by anybody is to try
22 and elicit fresh or new information that we can as
23 Commissioners take into account in deciding what the outcome
24 of this Enquiry will be.

25 You've been asking questions for some time. All of the
26 answers to your questions are on his statement. So if there's
27 something you want to lead up to, just ask that question so that

1 we know where we are. All right?

2 **Ms. Alfonso:** Okay. So I would say this. Thank you very
3 much, Mr. Chairman.

4 **Continued Cross-Examination By Ms. Alfonso:**

5 Q. I have noted in your witness statement that you say that you
6 gave the directive to return to the barge with Mr. Farah on
7 learning of that information that I just identified.

8 A. No. I informed Collin and he told me to have Andrew Farah
9 return.

10 Q. Okay. Would you be surprised if you knew that Mr. Farah says
11 something different? He says that he demanded that the captain
12 turn the vessel around.

13 A. I can't say.

14 Q. You can't say. Thank you very much, Mr. Harrichan.

15 A. Sure.

16 **Mr. Chairman:** Okay, thank you. Mr. Peterson?

17 **Mr. Peterson SC:** One question, Mr. Chairman.

18 **Cross-Examination By Mr. Peterson SC:**

19 Q. Mr. Harrichan, you got instructions from Mr. Piper to indicate
20 to persons there at the berth and the barge not to dive into the
21 pipe. But after that instruction, persons continued to dive,
22 didn't they?

23 A. Yes, correct.

24 **Mr. Peterson SC:** Right. Thank you, Sir.

25 **Mr. Chairman:** Yes, thank you. Just one thing, please.

26 **Examination By Mr. Chairman:**

27 Q. Were you aware that Mr. Dobson went back with Mr. Boodram

1 on the boat, whatever boat it was, back to shore—escort him?

2 A. I know that an HSE person from Paria Kenson went with him
3 but I'm not sure if it was Dobson or someone else.

4 Q. We noticed. But you were aware at the time that there was
5 somebody accompanying him?

6 A. Yes, correct, yes.

7 Q. And who was—were you aware that he was able to—that he
8 was medically qualified in some, not as a doctor, but, you
9 know, medically qualified?

10 A. Yes.

11 Q. Did you consider it might have been useful if you'd suggested
12 that he accompany him all the way to the hospital so that he
13 might be able to ask the very questions that you wanted to ask?

14 A. I didn't know what the procedure was, if they were taking him
15 to the hospital with Petrotrin's ambulance, Paria's ambulance,
16 and he would be accompanied with him or if they were taking
17 him away with a government ambulance. So I wasn't—I'm not
18 aware.

19 Q. Right. Whichever ambulance he went in it clearly would make
20 some sense that somebody should accompany him both for his
21 own welfare and for the welfare of those that remained in the
22 pipe in order to try and discover as much information as he was
23 able to give?

24 A. Yes.

25 Q. All right. Anyway, you recognized that it was important to try
26 and speak to Mr. Boodram because he was in the position that
27 he was in?

1 A. Yes.

2 Q. Yeah. Unfortunately, you got there too late and he already was
3 being carted away?

4 A. Yes.

5 **Mr. Chairman:** All right. Thank you very much. Unless
6 anybody has got anything to ask arising from that—Mr. Wilson
7 has questions.

8 **Examination By Commissioner Wilson:**

9 Q. Good morning.

10 A. Good morning, Sir.

11 Q. From your statement I saw that you are trained in the permit to
12 work system and up to the level of an Area Authority. Were
13 you the area authority on that day?

14 A. Yes.

15 Q. Okay. From your training in the permit to work system,
16 supplemental certificates that are attached to the certificate—or
17 the permit to work, sorry—what are they in service of, to the
18 best of your knowledge or from your training?

19 A. Hot work.

20 Q. Just hot work?

21 A. In Paria only hot work at that time, yes.

22 Q. Only hot work at that time?

23 A. Yes.

24 Q. But in the work scope instructions, I saw this morning that the
25 pipeline was supposed to be isolated and deisolated. Is that
26 true?

27 A. Yes.

1 Q. All right.

2 **Commissioner Wilson:** Can I have the permit pulled up,
3 please? Permit to work.

4 **Continued Examination By Commissioner Wilson:**

5 Q. So you as the area authority, you're saying that there was a
6 requirement to isolate the pipeline for the—in service of
7 executing the scope of work that morning?

8 A. Yes.

9 Q. Right. I would like to bring your attention to the permit to
10 work, please.

11 **Commissioner Wilson:** If we could go down to
12 “Requirements for Equipment Isolation and Clearance”—

13 **Continued Examination By Commissioner Wilson:**

14 Q. Also, sorry, let me back it up a bit. I also heard mention of an
15 isolation checklist.

16 A. Yes.

17 Q. So since the work instruction indicated that the pipeline needed
18 to be isolated, was an isolation checklist completed and then
19 supported with an isolation certificate?

20 A. Paria only has an isolation checklist, and that was completed.

21 Q. Okay. So if I could go down to No. 3. So certificates/checklist
22 required. So I'm seeing certification number and/or not
23 applicable. I'm not seeing anything even referencing an
24 isolation checklist. And from the permit to work it looks as
25 though coming out of a checklist—and I'm alive to
26 correction—that there is supposed to be a certificate if there's
27 going to be an isolation.

1 A. Yeah, there was an isolation checklist.

2 Q. Checklist?

3 A. Yes.

4 Q. Okay. And you're saying in the permit to work, coming out of
5 an isolation checklist, an accompanying certificate is not
6 attached to the work permit as a supplemental certificate or
7 document?

8 A. No, not from my understanding of the permit to work.

9 **Mr. Chairman:** I can't hear you.

10 **Mr. Harrichan:** Not from my understanding from the permit
11 to work.

12 **Continued Examination By Commissioner Wilson:**

13 Q. In the isolation checklist, what are some of the components that
14 an isolation checklist would address in a—

15 A. So the isolation checklist that Paria has addresses where the
16 isolations were done and it addresses what time they were
17 inserted and removed.

18 Q. Okay. That's it? That's a checklist—a two-point checklist?

19 A. Well, it has a drawing showing where the system is isolated as
20 well.

21 Q. Okay. Now, in your training in permit to work and/or as an
22 Area Authority, what is the purpose of an isolation?

23 A. The isolation checklist?

24 Q. Not checklist, just isolating, whether it's mechanical, electrical,
25 process. Why do we isolate?

26 A. Well, in the case of the pipeline, you're isolating to prevent
27 hydrocarbons from entering into the workspace. So isolation is

1 to prevent hazards from coming into the workplace.

2 Q. Okay. So the thinking was, there was never any potential
3 stored energy inside or outside of the pipeline? It was just for
4 hydrocarbons?

5 A. For the hydrocarbons, yes.

6 Q. Okay. Also, under your roles and responsibilities, this goes
7 back to planning, in terms of having an idea of the amount of
8 barrels to be displaced or the amount of product in the pipeline
9 to be displaced, is it in your experience, given your roles and
10 responsibilities, that a Certificate of Environmental Clearance is
11 to be obtained before such activities, or is that Paria's practice?

12 A. That the certificate supposed to be obtained before which
13 activities? Clearing—line clearing?

14 Q. Clearing a pipeline?

15 A. No, I've never seen that done.

16 Q. Never seen it coming from the EMA?

17 A. No, I've never seen it from Paria.

18 Q. Okay. It's not a practice of Paria?

19 A. Yes.

20 Q. Okay. Thank you very much.

21 A. You're welcome.

22 **Mr. Chairman:** Yes. Thank you very much. You're free to
23 go.

24 **Mr. Harrichan:** Okay, thank you.

25 **Mr. Chairman:** And you can stay or go as you please. All
26 right? But thank you for coming.

27 **Mr. Harrichan:** Okay, thank you.

1 **Mr. Chairman:** I appreciate it. Thank you very much. All
2 right. Let's move to our next witness who I believe is Mr.
3 Marjadsingh.

4 **Mr. Maharaj SC:** Yes. The next witness is Mr. Houston
5 Marjadsingh.

6 **Mr. Chairman:** Yes. He's a Kenson employee, isn't he?

7 **Mr. Maharaj SC:** Yes.

8 **Mr. Chairman:** Yes, thank you.

9 **Mr. Maharaj SC:** Ms. Vijaya Maharaj would lead his
10 summary.

11 **Mr. Chairman:** Thank you. So Mr. Marjadsingh, please?
12 Thank you. Do you have questions for him, Mr. Maharaj?

13 *[Mr. Houston Marjadsingh sworn]*

14 **Mr. Marjadsingh:** I, Houston Marjadsingh, solemnly swear
15 that the evidence I shall give to the Commission in this case
16 shall be the truth, the whole truth, and nothing but the truth.

17 **Mr. Chairman:** Mr. Marjadsingh, take a seat. Thank you. If
18 you take that bottle away; thank you. What's going to happen
19 next is, Ms. Maharaj is going to read a summary of your
20 evidence. All right? Listen to it carefully, please, and in the
21 end if you agree with it you'll tell her you do. If there's
22 anything else you want to say about it, you can. All right? And
23 that, hopefully, will mean that your evidence will be shorter.

24 After that, Mr. Maharaj, he will be asking you some
25 questions. I anticipate we'll have lunch in the middle of
26 somewhere and then a number of the other lawyers here will
27 ask you some questions. So I'm afraid you're certainly going

1 to be required after lunch. All right? But if you pay attention,
2 first of all, to what Ms. Maharaj has to say, and then we can
3 proceed from there. Thank you very much.

4 **Ms. Maharaj:** Thank you.

5 Mr. Houston Marjadsingh submitted a witness statement
6 to the Commission dated 2nd December, 2022. He declined to
7 be interviewed by the Commission. His witness statement is at
8 the supplemental witness statement bundle, page 3049.

9 Mr. Marjadsingh is a Maintenance Technician at Paria
10 Fuel Trading Company. He began working at Paria in or
11 around August 2021. From the commencement of his
12 employment at Paria he was under the direction of his
13 supervisor, Mr. Terrence Rampersadsingh, Paria's Maintenance
14 Planner, who gave him directions on what work he was
15 supposed to do generally and on a daily basis.

16 As a Maintenance Technician he was assigned an office
17 at Paria, had a Paria email address, and a Paria identification
18 card. He was familiar with the works being carried out by
19 LMCS which started in January 2022 and was suspended on the
20 17th February because LMCS, under the supervision of its
21 employee, Dexter Guerra, sent a barge out to sea without the
22 required work permit. This led to Paria suspending the works
23 and Dexter Guerra being demoted. The works resumed on the
24 25th February.

25 Mr. Marjadsingh had seen the scope of work of LMCS.
26 The scope of work he refers to is exhibited at page 3058 of his
27 witness statement. He was aware that LMCS was a specialist

1 contractor providing all required supervision for the works they
2 were doing at berth 5 and 6. Mr. Marjadsingh says that he had
3 to be able to follow the job as laid out in LCMS' scope of
4 works to report to his supervisor daily on what percentage of
5 the job was completed, but he was not a supervisor and did not
6 have to supervise LMCS. Mr. Marjadsingh met with Mr.
7 Rampersadsingh in the week prior to the recommencement of
8 the works. Also on the morning of the 25th February he spoke
9 to Mr. Rampersadsingh in the presence of another Maintenance
10 Technician, Mr. Mangalee. On both occasions Mr.
11 Rampersadsingh told him what to do whilst LMCS was doing
12 the works.

13 On 25th February Mr. Rampersadsingh informed Mr.
14 Marjadsingh that there was to be a CARBER test on both berths
15 5 and 6 and the removal of the old riser and the installation of
16 the new riser section at berth 6. Mr. Marjadsingh explained that
17 his job for the 25th February, based on the instructions he
18 received from Mr. Rampersadsingh, was to do the following:

19 One, fill out the work permit; two, ensure there was an
20 inspection of the CARBER test at berths 5 and 6; and, three,
21 supply material where needed to LMCS.

22 On the morning of the 25th February, Mr. Marjadsingh
23 filled out section A of the work permit based on the information
24 he received from Mr. Rampersadsingh and he attached the
25 relevant documents. He signed the form as the applicant. The
26 form was authorised by the Offshore Team Supervisor, Mr.
27 Johnathan Ramdhan of Paria, a contractor representative Mr.

1 Rudolph Gonzales of LMCS also signed the form.

2 Mr. Marjadsingh stated that he did not approve any of the
3 documentation on the permit to work which was issued to
4 LMCS. He further stated it was not his job to approve LMCS'
5 method statement and job safety analysis as he did not have the
6 expertise to do this. The documents were approved before they
7 were handed over to him.

8 Mr. Marjadsingh stated he did not have specialist
9 knowledge about the job LMCS was doing because as a
10 Maintenance Technician he only knows of the work relative to
11 his field. He further stated that on the 25th February LMCS
12 had its supervisors on site. He recalls the following persons
13 being present at berth 6 on the 25th February. One, Andrew
14 Farah, LCMS' Dive Supervisor, whose job was to constantly
15 monitor the camera and have communication with the divers in
16 the chamber; two, Victor Dhillpaul, LCMS' Safety Officer;
17 and, three, Kazim Ali Jr., LCMS' supervisor. He further states
18 that Rudolph Gonzales was the LMCS supervisor on berth 5.

19 It was Mr. Marjadsingh's belief that LMCS was to
20 supply all supervision for the works and all labour, materials,
21 equipment, project engineering, transportation, consumables,
22 and insurance required to perform the works being conducted at
23 berth 6.

24 On the morning of 25th February Mr. Marjadsingh issued
25 the permit to work to LMCS supervisor, Kazim Ali Jr., and,
26 thereafter, LMCS commenced their work for the day. Mr.
27 Marjadsingh then boarded a launch vessel and proceeded to

1 berth 5 to monitor another maintenance job and keep his
2 supervisor updated accordingly. Upon his arrival at berth 5 he
3 participated in a toolbox meeting conducted by LMCS
4 supervisor, Rudolph Gonzales, and he recalls there was a
5 discussion on the CARBER test to be performed on berth 5 that
6 day. He remained on berth 5 on that day from the morning to
7 the early afternoon period and then went to berth 6 for a status
8 update and also to update his log for the day.

9 When he arrived at berth 6 he spoke to Andrew Farah to
10 find out if his team was getting through with the job. Mr. Farah
11 said yes and Mr. Marjadsingh then went to the screen monitor
12 on berth 6 and saw one of the divers in the chamber. He then
13 moved away from the screen. About 10 minutes later Mr.
14 Marjadsingh felt a shake on berth 6 and heard a noise. He
15 immediately went back to the monitor to see if something had
16 happened in the chamber and noticed the camera was not
17 focused in the chamber and it appeared to be showing the wall
18 of the chamber.

19 Andrew Farah was at the monitor as well. Mr.
20 Marjadsingh then asked Mr. Farah what happened but Mr.
21 Farah did not know. Mr. Farah went on the barge, put on his
22 dive gear, and went into the water to go inside the chamber to
23 see what had happened. Mr. Farah came back within 10
24 minutes and said he did not see anyone inside the chamber. Mr.
25 Marjadsingh then notified the operator, Mr. Scott, that
26 something may have gone wrong and also notified his co-
27 workers on shore.

1 Mr. Ramdhan came on site and deployed launch vessels
2 to search the surrounding areas for the missing divers. Mr.
3 Marjadsingh stayed on berth 6 until about 11.00 p.m. to see
4 what happened and to see whether they could locate the missing
5 divers. He played no role in the search efforts.

6 Is that a correct summary of your evidence, Mr.
7 Marjadsingh?

8 **Mr. Marjadsingh:** Yes, correct.

9 **Ms. Maharaj:** Thank you.

10 **Mr. Chairman:** Just before you ask any questions, may I just
11 confirm with you, please?

12 **Examination By Mr. Chairman:**

13 Q. You, I think, started working at Paria in August of 2021. Is that
14 right?

15 A. Yeah, correct.

16 Q. What were you doing before that?

17 A. Well, I have my own contracting business, and then before that
18 I used to work in Petrotrin. So when we got sent home from
19 Petrotrin, I opened up my own business.

20 Q. So you were working, first of all, with Petrotrin and when that
21 folded, there was a period when you were running your own
22 business as what? A consultant?

23 A. No, a contracting business doing maintenance work as well as
24 commercial buildings and property. And then in-between I
25 would work in one or two shutdowns.

26 Q. Right. So what sort of experience did you bring to this
27 particular task as a technician—Maintenance Technician?

1 A. Well, from my experience of working throughout the Point
2 Lisas area and within the refinery; so ah would have got
3 knowledge in pipefitting, fabricating, mechanical-wise.

4 Q. For how long?

5 A. I started to work in the oil and gas industry since in 2010.

6 Q. All right. Thank you. If you bring your chair—don't switch
7 that off and on. Leave it on. Bring your chair—that's it. And
8 if you speak there, then I think we'll all hear you. Slow down
9 just a little bit, all right, because I have to try and make a note
10 of what you're saying. Thank you very much.

11 Mr. Maharaj is going to ask you a few questions. All Right?

12 **Cross-Examination By Mr. Maharaj SC:**

13 Q. Mr. Marjadsingh, do you have any experience in offshore
14 subsea maintenance work?

15 A. No, not subsea, no.

16 Q. I have a report from OSHA, and just for the record, it's in Core
17 Bundle Volume 3, and it's at page 1239. And it says that:

18 "The Applicant to the permit, KOSL, Maintenance
19 Technician—Mr. Houston Marjadsingh, stated that he
20 has seven (7) months' experience in PARIA, and his
21 prior work experience was in construction and pipe
22 fitting."

23 Was that correct?

24 A. Yeah, correct.

25 Q. And you said you had no experience in offshore subsea
26 maintenance works?

27 A. Yeah, correct.

1 Q. And you were the applicant for this work permit, not so? You
2 signed as applicant. Am I correct?

3 A. Yeah, correct.

4 Q. Yes. And in paragraph 7 of your witness statement, you said
5 that in order for you to carry out your duties as Maintenance
6 Technician you had to be able to follow the job as laid out in
7 LMCS scope of works. You see that?

8 A. Yeah, correct.

9 Q. Correct. And you exhibited to you witness statement the scope
10 of works that you were referring to?

11 A. Yes.

12 Q. Correct?

13 A. Yes, correct.

14 Q. And I take you to page 3065 of the scope of works at paragraph
15 312. And you'll see there that it's "apart from cut, insert,
16 migration barrier, et cetera", and then you see "Note". Well, let
17 me read it.

18 "Cut, insert migration barrier and install a 30"Ø flange
19 onto the existing line. Inspection requirement for the
20 flange 100% PT (including root [*sic*] passes). VT and
21 hydrotest. Note video stream to be provided top side
22 during work activity for Paria's representative."

23 You see that?

24 A. Yes, I see it.

25 Q. And do you interpret that to mean that while the work was
26 being done, while work was being done on the 25th February,
27 2022, that a video stream was to be provided for Paria's

1 representative to view the works?

2 A. Yeah, correct.

3 Q. And from your experience that occurred whilst you have been
4 working with Paria? That happens? A video stream is there
5 and Paria's representative would view the works?

6 A. Yeah, correct.

7 Q. And would view the works, to monitor the works in order to
8 ensure compliance?

9 A. Yeah, to monitor.

10 Q. Permit to work. On the 25th February, you were present at the
11 time these works were being done?

12 A. I was on berth 5, because we were doing the CARBER test first
13 on berth 5. So I went to berth 5 first.

14 Q. First. But you came back—you came at berth 6 after?

15 A. A little while after.

16 Q. And when you came back at berth 6, were the works going on
17 with respect to what had to be done at berth 6?

18 A. At the time I reach at berth 6, yeah, the guys was inside the
19 chamber.

20 Q. The guys were inside the chamber. And what time—was that
21 in the afternoon, sometime in the afternoon?

22 A. Yeah, dah was in the afternoon.

23 Q. Around what time that would have been?

24 A. By the time I reach on berth 6 was around after 2.00.

25 Q. After 2.00?

26 A. Yeah.

27 Q. And how long you remained at berth 6?

1 A. Well, according to my statement I stayed on berth 6 until
2 around 11.00.

3 Q. Until 11.00. Well, you know that the works—you were the
4 applicant for the work permit, so you knew that the work was to
5 be done in accordance with the work permit. Not so?

6 A. Correct.

7 Q. And did you look on the video stream to see that the works
8 were being done in accordance with the work permit?

9 A. Right. So at the time that I looked at the monitor, I just saw one
10 person but he was just at the flange standing. He was not doing
11 any mechanical work or anything. He was just at the flange
12 standing up.

13 Q. All right. He was at the flange standing up. And did you
14 continue to look?

15 A. No. I just saw him by the flange standing up. I ain't see no
16 mechanical work going on so I went to a different point. So I
17 didn't stay long by the monitor.

18 Q. But you knew that afternoon that the work which had to be
19 done was to insert the new riser?

20 A. Yes.

21 Q. Right. So you saw one of the men at the pipe. And were you
22 interested to see whether they were complying with the terms of
23 the work permit?

24 A. Yeah.

25 Q. Well, did you decide to remain to look and see what was
26 happening?

27 A. No. Well, remember, I would get feedback from the

1 supervisor.

2 Q. And who was the supervisor?

3 A. Junior, Kazim. But at the time when I was on the berth he was
4 in the water, so it would have been impossible for me to get a
5 proper update, and he would be the onlies' one I would go to, to
6 get an update.

7 Q. So you would get an update from Junior Kazim who was
8 employed by LMCS?

9 A. Yes, because he was the supervisor for the site.

10 Q. But you were representing Paria?

11 A. Correct.

12 Q. And you were representing Paria to ensure that there was
13 compliance with the works being done by LMCS?

14 A. Correct.

15 Q. Because if LMCS was not doing the works in accordance with
16 the work permit, you would have to stop the works, not so?

17 A. Yeah, correct.

18 Q. Okay. So the works involved having this new riser inserted.
19 Correct?

20 A. Yeah.

21 Q. You saw one of the workers, according to you, one of the divers
22 over the pipe seeing about—exactly what you saw?

23 A. Well, I saw him and he was just standing up by the flange,
24 touching the flange face. So I don't know if he was cleaning
25 the flange face or what exactly, but his hand was on the flange
26 face.

27 Q. But you knew—what work you knew had to be done with

1 respect to that pipe that afternoon?

2 A. Yes, correct.

3 Q. What work you knew had to be done?

4 A. Well, I know we had to conduct the CARBER test and
5 install the riser section—[Inaudible]

6 Q. And according to you, according to you, you had a work permit
7 and on that work permit says, “Migration Barrier to be used”?

8 A. Yeah, correct.

9 Q. And would you agree with me that one of the things that you
10 had to ensure happened that day was that the LMCS workers
11 complied to ensure that the migration barrier was used?

12 A. Okay, correct.

13 Q. And the migration barrier had to be used in respect of the job to
14 insert the new riser?

15 A. Correct.

16 Q. So here it is, your job that day was to monitor this work.
17 Correct?

18 A. Yeah.

19 Q. So you saw one of the men over the pipe. Could you tell us
20 why you didn't stay to monitor to see whether the job was
21 being complied with?

22 A. Right. So let me explain. I not have to station by the monitor.
23 Right? The monitor is there for me to do checks when I am
24 passing on the site. So they have a guy who would be stationed
25 there who is seeing about the divers, which is the dive master.
26 So the monitor is basically for me to come and oversee, take a
27 look, everything assume, everything looking normal, and I go

1 to the berth, I check the other employees, and conduct my job
2 for the day.

3 Q. What was the most important thing you thought that you had to
4 do that afternoon with respect of those works? Not to monitor
5 to see how the work was being done?

6 A. Yeah, monitor.

7 Q. Yes. And you had to monitor it continually?

8 A. Right.

9 Q. Correct?

10 A. Periodically.

11 Q. Periodically?

12 A. Yeah. Not constantly stay by the monitor and watch each job
13 step.

14 Q. So are you telling us that Paria didn't give you instructions to
15 monitor the work continuously?

16 A. No. I don't have to station. That was not my instructions to
17 stay at the monitor and watch the work whole day.

18 Q. From your experience at Paria, does anyone at Paria monitor
19 works like this when it is being done continually?

20 A. Once we doing work, remember, sometimes we have two or
21 three works to see about for the day. So it's not really possible
22 that we could stay at one spot all the time.

23 Q. All right. I'll come back to that when I look at the permit to
24 work rules with you. Right? So let's look—but you would
25 agree with me that this video stream is to be used for the—in
26 order to see that the works are being done in accordance with
27 the rules. Not so?

1 A. And also for the Dive Master to watch over his guys.

2 Q. And who was the Dive Master?

3 A. Mr. Farah.

4 Q. Mr. Farah. So you had an LMCS representative there. Right?
5 But did you have a Paria—who was the Paria's representative
6 to monitor the works?

7 A. Well, I working Kenson on behalf of Paria.

8 Q. Paria. And Paria gave you instructions what to do?

9 A. Yeah.

10 Q. Right?

11 A. Uh-huh.

12 Q. And although you are Kenson employee, you take instructions
13 from Paria?

14 A. Correct.

15 Q. And you work at Paria?

16 A. Correct.

17 Q. And your job is to—the instructions you get from Paria, they
18 tell you what to do and how to do it?

19 A. Correct.

20 Q. Correct. So let's go to the scope of works that you said that you
21 referred to that your duties are. You see at page 3070 under
22 Paria's responsibility, 4.3. You see 4.3? You see that?

23 A. What page?

24 Q. 3070; the page number is at the bottom. It's on the screen.

25 A. Yeah.

26 **Mr. Maharaj SC:** In the core bundle it would be at Volume II,
27 Mr. Chairman, and it starts at page 558.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. You found it, Mr. Marjadsingh?

3 A. Yeah.

4 Q. 4.3, Paria's Responsibility.

5 "Provides slop barge (capacity 40 barrels) to assist in
6 the removal of line content."

7 What do you understand that as the applicant for this work
8 permit to be?

9 A. Exactly what it says: to provide the slop barge.

10 Q. For the oil—for the line contents?

11 A. Yeah, for the oil contents, yeah.

12 Q. So the oil had to be drained, not so?

13 A. Yeah.

14 Q. Right. Okay. And you see 4.5?

15 A. Yeah, correct.

16 Q.

17 "Provide personnel to oversee isolation/deisolation,
18 depressurization/pressurization and draining/filling..."

19 You see that?

20 A. Yeah.

21 Q. Yes. And that was Paria's responsibility. Not so?

22 A. Yeah, correct.

23 Q. And then if we go to—well, we have the Contractor's
24 Responsibility at 5.4 on page 3071.

25 "Provide live video feed during the subsea works."

26 A. Yeah.

27 Q. And then at page 3072 you will see the—

1 "Prepare a Job Hazard Analysis (JHA) and Risk
2 Assessment for review by Paria."

3 Okay. So I want to go to your responsibilities as the applicant.
4 But before I go there, you told us that you arrived at berth 6 at
5 about 2.00 p.m.?

6 A. About after that. I say around 2.00 or after that.

7 Q. What time did this work start that day? Sometime in the
8 morning?

9 A. Yeah, correct.

10 Q. So you didn't monitor the morning period?

11 A. No.

12 Q. And the first time you start to monitor was at 2.00 p.m.?

13 A. Yeah, dah when ah reach on berth 6.

14 Q. That's after lunch?

15 A. Yeah.

16 Q. Well, let's look at—as the applicant for this work permit, you
17 knew that there were rules which applied to the applicant. Am I
18 correct?

19 A. Yeah, correct.

20 Q. And they are contained in the permit to work rules.

21 **Mr. Maharaj SC:** And, Mr. Chairman and Commissioner, that
22 would be found at Volume I at page 26, but particularly at page
23 28.

24 **Continued Cross-Examination By Mr. Maharaj SC:**

25 Q. Now, before I start on this issue, you are the applicant on behalf
26 of Paria for this work permit. Correct?

27 A. Yeah, correct.

1 Q. Correct. And it says here—if you look at under Applicant it
2 says:

3 “The Applicant is the person who initiates the
4 job/activity by completing section A of the Work
5 Permit or Certificate.”

6 And that is what you did here. Right?

7 A. Yeah, correct.

8 Q. “The Applicant must have the necessary competence to
9 execute the job...”

10 Do you consider you have the necessary competence to have
11 executed these works?

12 A. Yeah, correct. Yes.

13 Q. You have the competence to execute these works?

14 A. The task for the day according to work permit, yes.

15 Q. Oh, I see.

16 A. Dah is wha’ I used to do in Petrotrin.

17 Q. Oh. So you have the competence to execute the works in
18 monitoring the job or in doing the works in the chamber?

19 A. No, well, I—all right. The work that I was doing in the
20 chamber—

21 **Mr. Chairman:** Just a minute. Could you read the entirety of
22 that sentence?

23 **Mr. Maharaj SC:** Okay, My Lord.

24 **Continued Cross-Examination By Mr. Maharaj SC:**

25 Q. “...necessary competence to execute the job, or to
26 supervise the execution of the job.”

27 Do you have any of those competence?

1 A. Yeah. The job that they was doing, right, according to the work
2 permit, right, is basically unbolting, making up of flanges, and
3 rigging. That is well within my field.

4 Q. That's all that is within your field as far as that job was
5 concerned?

6 A. Yeah.

7 Q. Yes. Then it goes on:

8 "He shall be knowledgeable of the hazards associated
9 with the job and the necessary controls for these
10 hazards."

11 A. Yeah, correct.

12 Q. "He shall be responsible for the job and for the safety of
13 people who work on the job."

14 You agree with that?

15 A. Yeah.

16 Q. Right. So let us go down to the next page, 0029. I won't take
17 you through all of this. But you see on the fourth bullet point:

18 "Continually monitor the job to ensure that it is
19 performed in a safe manner and within the conditions
20 prescribed in the Work Permit, Certificates and
21 JHA/Risk Assessment."

22 That is Job Safety Analysis, et cetera. You see that?

23 A. Yeah.

24 Q. So "continually monitor the job". But you were doing it
25 periodically?

26 A. Yeah.

27 Q. And, as a matter of fact, according to you, you came on the job

1 at two o'clock to monitor it?

2 A. Yeah.

3 Q. And after you came on the job at two o'clock you didn't
4 monitor it continuously?

5 A. Not continuously, continually, so that—basically—

6 Q. Well, not continually even. All right; let's go. You see that
7 you have the discretion to:

8 "Stop the work if there are changes in site conditions
9 that increase the risk or if new hazards are identified;
10 and promptly notify the Site Authority of these
11 changes."

12 So if you have to do this to identify if there are new hazards, et
13 cetera, don't you have to monitor the job for a long period of
14 time, at least?

15 A. Yeah, well, I was on site.

16 Q. Yeah, you were on the site. I'm talking about monitoring the
17 job. For how long, on any occasion, when you came there at
18 two o'clock you monitored the job? How long?

19 A. I don't have ah accurate time; for just a couple ah minutes to
20 the monitor.

21 Q. Were you there for the toolbox meeting for this job?

22 A. On berth 6?

23 Q. At berth 6?

24 A. No, I was not there.

25 Q. Look at page 28, the last bullet point. You as the applicant had
26 to:

27 "Ensure that pre-start meetings are conducted with the

1 work crew to discuss the job”

2 A. Correct.

3 Q. So you were not there?

4 A. Right. But they say ensure that the pre-start meeting are
5 conducted. Right?

6 Q. Yeah.

7 A. A way that I could ensure that is when I come on site I could go
8 through the documents and see that a toolbox talk was done.
9 And then from my discussion with the supervisor in the
10 morning, I would reiterate to him to make sure that the toolbox
11 talk is done and everybody sign the JHA.

12 Q. But you were not there on—I just want to get it clear. You
13 were not there that morning at berth 6 at the toolbox meeting?

14 A. No.

15 Q. But you knew that meeting was held that morning?

16 A. Afterwards.

17 Q. Yes. But you were at berth 5 at that period of time?

18 A. Correct.

19 Q. Now, I want to show you the toolbox form for berth 6. It's
20 page—volume 3.10.70. You see, Mr. Marjadsingh, I am seeing
21 you—well, let me show it to you. Look at page 1070. The last
22 name on the right-hand column, Houston Marjadsingh, and I
23 see your signature?

24 A. Correct.

25 Q. Is that your signature?

26 A. Yeah.

27 Q. So you were there at 9.15 a.m.?

1 A. No.

2 Q. So when did you sign this?

3 A. When I came on the berth and review over the documents to
4 make sure everything was signed up, ah will make sure that the
5 toolbox talk was conducted and ah woulda affix mih signature
6 to notifying that, well, a toolbox talk was conducted.

7 **Mr. Chairman:** Just pause for a minute, please.

8 **Examination By Mr. Chairman:**

9 Q. So that I understand you, your evidence on this. This represents
10 the toolbox meeting that took place on berth 6 at 9.15 on the
11 25th February of this year?

12 A. Correct.

13 Q. Toolbox meeting is a meeting which sets out what is to happen
14 and what the hazards might be?

15 A. Yeah.

16 Q. Yes?

17 A. Yeah.

18 Q. It's supposed to indicate who was present at that meeting. Yes?
19 Is that correct?

20 A. Yeah.

21 Q. So that we can be sure, if anyone wants to look later on, who
22 was there and what the discussion broadly was about. Correct?

23 A. Yep.

24 Q. You were not there. Correct?

25 A. No.

26 Q. But you looked at this form later that day. Is that right?

27 A. Yeah, correct.

1 Q. So it was on berth 6, was it?

2 A. Yeah.

3 Q. And when you examined it, did you verify with the people that
4 are listed there or Mr. Dhillpaul that this toolbox meeting had
5 taken place?

6 A. Yeah. Well, that's where ah get all the documents from. He
7 normally does keep the documents and when I—

8 Q. Who is—who?

9 A. Mr. Dhillpaul.

10 Q. So Mr. Dhillpaul gave you this document on berth 6, did he?

11 A. Yeah, correct.

12 Q. At what time?

13 A. Ah can't remember the exact time when ah reach on berth 6.

14 Q. Approximately?

15 A. Within about five minutes for me arriving on the boat, because
16 normally that will—ah will go and make sure all the
17 documents—

18 Q. Before or after lunch?

19 A. After lunch.

20 Q. Right. After lunch, so after two o'clock—

21 A. Yeah.

22 Q. —within minutes of your arriving he gave you this and then
23 you put your name on it. Is that your handwriting?

24 A. To the bottom, No. 40, yeah.

25 Q. Yes. And then you signed it, did you?

26 A. Yeah.

27 Q. Do you regard that as being compliant with the rules?

1 A. No.

2 Q. Well, why did you sign it, then?

3 A. Agreeing that ah ensure that a toolbox talk was conducted.

4 Q. So the first time that you verified that there was a toolbox
5 meeting on that day was sometime around two o'clock in the
6 afternoon?

7 A. Yeah, correct.

8 Q. Hours after the work had already commenced?

9 A. Yeah.

10 Q. How could you discharge your duties if that was the case?

11 A. I don't understand what you're saying there.

12 Q. You don't understand discharging duties?

13 A. Yeah, I understand discharging duties, but—

14 Q. Well, what was your duty?

15 A. To organize the work permits, facilitate the contractor with any
16 additional material, and arrange with inspections to come and
17 oversee the CARBER test.

18 Q. That's it? So whatever else might have happened before the
19 CARBER test, you weren't interested?

20 A. No, it's not that I wasn't interested, it's just ah was on another
21 job site.

22 Q. All right. Okay. Anyway, that's what you did.

23 A. Yeah.

24 **Mr. Chairman:** Thank you.

25 **Continued Cross-Examination by Mr. Maharaj SC:**

26 Q. Mr. Marjadsingh, what time you signed this document?

27 A. The toolbox?

1 Q. Yeah, this document; what time you signed it?

2 A. Ah doh have ah accurate time.

3 Q. You signed it the same day or the day after?

4 A. No, the same day when I came on the berth.

5 Q. Around what time?

6 A. It would be—ah doh have ah accurate time, but when I came on
7 the berth, within a couple minutes. Ah does normally go and
8 ask for all the permits to make sure safety sign, and everybody
9 sign, and the toolbox talk conducted, and the JHA, and
10 everybody sign the JHA.

11 Q. Okay. But when you wrote 9.15, you knew you were not
12 writing the correct information?

13 A. I doh have any time—you doh have a time on the toolbox.

14 Q. No, no. The meeting is 9.15. But you knew you were not
15 giving the right information to say that you were present at the
16 toolbox meeting?

17 A. No, I just—ah sign to know that, well, a toolbox talk was—

18 Q. Okay. I want to go to another issue. On the work permit
19 form—

20 **Mr. Chairman:** Can I ask, before you move on, how long do
21 you think you're going to be?

22 **Mr. Maharaj SC:** About five minutes.

23 **Mr. Chairman:** All right. Well, let's get your part done and
24 then we'll break for lunch then. You're all right to carry on
25 until after lunch?

26 **Mr. Marjadsingh:** Yeah, not a problem.

27 **Continued Cross-Examination by Mr. Maharaj SC:**

1 Q. On the form it has—you have the form before you? I think I
2 should get the form, the permit to work. It's at—I have the
3 reference 9838.

4 **Mr. Chairman:** You want the permit to work?

5 **Mr. Maharaj SC:** Yes, the permit to work.

6 **Mr. Chairman:** Page 1074.

7 **Mr. Maharaj SC:** 1074.

8 **Continued Cross-Examination by Mr. Maharaj SC:**

9 Q. You see on the comments there in the column B1; "Comments:
10 Line drained"

11 A. Yeah.

12 Q. You knew as the applicant then that the line, the sealine was
13 drained?

14 A. Yeah, from the OTS.

15 Q. From what that note says?

16 A. Yeah.

17 Q. Can you help us? Did you play any part in the draining of the
18 line?

19 A. In-between, same thing, we would arrange with the permits for
20 the draining so LMCS coulda conduct the draining.

21 Q. So you—this happened over a period of time and you were part
22 of it?

23 A. Yeah, in and out, because remember I not alone.

24 Q. Right. And would I be correct in saying from—well, could you
25 tell us, was the line completely drained?

26 A. No, I can't say that.

27 Q. You don't know?

1 A. No.

2 Q. So you don't know how much of the line was drained?

3 A. No, I don't know.

4 **Mr. Maharaj SC:** No further questions.

5 **Mr. Chairman:** All right. Well, we'll take our break there
6 now. All right? What progress are we making? We're making
7 good progress. We'll have an hour for lunch. So quarter past
8 2.00, please; quarter past 2.00.

9 You're free to go now. Don't discuss this with anybody
10 else. All right? Come back at quarter past two and we hope to
11 get your evidence done fairly quickly. All right. Thank you
12 very much. Thank you everybody. Quarter past 2.00, please.

13 **1.21 p.m.:** *Enquiry suspended.*

14 **2.19 p.m.:** *Enquiry resumed.*

15 **Mr. Chairman:** Good afternoon. Give me a moment, please,
16 Mr. Marjadsingh. Just a couple things I want to ask you, if I
17 may, please?

18 **Examination By Mr. Chairman:**

19 Q. Would you have a look at your witness statement. Yes, first of
20 all, if you look at paragraph 10 of your witness statement which
21 you were directed to, you told us that your job for the 25th
22 February was to do the following things, all right, first of all, to
23 fill out the work permit; secondly to ensure that the inspection
24 of the CARBER test of berths 5 and 6. Yes?

25 A. Uh-huh.

26 Q. And then supply material where needed. What did you
27 anticipate was to be needed by way of material.

1 A. Right. So they were bolting up the flange, right, so just in case
2 one of the bolts got damaged ah hah tuh go tuh our material
3 stall and see'f ah get a replacement one.

4 Q. Right. So you were sort of standby in the event that something
5 needed replacing of that kind?

6 A. Yes, if they want material [*Inaudible*].

7 Q. So in the ordinary way of things, you might not be needed for
8 that at all?

9 A. Yeah.

10 Q. Right. So essentially what you understood your task to be for
11 that day was to fill out the work permit as the applicant.
12 Correct?

13 A. Yeah.

14 Q. You sound a little doubtful. Is that right?

15 A. Yes, yes.

16 Q. And then, secondly, to ensure that there was your inspection of
17 the two CARBER tests that needed to be done.

18 A. Yes.

19 Q. Right. Can you look at paragraph 7 of your statement please?
20 You say in that paragraph:

21 "In order for me to carry out my duties as Maintenance
22 Technician I had to be able to follow the job as laid out
23 in LCMS' scope of works to report to my supervisor,
24 Mr. Rampersadsingh, daily on what percentage of the
25 job was completed by LMCS. However, I'm not a
26 supervisor and I did not have to supervise LMCS."

27 All right. And I accept that. All right? But one of your duties

1 as the technician was to follow the job laid out by LMCS in
2 their scope of works?

3 A. Yeah.

4 Q. Had you seen that document?

5 A. The scope of work?

6 Q. Yes.

7 A. Yes.

8 Q. Did you understand it?

9 A. Fuh my roles, yes.

10 Q. Sorry?

11 A. Yes, fuh my level, yes.

12 Q. Yes.

13 **Mr. Chairman:** Can we just have the scope of works up,
14 please, for a moment? It's in our core bundle at—somebody,
15 help me please. Yes. Forgive me.

16 *[Document passed to Mr. Marjadsingh]*

17 **Continued Examination By Mr. Chairman:**

18 Q. So can I take it that since you referred to it in your statement
19 you'd examined this document prior to this taking place on the
20 day?

21 A. Not on the day but before the total job.

22 Q. So before the 25th February you had a copy of this document,
23 had you?

24 A. Yes, correct.

25 Q. Because it's quite an old document, isn't it, bearing in mind
26 the time when you were doing this?

27 A. Yes.

1 Q. All right. The document we can see is dated the 29th April,
2 2021. Yes?

3 A. Yes.

4 Q. So it's some ten months earlier. Were you made aware if there
5 were any changes to that document or anything that should be
6 different?

7 A. Not to my knowledge.

8 Q. Not to my knowledge. All right. And you took your
9 instruction from Mr.?

10 A. Rampersadsingh.

11 Q. Mr. Rampersadsingh, at all times?

12 A. Yes, correct.

13 Q. All right. And just looking at that document, please, we have
14 already had it pointed out to us at page 565 at No. 3.1.12 that
15 there was a note there that there was a video stream to be
16 provided top side during work activity for Paria's
17 representative. And I don't want to dwell about that. You've
18 been asked about that already. Then at 3.1.21 this:

19 "The contractor shall supply video footage during the
20 subsea works. And this video must form part of the
21 handover package."

22 Do you see that?

23 A. Yes.

24 Q. So was it your understanding then that the video of the subsea
25 works was to be recorded?

26 A. Yes.

27 Q. And such a recording was to be handed back to Paria for their

1 purposes after the works had been completed?

2 A. Yes, but that might be to the end of the total—

3 Q. I'm sorry?

4 A. That could be to the end of the job.

5 Q. At the end of the job, perhaps, well, whatever. It's certainly a
6 handover of that video material?

7 A. Yeah.

8 Q. Are you aware if it was being recorded or not?

9 A. On the day of question, the 25th?

10 Q. Yes.

11 A. Ah not aware. Ah can't remember seeing it recording, but ah
12 know from previous jobs it was being recorded.

13 Q. Right. So from previous jobs you've done—at Paria?

14 A. On this same sealine here; on this same job.

15 Q. Right; the same job.

16 A. Yeah, because remember we had weld on a flange inside the
17 chamber about—I can't remember the exact date. It within the
18 work report.

19 Q. A couple of weeks before?

20 A. Right. We had weld on the flange inside the chamber.

21 Q. Right.

22 A. And on that day it was recorded.

23 Q. Yes. So you knew that previously there had been recordings,
24 and you knew that there was to be a recording or should have
25 been?

26 A. Yeah, to my knowledge, yeah.

27 Q. Right. Have you ever seen such a recording?

1 A. The day that the flange was welded—

2 Q. Uh-huh?

3 A. —ah was watching the screen and yuh could actually see that it
4 was recorded. But I didn't see like a playback then.

5 Q. Right.

6 A. I didn't see a playback.

7 Q. And on this occasion, on the 25th when this tragic event took
8 place, do you know if it was being recorded then?

9 A. No, I can't recall.

10 Q. Have you ever heard of a recording being provided?

11 A. For the day?

12 Q. Yeah?

13 A. In question?

14 Q. Yeah.

15 A. Nah, not to my knowledge.

16 Q. All right. And would you turn, please, next to paragraph 4
17 under Paria's Responsibility. You've been asked a little about
18 this by Mr. Maharaj. But can I just be clear about what you
19 understood this to be. These are what characterizes the
20 responsibilities that lie with Paria. Yes?

21 A. Yes.

22 Q. So these are their obligations. There aren't very many of them.
23 But be that as it may:

24 "4.1 Supply personnel for organizing all work
25 permits/certificates, monitoring contractor's
26 performance & work standards..."

27 That's you, really, isn't it? Or you were part of that, weren't

1 you?

2 A. Yeah, I was part of that, yeah.

3 Q. Yes. And you see that it does say “monitoring contractor’s
4 performance”?

5 A. Yeah, correct.

6 Q. And you have already agreed that you had to understand and
7 follow the job that LMCS provided in this scope of works or in
8 those scope of works in order to report to your supervisor. So
9 we can take it that you would need to understand what was to
10 be done and how it was to be done?

11 A. Yes.

12 Q. At 4.3:

13 “Provide slop barge...”

14 I’m going to skip over that. We’ve already dealt with that.

15 “4.4: Provide personnel for acceptance of work
16 executed.”

17 So that’s sort of if somebody is signing off on the work,
18 presumably?

19 A. Yeah. It could be multiple persons. It could be inspections. It
20 could be different departments.

21 Q. It could be a different department?

22 A. Yeah.

23 Q. All right. Well, I’m not going to dwell on that either. But this
24 one:

25 “Provide personnel to oversee isolation/deisolation,
26 depressurization/pressurization and Draining/filling
27 product from lines at berth #5 and berth #6.”

1 Do you see that?

2 A. Yes.

3 Q. What is isolation and deisolation?

4 A. Right. So that point would fall under the operations.

5 Q. Nothing to do with you?

6 A. No, no.

7 Q. But you have to understand it though, don't you?

8 A. Yes, yes, I understand it.

9 Q. So what is your understanding of that?

10 A. If anything need to be locked off, like, leh we say a valve or
11 something, you either close it or you open it for like the
12 draining procedure, the draining part, because—

13 Q. Opening and closing valves?

14 A. Correct. So when yuh ready to start the air blowing, yuh would
15 open up all the systems, and then when yuh finish the draining
16 fuh the day yuh would close back yuh system.

17 Q. That's what you mean by isolation/deisolation?

18 A. Correct, pertaining to the draining.

19 Q. What's pressurization/depressurization?

20 A. All right. Well, that one—that is pertaining, like, if the line
21 woulda have any pressure, yuh woulda release the pressure
22 before.

23 Q. How would you know if it had any pressure?

24 A. Well, it have a gauge on de line.

25 Q. Right. So you check the gauge?

26 A. Yeah.

27 Q. Did this particular line have a gauge on it?

1 A. Yes.

2 Q. Did you check the pressure or was that somebody else's
3 responsibility?

4 A. Yes, that was somebody else.

5 Q. Somebody else to do?

6 A. Yeah.

7 Q. All right. And then draining/filling products, somebody else's
8 responsibility?

9 A. Correct.

10 Q. Lastly, please, if you turn to paragraph 5.17—this is under the
11 contractor's responsibilities. So this is LMCS. All right? You
12 got it?

13 A. You could tell me back the page?

14 Q. Yes. It's page 572.

15 A. Yeah, ah have it.

16 Q. It says there, doesn't it:

17 "Work Schedule

18 i. Supply Work Schedule for the Entire Project with
19 Daily Updates in Microsoft Project Format before
20 work execution."

21 Had you seen that?

22 A. No.

23 Q. And then, secondly:

24 "ii. Supply Daily Look-Ahead Schedule to Paria's
25 Representative and report on job
26 Progress and expected completion."

27 Were you shown any daily look-ahead schedule?

1 A. No.

2 Q. All right. But were you able to report on job progress and
3 expected completion?

4 A. Correct, at the end of the day, yeah.

5 Q. Right. Because that you regarded as one of your
6 responsibilities, didn't you?

7 A. Yeah.

8 Q. Right. So does it follow that had this tragedy not taken place
9 on the 25th when you decided to arrive at riser No. 6, you
10 would have monitored the remainder of the works on that riser
11 so that you could tell them how far they've got—tell your
12 supervisor?

13 A. Correct.

14 Q. Yes. And did you know whether or not the barriers that were in
15 that pipe were to be removed or not?

16 A. No.

17 Q. You didn't know one way or the other?

18 A. No.

19 Q. Is that because you were not at the toolbox meeting that took
20 place at 9.15 that morning on berth 6?

21 A. No. I would have known from discussion from my superior.

22 Q. I'm sorry?

23 A. I would know from discussion with my superior for the job task
24 for the day. And from that information, that is what I know
25 would have to be done for the day.

26 Q. You see, your job as applicant is set out in the manual. Isn't it?
27 You've been taken to it by Mr. Maharaj?

1 A. Yeah.

2 Q. It includes, doesn't it—well, let me put it this way. Do you
3 regard it as your responsibility to be at a toolbox meeting as the
4 applicant?

5 A. If possible, yes.

6 Q. Only if possible?

7 A. No, well, remember, ah have multiple jobs going on at the same
8 time.

9 Q. No, no, no, I remember that. But I have it very well in mind,
10 trust me. What I'm anxious to understand is whether you
11 regarded it as—bearing in mind what your functions were, did
12 you regard it as important to be present, at the very least,
13 present, at the toolbox meeting?

14 A. As I say, yes, once that I could.

15 Q. Well, you could have, couldn't you?

16 A. No, because ah was attending another toolbox at berth 5.

17 Q. Now, the next toolbox meeting didn't take place until 9.30 and
18 it had taken place by many of the same people who had been
19 attendant upon the first toolbox meeting, or a number of the
20 same people?

21 A. No, I doh think so.

22 Q. Well, I do. And I want you to not tell me whether or not—did
23 you regard it as more important, therefore, to be at the toolbox
24 meeting at berth 5 where all that was going to happen was a
25 CARBER test, or at berth 6 where there was rather more to be
26 done?

27 A. All right. At the point of time of the job, right, is not that I say

1 that berth 6 more important than berth 5. Is just I know that
2 they was going and do the CARBER test on berth 5 first, so that
3 is why I decided to go at berth 5. So is not to say that I choose
4 that that was more important than the next.

5 Q. Did Mr. Rampersadsingh tell you to go to 5 rather than 6?

6 A. No.

7 Q. So that was of your own initiative, was it?

8 A. No. It had the jobs going on at both places. So I would go at
9 the two different locations ah de day. So we doh have a
10 specific one to go at first. But because of the CARBER test
11 being conducted first at berth 5, I went at berth 5.

12 Q. Yes. Just a minute please. Would you turn to page 1070
13 please? This is the toolbox meeting form which bears your
14 name, but you told us you weren't there. You got it?

15 A. Nah, I doh have it.

16 Q. It's at page 1070. You may not have it there. Just bear with
17 me, please, Mr. Marjadsingh. It'll be brought to you, all right.

18 This is the toolbox meeting form given by the safety
19 officer, Mr. Victor Dhillpaul. Do you see his name? If you
20 scroll down a little, please. Yes. Do you see his name at the
21 top right-hand corner of that?

22 A. Yes.

23 Q. It says "Speaker(s)", doesn't it?

24 A. Yes.

25 Q. Did you take the boat across with him?

26 A. No.

27 Q. No. But he was the speaker and the safety officer, wasn't he,

1 according to this document, delivering the toolbox meeting?

2 A. Yeah.

3 Q. Yes. Well, you told us about your name being on it. I don't
4 need to dwell upon that. But you see the time at 9.15?

5 A. Yes.

6 Q. Right. And do go over the page, please, to the next page. This
7 is a toolbox meeting being conducted at berth 5. All right? It's
8 only a few hundred yards, isn't it, between the two?

9 A. Yes.

10 Q. But a matter of minutes to get from one to the other by boat?

11 A. Technically, no.

12 Q. Or technically, yes, because I've done it, and I can tell you, it
13 takes a matter of minutes to get between one and the other?

14 A. Could I explain something?

15 Q. You can.

16 A. Okay, all right. To go from berth 5 to berth 6, right, the day
17 that you went you would have been provided with a launch
18 service immediately. But, remember, they might have other
19 operations going on within the facility.

20 Q. Right. You're saying we had a privileged trip?

21 A. If you want to say that.

22 Q. I'll say that, all right. So you just help me, though, about this.
23 Whatever the position might be, one thing is for sure, isn't it,
24 that we can see from this form that Mr. Dhillpaul also had a
25 privileged trip on that day, because he managed to deliver the
26 toolbox meetings for both?

27 A. Well, I doh know 'bout that one, but—

1 Q. Well, we do, don't we? We can see it from the form. You
2 signed it having verified that that was a toolbox meeting at
3 which you were present?

4 A. Yeah, correct.

5 Q. Right. Both you and him, according to these two forms, were
6 present at both. You tell us, and I accept, that you were not at
7 the first one?

8 A. Yeah.

9 Q. But what is clear is Mr. Dhillpaul delivered them both within
10 15 minutes of each other. Now, you explain, please, why it was
11 not possible for you to be at the toolbox meeting at 9.15 on
12 berth 6 so that you would know what was to be done on that
13 day?

14 A. All right. So could I explain now?

15 Q. Well, I'm asking you to.

16 A. Right, nice. So at the morning when I delivering the work
17 permits, right, I would talk to the supervisors, LMCS
18 supervisors, and I would explain the job right there and then I'll
19 tell them make sure the guys conduct their toolbox, because
20 they know I can't be at two places at once.

21 Q. Well, they could wait for you, couldn't they? Mr. Dhillpaul
22 managed it in 15 minutes, both delivering it and making the
23 distance between one and the other. Why couldn't you do that?

24 A. He probably have—they have a designated pirogue that stays
25 with them. So probably he could get transportation faster than I
26 could.

27 Q. Do you know Mr. Dhillpaul?

1 A. Yeah, I know Mr. Dhillpaul, yeah.

2 Q. You know he works for Paria, doesn't he?

3 A. No, LMCS.

4 Q. LMCS. Forgive me. LMCS. He works for LMCS, doesn't he?

5 A. Correct.

6 Q. Yes. Did you know that he was going to deliver these toolbox
7 meetings?

8 A. No. It could either be the safety or the supervisor.

9 Q. All right. Anyway, you didn't attend?

10 A. On berth 6, no.

11 Q. No. And you're not able to help us why that might be?

12 A. Well, only as far as ah could explain what ah already did.

13 Q. Have you ever yourself conducted a toolbox meeting?

14 A. No. If I'm there ah would just give ah—ah could give ah input.
15 They will just ask if ah want to say anything and, yeah, but not
16 to conduct it. It is not required for me to do that.

17 Q. So that being the case, you were not at the toolbox meeting,
18 which is the last opportunity to explain what is to be happening
19 on that particular day, isn't it?

20 A. You could say that, yeah.

21 Q. Yes, I am saying that. And the safety issues that might arise on
22 that specific day?

23 A. Yeah.

24 Q. You were the applicant for the work permit for that specific
25 day, weren't you?

26 A. Yes.

27 Q. Just give me a moment. Yes, thank you. It's on the screen and

1 I think you have it in front of you. Do you have it in front of
2 you? It's 1074 in our core bundle three. Yes. Just help me in
3 this way, please. Who gave you the information for you to be
4 able to fill in box or Section A?

5 A. From my discussion with my superior.

6 Q. Mr.?

7 A. Mr. Terrence, yeah.

8 Q. Mr.?

9 A. Mr. Terrence Rampersadsingh.

10 Q. Rampersadsingh?

11 A. Yeah.

12 Q. He gave you the information so that you could fill that in, is it?

13 A. Correct.

14 Q. So if it's wrong it's not your fault because you were simply
15 doing as he bid you?

16 A. Correct, following instruction.

17 Q. Following instructions, exactly. So the next part of that
18 document, which is Section B—scroll up, please. You didn't
19 fill in any of that, did you?

20 A. Just the number 2634.

21 Q. The what number, sorry?

22 A. 2-6—next to "hot work certificate", it have a number 2634.

23 Q. Right. So you're a little ahead of me, right. Yes. I was going
24 to the earlier passage, please. You didn't fill out any part of
25 B1. Did you?

26 A. No.

27 Q. No.

1 **Mr. Chairman:** Scroll back further up please.

2 **Continued Examination By Mr. Chairman:**

3 Q. And the only part of that document that you filled in or that part
4 of B3 is the number of the hot work certificate. Yes?

5 A. Yes.

6 Q. Right. Thank you. And you signed it as coming from you at
7 7—have I got it right? 7.10 or 7.30?

8 Scroll right up, please. You can see your handwriting better
9 than me.

10 A. Thirty.

11 Q. Sorry?

12 A. Thirty.

13 Q. Thirty. At 7.30 you signed it, did you, in the morning?

14 A. Yes.

15 Q. Thank you very much.

16 **Mr. Chairman:** Yes, that's all I need to ask. If anybody wants
17 to ask anything arising from that, please, feel free to do so.
18 You all have cross-examination anyway. Where should we
19 start? Yes, Ms. Persaud Maraj, yes.

20 **Mrs. Persaud Maraj:** Mr. Commissioner, your question was
21 actually the line of questioning I had for Mr. Marjadsingh.

22 **Mr. Chairman:** So you have nothing?

23 **Mrs. Persaud Maraj:** So I have nothing.

24 **Mr. Chairman:** Marvellous. I'm glad I pre-empted you in
25 that way then. Anyone else have any questions for this witness,
26 please? I think silence is—

27 **Mr. Pegus:** I do have a few questions, please.

1 **Mr. Chairman:** You do?

2 **Mr. Pegus:** Very, very simple, yes.

3 **Mr. Chairman:** Of course.

4 **Mr. Pegus:** Right.

5 **Cross-Examination By Mr. Pegus:**

6 Q. Good afternoon, Mr. Marjadsingh.

7 **Mr. Chairman:** Please, introduce yourself to Mr.
8 Marjadsingh.

9 **Mr. Pegus:** My name is Chase Pegus, attorney-at-law for
10 Kenson. Now, can the witness be shown the permit to work
11 procedure, please?

12 **Mr. Chairman:** The procedure?

13 **Mr. Pegus:** The permit to work procedure.

14 **Mr. Chairman:** Yes, not the permit to work, the actual
15 procedure.

16 **Mr. Pegus:** Not the permit to work; the procedure, yes. I am
17 focusing specifically on section 5 which lists the duties for the
18 applicant.

19 **Mr. Chairman:** 5.1.

20 **Mr. Pegus:** 5.1, yes.

21 **Continued Cross-Examination By Mr. Pegus:**

22 Q. Now, Mr. Marjadsingh, in answer to learned Senior Counsel
23 when he took you to this procedure, he pointed out to you that
24 one of your duties was to continually monitor the job to ensure
25 that it is performed in a safe manner and within the conditions
26 prescribed in the work permit, certificates and JHA risk
27 assessment, among other things. You see that there?

1 A. Yes.

2 Q. Right. Now, you indicated in your evidence to the Commission
3 that you spent part of the day at berth 5. Yes?

4 A. Yes, correct.

5 Q. Right. What do you understand “continually monitor” to
6 mean?

7 A. To my understanding, periodic checks.

8 Q. Right. Now, on the day in question, you indicated you took
9 instructions from Mr. Rampersadsingh. Yes?

10 A. Yes.

11 Q. Right. Who gave you the instructions to do the periodic
12 monitoring?

13 A. Said person.

14 Q. Right. There’s just one other thing I would like to address.
15 Now, in answer to the learned Chairman, you also indicated
16 that you performed specific tasks on berth 5. Yes?

17 A. Yes.

18 Q. Right. And in your statement you also indicated that on the day
19 in question you had some duties to perform at berth 5. Yes?

20 A. Yes.

21 Q. Who gave you those instructions?

22 A. Mr. Terrence Rampersadsingh as well.

23 **Mr. Pegus:** Much obliged. Thank you very much.

24 **Mr. Chairman:** Anyone else? No? Thank you very much. I
25 take it, Mr. Peterson, you have nothing? Well, thank you very
26 much. If I had realized it was going to be that short I might
27 have made everyone stay a little longer. But never mind that.

1 Thank you for coming. Your evidence is appreciated.
2 You're free to go at any point in time. You can stay if you
3 wish, but you're free to go.

4 **Mr. Marjadsingh:** I appreciate it too. I appreciate being here
5 too and giving my statement.

6 **Mr. Chairman:** Well, it might have been shorter had you
7 come and see my Counsel. But, never mind; you're here now.
8 Thank you very much.

9 It seems, Mr. Maharaj, that we're in the happy position of
10 having our last witness for the day.

11 **Mr. Maharaj SC:** Yes, Mr. Chairman.

12 **Mr. Chairman:** Marvellous. Well, perhaps, we can have Mr.
13 Dexter Guerra, please.

14 **Mr. Maharaj SC:** He's not here.

15 **Mr. Chairman:** I beg your pardon?

16 **Mr. Maharaj SC:** He was excused yesterday.

17 **Mr. Chairman:** Did I do that?

18 **Mr. Maharaj SC:** Yes.

19 **Mr. Chairman:** Oh dear. Well, that means we've drawn
20 stumps already. I have to say, I'm rather disappointed that I
21 was persuaded, no doubt, by somebody that we won't need Mr.
22 Dexter Guerra today. Well, we'll draw stumps now. Thank
23 you very much. We will start tomorrow. We've got four
24 witnesses to get through tomorrow—five, because we have Mr.
25 Guerra who we excused today.

26 Should we start on the 9.30? Is that all right for
27 everyone? 9.30 then, please, tomorrow morning; that's when

1 we'll commence. So today is closed. Thank you. Please, feel
2 free to gather your papers. I'll be doing the same.

3 **2.50 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 7**

2 **9.37 a.m.: Enquiry commenced.**

3 [*Technical glitch*]

4 **Mr. Chairman:** ...evidence on Tuesday of next week called
5 Ralph Seales. We have nothing from him as yet. Is it proposed
6 we should have something from him?

7 **Mr. Pegus:** Good morning, Mr. Chairman. The Commission
8 will receive the finalized version of Mr. Seale's statement this
9 Friday. He's actually in possession of it and reviewing the
10 contents of same, so it has already been settled by Counsel.

11 **Mr. Chairman:** All right. Well, could I ask you to say by
12 twelve o'clock on Friday?

13 **Mr. Pegus:** I will try my best, and I understand that it's
14 something that's needed.

15 **Mr. Chairman:** Is it so long that it can't be dealt with between
16 now and twelve o'clock tomorrow? I mean, how long is this
17 statement?

18 **Mr. Pegus:** It's not that long, so it would be provided by
19 twelve o'clock on Friday.

20 **Mr. Chairman:** Very grateful to hear that. Thank you very
21 much, Mr. Pegus. Mr. Maharaj, our concern seems to have
22 been evaporated.

23 **Mr. Maharaj SC:** Yes, Mr. Chairman.

24 **Mr. Chairman:** And I'm pleased to say that. So we will have
25 it by twelve o'clock tomorrow.

26 **Mr. Maharaj SC:** Much obliged, please.

27 **Mr. Chairman:** Excellent. Yes. Shall we proceed?

1 **Mr. Maharaj SC:** Yes. Good morning, Mr. Chairman and
2 Commissioner Wilson. I just wanted to state that today we
3 intend to call five witnesses. They have all been interviewed by
4 the legal team of the Commission. They consented to be
5 interviewed and they have—based on those interviews, we have
6 had witness statements from them.

7 Witness summaries would be read. Those witness
8 summaries have been prepared based on the interviews which
9 were conducted. Having been interviewed, we would not be
10 asking them questions in respect of amplification of their
11 witness statements, but after cross-examination, if it is
12 necessary, we will ask to ask further questions in respect of
13 anything that may arise.

14 **Mr. Chairman:** Of course. Well, thank you for that. It's
15 certainly helpful when witnesses do come forth. That makes it
16 possible to get five witnesses in one day. So I'm grateful for
17 that. I may have some questions for them myself and Mr.
18 Wilson may do as well, of course. But I think the first witness
19 today is Mr. Dexter Guerra.

20 **Mr. Maharaj SC:** Is Mr. Dexter Guerra, and Mr. Ronnie
21 Bissessar will do the summary.

22 **Mr. Chairman:** Marvellous. Thank you very much, indeed.
23 Of course, all of their interviews and statements are online for
24 anyone to see. Thank you; marvellous.

25 *[Mr. Dexter Guerra sworn]*

26 **Mr. Guerra:** I, Dexter Guerra, solemnly swear that the
27 evidence I shall give to the Commission in this case shall be the

1 truth, the whole truth and nothing but the truth.

2 **Mr. Chairman:** Yes, do make yourself comfortable, Mr.
3 Guerra. Let me just tell you something of the process. So first
4 of all, good morning.

5 **Mr. Guerra:** Good morning.

6 **Mr. Chairman:** And what's going to happen is Mr. Bissessar,
7 who sits on the end of this front row here, is going to
8 summarize your statement to us and the interview that you
9 provided. All right? So please listen carefully to his summary.
10 If there's anything in it which you disagree with, please tell us
11 at the end, otherwise you can confirm, please, that that
12 summary accurately reflects that which you have told us. All
13 right?

14 After that happens, I or my colleague here may have a
15 question or two, and then some of the lawyers who are here
16 today may have some questions for you. All right? That's
17 going to be the process.

18 **Mr. Guerra:** Okay.

19 **Mr. Chairman:** All right. Well, thank you, Mr. Bissessar.

20 **Mr. Bissessar:** Thank you, Chair.

21 Mr. Guerra was LMCS' Construction Supervisor and has
22 worked with LMCS for over 20 years. He's a PADI Certified
23 Diver. Mr. Guerra submitted his principal witness statement
24 dated 5th October, 2022, to the Commission; this is at WB419.
25 Mr. Guerra was interviewed by the Commission on 7th
26 October, 2022, and then provided a supplemental witness
27 statement dated 31st October, 2022, and this is at WB426. Mr.

1 Guerra was represented by Counsel at the interview.

2 In his principal witness statement, Mr. Guerra gave the
3 following evidence. On 25th February, 2022, whilst the divers
4 were in the hyperbaric chamber, he was stationed on the barge
5 monitoring the compressor and airflow from the hyperbaric
6 chamber. At about 2.45 p.m. LMCS' Andrew Farah informed
7 him that the live feed he was monitoring suddenly went blank.
8 Mr. Guerra confirmed to him that nothing had gone wrong with
9 the compressor or the air supply. Andrew then searched the
10 chamber and water around the berth but found no one. Kazim
11 Ali Sr. arrived at 3.20 p.m. and concluded that the men were in
12 the pipeline and a rescue plan was devised. Further divers were
13 also contracted to come on site.

14 At around 4.20 p.m. three coast guard officers arrived.
15 Mr. Guerra heard knocking and shouting coming from inside
16 the habitat. At this time, Michael Kurban, Ronald Ramoutar,
17 and Corey Crawford were on the barge.

18 Paria's Visham Harrichan informed Mr. Guerra that no
19 one was to go into the habitat. Mr. Guerra told him that they
20 were going to retrieve the men and couldn't leave them there.
21 Corey Crawford and Ronald Ramoutar entered the habitat and
22 retrieved Christopher Boodram from the top of the riser.
23 Christopher indicated that Fyzal was right behind him and the
24 divers were alive in the air pocket.

25 Michael Kurban then entered the pipeline, reached about
26 10 feet into the horizontal, and he returned with a scuba set. At
27 this point, Paria's representatives instructed that no one was to

1 enter the habitat or pipeline and that the coast guard was going
2 to take over. No one thereafter entered the water. Conan
3 Beddoe arrived after speaking to Christopher in the ambulance.
4 He together with Michael Kurban, and Corey Crawford, and
5 Ronald Ramoutar asked to do a rescue and were denied.

6 At around 7.30 p.m. a dive vessel arrived on site with
7 men and equipment ready to assist. Mr. Guerra asked Paria's
8 representatives to allow the divers to perform the rescue and
9 they said that Collin Piper said that no one was to enter the
10 habitat and the pipeline.

11 As time was passing and nothing was happening, Mr.
12 Guerra asked Catherine Balkissoon to let them attempt a rescue
13 as they were willing and capable men with equipment available
14 to make the rescue. She said she would make a call, and she
15 did, but they again refused permission. At this time, there were
16 a number of armed coast guard officers on the barge.

17 At 9.00 p.m. permission was granted to install the riser
18 extension at berth , and this was done, but it was only at 3.00
19 a.m. on Saturday 26th February, 2022, that permission was
20 given to remove the blank at berth 5.

21 In a supplemental witness statement Mr. Guerra added
22 the following: He, Mr. Guerra, was involved in the line
23 clearing at the end of January 2022 over a period of about two
24 weeks. He said that LMCS removed all of the liquid from the
25 top side piping at berth into Sealine 66. LMCS then observed
26 that the liquid in the riser was not at the required 30 feet from
27 the top of the riser to install the plugs. They were having

1 difficulty in getting the liquid out into Sealine 66 riser. They
2 then removed the contents into a slop barge until the level in
3 berth was 30 feet from the top of the riser. He said
4 measurements were taken only at berth , not berth 5. The
5 measurements were not recorded by LMCS.

6 Mr. Guerra oversaw the installation of the mechanical
7 inflatable plugs on 13th February, 2022. Another dip
8 measurement was taken at berth which was not recorded, but
9 he is satisfied that the contents of the line were at the required
10 30 feet from the top of the riser. Mr. Guerra said that the
11 habitat was also installed on 13th February, 2022.

12 On 15th February, 2022, LMCS cut the riser and installed
13 the flange by welding it. On the morning of 25th February,
14 2022, Paria's Terrence Rampersadsingh and Houston
15 Marjadsingh brought the PTWs and LMCS had its toolbox
16 meeting and discussed what they were going to do. Kazim Ali
17 Jr. told everyone what the job was, which included that the
18 flange would be pressure tested, the plugs removed, and the
19 installation of the new piece of pipeline. He says that Paria's
20 Terrence Rampersadsingh and LMCS' Victor Dhillpaul gave
21 the safety briefing and the meeting went on for 15 to 20
22 minutes.

23 Mr. Guerra says that when the accident occurred on 25th
24 February, 2022, Paria's Visham Harrichan and someone known
25 as Scotty were on site, and by 3.20 p.m. LMCS' rescue plan
26 had been devised once LMCS concluded that the divers were in
27 the pipeline and not in the habitat or the water.

1 Mr. Guerra explains that LMCS was going to perform the
2 rescue plan which was that he and Andrew would go into the
3 habitat with an extra set of diving gear. Andrew would go into
4 the pipe with a rope feet first with an extra dive set and he
5 would play out the rope from within the chamber and Andrew
6 would have the free end in his hand. LMCS did not ask Paria
7 for permission but Visham Harrichan told them that Collin
8 Piper said that nobody could go into the habitat or the pipeline
9 and that the coast guard was going to take over.

10 Mr. Guerra says that he remained on site until 8.00 p.m.
11 on Saturday and returned on Sunday morning. Mr. Guerra said
12 that he doesn't understand why Paria did not allow LMCS to
13 conduct a rescue. He says that since LMCS was dealing with a
14 preservation of life, that Paria could have waived all of the
15 requirements of the permit to work to conduct a rescue. For
16 instance, Paria waived the CARBER testing on 25th February,
17 2022, and instead relied on the penetrant test which had been
18 done on that day—the day the riser was cut.

19 Mr. Guerra, is this a fair and accurate summary of your
20 principal and supplemental witness statement?

21 **Mr. Guerra:** Yes, it is.

22 **Mr. Bissessar:** Thank you.

23 **Examination By Mr. Chairman:**

24 Q. Can I ask you, please, a few questions about your evidence?
25 First of all, can I deal with paragraph 8 of your supplementary
26 statement, please? I want to ask you a little about the—you
27 haven't got it in front you. I'll wait a moment while you get

1 this, while it's produced for you. There you are. All right.

2 This is the supplementary statement that you provided to
3 the legal team when you came to their offices? Do you
4 remember, Mr. Guerra?

5 A. Yes.

6 Q. Yes. If you have a look at paragraph 8, it says this:

7 "We removed all of the liquid from the top side piping
8 at berth . We then observed that the liquid in the riser
9 at berth was not low enough to install the plug."

10 Let's just pause there, if I may, for a minute. All right? That
11 pipework that is above the waterline and the pipework that's
12 below the waterline—right?

13 A. Yes.

14 Q. There was a break put between the two. I think the elbow was
15 taken out from the riser. Is that right?

16 A. Not before we cleared it.

17 Q. Right. So you cleared, did you, the top side first?

18 A. Yes, we did.

19 Q. Right. So we can put that to one side, because I'm not
20 interested in that. All right?

21 A. Yes.

22 Q. What then had to happen is that you needed to clear the
23 bottom—the subsea level of the pipe. Correct?

24 A. Yes, we did, yes.

25 Q. And from what you say in your statement, the plan was not to
26 completely drain the line but to remove sufficient of the liquid
27 to leave you with an ullage of a certain distance. Is that right?

1 A. Yes.

2 Q. And that distance was 30 feet?

3 A. Yes.

4 Q. I don't know if you are much of a mathematician, but it's
5 capable of being worked out how many barrels that would
6 represent. Wouldn't it?

7 A. Yes.

8 Q. And when you exposed the top of this pipe, you could see that
9 it was about four feet down and not 30?

10 A. Yes.

11 Q. So you needed to remove another 26 feet or so. Correct?

12 A. Yes.

13 Q. Bearing in mind that it is a U pipe like this, [*Mr. Chairman*
14 *demonstrates*] roughly, if you took 26 feet out of that side, it
15 would necessarily mean you'd want to take the same amount
16 out of the other side, so that it levelled itself up?

17 A. Okay.

18 Q. Correct? So it wouldn't be 26 feet in total; it'd be 52 feet,
19 wouldn't it, so that you got the 26 on either side. Am I right
20 about that?

21 A. Yes.

22 Q. Am I?

23 A. Yes.

24 Q. Yes. Thank you. So in order to get 26 on one side you have to
25 take 52, because you'd need 26 on the other side as well,
26 because water has that habit of levelling itself, doesn't it, unless
27 there is a pressure on it?

1 A. Yes.

2 Q. All right. Good. So it was perfectly possible to calculate how
3 many barrels of fluid—oil or water, whatever it was—needed to
4 be removed in order to achieve that?

5 A. Yes.

6 Q. At berth 5, was it open or closed?

7 A. It was closed.

8 Q. Closed?

9 A. Yes, it was.

10 Q. I mean sealed or closed?

11 A. Yes. It had the elbow on.

12 Q. It had the elbow on it?

13 A. Yes.

14 Q. Not a flange?

15 A. No.

16 Q. And when you were at berth , you were doing a dip test to see
17 how far down it was?

18 A. Yes.

19 Q. And once you got to your 30 feet you were happy?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. Right. But you didn't do a consummate dip test at the other
24 end, did you?

25 A. No, we did not.

26 Q. So at that point in time, at any rate, you wouldn't know where
27 that level was, would you?

1 A. No.

2 Q. You might reasonably guess that it was at 26 or 30 feet?

3 A. Yes.

4 Q. Yes. Do you know how much the removal of 26 feet from
5 either end would amount to in barrels?

6 A. No.

7 Q. Have you heard the expression “approximately one barrel per
8 foot”?

9 A. No.

10 Q. You’ve never heard that before? Well, we’ve been told that
11 that’s the position, and such calculation as I am able to do
12 seems to suggest that that’s approximately right?

13 A. Okay.

14 Q. Just so that you understand and everybody else does, I’m
15 suggesting that approximately 50 barrels or so would do the
16 job. All right?

17 A. Okay. Yes.

18 Q. Do you know that more than 500 barrels were taken out?

19 A. After the—

20 Q. From the Sealine 36—

21 A. In total?

22 Q. Not including above the line—not above the water. Just from
23 the subsea level, do you know that something in the order of
24 500 barrels were removed?

25 A. No, I don’t.

26 Q. Would that surprise you?

27 A. Yes, it would.

1 Q. I mean, it's way too much, isn't it, on any view; potentially, at
2 least 10 times more than it should have been. Yes?

3 A. Yes.

4 Q. If when you did your dip at berth it was at 30 feet and you had
5 removed 500 plus barrels, the other end at 5 would be a lot
6 lower than that, wouldn't it? It would have to be?

7 A. Well, assuming the line is difference in height and difference in
8 level.

9 Q. Yes. What is it that causes difference in levels on a piece of
10 pipe work?

11 A. Wherever it's situated, depending on where you—okay the
12 seabed, depending on how the seabed is.

13 Q. The shape of it?

14 A. Shape of it.

15 Q. Right. What about pressure or air pockets? Would that make a
16 difference?

17 A. That's what we, um, getting now, because we didn't know.

18 Q. But did you consider that at all at the time?

19 A. No, we did not.

20 Q. No. All right. And did anyone else?

21 A. I can't say.

22 Q. I mean, it took an extraordinary long time to achieve, didn't it?

23 A. Two weeks, yeah.

24 Q. Well, you only have to take 50 barrels out. How does it take
25 50—

26 A. No, no, in total.

27 Q. How long does it take to take 50 barrels out of a piece of pipe?

1 You can do it with a cup. All right. That was a flippant
2 remark, and I apologize. But 50 barrels removal from a
3 pipeline doesn't take two weeks, does it? Surely.

4 A. Well, it's the complete draining took two weeks.

5 Q. The complete draining?

6 A. Yes.

7 Q. Is that what you did?

8 A. Yes. The top side; the—

9 Q. All right. You did some work on the top as well. All right,
10 very well. Can I ask you, please, to have a look—you told us in
11 this supplemental statement at paragraph 18, please—turn to
12 paragraph 18. You say in that statement:

13 "I reviewed the two method statements for the clearing
14 of the lines before the job was done. The job was done
15 in accordance with the method statements."

16 Then the job would have to stop for approval from Paria. All
17 right? That's the method statement in relation to the removal of
18 the material from the pipe. Correct? Paragraph 18; you're
19 seeing that?

20 A. Can you repeat it?

21 Q. Yes. I'm just paraphrasing that you considered the method
22 statement for the removal of the oil and material in the pipeline
23 at 18—at paragraph 18 of your statement. Do you see that?

24 "Paria issued permits to work for the installation of
25 plugs and the clearing of lines which stated the task to
26 be done. I also reviewed the two method statements
27 for the clearing of the lines before the job was done.

1 The job was done in accordance with the method
2 statement. If there were any changes to be done in
3 terms of the method stated in the method statement
4 then the job would have to stop and approval given by
5 Paria.”

6 That’s what you say, isn’t it?

7 A. Yeah.

8 Q. So you looked at the method statements for the purposes of
9 removing the oil from the line?

10 A. Yes.

11 Q. Thank you. That’s all I wanted to ask you to confirm. Right?
12 Now, paragraph 29, you deal there with the toolbox meeting
13 that took place before the work was to start on the 25th, because
14 there was a gap, wasn’t there, between the removal of the oil on
15 the previous period of time—what was it—about 14 days, or
16 so—13 days between that and the work starting on berth .
17 Correct?

18 A. Correct.

19 Q. Thank you. All right. And that paragraph 29 you say:

20 At the toolbox meeting not everyone was present to
21 read the permit to work. The workers broke up into
22 groups and discussed what was relevant to their task.
23 Everyone signs the toolbox form (and so on) and there
24 was a job safety analysis which everyone viewed.
25 This was signed before. This was prepared by Ahmad
26 Ali. I did not view the method statement attached to
27 the permit to work on this day.

1 Pausing there. Had you seen the method statement that was
2 attached to the permit to work before that day?

3 A. Yes, before.

4 Q. Right. So can we have, please, page 1048, which we're all
5 becoming very familiar with now, up on the screen please?
6 That's the method statement you see; it's on the screen. It says:

7 "Method statement

8 To Install Subsea Slip-on Flange on Ø30" Sea Line
9 #36 (SL36) at berth."

10 That's what you were involved with, isn't it?

11 A. Yes.

12 Q. Yes. Can I ask you, please, to turn, if you would, to page 1051.
13 It's not in that bundle. It's being provided for you in a moment.
14 But if you look at the screen, we can see page 1051 at the top of
15 that page. We have paragraph 56 and 57.

16 **Mr. Chairman:** Sebastien, is that on page 1051 for him?
17 Could you turn it to 1051? Right, thank you.

18 [Assistance given by Sebastien]

19 **Continued Examination By Mr. Chairman:**

20 Q. All right. So you see at the top of that page 56 and 57. It says:

21 "56. Manually remove migration barrier from line.

22 57. Manually deflate line plug and remove from line."

23 Do you understand what that mean?

24 A. Yes.

25 Q. That's removing the plug, isn't it?

26 A. Plug, yes.

27 Q. Can I just take you back a little bit, please, to the previous page,

1 and would you turn to No. 51. Did you understand that on that
2 day that what was to happen, Mr. Guerra, was that at berth 5
3 they were going to perform a dye penetration test on wells to
4 determine the acceptability of the wells?

5 A. That was when the flange was welded?

6 Q. Yes.

7 A. Yes.

8 Q. That had already been done, hadn't it?

9 A. Yes.

10 Q. And there was a team coming on at berth 5 to test, I think, a
11 thing called a CARBER test?

12 A. Yes.

13 Q. To test the integrity of the well?

14 A. Yes.

15 Q. Correct? That was to happen on berth 5 and then it was to
16 come over to berth—that same team to come to berth , weren't
17 they?

18 A. Yes.

19 Q. That's as you understood it, isn't it?

20 A. Yes.

21 Q. Where were you?

22 A. On the barge.

23 Q. On the barge at?

24 A. No. 6.

25 Q. At 6. So when you had seen this before, had you read this
26 method statement with others as to what was to take place or
27 did you read it on your own?

1 A. Well, I read it on my own and then—

2 Q. All right. So on that day 51, 2, and 3, was to do with the
3 various tests that were to be taken on the—at 5 and later to
4 come to 6. All right?

5 A. Yes.

6 Q. 54:

7 “On completion of the weld, conduct pressure test on
8 flange weld.”

9 This is now—I think it’s 6, but anyway, it doesn’t matter.

10 “55. On acceptance, remove test hardware.”

11 So right to the bottom of that page, these are the tests that
12 needed to be carried out?

13 A. Yes.

14 Q. The next thing that happens is what we’ve just been looking at,
15 is at 56, 57.

16 “56. Manually remove migration barrier from line.

17 57. Manually deflate line plug and remove from line.”

18 A. Yes.

19 Q. Right. Why? Why was that necessary at all?

20 A. To remove the—

21 Q. Yes, those plugs? Why was it necessary to remove those plugs
22 from the line at that time?

23 A. Because, um, the riser we—the new riser was at a random
24 length, which was longer than the other.

25 Q. Right. So because the new riser was going to be longer than the
26 old one that you cut off, does that mean you would have had
27 difficulty reaching down into getting it?

1 A. Yes, it was.

2 Q. Right. So the reason that you understood for these barriers to
3 be removed was so that you were able to reach them from the
4 new riser that was being fitted?

5 A. Yes.

6 Q. Do you know how long the new riser was?

7 A. I can't remember exactly; could be about 25 feet.

8 Q. How long was the old riser?

9 A. The piece we took off, approximately—about 15 feet,
10 approximately.

11 Q. Fifteen feet?

12 A. Average.

13 Q. So why was the new one 10 feet longer?

14 A. The top side piping had a little variation in it.

15 Q. Right. So it was longer. And that was the sole rationale, was it,
16 for the removal of the plugs at that time?

17 A. Yes.

18 Q. Thank you. Of course, you understood that by removing those
19 plugs inside the hyperbaric chamber, there was a downward
20 force from the pressure in the chamber, wasn't there?

21 A. Yes.

22 Q. I mean, the sea level was being forced down inside the chamber
23 in order for it to be dry even though much of it was below water
24 level?

25 A. Forced out of the chamber, yes.

26 Q. Yes. That took some pressure. Didn't it?

27 A. Yeah.

1 Q. Well, you don't sound like you're too sure about it, Mr.
2 Guerra?

3 A. Yes, it took some—

4 Q. Do you know how much?

5 A. No, I don't.

6 Q. No. Yes. After the incident when the men were sucked into the
7 pipe there was a number of attempts, plans for potential rescue?

8 A. Yes, it was—there was.

9 Q. And were you privy to those plans?

10 A. Yes. It was discussed between me, Kazim Sr. and Andrew
11 Farah.

12 Q. Right. And the plans that existed, there were plans prior to Mr.
13 Boodram coming out of the pipe?

14 A. That was it; yes.

15 Q. And were those plans revised after Mr. Boodram came out of
16 the pipe?

17 A. Well, yes.

18 Q. Well, again, you don't seem too sure.

19 A. Yes.

20 Q. Can you help me, please, to understand. What was the plan
21 prior to Mr. Boodram coming out of the pipe?

22 A. When Christopher came out—

23 Q. No, before.

24 A. Before?

25 Q. Yes. What was the plan before he came out of the pipe?

26 A. Both me and Andrew will go into the chamber with a rope.

27 Q. Both of you would go in?

1 A. In the chamber, yes.

2 Q. Into the chamber. Yes?

3 A. Andrew would go in feet first with two sets of dive gear; go
4 along the line—

5 Q. So you were in the chamber with him?

6 A. Yes.

7 Q. And Andrew Farah would go into the pipe feet first?

8 A. Yes, and I will be feeding him—

9 Q. With two sets of dive gear?

10 A. Yes.

11 Q. One for him and one for anyone he might encounter?

12 A. Yes.

13 Q. Each set has two breathers, don't they?

14 A. Yes.

15 Q. Yes. So potentially he could bring three other people out with
16 that?

17 A. Well, no, just one. Well, a dive set does have two breathing—
18 we weren't going to use two to bring another person together
19 with one person. So one person would come with one set.

20 Q. Are you a diver yourself?

21 A. Yes, Sir.

22 Q. Well, the spider that fits on to the tank—

23 A. Yes, it's for buddy breathing. It's for buddy breathing if you're
24 in the open and the person can be next to you.

25 Q. Well, or in front of you?

26 A. Or in front of you. Well, not too far from you.

27 Q. Yes, all right. Anyway, that was the plan before. And the plan,

1 after Mr. Boodram had come out, changed?

2 A. Yes.

3 Q. Because by now you knew, didn't you, that there was air
4 pockets in the pipe?

5 A. Yes.

6 Q. How did you know that?

7 A. Because Mr. Boodram said so.

8 Q. Right. So he told you that when he came out of the pipe?

9 A. When he came out.

10 Q. And once you found that information, that there were air
11 pockets inside, to what extent did your plans change?

12 A. We had the hat and hose with—

13 Q. You had what, sorry?

14 A. The helmet with the hose to go into the chamber.

15 Q. Right. Did some other divers arrive?

16 A. Yes, and other divers—

17 Q. Who had some other equipment?

18 A. Yes.

19 Q. Which would have allowed someone to go into the pipe—

20 A. Yes.

21 Q. —with effectively an umbilical cord?

22 A. Yes.

23 Q. Yes?

24 A. Yes.

25 Q. So that the air supply would be from outside the pipe?

26 A. Surface supply, yes.

27 Q. Yes. And the person would be able to go into the pipe

1 unencumbered by tanks?

2 A. Yes.

3 Q. Because he'd be able to breathe through a mask that was fitted
4 to his face?

5 A. Yes.

6 Q. Is that right?

7 A. Yes.

8 Q. And did that also have communications?

9 A. Yes, it did.

10 Q. So that the person who went into the pipe could actually speak
11 to people who are outside?

12 A. Yes.

13 Q. Why was that not done?

14 A. Beats me. I have no—

15 Q. Well, help me. Why do you say it was not done?

16 A. Because we were denied.

17 Q. Denied by whom?

18 A. By Paria.

19 Q. Who at Paria? Who did you speak to yourself?

20 A. I spoke to Mr. Piper—Collin Piper.

21 Q. By telephone?

22 A. Yes.

23 Q. So you called him or he called you?

24 A. He called me and told me in his words, we are not to do
25 anything; that the coast guard is taking over.

26 Q. He told you the coast guard was taking over?

27 A. Yes, he did.

1 Q. Can you recall when he told you that?

2 A. After the incident.

3 Q. Yeah, well, obviously after the incident. Forgive me, Mr.
4 Guerra, it's unlikely to happen before, but before or after Mr.
5 Boodram came out of the pipe?

6 A. Before.

7 Q. Before Mr. Boodram came out of the pipe he told you that you
8 were not to go into where?

9 A. Into the chamber nor the pipe.

10 Q. Neither chamber nor pipe?

11 A. No.

12 Q. He told you that on the telephone?

13 A. Yes.

14 Q. All right. Did you speak to him ever again on that day?

15 A. Sometime later. But I spoke to Ms. Catherine.

16 Q. That's Balkissoon, isn't it?

17 A. Balkissoon.

18 Q. Ms. Balkissoon?

19 A. Yes.

20 Q. And she is a representative for Paria?

21 A. Yes.

22 Q. Did you understand her to be in touch with Mr. Piper?

23 A. Yes.

24 Q. What did she say to you about going into the chamber and into
25 the pipe?

26 A. That we didn't have any permission to do any diving, and I
27 asked her if we could do the rescue some time, and she said she

1 would call and find out. She call—she did make the call and
2 said no—they said no.

3 Q. Were you standing next to her when she was making the call?

4 A. Yes. I was about five feet from her.

5 Q. Right. Could you hear what she was saying?

6 A. No, I couldn't. Sorry. We were not too far from the
7 compressor.

8 Q. Did the coast guard assume responsibility for the rescue?

9 A. Not from my knowledge, no.

10 Q. Did the coast guard have any divers?

11 A. No one in gears.

12 Q. No one in?

13 A. In gears—dive gears.

14 Q. No one in dive gear?

15 A. No.

16 Q. Did you speak with the coast guard?

17 A. No, they were speaking to Catherine and those of Paria.

18 Q. Did the coast guard ever interfere with your efforts to try and
19 effect a rescue?

20 A. When Michael was attempting to go into the chamber—

21 Q. Michael Farah?

22 A. Michael Kurban.

23 Q. Kurban, forgive me. Yes, Michael Kurban.

24 A. The coast guard was standing over the railing and Paria was
25 giving instructions that no one to go in the chamber.

26 Q. And I ask the question again: Did the coast guard ever interfere
27 with your plans to effect a rescue?

1 A. They didn't directly say don't—they were going to do the
2 rescue, no, they did not.

3 Q. They didn't tell you they were going to do the rescue, but did
4 they do anything to prevent you from carrying out the rescue?

5 A. Well, they were standing there with guns and pointing at—
6 down in the water.

7 Q. With their guns in their hands?

8 A. And the gun, well, pointing at the water when—

9 Q. Well, let's be clear about this, Mr. Guerra, please. I need to
10 understand this.

11 A. Yes, they did stop us.

12 Q. Well, you seem reluctant earlier, now you're saying they did
13 stop you?

14 A. Yes.

15 Q. What did they physically do to stop you?

16 A. Well, they were—from my understanding with Mr. Piper, that
17 the coast guard was taking over.

18 Q. They were taking over the rescue operation?

19 A. Yes.

20 Q. Right.

21 A. And that we weren't to do anything. So by they telling us that
22 you were not to go there, who were there enforcing that, and the
23 coast guard—I took that to be that the coast guard was
24 enforcing it.

25 Q. Let's be clear. Did they point a gun at you or anything like
26 that?

27 A. They were standing over the railing with the gun facing the

1 water, but I wasn't paying attention to them *per se*. I was
2 paying attention to more Michael, and at that same time we
3 were getting Christopher into the boat.

4 Q. And did they interfere at any other time during the course of
5 your period on that—

6 A. No.

7 Q. All right.

8 A. But at that time it was clear that we weren't to do anything.
9 And we couldn't ask for anything else.

10 Q. Thank you very much. I think I could—last question is this. At
11 some stage it appears that there were many, many different
12 divers on that barge?

13 A. Yes.

14 Q. And on the berth?

15 A. Yes.

16 Q. From different companies?

17 A. Yes.

18 Q. Answering to the call for help?

19 A. Yes.

20 Q. Were any of them permitted to effect a rescue?

21 A. No.

22 **Mr. Chairman:** Thank you. Right. I think that we'll do
23 this—Ms. Persaud Maraj, you're first, I think.

24 **Ms. Persaud Maraj:** I have no questions.

25 **Mr. Chairman:** Thank you. Anyone else before I turn to Mr.
26 Peterson?

27 Yes, Ms. Alfonso.

1 **Ms. Alfonso:** Thank you, Mr. Chairman.

2 **Cross-Examination By Ms. Alfonso:**

3 Q. Good morning, Mr. Guerra. My name is Nyree Alfonso.

4 A. Good morning.

5 Q. I represent the interest of the SWWTU. Just a couple questions,
6 Mr. Guerra. On the 25th February, who—I've read all of the
7 divers' statements. I wasn't clear who—if you could assist me,
8 who were the rescue divers? I'm talking assigned to the job,
9 not after the incident happened.

10 A. Kazim Ali was the rescue diver at the time.

11 Q. Okay. So there was only one rescue diver?

12 A. Yes. And we were standby; me—both me and Andrew for any
13 assistance.

14 Q. Okay. Mr. Guerra, my understanding—and I might be entirely
15 wrong—if you are a standby diver and you have divers in the
16 water or in a habitat, wouldn't the standby divers be people
17 who are standing by fully geared up and ready to get into the
18 water immediately?

19 A. Well, that is Kazim.

20 Q. Okay. Is it usual that a standby diver will be in the water and in
21 the same space with the persons who are diving?

22 A. Well, unfortunately, he was there at the time.

23 Q. Okay. You are a diver yourself, Mr. Guerra?

24 A. Yes.

25 Q. Okay. Is it usual that the standby diver is in the same
26 environment with the persons who may find themselves in
27 difficulty?

1 A. What he was doing was making checks in-between.

2 Q. Okay. So Kazim Ali was the standby diver and he was making
3 checks in the habitat?

4 A. Yes; but he would spend most of his time top side.

5 Q. Top side. So the only standby diver that was available
6 designated as a standby diver on that day was Kazim Ali Jr.?

7 A. Yes.

8 Q. Okay. Thank you for that. There was one other issue, Mr.
9 Guerra, I don't know if you could assist me, because I really
10 couldn't work out on my own. After the incident happened and
11 well into the night—

12 A. Yes.

13 Q —there's some issue of installing the riser late into the night of
14 the 25th?

15 A. Yes.

16 Q. And then going across—sorry, to be fair to you, at berth ?

17 A. Yes.

18 Q. And then going across to berth 5 to remove the blank?

19 A. Yes.

20 Q. Which you didn't do. The blank—you didn't remove the blank
21 on berth 5?

22 A. No, not until—

23 Q. Okay. Is there some purpose for going to remove the blank and
24 putting on the riser? Was that something to do with the rescue
25 or you just continuing the job?

26 A. No. We were hearing knocking coming from the pipe. So
27 removing the blank was to—

1 Q. Okay. So that knocking was at the other end on berth 5?

2 A. Well, yes. We were hearing it at No. 5.

3 Q. Okay. So that, you're moving the blank in order to get access
4 into berth—well, the riser at berth 5?

5 A. Yes.

6 **Ms. Alfonso:** Okay. Thank you. That will be all. Thank you
7 very much, Mr. Guerra.

8 **Mr. Chairman:** Thank you. Yes. Please, Mr. Ramadhar,
9 please—can I ask is there anyone else going to be asking
10 questions apart from—I will obviously invite Mr. Peterson.
11 Mr. Ramadhar, yes, please.

12 **Mr. Ramadhar:** Thank you. Good morning.

13 **Cross-Examination By Mr. Ramadhar:**

14 Q. Good morning, Mr. Guerra. My name is Prakash Ramadhar.

15 A. Morning.

16 Q. We represent the interest of the family, Kurban, and of Yusuf
17 Henry for this trial. I'm going to be very brief with you this
18 morning. Going into a pipe, of course, is inherently dangerous
19 underwater. Correct?

20 A. It would pose some—yes.

21 Q. Yes, some. But it is not out of the ordinary work within the oil
22 industry, isn't that correct?

23 A. No.

24 Q. No. And after the accident, you didn't, being on site, anticipate
25 any extended level of danger to divers going in to rescue, did
26 you?

27 A. No.

1 Q. No. In fact, you were prepared to do whatever necessary it was
2 to save the lives of your colleagues. Isn't that true?

3 A. True.

4 Q. So too was Andrew Farah?

5 A. Yes.

6 Q. So too was Michael Kurban?

7 A. Yes.

8 Q. Conan—you know Conan?

9 A. Yes.

10 Q. And who else?

11 A. Rolly, Corey.

12 Q. So there was an abundance of persons who were willing,
13 available, and able. These are able men—

14 A. Yes.

15 Q. —to do the rescue. Yes?

16 A. Yes.

17 Q. Now, you heard it said or asked whether the coast guard
18 basically pointed a gun at you. Right? They didn't actually
19 point a gun at you?

20 A. No.

21 Q. But they were there with Paria who had issued an instruction?

22 A. Yes.

23 Q. That no one is to go in. Is that accurate?

24 A. Yes.

25 Q. Yes.

26 **Mr. Chairman:** I think you need to be careful not to align
27 those two together before establishing the basis for doing so.

1 **Mr. Ramadhar:** Well, I'm about to do so.

2 **Mr. Chairman:** Well, do it first and then ask that question.

3 **Mr. Ramadhar:** Yes. Thank you, Sir. I always learn from my
4 Seniors.

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 Q. So in your mind, was the coast guard there to support you or to
7 support Paria?

8 A. To support Paria.

9 Q. Yes. And let us be clear, Paria was very clear that no one was
10 to enter, not just the pipe, but even the chamber. Is that
11 accurate?

12 A. Yes.

13 Q. And the coast guard, did they take any step to go into the
14 chamber or into the pipe?

15 A. No.

16 Q. No. None of them came with diving gears. Is that accurate
17 also?

18 A. Yes.

19 Q. Now, so when Paria's agents, that is Catherine and maybe
20 others, were speaking, where were the coast guard? Were they
21 close by?

22 A. Yes, around and on—on the barge and on the berth.

23 Q. Right. In the same vicinity of Paria's agents, Catherine and
24 others. Is that accurate?

25 A. Yes.

26 Q. Yes. What did you believe—because that is important—their
27 presence to be in relation to the instruction from Paria not to go

1 into the pipe?

2 A. Well—

3 Q. I will repeat it so it will be clear. What did you—because
4 you're entitled to your beliefs. What did you believe the coast
5 guard was there for when Paria was giving its instruction that
6 no one is to go in?

7 A. Okay. By the information I got?

8 Q. Yes.

9 A. That they were to perform the rescue.

10 Q. Yes. But their presence with the guns, were you afraid of them
11 in some form or fashion?

12 A. Yes, we didn't want to aggravate nobody, otherwise they
13 woulda move us off the site.

14 Q. Ah, thank you. Now, you have been involved with maritime
15 affairs, that is your swimming, and so, and you're diving long,
16 long period of time. Correct?

17 A. Yes.

18 Q. You've had interactions with the coast guard in the past.
19 Correct? Yes or no? Is either yes or no.

20 A. No.

21 Q. No. Is that an authority you believe that you could easily
22 dismiss and ignore?

23 **Mr. Peterson SC:** Mr. Chairman—

24 **Mr. Ramadhar:** I'm asking if he believes.

25 **Mr. Peterson SC:** Mr. Chairman, what's the benefit of this
26 line of cross-examination except sensationalism?

27 **Mr. Ramadhar:** Well, you know, with all due respect to my

1 learned friend, this is a very sensational issue, that four men
2 were permitted to die under the authority of the State and
3 others, and that is—if you consider this sensationalism, well, I
4 don't know what you imagine facts to be.

5 **Mr. Chairman:** Just a minute, just a minute. It's a perfectly
6 reasonable line of enquiry—

7 **Mr. Ramadhar:** Thank you.

8 **Mr. Chairman:**—as I have already pursued to the extent of
9 identifying whether or not the coast guard prevented anyone
10 from carrying out a diving rescue operation. My understanding
11 from this witness is that they didn't physically do that. Their
12 mere presence may have been interpreted, rightly or wrongly;
13 but they didn't physically prevent anyone from doing so. And
14 if you want to pursue that, I'll permit it to a limited degree, but
15 not beyond. All right?

16 **Mr. Ramadhar:** Of course.

17 **Continued Cross-Examination By Mr. Ramadhar:**

18 Q. And, in fact, that would have been my last question. So if we
19 have that clarity on your answer, yes, as sensational as my
20 friend thinks it is—crucially important. Yes. Did you believe
21 that the coast guard was there to enforce the instruction from
22 Paria? Yes or no?

23 A. My opinion, yes.

24 **Mr. Ramadhar:** Thank you so much. My Lord.

25 **Mr. Chairman:** Mr. Peterson.

26 **Mr. Peterson SC:** Thank you, Mr. Chairman.

27 **Cross-Examination By Mr. Peterson SC:**

1 Q. I'll take you to that last question. But the coast guard was there
2 before any instructions came from Mr. Piper?

3 A. Yes.

4 Q. So, therefore, the instructions came post—after the coast guard
5 arrived?

6 A. Yes.

7 Q. Are you aware—you may or may not be—that you are the only
8 person who was on berth that evening that is saying that Mr.
9 Piper said no one was to dive or enter the chamber and the line?

10 A. I could affirm that.

11 Q. Right. Let me put to you from the beginning that what Mr.
12 Piper's instructions was, is that persons weren't to dive into the
13 pipe?

14 A. You are wrong.

15 Q. All right. And those instructions came—let me put that out of
16 the way one time—in a speakerphone that Ms. Catherine
17 Balkissoon held up with a group of persons there, a lot of
18 LMCS people, and on speakerphone when Mr. Piper issued
19 those instructions. You recall that?

20 A. No.

21 Q. You don't recall a speakerphone being held up by Ms.
22 Catherine Balkissoon?

23 A. No.

24 Q. All right. Well, I'm putting that to you.

25 A. Okay.

26 Q. Let me take you back to where I want—

27 **Mr. Chairman:** Sorry. Can I—Mr. Peterson, can I just

1 understand? Who was on the other end of this speakerphone?

2 **Mr. Peterson SC:** Mr. Piper.

3 **Mr. Chairman:** Mr. Piper was on the other end?

4 **Mr. Peterson SC:** Yes.

5 **Mr. Chairman:** Are you able to say what it was that he was
6 saying?

7 **Mr. Peterson SC:** He was saying that it was dangerous and—
8 the conditions were unknown and it's dangerous to dive into the
9 pipe. So no one—

10 **Mr. Chairman:** Conditions unknown and dangerous to dive.

11 **Mr. Peterson SC:** No one should be diving into the pipe.

12 **Mr. Chairman:** I take it that's not verbatim. It's just a
13 summary of the—

14 **Mr. Peterson SC:** That's a summary.

15 **Mr. Chairman:** I got it. Thank you very much.

16 **Continued Cross-Examination By Mr. Peterson SC:**

17 Q. But let me also get from you now, notwithstanding those
18 instructions from the commander of the incident command,
19 those instructions were not obeyed and diving continued. Isn't
20 that so?

21 A. The diving continued when Christopher came out.

22 Q. When Christopher came out, that was after 5.30, thereabout?

23 A. Yes.

24 Q. And after that, diving continued?

25 A. Diving continued, yeah—

26 Q. For a substantial period of time.

27 A. Can I explain?

1 Q. Yeah, I'll give you to explain right as I finish. Let me finish
2 put what I'm putting to you—for a substantial period of time
3 into the night.

4 A. Into the night was when we got permission to install the riser.

5 Q. I'm coming to the riser. I am talking about even before the
6 riser, diving continued after Christopher Boodram came out.

7 A. Yes, not too long—for not too long.

8 Q. How long is not too long for you?

9 A. Well, about half an hour?

10 Q. Half an hour?

11 A. Forty-five minutes.

12 Q. No, I'm putting to you more than that.

13 A. That's your belief.

14 Q. Right. So half an hour take us to six o'clock?

15 A. About. A little after six.

16 Q. A little after six?

17 A. Then Conan came and he went in with Michael.

18 Q. Right. When Conan came, Conan went into the chamber with
19 Michael?

20 A. Yes.

21 Q. And anyone else?

22 A. Well, Corey and Rolly was there. I—

23 Q. To execute a dive for rescue. That must be the purpose they
24 went down and then going into the chamber?

25 A. Conan wanted to get a view of inside and—

26 Q. To do what?

27 A. To do the rescue.

1 Q. To do the rescue. The coast guard stopped him?

2 A. No, after he came out, yes.

3 Q. No, just now. Coast guard stop him from going down?

4 A. No.

5 Q. The CG, the coast guard stopped Michael from going down?

6 A. Not at that time, no, but as they came out.

7 Q. They went down there to rescue?

8 A. Yes.

9 Q. Not to just see. Let me put to you, they went down there to
10 rescue. Isn't that so? We want the truth.

11 A. Yes, we wanted to attempt the rescue, yes.

12 Q. Right. That team that went down there that weren't stopped by
13 the coast guard, went down there, not to see.

14 A. Okay.

15 Q. They went to rescue. Isn't that the truth?

16 A. Yes.

17 Q. And the truth also is that that team came back up having
18 aborted their attempt?

19 A. And—

20 Q. Is not—no. One thing at a time.

21 **Mr. Chairman:** Let him answer the question, please. The
22 question was they came out having aborted the attempt. Let
23 him answer that.

24 **Mr. Peterson SC:** Yes.

25 **Continued Cross-Examination By Mr. Peterson SC:**

26 Q. They came out having aborted the attempt.

27 **Mr. Chairman:** Is that right or wrong?

1 **Mr. Guerra:** They came out because they were instructed to
2 come out.

3 **Continued Cross-Examination By Mr. Peterson SC:**

4 Q. All right. Who instructed them?

5 A. Paria.

6 Q. Paria, how?

7 A. By, um—

8 Q. Remember, they're already in the habitat. Let me help you.
9 They're already in the habitat, right?

10 A. Yes. And they came back out—

11 Q. No, no, no, wait. You said they were in the habitat; they came
12 back out because Paria tell them come back out.

13 A. Okay, sorry. They came back out and—

14 Q. Just now. You want to change what you said first?

15 A. What, the coast guard—

16 Q. That they came back because Paria called them out?

17 A. Yes, yes.

18 Q. You want to change that?

19 A. Yes.

20 Q. Just now. So when you said that to the Chairman and the other
21 Commissioner, that wasn't true?

22 A. What's that?

23 Q. That Paria called them back out?

24 A. No, sorry, I phrase it wrong.

25 Q. No. You phrase it untruthfully, not wrong.

26 A. Okay. But—

27 Q. How did Paria call them back out from the hyperbaric

1 chamber?

2 A. No, they didn't call them back out, sorry. When they came
3 out—

4 Q. Just now. I'll give you that opportunity to go to what you're
5 about to say. But before you deal with the coming first, and
6 when they're out—because you're at the stage of when they
7 came out. I dealing with before they came out. You're
8 ascribing all blame that you could at any moment to Paria. So
9 they come back out from the chamber; Paria did that. But that
10 wasn't true. Tell us. It was not the truth.

11 A. No, not—they didn't come out.

12 Q. Right. Leh we get to your stage now. They come back out.

13 A. Right. They came back out and they were instructed by
14 Andrew that Paria don't want nobody to go back in.

15 Q. Right. Andrew?

16 A. Yes.

17 Q. That's Andrew Farah?

18 A. Yes.

19 Q. Right. Leh we stick a pin and put him aside. Did you know
20 why they came back out? Because they out now.

21 A. Because Conan wasn't too comfortable with Michael, and he
22 said he would wait for his brother.

23 Q. He was not comfortable with Michael's state of mind to
24 participate in a rescue?

25 A. Right.

26 Q. Isn't that the truth?

27 A. And he will wait for his brother.

1 Q. Yeah, I'll get to that. Isn't that the truth?

2 A. Yes.

3 Q. So they went down there to do the rescue, pursuant to which
4 plan?

5 A. To our rescue plan.

6 Q. Whose rescue plan?

7 A. LMCS.

8 Q. No. LMCS is a company. We hearing people now; we hearing
9 Paria and LMCS. Who developed that plan?

10 A. Mr. Kazim Ali.

11 Q. Right. What were the risk assessment of that plan?

12 A. I can't answer.

13 Q. Well, they did no risk assessment. Isn't that so?

14 A. I can't say, because—

15 Q. You can't say. But you were part of the planning—

16 A. On the barge when the incident happened.

17 Q. Right. When do you mean by that? Were on the barge when
18 the incident happened.

19 A. When the incident happened [*Inaudible*] between me, Mr. Ali
20 Sr., and Mr. Andrew Farah.

21 Q. That's the first plan?

22 A. Yes.

23 Q. Is that the plan that Mr. Beddoe and Mr. Michael Kurban and
24 they were executing when they came back up?

25 A. He would have spoken to Mr. Ali on shore.

26 Q. No. Is that the plan—

27 **Mr. Chairman:** Sorry. Forgive me for interrupting you. I'm

1 just not clear which Ali you're talking about?

2 **Mr. Guerra:** Senior.

3 **Mr. Chairman:** Kazim Ali Sr.; not Ahmad Ali?

4 **Mr. Guerra:** No.

5 **Mr. Chairman:** Thank you.

6 **Mr. Peterson SC:** Thank you, Mr. Chairman.

7 **Continued Cross-Examination By Mr. Peterson SC:**

8 Q. So the plan—was that the plan that was being executed that was
9 aborted?

10 A. Aborted? We didn't abort no plan.

11 Q. When I say aborted, when they came back up. When Michael
12 and they went down—Michael Kurban and Beddoe and the
13 other two went down to execute, and they came back up
14 without going into the line, was that the plan that they went to
15 execute? The plan that you, Mr. Ali Sr.—

16 A. Yes. Only one—the changes was we were going to use the
17 umbilical.

18 **Mr. Peterson SC:** Mr. Chairman, I'm just advised that the
19 three LMCS witnesses are in a room watching these
20 proceedings live. They sent somebody to check it and it's, in
21 fact, so.

22 **Mr. Chairman:** Right. We will pause there. Can you please
23 go and find out?

24 [10.35 - 10.41 a.m.: *Enquiry suspended*]

25 **Mr. Chairman:** Right. So this is the position. Thank you for
26 bringing it to my attention, Mr. Mootoo and Mr. Peterson.
27 Apparently, witnesses yet to give evidence are in the witness

1 room as we've made arrangements in the past, and they were all
2 looking at their telephones, apparently watching the
3 proceedings.

4 I thought I made it perfectly clear right at the outset to all
5 counsel, that, whilst I did not, and could not prevent anybody
6 from watching these proceedings on the live link, I expected
7 Counsel to advise the people that they represent and, therefore,
8 the witnesses that are being called by this Commission, not to
9 view the proceedings. That has been in deliberate violation of
10 what I have said. I regard it as a contempt. I am not going to
11 take any action in pursuit of that contempt today. If it were to
12 happen again, I make it absolutely clear, I will. I have
13 considerable powers to do so and I will use them.

14 I will not have this Enquiry thwarted by people
15 deliberately flouting the obvious and plain rules that exist, in
16 order to preserve the integrity of this Enquiry. I'm very
17 disappointed that anyone should feel the need to do that. They
18 have now had their telephones taken away from them. They're
19 put in separate rooms. What am I dealing with? Children?
20 They will wait there until I'm ready to hear them give their
21 evidence. I'm sorry that this has happened whilst you're giving
22 evidence, Mr. Guerra. All right? And I'm now going to let Mr.
23 Peterson continue his cross-examination of you.

24 **Mr. Peterson SC:** Thank you, Mr. Chairman.

25 **Continued Cross-Examination By Mr. Peterson SC:**

26 Q. Mr. Guerra, when we were interrupted by the events, you were
27 about to tell us about a second plan or something? I think you

1 were on to a plan. Could you tell us?

2 A. No. I said that would have been discussed with Conan and Mr.
3 Ali.

4 Q. The same plan that you all had at the beginning?

5 A. Their plan; their plan.

6 Q. When you say, "their plan", what—

7 A. What Conan was about to do.

8 Q. Well, that's what I'm asking you. You told us earlier about a
9 plan that you developed with Mr. Kazim Ali Sr. and—

10 A. Oh, that was on the barge at the time.

11 Q. Right. Is that the same plan—what were the details of that
12 plan?

13 A. The first plan?

14 Q. Yes.

15 A. That me and Andrew would go into the chamber; Andrew will
16 go into the pipe feet first with two scuba sets and a rope—a
17 lifeline.

18 Q. Right. Do you know what plan that Mr. Beddoe, Mr. Kurban,
19 and I think two other persons you named, what plan they were
20 going to execute? Were you aware of that plan?

21 A. No, I wasn't.

22 Q. Right. That first plan that you developed with you and Andrew,
23 did you share that with Paria?

24 A. No one was interested.

25 Q. No, I didn't ask you about their interest. Did you—

26 A. We couldn't.

27 Q. Let's do it this way. What steps you took to share those plans?

1 A. When I spoke to Mr. Piper to do the rescue, Mr. Piper said, no,
2 coast guard was taking over and that me—that we weren't
3 supposed to do anything; that the coast guard would do it.

4 Q. What time was that, approximately?

5 A. That was about—could be a little after five.

6 **Mr. Chairman:** Pre or post Boodram?

7 **Mr. Guerra:** Excuse?

8 **Mr. Chairman:** Before Mr. Boodram came out or after Mr.
9 Boodram came out?

10 **Mr. Guerra:** All right. That would be before. But, no, Mr.
11 Piper spoke to me after. When we came up with the plan, Mr.
12 Piper via his people on the boat, said he wanted me and Mr.
13 Farah ashore.

14 Q. Right. Just ashore?

15 A. Yes—to come into the office.

16 Q. To come into the office?

17 A. Right.

18 Q. Which office is that?

19 A. Shipping office.

20 Q. Which is the command centre?

21 A. Well, I don't know if it was a command centre at the time.

22 Q. You didn't know it was the Incident command centre?

23 A. No.

24 Q. Okay. All right. Go ahead.

25 A. But, yes, it was his office, shipping office, and, um—for a
26 meeting.

27 Q. Yes.

1 A. I told him I myself wouldn't leave the site and that I spoke to
2 Andrew and Andrew will come, will be there; he and, um—

3 Q. Right. So you told him that Andrew would come?

4 A. Yes.

5 Q. Right. And that's the end of the conversation?

6 A. Yes.

7 Q. So nothing in that conversation did you tell him about the plan
8 that you had?

9 A. After he said no; no diving, okay? How can I?

10 Q. He told you no diving in that first conversation?

11 A. Yes.

12 Q. And that is before Boodram came out?

13 A. Yes.

14 Q. But you didn't take him on. You continued your plan?

15 A. Well, when Boodram came up and you hearing that somebody
16 in distress—

17 **Mr. Chairman:** No, no, no, can you just state one thing at the
18 time please?

19 **Examination By Mr. Chairman:**

20 Q. Before Mr. Boodram came out, you've told us that you did not
21 explain the detail of your plan to Mr. Piper.

22 A. No.

23 Q. He had told you no diving?

24 A. Yes.

25 Q. Did that include into the chamber?

26 A. Into the chamber, and—

27 Q. Did he say that or did you just understand it as that?

1 A. No, he said that.

2 Q. He said no diving into the chamber?

3 A. Yes.

4 Q. And no diving into the pipe?

5 A. Right.

6 Q. That's what he told you?

7 A. Yes.

8 Q. So you didn't then tell him, well, look, we have a plan?

9 A. No.

10 **Mr. Chairman:** Right. There you are, Mr. Peterson.

11 **Continued Cross-Examination By Mr. Peterson SC:**

12 Q. And he told you no diving. Now, let us get this clear. My
13 instructions are, he—Mr. Piper, never told you about no diving
14 into the chamber. But let's go with your version for the while.

15 After he told you that, you ignored him, because you
16 went into the chamber? Well, one of your colleagues went into
17 the chamber?

18 A. Wait, you mixing me up here for a second.

19 Q. I'm trying not to.

20 A. But we talking 'bout when Andrew went into the chamber?

21 Q. No. I'm talking about when Mr. Piper told you no going into
22 the chamber.

23 A. Okay. Where that piece of diving you are talking 'bout, is
24 when the incident happen, for us to have some sort of
25 information or to share, we had to make checks on what
26 happened, what we see. That is the only diving that took place
27 then. The next piece ah diving was when Mr. Boodram came

1 out, right, and I was instructed while hearing Mr. Boodram
2 knocking and bawling in the chamber that no one was to go in
3 the chamber, and I myself said that I don't care what anybody
4 say, I am hearing my colleagues in there hoping that is
5 everybody and that I was going to get them.

6 Q. Well, that's what I said to you. After that conversation with
7 Mr. Piper it was—the instructions weren't enforced. They were
8 ignored and you all continued?

9 A. Yes, because we were hearing people in distress.

10 Q. Yes. That's a good reason to explain it. But what I'm saying to
11 you is, don't convey to the Commission that you obeyed what
12 Mr. Piper said. I am not saying you weren't justified to ignore
13 it, but the fact is you ignored it?

14 A. Yes.

15 Q. Right. So let's deal with that. So you ignored it and you all
16 continued?

17 A. Right.

18 Q. Now, Kazim Ali came, you said, and you all had a discussion of
19 a plan?

20 A. Right.

21 Q. You were part of that plan?

22 A. Yes.

23 Q. The second plan, if you could call it that?

24 A. Second plan?

25 Q. Involving Mr. Ali and Mr. Beddoe, were you part of that?

26 A. No. You mixing up the first plan that we had on the barge with
27 their plan.

1 Q. I know. No, I'm not mixing it up. I am speaking of that plan
2 and you are speaking of the plan, and I brought into that second
3 plan, Mr. Beddoe. Right?

4 A. Well, for some reason I'm getting that you are kinda crossing
5 the two.

6 Q. I am not. Do you know of—let us call it the Beddoe plan. Do
7 you have a plan involving Mr. Beddoe?

8 A. I was not involved in that.

9 Q. That's what I'm asking you. And Michael Kurban, you weren't
10 involved in that—Kurban?

11 A. No, that was with Mr. Andrew and—

12 Q. And who?

13 A. Andrew Farah and—

14 Q. Let's get the names. Don't just throw your hand. Who you
15 said were involved in that plan?

16 A. Andrew Farah.

17 Q. And Mr. Beddoe?

18 A. Beddoe.

19 Q. And Mr.?

20 A. Mr. Ali.

21 Q. Mr. Ali.

22 A. Kazim Ali.

23 Q. Kazim Ali Sr.?

24 A. Yes.

25 Q. And Mr. Michael Kurban?

26 A. Well, I can't say for Mr. Kurban.

27 Q. You can't say. Right. But you learnt of that plan. Let's call it

1 the Beddoe plan, just for this conversation. You were aware of
2 that plan?

3 A. I just told you no.

4 Q. So when you first heard of that plan?

5 A. When I first heard of that plan?

6 Q. Yes.

7 A. Sometime in the night.

8 Q. Around what time?

9 A. About seven, half seven, eight, somewhere dey.

10 Q. Right. But you know that that is the plan that they went down
11 to execute and came back up without doing it?

12 A. Yes.

13 Q. Right. Is when they came back up, that's when you knew of
14 that plan?

15 A. Yes.

16 Q. Right. But you saw when they went into the water, when Mr.
17 Beddoe and Mr. Kurban went into the water?

18 A. Yes.

19 Q. Right. No one stopped them?

20 A. No.

21 Q. Why you smiling? No one stopped them?

22 A. No.

23 Q. No Paria person stopped them?

24 A. At that time, no.

25 Q. Right. No coast guard person stopped them?

26 A. At that time, no.

27 Q. Right.

1 **Examination By Mr. Chairman:**

2 Q. Can I ask before you go on? And I hear what you say—they
3 were not stopped. Did you understand if they had permission?
4 What Mr. Peterson has been asking you, really, is whether or
5 not they were defying the permission?

6 A. I can't say.

7 **Mr. Peterson SC:** That's not what I'm asking, Sir.

8 **Mr. Chairman:** Well, they had no permission. They were the
9 defying the fact that they had no permission but were,
10 nonetheless, prepared to carry out these—is that not what
11 you're asking him?

12 **Mr. Peterson SC:** No, Mr. Chairman, that's not what I'm
13 asking.

14 **Mr. Chairman:** Then I'm misrepresenting you. Forgive me,
15 and I—

16 **Continued Cross-Examination By Mr. Peterson SC:**

17 Q. I am asking the point—well, you answer it already—that they
18 went into the water uninhibited; no one stopped them. You got
19 that already, so you can't change that unless you want to.

20 A. *[No response heard]*

21 Q. You don't want to change it. Right. You know about
22 something called a saturation diver?

23 A. Explain?

24 Q. No. I'm not a diver. Do you know the concept of someone
25 being trained as a saturation diver?

26 A. No.

27 Q. What level diving you are trained to?

1 A. PADI.

2 Q. PADI. You know Mr. Beddoe's qualifications as a diver?

3 A. Well, I know he's advanced and confined space.

4 Q. Right. How advance you know him to be?

5 A. I think he's—

6 Q. You know he was trained all in Scotland and other places.

7 Right? Do you know that?

8 A. No, I don't.

9 Q. Right. Do you know of something called a—it may not be
10 diving at that level, but do you know of something called a
11 hazmat suit as a diver?

12 A. Hazmat suit?

13 Q. Yes.

14 A. I know a full suit. But I don't think that could work in this.
15 That's the full suit with the helmet and—

16 Q. Well, you don't know what it is? Before—in fairness to you,
17 you don't know what it is?

18 A. No.

19 Q. Right. Well, I'll deal with that later with someone else. But I
20 was getting back to dealing with the aborted plan. Well, what I
21 call the aborted plan, when Michael Kurban and they went
22 down in the water and came back up; the Beddoe plan. Your
23 plan—did you do any risk assessment as to if something goes
24 wrong what is going to happen, your earlier plan, the one that
25 you devised with Andrew?

26 A. Well, we took into consideration the system had normalized.

27 Q. Who was the standby diver in that?

1 A. I was.

2 Q. Who was the rescue diver in that?

3 A. Andrew Farah.

4 Q. And who was doing the diving?

5 A. Who was doing the?

6 Q. Who was actually going to do the diving to retrieve the men in
7 the—

8 A. Well, Andrew Farah.

9 Q. Right. So Andrew was going to go down with the rope?

10 A. Yes.

11 Q. And you putting down some rope?

12 A. Right.

13 Q. You would have been involved in that process—

14 A. In the chamber, yes.

15 Q. So you couldn't be the standby diver?

16 A. Well, I was in the chamber.

17 Q. Umm?

18 A. Yes, I would be in the chamber.

19 Q. Yeah, you will be in the chamber but you will not be the
20 standby diver?

21 A. No.

22 Q. A plan like that properly thought out ought to have a standby
23 diver? That must be a compelling yes.

24 A. To me it's argumentative.

25 Q. It's argumentative?

26 A. Yes.

27 Q. All right. So it is safe to go down—send one man down in the

1 pipe, you alone in the chamber hoping to be able to assist him,
2 no other person nearby, everybody else top side. That you'd
3 say was safe?

4 A. Well, yes, considering the system had normalized and—

5 Q. Put another way.

6 A. We had to check—

7 Q. There was no need for a standby diver there?

8 A. There would have been need for if we had one at the time.

9 Q. Why you needed to have one?

10 A. To assist.

11 Q. No, to be safe. Mr. Guerra, let's be frank with the Commission.
12 There ought to have been a rescue—a standby diver to assist in
13 that process?

14 A. Well, at the—we had called out other divers at the same—um,
15 at that time too.

16 Q. No, that wouldn't be the answer. I am talking about you down
17 in the chamber there by yourself; you're going to send a man
18 down in the pipe. That's highly risky. Isn't it?

19 A. *[No response]*

20 Q. You know about risk assessment for diving?

21 A. Yes.

22 Q. That will not be an approved plan, would it? After a risk
23 assessment, that will not be an approved plan?

24 A. *[No response]*

25 Q. We need to get on.

26 A. Well—

27 Q. It will not be. Just say that. Be truthful; be frank with us?

1 A. Under normal circumstances, no.

2 Q. Right. I want to take you to something that you said. I may
3 have misheard you, but I think I did not. You said the elbow at
4 5 during the clearing process, was attached?

5 A. Yes.

6 Q. When was that broken?

7 A. After we had cleared the riser at No. 6.

8 Q. So you all were pumping with that elbow attached?

9 A. We were air blowing.

10 Q. Air blowing with the elbow attached at 5, which is connected
11 back to the rest of the system?

12 A. And for the final stages—

13 Q. No, no, no, wait, we will get there. At a stage where you were
14 blowing—

15 A. Yes.

16 Q. —the elbow is telling us that 5 was attached.

17 A. And removed blanked and blown from on the riser.

18 Q. Eventually.

19 A. Yes.

20 Q. Don't take me there yet. We're not there yet. At a blowing
21 stage—because it jumped out to me when you said it to the
22 Chairman. The elbow at 5 was attached to the loop whilst you
23 connect a nipple—let's call it that—and blowing product
24 hopefully to get the line cleared down to your ullage?

25 A. Yes, because it was a closed system.

26 Q. Right. And at some point after blowing—how many days you
27 all blew for?

1 A. The whole process took about two weeks.

2 Q. When you all broke that elbow?

3 A. We took off the one—when we finished?

4 Q. No, 5, 5.

5 A. When we brought down the liquid. The first was No. 6 blank
6 and No. 5 and blanked with valves and to blow from there.

7 Q. Now, I know you weren't supposed to hear Mr. Kazim Ali's
8 evidence so I'm assuming you didn't. I was putting to Mr.
9 Kazim Ali, when I sourced one of the daily reports, that that
10 other side beyond the elbow at 5 had an 8-foot lowering in that
11 other line called the—

12 A. At No. 6?

13 Q. B—5; the BS80 or Bend 80—Pipe Bend 80—PB80, and he
14 almost dismissed me. But you are telling us the elbow was still
15 connected there. That could explain that lowering on the pipe
16 bend 80. You know what I'm talking about?

17 A. Pipe bent 80?

18 Q. Yes.

19 A. No.

20 Q. No, what? You don't know?

21 A. How could it?

22 Q. You don't know what I'm talking about or you know Pipe Bend
23 80?

24 A. Because we were slip blanked by the valve.

25 Q. Right. But it wasn't broken as we were conveyed, it was—you
26 were what? By the valve?

27 A. Yes.

1 Q. Did you pressure test that valve to see if it was holding?

2 A. What valve?

3 Q. The valve you just mentioned, Sir.

4 A. I said it was slip blanked by the valve.

5 Q. Yes. When you say slip blanked by the valve, you mean the
6 valve was closed?

7 A. It's a plate that was cut and slipped between the both flanges at
8 the valve.

9 Q. Right. Did you pressure check that to see if when you were
10 blowing if product could have seeped from that?

11 A. Product cannot pass that.

12 Q. Did you check it?

13 A. I am telling you that product cannot pass that. It's a solid
14 plate—

15 **Mr. Chairman:** Just pause for a minute, because I'm not
16 understanding, I'm afraid, Mr. Peterson.

17 **Examination By Mr. Chairman:**

18 Q. It may be useful if you use that board behind you just so that
19 you can draw what you mean.

20 A. This is No. 5, right?

21 Q. Why don't you start again. Right? You're just doing it to the
22 right of the drawing that's on there. There's a pen below you.
23 Don't touch that drawing. Just draw the elbow area that you're
24 talking about. Start afresh.

25 A. Okay.

26 Q. Explain what you mean.

27 A. There's a valve here and this here tee off going down; this

1 going back to Bend 80. There's a slip blank here, and then you
2 go in here.

3 Q. That part is the riser, is it?

4 A. This, yeah.

5 Q. Yes. That's the riser?

6 A. Yes. And the flange is this here.

7 Q. Okay. So when you put the wavy line now, that's the water
8 level, is it?

9 A. Yes.

10 Q. Right. And then that pipe goes down; that's the riser?

11 A. Yeah.

12 Q. It has an elbow above it, which goes off to the right as we're
13 looking at it. Yes? That's above the water line?

14 A. Yes.

15 Q. That's on berth No. 5?

16 A. Five.

17 Q. And then you put a little squiggle, for want of a better
18 expression. What's that?

19 A. A valve.

20 Q. That's a valve, is it? And that allows, what, air in and out?

21 A. No, that's where if they're using the line at No. 5 you close that
22 valve and the product will go to No. 5. If you want it to go at
23 No. 6 using 36, it would go to No. 6.

24 Q. So that valve transfers any product—

25 A. Yes.

26 Q. —from either being on the site at 5 or 6?

27 A. Yes.

1 Q. Right. And you were asked about PB80?

2 A. That's where you pass—

3 Q. That's a bend, is it?

4 A. Well, yeah. It turns like east then swing south and down.

5 Q. And goes to one of the tanks?

6 A. Well, it goes to Pile Bent 80 and eventually to a tank.

7 **Mr. Chairman:** Yes, all right. Now I understand. Mr.
8 Peterson, you take it from wherever you want to take it.

9 **Continued Cross-Examination By Mr. Peterson SC:**

10 Q. What I'm really interested in is that when the blowing process
11 was taking place there had not been a detachment of the elbow
12 during the blowing process.

13 A. Uh-huh.

14 Q. You got that?

15 A. Yes.

16 Q. Right. Since I'm on the pipe and the risers, I would stick with
17 it for the time being. The learned Chairman asked you about
18 the removal of the plugs and you say that you would—and
19 correct me if I'm wrong, or if I misquote you—that the plugs
20 were removed in this case because you had to put in the riser
21 that was at a—this riser was at a random length?

22 A. Yes.

23 Q. What you mean by that?

24 A. It was longer than the original.

25 Q. Right. But it's supposed to be the length of the original?

26 A. No, it wouldn't.

27 Q. Well, how it connecting back with the elbow on top?

1 A. Because there was a new piece of fabrication to be done.

2 Q. Where?

3 A. On the top of the riser to connect. We were supposed to use a
4 tee there and not an elbow.

5 Q. Right. And you would need barriers?

6 A. It was supposed to be installed at the top.

7 Q. Right. So there was work to be done, welding work to be done
8 on the new riser at the top?

9 A. Yes.

10 Q. Right. So it was not finished and polished and had no hot
11 works to be done?

12 A. It had no hot work to done at the time on the 25th.

13 Q. No, no, no, no; on the riser. Don't jump forward; on the riser.
14 There was no hot work intended to be done on the new riser to
15 be installed. That's what you are saying?

16 A. When?

17 Q. Ever.

18 A. The riser was—well, we had to do hot work on the riser. The
19 plug and the migration barrier were to be reinstalled on the top
20 of the new riser.

21 Q. Right. Because the new riser was, according to you, at a
22 random length and needed to be worked on?

23 A. Yes.

24 Q. In order to get to the proper length to connect back to the
25 original elbow that was removed?

26 A. Yes.

27 Q. All right. Just assist us a bit. If that riser was not that one at a

1 random length, you would have installed a finished riser at the
2 proper length without removing the plugs? You follow my
3 question? If you want me to repeat it, I'll do it.

4 A. I am going, based on our method statement, to this particular
5 job. I can't foresee—

6 Q. No, I'm asking you for assistance; I'm asking you for help.

7 A. No, I can't. I can't answer you. Sorry.

8 Q. Why can't you answer me or won't answer me?

9 A. I can't give you an answer to that.

10 **Mr. Chairman:** I'm not sure I'm following at the moment.
11 Can you ask the question again, please?

12 **Continued Cross-Examination By Mr. Peterson SC:**

13 Q. You said that this one was at a random length so you had to cut,
14 and all of that, at the top?

15 A. Yes.

16 Q. But there are times when the risers are at the fitted length or the
17 correct length. It wasn't random length as you call it. This one
18 happened to be random length. Did you not say that? That
19 this—

20 A. Yes, it was at a random length, so we had to remove the plug
21 because—

22 Q. Not all risers to be installed tends to be at a random length.
23 Sometimes they are already finished and exact?

24 A. Okay.

25 Q. No, I don't know. I'm asking you?

26 A. Yes, yes.

27 Q. Right. In such a case—in such a case, you should remove the

1 plugs using a tee tool after installing the riser. You smile.

2 A. You could.

3 Q. Right. Explain to us how you use the tee tool to remove the
4 plugs after installing the new riser. Explain to us how that is
5 done physically?

6 A. It's a socket onto a bar.

7 Q. Right?

8 A. And you remove the bolts, you slack the bolts and take the
9 migration barrier out. You lift the hose and you release the air
10 in the plug.

11 Q. And you pull up the plugs?

12 A. And you pull it up.

13 Q. Right. And at that stage when the plugs come up, that new riser
14 would be above sea level?

15 A. Yes.

16 Q. To connect to the elbow that's going back into all the racks of
17 pipes. Isn't that so?

18 A. Yes.

19 Q. Right. In such a case, that new riser being above sea level and
20 the plugs now being removed by via the long tee tool, there
21 would be no occasion for a Delta P factor, latent or patent. Isn't
22 that so?

23 A. I would guess not.

24 Q. I like your guess. In the hyperbaric chamber with the men
25 working there, you know the quality of air is supposed to
26 remain pristine—clean.

27 A. Yes.

1 Q. Hydrocarbons coming into hyperbaric chamber is not making
2 the air pristine; it compromises the air. Doesn't it?

3 A. Yes, but can I explain something?

4 Q. You're going to be able to explain. All I ask you is being in a
5 hyperbaric chamber with hydrocarbon fumes coming into the
6 chamber compromises the air in the chamber. That is a yes?

7 A. Yes.

8 Q. Right. You want to explain. Go ahead now.

9 A. Firstly, for you to get fumes from that liquid, oil—you have
10 to—it have to reach a certain temperature to emit fumes.

11 Q. Yes.

12 A. And, secondly, we had a vent at the top where we were testing
13 the air quality at all times in the chamber and if that had
14 changed the divers would have—

15 Q. Been alerted?

16 A. Yes.

17 Q. All right. I know that. But you don't know what fumes were
18 possibly coming up from that line, that could have gone in the
19 chamber; you didn't know that. That's why you had to keep
20 checking it. Isn't that so?

21 A. To maintain the air quality, yes.

22 Q. Right. Yes. The reason you keep checking it is because you
23 know it could go wrong, so you want to be able to alert the
24 divers?

25 A. Yes.

26 Q. Right. Do you know—and tell me if you know or you don't
27 know—that Mr. Beddoe was concerned about diving into the

1 pipe even on the Sunday because of the possibility of radiation
2 coming from that line?

3 A. I don't know that.

4 Q. You don't know that?

5 A. No.

6 Q. And he wanted Paria to give him an undertaking that if
7 anything go wrong with him they would pay him for the
8 medical bills for the next 20 years if he goes in there and get
9 radiation. You know about that?

10 A. No, I don't.

11 Q. Right. You realize that Mr. Beddoe is a more highly qualified
12 diver than you are?

13 A. Yes.

14 Q. And his risk on Sunday is that he could be exposing himself to
15 a danger on that pipe because he doesn't know—

16 **Mr. Chairman:** Just a minute, just a minute. First of all, if
17 there's to be some evidence about radiation from the fumes—
18 radiation exists everywhere.

19 **Mr. Peterson SC:** Well, I don't know that, Sir.

20 **Mr. Chairman:** Well, I do. Radiation exists in minerals and
21 in the earth, and so on. The issue here is whether it can be
22 released, and the question of releasing of radiation by the use of
23 extraction of oil whether through our gases, through fracking,
24 or through other processes, is a controversial topic. If you're
25 going to be relying on that I need to understand on what basis
26 you're doing so. If Mr. Beddoe is saying that he wanted
27 reassurance about potential dangers to him and that is why he

1 was less than enthusiastic about going into the pipe, I'm not
2 clear about that at the moment on the evidence that I've had.

3 My concern is, if you're going to introduce something
4 like that as being the basis for why he was not prepared to go
5 into the pipe, two things arise. First of all, I want the expert
6 evidence to support it. And, secondly, there is a distinction
7 between taking a risk when people's lives are in danger which
8 might have been in the case on Friday or Saturday, from that
9 which might be risking yourself when the people are already
10 dead. And if that was the case on Sunday you could understand
11 why that might be a risk factor that he would wish to take into
12 account in risking his own health.

13 **Mr. Peterson SC:** Mr. Chairman—

14 **Mr. Chairman:** So I need to be clear about what it is that's
15 being put here.

16 **Mr. Peterson SC:** Yes. Mr. Chairman, I am not using it in the
17 manner in which you are saying that I'm using it. I am using it
18 to the extent that it is a risk to be considered, and as you said,
19 depending on the time of the Friday, Saturday, or Sunday, one
20 could dispose of the risk because of it being Friday or Saturday
21 and be more tolerant to the risk because it's Sunday.

22 **Mr. Chairman:** So what are you asking?

23 **Mr. Peterson SC:** I just want to identify it as a possible risk
24 that a trained diver had considered in his plan. That's all I'm
25 using it for.

26 **Mr. Chairman:** Well, if you are identifying it as a potential
27 risk with this witness, you're going to need to ask him, first of

1 all, whether he even recognized it as it existed as a risk, because
2 not everybody does.

3 **Mr. Peterson SC:** Yes, Sir. I'm going to ask him that.

4 **Mr. Chairman:** All right.

5 **Mr. Peterson SC:** Well, I will ask him if he was aware, and if
6 he's not aware, as I told you, tell me yes or no.

7 **Continued Cross-Examination By Mr. Peterson SC:**

8 Q. Were you aware that Mr. Beddoe was considering radiation as a
9 risk factor on Sunday?

10 A. No.

11 Q. Right. That's what I was at. You know you can get radiation
12 from your cell phone and that's why people don't want to use
13 5G? Do you know that? Now, the toolbox meeting, you
14 attended that?

15 A. Yes.

16 Q. This is not the first job like this you did. You said you did one
17 in 2020?

18 A. Yes.

19 Q. Similar riser been installed, and that kind of thing?

20 A. Yes.

21 Q. You know the installation and removal of the migration barriers
22 are important steps in the process, don't you?

23 A. Yes.

24 Q. The toolbox meeting—you signed that form?

25 A. Yes.

26 Q. The removal of the barriers on the 25th was never mentioned on
27 that form?

1 A. Because Kazim Ali was supposed to fill in a section on that
2 being the supervisor for that day.

3 Q. I ain't ask yuh that yet. Have you ever seen the form?

4 A. Which form?

5 Q. For the 25th that you signed.

6 A. Yes.

7 Q. You know that the removal of the plugs, the barriers, that was
8 not mentioned on the form?

9 A. Because I told you Mr. Kazim Ali—

10 Q. I asked you if you know it's not there?

11 A. No, it's not there.

12 Q. Right. When you signed it? At what stage? You recall?

13 A. Right after the toolbox talk.

14 Q. Right after the toolbox—after Mr. Kazim Ali wrote up the
15 form?

16 A. No, after the talk was done we had to do the air quality test on
17 the compressor.

18 Q. So you signed a blank form?

19 A. I signed when Mr. Victor Dhillpaul put in his section.

20 Q. Put in his section?

21 A. Yes. And Mr. Kazim Ali would do his own after.

22 **Mr. Peterson SC:** Could you pull up—Mr. Chairman, with
23 your leave, could you pull up 1070, the toolbox form please for
24 berth ?

25 **Continued Cross-Examination By Mr. Peterson SC:**

26 Q. That's the form? You recognize it?

27 A. Yes.

1 Q. Could you scroll down so you could see your signature? Where
2 is your signature on that form?

3 A. Right there where the pointer is.

4 Q. Right. Where Dexter Guerra is there. Right. When you signed
5 this form, what was not on it?

6 A. The discussion between the removal of the—well, the works to
7 be done that day.

8 Q. Right. You see topics discussed? Were those filled in?

9 A. Yes.

10 Q. You read that before you signed it?

11 A. Yes.

12 Q. You saw anything there about moving of plugs?

13 A. It not on the form, no.

14 Q. Right. Did you call the attention to Mr. Kazim Ali Jr., “aye, the
15 removal of them plugs, you didn’t have it there?” You tell us
16 about it, but you didn’t put it there. Look, look; it’s not there.
17 Did you do that?

18 A. No, I did not.

19 Q. Is it that you didn’t do that because it was never discussed?

20 A. It was discussed.

21 Q. I’m talking about them?

22 A. I talking about them.

23 Q. Right. You’re sure you’re not saying that now because of what
24 happened?

25 A. No, I’m not.

26 Q. Because you like to follow procedure?

27 A. We were—yes.

1 Q. No, you?

2 A. We try to, yes.

3 Q. No, you, not we?

4 A. Yes.

5 Q. You, not we?

6 A. Yes.

7 Q. You like to follow procedure?

8 A. Try my best.

9 Q. You is a man who stick to procedure and what is to be done?

10 A. I try my best, Sir.

11 Q. What about the removing of the barge that caused the
12 suspension?

13 A. Okay. I did not do that on my own, Sir.

14 Q. So when you have company you does do the things out of
15 sequence?

16 A. Can I explain?

17 Q. You'll get a chance, you know. You see this lady across
18 there—very competent.

19 A. No, but can I explain to you now?

20 Q. No, no. I'm not interested in that now, yet. But that activity of
21 yours in February 18th—when was it? When did you do the
22 wrong thing?

23 A. 17th.

24 Q. 17th, a mere eight days before this sad event of the death of
25 these divers?

26 A. Yes.

27 Q. You in this same contract, same job, you removed a barge

1 without authorization?

2 A. You didn't give me chance to explain.

3 Q. I'm coming to give you the chance.

4 A. Okay.

5 Q. I just want to know if you removed the barge without
6 authorization?

7 A. No.

8 Q. Right. So you saw that Mr. Kazim Ali—he's of LMCS right?

9 A. Yes.

10 Q. He investigated the event?

11 A. Yes.

12 Q. You want to explain? Go ahead. Let me hear this.

13 A. The morning of the incident, that particular incident—

14 Q. The 17th?

15 A. Yes. We had an arrangement between us, the maintenance, to
16 move early, six o'clock.

17 Q. Yes.

18 A. Okay? The maintenance crew, they came in minutes to
19 seven—about ten to seven, somewhere there. I, normal
20 channels, and the normal thing with the crane barge is we try to
21 move early when going in-between structures, because of the
22 wind, and that creates a hazard because we could either put a
23 hole in the barge, sink right there. So we try to do it at that
24 time. I called shipping office normal, because they govern the
25 harbour. I asked the OTS at the time—

26 Q. Well, I don't want to spend too long on this, because that's not
27 what the Commission really looking into.

1 A. No, but you're looking into this, so I'm giving you the
2 explanation.

3 Q. So, basically, you're saying it's not your fault only?

4 **Mr. Chairman:** I know he's taking his time but he's allowed
5 to say.

6 **Mr. Peterson SC:** Yes, Mr. Chairman. I just didn't want to—

7 **Mr. Guerra:** I spoke to the person in charge of the port and
8 told him we did not have a permit and explained to him that we
9 wanted to go with the barge before the wind and water get
10 choppy because of where we were going to position the barge.
11 Right? And we spoke of the permit. And I told him that Rajiv,
12 well, the maintenance people, will come with the permit. We
13 didn't have a permit. Normal procedure is we go out and
14 permits come on the barge to be signed.

15 **Continued Cross-Examination By Mr. Peterson SC:**

16 Q. So it was more convenient to move at that time—

17 A. It was more safe to move at that time.

18 Q. It was more safe to move at that time. Right. And you move,
19 even though you know you supposed to have the permit first,
20 but it was more safe to move then?

21 A. Because permission was granted.

22 Q. Okay. Permission was granted?

23 A. Yes.

24 Q. But you got demoted as a result of that, didn't you?

25 A. Because nobody wanted to hear my side of it.

26 Q. Including your Kazim Ali?

27 A. He agreed with Paria.

1 Q. Including your Ahmad Ali? Nobody wanted to hear you?

2 A. That's it—yeah.

3 Q. None of them wanted to hear you?

4 A. No. I spoke to Mr. Ali and Mr. Kazim.

5 Q. But they demoted you?

6 A. Yes.

7 Q. Isn't that the kind of thing that happened on the 25th when it
8 was more convenient to remove the plugs there and then than to
9 try to remove it with the tee—

10 A. Can I say one more thing on that?

11 Q. On which?

12 A. On the moving of the barge?

13 Q. No. Well—

14 A. Can I, please?

15 Q. Go ahead.

16 A. The same thing was done on that day when we were going out
17 on the 25th that we did the week before.

18 Q. Right. So you—even though you got demoted, you do the same
19 thing again?

20 A. I weren't in charge.

21 Q. All right. Who was in charge then?

22 A. Mr. Kazim Ali Jr.

23 Q. Mr. Kazim Ali Jr.

24 A. And it was given to him same way, via the same steps.

25 Q. That's what I'm trying to get from you. That isn't it that the
26 plug was probably removed on the 25th because it was more
27 convenient to do it at that stage than to try to do it after you

1 installed the riser?

2 A. Did any talk came up—discussion came up with removing the
3 plug? No discussions was made on removing the plug, notten
4 on that; notten happened on that. Because the method
5 statement would have to be changed, right? How we were
6 going to retrieve it? How were we supposed to reach it?

7 Q. That's the reason you all removed it? Because you all couldn't
8 figure out how to reach it from on top?

9 A. Well that—

10 Q. Umm?

11 A. We would have—I feel we—if we did that we might ah had to
12 lower down somebody with the crane inside the pipe to remove
13 it.

14 Q. Or get a longer tool, because that tee tool is made by—well—

15 A. Okay.

16 Q. Get a longer tool.

17 A. We would remove the migration barrier with the tee tool.

18 Q. Because the tee tool is made by LMCS, isn't it?

19 A. Well, how we going to the air hose?

20 Q. Isn't the tool—and you all will make a longer one if you need a
21 longer one; you will make a shorter one—

22 A. Correct.

23 Q. Right.

24 A. But what are we going to do with the hose?

25 Q. That was an issue too. How you're going to remove the hose so
26 we should remove the barriers now. Isn't that what happened?

27 A. Well, that is what it stated here, that at that time it was to be

1 removed.

2 Q. That's not in the toolbox meeting.

3 **Examination By Mr. Chairman:**

4 Q. Can I ask you something, please? You told me in answer to
5 questions to me earlier and now to Mr. Peterson that the piece
6 that you were putting on was very much larger?

7 A. Longer.

8 Q. Longer, yes, than the piece that you've taken off?

9 A. Yes.

10 Q. It was at a random length I think you described?

11 A. Yes.

12 Q. But, presumably, it was at that random length so that somebody
13 on the outside could then measure where they wanted to cut and
14 then cut that piece off?

15 A. Okay.

16 Q. That's right. Don't say "Okay".

17 A. Yes, yes.

18 Q. I'm not the manufacturer, you know. So one can understand
19 you're putting on a piece of pipe that is much longer than you
20 would otherwise need. You cut that pipe off where you think
21 you need it, once it's in place. Yes?

22 A. Yes.

23 Q. Then it would be shorter, wouldn't it?

24 A. A bit.

25 Q. Well, how much is a bit?

26 A. About two, three feet longer.

27 Q. Two or three feet you cut off. Is that all? Did you know?

1 A. Well, no, I can't give you an exact measurement.

2 Q. Forgive me, Mr. Guerra, but, you know, this is obviously quite
3 important, all right. It makes obvious sense that if you could
4 safely remove the barriers when they were closer to you, you
5 would do so. All right? And I understand that the method
6 statement says that's when they should be removed—when
7 you're in the chamber.

8 A. Yes.

9 Q. But you are telling us, as I understand it, that the only reason
10 you were removing them on that occasion at that time was
11 because it was too—when you put the new piece on it, it would
12 be too far down?

13 A. Yes.

14 Q. Right. And that I understand. But you must have put them in
15 when you had the old piece on?

16 A. Yes.

17 Q. So we know you can do it that far. It can't have been much
18 taller, the new piece that you are putting on, once you cut it to
19 where you needed it, or are you telling us that it was quite a lot
20 taller?

21 A. It was longer.

22 Q. I appreciate it was longer. You've told us that.

23 A. It would have been longer if you didn't cut.

24 Q. What are we talking about? A foot? Five feet? Ten feet?

25 A. Between three, four feet.

26 Q. Three or four feet taller. That's it, is it?

27 A. Yes.

1 Q. I just want to make a note of this. So the new piece attached,
2 once cut to the right length would be about two or three feet—
3 three or 4 feet?

4 A. Longer.

5 Q. Longer; three or four?

6 A. Three or four.

7 Q. All right. Hold on. Three or four feet longer.

8 A. And that's just an estimate.

9 Q. Now, I follow that. I'm not going to hold you to exactly, right.
10 But that is what you understood the position to be?

11 A. Yes.

12 Q. Now, so, obviously, you fitted the barriers into the pipe?

13 A. Yes.

14 Q. And when you did that, it would have been just three or four
15 feet shorter than where you would end up being?

16 A. Yes.

17 Q. Right? Was there anything to prevent you from extending the
18 tee pipe by three or four feet?

19 A. No.

20 Q. You could have done that, could you?

21 A. Yes.

22 Q. And then that would take care of the mechanical barrier that
23 was on there?

24 A. Yes.

25 Q. Then you got the inflatable one below that, haven't you?

26 A. Yes.

27 Q. How would you attach a hose or something to the valve to let

1 the air out? How would you do—how would you let the air out
2 of that?

3 A. There's a valve.

4 Q. Right.

5 A. The hose that comes with the plug has a valve with the gauge
6 on it.

7 Q. Right. Do you just press a button and it lets the air out?

8 A. No, you turn a valve.

9 Q. Sorry?

10 A. You turn the valve.

11 Q. You turn it?

12 A. Yes.

13 Q. So there's some sort of tool to turn it, is there?

14 A. Yes. It's like a ball valve.

15 Q. A ball valve?

16 A. Yes.

17 Q. Right. But you were able to inflate it once in place. Yes?

18 A. Yes.

19 Q. Could you have deflated it—well, you did deflate it from
20 exactly the same place, didn't you?

21 A. Yes.

22 Q. Was there any reason why you would not have been able to
23 deflate it with this once cut extended piece of pipe?

24 A. Because it would be so much lower than where we did the
25 inflation from that it will higher—

26 Q. It would have been far?

27 A. Yes. I think somebody would have to lean in—or hold

1 somebody by dey foot and carry them in to—

2 Q. You'd have had to put someone into the pipe?

3 A. Yes.

4 Q. But it would have been dry?

5 A. Right.

6 Q. And it would have been above ground?

7 A. Yes.

8 Q. What was the distance between the—roughly, again—between
9 the water level, now that you've put this new piece on, what
10 would have been the distance between that and the top of the
11 cut pipe, the new section where you'd cut it? What would that
12 distance have been?

13 A. An average?

14 Q. Yes?

15 A. Nineteen, average.

16 Q. How much?

17 A. About 19 feet, I think.

18 Q. About 19 feet as an average.

19 A. An average.

20 Q. Right. Now, would it have been possible—if it were
21 impossible to remove the barriers with that length of pipe, you
22 could have done it in two section, couldn't you? One above the
23 water line so you could reach in and then put another section on
24 so you get to the height you want it to be. I mean, I appreciate
25 it's more work.

26 A. I can't say *per se* to the contract.

27 Q. I'm sorry?

1 A. That would be dependent on the contract?

2 Q. I know, but, I mean, like anything else, things change and it
3 may be that once considered it was not possible to remove the
4 barriers without cutting the pipe lower down, a new flange,
5 another piece of pipe put on and a new flange. That would be
6 one way of doing it, wouldn't it?

7 A. Yeah, that would—yes, and it would have to be discussed at a
8 higher level.

9 Q. All right. It's not your responsibility. I understand.

10 A. Yes.

11 **Mr. Chairman:** All right. Thank you. Mr. Peterson, I'm
12 sorry.

13 **Continued Cross-Examination By Mr. Peterson SC:**

14 Q. It's more convenient to remove the barriers when you did—
15 when they were removed, isn't it? Less work. The exchange
16 you just had with the learned Chairman sounds a fair amount of
17 work. So it's easier to remove it before you bring in the new
18 piece, isn't it?

19 A. I cannot speak about—towards the contract, okay. So I can't
20 answer that question.

21 Q. All right. Or won't?

22 A. I cannot answer you on that, because—

23 Q. The piece, the new piece as you were demonstrating to the
24 Chairman, has to be the same length to fit. When it goes in it
25 has to end at the same length to connect back with the elbow
26 from the main set of lines, isn't it?

27 A. No.

1 Q. So when you install the random piece, don't you have to cut it
2 to get it to line up with the elbow that is already existing?

3 A. As I explained to you before, it weren't going to be an elbow.
4 It was going to be a tee.

5 Q. That's how it connecting—well, better yet. It has to line back
6 up with a tee. Now, it now has to line up with two sides,
7 because a tee is this [*Mr. Peterson SC demonstrates*] an elbow
8 is just this.

9 A. Okay.

10 Q. So it's only one side it has to line up with. But you're telling
11 me now—and thank you for that—it's a tee—

12 A. Right.

13 Q. So it is a greater responsibility to bring it down to the level to
14 line up with both sides. Isn't that so? Draw if you want.

15 A. A tee is shorter than an elbow. You know that? I'm telling
16 you. A tee is shorter than an elbow.

17 Q. I ain't doubting you, yuh know. All I'm saying is that whatever
18 that random thing is, you have to cut off piece.

19 A. Yes.

20 Q. And after you cut that off, you can use your tee, adjust your tee
21 as you want, your tee tool, to do the work on the barriers?

22 A. What you asking me is what I just explained to—

23 Q. Right. So that's a yes?

24 A. Right.

25 Q. And to get to deflate the inflatable plug, tell me if you know
26 this, the manufacturers also sell an extended hose so you can
27 remove yourself out of the zone to deflate the plug?

1 A. Okay.

2 Q. They have short hose, long hose, extended hose. You know
3 that?

4 A. Okay.

5 Q. No, not okay. You know that?

6 A. You telling me I—

7 Q. Well, I'm asking you it. Don't you know that?

8 A. Yes.

9 Q. Right. So if you have to get a longer hose to safely deflate the
10 plug to prevent the Delta P, you buy one. You ever hear about
11 something colloquially called "cutting corners" or "half
12 baked"?

13 A. [*No response*]

14 Q. I want to suggest to you that the plans that you all had
15 developed on that Friday evening were half baked—Friday
16 afternoon, Friday evening the rescue plans were half baked;
17 incomplete.

18 A. Okay. We didn't do anything to help the guys, though.

19 Q. I didn't say that.

20 **Mr. Peterson SC:** One minute, please, Mr. Chairman. Just
21 checking my list. I should be finished.

22 **Continued Cross-Examination By Mr. Peterson SC:**

23 Q. Were you ever interviewed by the police after this incident?

24 A. No.

25 **Mr. Peterson SC:** Thank you very much, Mr. Chairman.

26 **Mr. Chairman:** Yes, I think we'll take a break here.

27 **Mr. Peterson SC:** I didn't realize I was so long, Sir.

1 **Mr. Chairman:** We did. I don't mean that offensively in any
2 way at all.

3 **Mr. Peterson SC:** Yes, I know.

4 **Mr. Chairman:** We'll take a break now, I think, rather than
5 troop on. Do you have anything, Mr. Maharaj?

6 **Mr. Maharaj SC:** No.

7 **Mr. Chairman:** No. Then I have one question only and then
8 you can go, all right, and so does Mr. Wilson. Well, let's take a
9 few minutes and see if we can deal with this, so that you can
10 leave. All right?

11 **Examination By Mr. Chairman:**

12 Q. My question is simply this. Is the document that's on the
13 screen at the moment, which is the toolbox document you were
14 referred to by Mr. Peterson—all right?

15 A. Yes.

16 Q. And he pointed out to you nowhere on that document does it
17 mention anything at all to do with removing the barriers.
18 That's right, isn't it?

19 A. Yes.

20 Q. You told him that the position is, is that Mr. Kazim Ali Jr. was
21 supposed to put it in later on.

22 A. Yes.

23 Q. Well, I mean, the fact and the matter is there is nothing on there
24 about the actual jobs that you were supposed to do at all, is
25 there? I mean, the CARBER testing, anything. There's nothing
26 on there about the work that was to be done on that day?

27 A. Yes.

1 Q. Is there?

2 A. No.

3 Q. So it's not as though the barriers were the only things that have
4 been left out, lest anyone should get the false impression?

5 A. No.

6 Q. There was no indication on this document about topics that
7 were discussed at all beyond safety?

8 A. Yes.

9 **Mr. Chairman:** All right. Thank you. That's all I wanted to
10 ask you. Mr. Wilson.

11 **Examination By Commissioner Wilson:**

12 Q. Good morning, Mr. Guerra.

13 A. Morning.

14 Q. Just want to ask you, how much experience you've had working
15 with these types of jobs and—sorry, go ahead.

16 A. Some.

17 Q. Okay. And you've been diving with LMCS as well?

18 A. Yes.

19 **11.31 a.m.**

20 Q. All right, so, in your experience of diving in these types of
21 scope of works, just outside of the job of the day, are you aware
22 of other capabilities of other diving companies or, let's just say,
23 the local dive industry?

24 A. Yeah.

25 Q. You're aware of them, right? So I want to go to coast guard.
26 So, are you aware of coast guard's capabilities?

27 A. No.

1 Q. All right, so you know industries' capabilities but not coast
2 guard's?

3 A. Yes.

4 Q. Right? Had you known the capability of coast guard to enact a
5 rescue or participate in a rescue when you were being told that
6 coast guard is coming to rescue, in your experience, well in
7 hindsight now, why didn't you challenge that coast guard may
8 not have the capability to rescue where on site and we can
9 probably begin a plan but—sorry, but go ahead, but to begin a
10 plan?

11 A. Okay. Firstly we didn't want to aggravate anyone, meaning
12 that we had an incident the Saturday morning—

13 Q. Uh-huh.

14 A. —where they sent security to remove some of our crew
15 members.

16 Q. Paria security?

17 A. Yes.

18 Q. All right.

19 A. Because of an incident on number 5 where the guys wanted to
20 take a look in the pipe, our guys wanted to take look in the pipe
21 and everybody was just telling them "Move from here. Don't,
22 don't come here", after they removed the flange—

23 Q. Okay.

24 A. —the line flange, so that's the reason we weren't showing any
25 aggression toward anybody.

26 Q. Okay, thank you. Well I've removed the question I have for
27 your knowledge about coast guard's capability but you said

1 something very interesting in managing the incident. From
2 your statement I pick up that you are LMCS leadership on site
3 in term of with the dive supervisor. Would you consider
4 yourself LMCS leadership on site?

5 A. Yes.

6 Q. Because you indicated to either the incident commander or
7 Collin Piper his request to come to the shipping office—

8 A. Right.

9 Q. —that you're not going to move, so obviously you had some
10 sort of experience where you felt you had an authority to
11 decline the client because you're managing a site?

12 A. Yes. We would—well, both of us wouldn't leave.

13 Q. All right.

14 A. I would stay and Andrew would go.

15 Q. So you were essentially the dive supervisor's delegate in his
16 removal from the site and/or was it agreed? How that—um,
17 how did that come about.

18 A. Well, just, just a discussion between me and Andrew.

19 Q. All right. All right, one last question. In terms of the manning
20 power at that time to effectively initiate a rescue, would you say
21 that manning power existed?

22 A. At the time was just—well, was me and Andrew and we called
23 in for support.

24 Q. Right. And, sorry, I just have to continue on from that. So, at
25 the time it's just you and Andrew Farah in terms of manning
26 resources, LMCS, with a capability to go into the water?

27 A. Yes.

1 Q. How long it took before, in your eyes, from what you
2 witnessed, before help reached on the scene?

3 A. Er, just about the time when Boodram came out.

4 Q. Boodram came out.

5 A. Yes.

6 Q. You could put a hour time period on that, or, from the time it
7 was just both of you all to when Boodram came out?

8 A. I can't.

9 Q. No problem. All right, thank you.

10 **Mr. Chairman:** All right. Good. Well then you are free to
11 go. Please, do not discuss the evidence that you have given
12 with any of your colleagues who are outside in various different
13 rooms with or without their telephones, all right? Please? Do
14 not do so. I suggest the best thing for you to do is to leave,
15 leave the building, all right? You want to watch proceedings,
16 do so on the screen. All right? But thank you very much for
17 coming. Appreciate your evidence. You're free to go now.

18 **Mr. Guerra:** Thank you.

19 [*Mr. Dexter Guerra leaves Enquiry room*]

20 **Mr. Chairman:** We'll resume at 5 to 12.00. Thank you.

21 **11.38 a.m.:** *Enquiry suspended.*

22 **11.54 a.m.:** *Enquiry resumed.*

23 **Mr. Maharaj SC:** The next witness is Andrew Farah.

24 **Mr. Chairman:** Yes. I'm wondering, Ms. Persaud Maraj,
25 whether you would not be better placed going last.

26 **Mrs. Persaud Maraj:** I would be most grateful, please.

27 **Mr. Chairman:** You should have asked me.

1 **Mrs. Persaud Maraj:** There were no further re-examination
2 questions after the counsel had asked of Mr. Guerra.

3 **Mr. Chairman:** Right. Well we'll just change the order for
4 these witnesses for the moment, all right?

5 **Mrs. Persaud Maraj:** I'm most grateful.

6 [*Mr. Andrew Farah sworn*]

7 **Mr. Farah:** I, Andrew Farah, solemnly swear that the evidence
8 I shall give to the Commission in this case shall be the truth, the
9 whole truth and nothing but the truth.

10 **Ms. Maharaj:** Mr. Chairman, I will be summarizing the
11 evidence, Chairman.

12 **Mr. Chairman:** Mr. Farah—

13 **Mr. Farah:** Uh-huh.

14 **Mr. Chairman:**—what's going to happen is that Ms. Maharaj
15 is going to read a summary of your evidence and the interview
16 that you provided, so that your—please listen to what she says,
17 and, assuming that you agree with her summary you'll say so at
18 the end. That will avoid the necessity of taking you through
19 each and every part of your evidence, all right? After that
20 myself, Mr. Wilson and/or any of the other counsel who want to
21 ask you questions will be permitted to do so. Let's see if we
22 can try and dispose of your evidence this side of lunch. We're
23 going to try anyway. We'll see how we go, all right? So listen
24 please to Ms. Maharaj and she will provide you with the
25 summary.

26 **Ms. Maharaj:** Thank you.

27 Mr. Andrew Farah submitted a witness statement to the

1 Commission dated 5th of October, 2022. It's in the witness
2 statement bundle at page four three nine Volume I. He was
3 interviewed by the Commission on the 21st of October and a
4 witness statement was prepared for him based on that interview
5 and Mr. Farah signed that witness statement on the 29th of
6 October. And that statement is in the witness statement bundle
7 page four four three Volume I.

8 Mr. Farah is a commercial diver and had been employed
9 with LMCS Limited for the last eight to nine years. He was
10 involved in the preparation of the risk assessment for the diving
11 part of the job which was being conducted on the 25th of
12 February, and that risk assessment is at core bundle page 1062.
13 The hazards which he identified included drowning, equipment
14 failure, incompetent workers and weather conditions. Control
15 measures were implemented for those hazards. The rescue plan
16 in place was that for each diver in the habitat there was a
17 standby diver present and there would be two standby divers
18 topside.

19 The hazard of the men being sucked into the pipeline was
20 not considered by him. This is because in the method statement
21 provided for the installation of the plugs just above the liquid in
22 the pipeline and this would have eliminated the hazard of the
23 differential pressure. He states that this would have been within
24 his knowledge, training and experience to identify such a
25 differential pressure hazard because LMCS did exactly the
26 same type of job at berth 5 in the past.

27 The job scope for the 25th of February included pressure

1 testing the weld on the flange, removal of the plugs, the
2 installation of the new section of the riser and the removal of
3 the habitat itself. Mr. Farah's knowledge of the work-plan
4 came from previous jobs, the toolbox meeting as well as the
5 method statement and from doing the risk assessment. The
6 toolbox meeting was conducted by Victor Dhillpaul at around
7 8.00 a.m. on the barge. The job for the day and general safety
8 was discussed.

9 Mr. Farah was the dive supervisor on the 25th of
10 February. After the toolbox meeting he proceeded to the
11 platform on berth 6 at the dive monitor station where he
12 monitored the habitat operations via a live CCTV video with a
13 Paria representative. According to Mr. Farah, the divers were
14 conducting the works in accordance with what he understood
15 the scope of works to be. Based on his knowledge of the
16 project and the permit to work system, Mr. Farah states that
17 Paria always had a representative present to supervise the works
18 whilst they're being conducted. There were about three or four
19 persons present from Kenson or Paria and they were coming
20 and going on the 25th of February.

21 At about 2.45 p.m. on Friday, the 25th of February, Mr.
22 Farah observed a gush of water on the screen and the screen
23 then went blank. This was also observed by the Paria
24 representative present. The last thing Mr. Farah observed
25 before the gush of water was the men removing the mechanical
26 plug.

27 Mr. Farah confirmed with Mr. Guerra that the

1 compressor was working. He then searched the waters around
2 berth 6 and he also entered the habitat. He observed it was dry
3 and there was water in the riser approximately three to four feet
4 below the top of the riser—the pipeline. Mr. Farah concluded
5 at this point that the men were probably in the pipeline.

6 Mr. Farah, together with LMCS' Dexter Guerra and Mr.
7 Kazim Ali Sr., then devised the following plan. Mr. Farah
8 would enter the riser feet first with an extra set of diving gear so
9 if he found anyone he could provide it to them to assist them to
10 take them back up. He would then—he would have had
11 connected to him a tag line which he would use to communicate
12 with Mr. Guerra who would be topside in the habitat and would
13 assist to pull him back up the riser.

14 Mr. Farah said that he called Conrad Beddoe for surface
15 supply equipment and told him to call whoever he could for
16 them to make their way down to Paria. Mr. Farah stated that he
17 dived into a pipeline in or about 2010 or—in about 2009 or
18 2010 to install a gasket in vertical section of a pipeline. He felt
19 confident about the rescue plan which was to be immediately
20 implemented. He states that he and Dexter Guerra discussed
21 the plan with Paria personnel present but they kept saying that
22 they had to get permission from their management team, that
23 Paria pulled the permits and LMCS were not allowed to dive.

24 According to Mr. Farah, whilst he was trying to action
25 the plan by getting Paria to allow LMCS to carry out the rescue,
26 he was told that Collin Piper wanted to have a meeting with
27 him. Whilst he was in a vessel proceeding onshore, Mr. Guerra

1 called him and indicated that they were hearing knocking from
2 the habitat. Mr. Farah then returned to berth 6. When he
3 arrived, divers, Michael Kurban, Corey Crawford and Ronald
4 Ramoutar were already there and were putting on their gears to
5 enter the water.

6 They went into the habitat and asked, and assisted
7 Christopher Boodram out of the riser and brought him to the
8 surface. As soon as Christopher Boodram came to the surface,
9 he started shouting that everyone was alive and Fyzie was
10 behind him. He started to tell Michael Kurban that his dad was
11 behind him. He said, "Go in and rescue him." Mr. Farah states
12 that although Paria and/or Kenson persons were saying not to
13 dive, they knew at this point that the divers were alive so they
14 had to attempt a rescue.

15 Mr. Farah discussed the rescue plan with Michael
16 Kurban. The plan was the same except Mr. Kurban would enter
17 the pipeline instead of Mr. Farah, assisted by Mr. Ramoutar and
18 Mr. Crawford. They entered the water and when they came
19 back up Mr. Kurban indicated to Mr. Farah that he went to the
20 top of the riser and went as far as he could with the umbilical,
21 that is about 10 feet into the pipeline. Mr. Kurban also
22 indicated that he found a set of dive gear just past the elbow and
23 he brought it back.

24 At this point in time, Conan Beddoe arrived and Mr.
25 Farah discussed the plan with him. Conan Beddoe, Michael
26 Kurban, Corey Crawford and Ronald Ramoutar then entered the
27 water. After the divers entered the water, coast guard officers

1 told Mr. Farah to get all of the divers out of the water and that
2 they had to stand down. At about 6.00 p.m. Mr. Farah indicated
3 this to the divers when they emerged from the water.

4 Around 6:30 p.m. Conrad Beddoe arrived with surface
5 supply equipment and the rescue plan was modified so that
6 divers could now enter the water with commercial equipment
7 instead of scuba equipment. Mr. Farah stated that he repeatedly
8 tried to convince the Paria representatives to permit LMCS to
9 make at least one rescue attempt, but they kept saying that they
10 were not in charge and would relay to their supervisors. He
11 stated he kept going back and forth with the representatives
12 including one Catherine who kept saying that LMCS didn't
13 have permission and had to just stand down.

14 Mr. Farah also tried to convince the coast guard, but they
15 just kept saying that LMCS could not dive and they had to
16 stand down until they received instructions. In addition to
17 Conan's equipment, two other dive support vessels arrived,
18 fully equipped with surface supply equipment and willing
19 divers. Mr. Farah stated that Paria was aware that all of the
20 resources came in and he had discussions with Catherine and
21 other Paria personnel present as to what resources were
22 available to LMCS.

23 Mr. Farah stated that communications between himself
24 and Paria personnel present at berth 6 were cordial and good
25 and he provided all the information requested of him. On late
26 Friday night, works were done to install the spool piece on the
27 riser in order to shut down the compressor in the chamber and

1 to open the pipeline on berth number 5. There is, on the screen,
2 the diagram which would show how the riser would have
3 looked after it was connected top side.

4 After midnight, Paria arrived with cameras. However,
5 Mr. Farah did not see the footage. There was also a second
6 attempt with a crawler. Mr. Farah stated that he did not see that
7 footage either. Mr. Farah left berth 6 at around 8.00 p.m. on
8 Saturday the 26th February.

9 On Sunday the 27th of February, Mr. Farah accompanied
10 Mr. Kazim Ali Sr. to two meetings with Paria to inform Paria of
11 the rescue plan and to convince them to at least give LMCS one
12 chance to make a rescue attempt. At this point in time, Mr.
13 Farah stated that he wanted to give the benefit of the doubt that
14 someone was still alive and there could still be a rescue. After
15 the first meeting, LMCS had to go back to the office because
16 Paria wanted LMCS to do a method statement and a risk
17 assessment for the rescue operation. Mr. Farah assisted with
18 the preparation of the documents.

19 LMCS returned for the second meeting with Paria but
20 Paria did not give permission to carry out the rescue. He states
21 that one person on behalf of Paria at the meeting mentioned that
22 there could have been oil in the pipeline and spoke to the
23 possibility of radiation to the diver. Mr. Farah, however, stated
24 that in previous times that he dived into a pipeline this was
25 never raised as an issue. He also says that LMCS has been
26 involved in many oil spill clean ups and radiation was never
27 brought up as a possible problem.

1 Mr. Farah also stated that he was confident about the
2 rescue plan. LMCS had equipment and the competent
3 personnel to execute the rescue and there was no concern that
4 there could have been another incident occurring which would
5 have sucked the men in to the pipeline. Mr. Farah said that he
6 was also prepared to enter the pipeline.

7 Mr. Farah, is that an accurate summary of your evidence?

8 **Mr. Farah:** It is.

9 **Ms. Maharaj:** Thank you.

10 **Mr. Chairman:** Yes, thank you. Thank you, Mr. Farah.

11 **Examination By Mr. Chairman:**

12 Q. I just want at this stage to ask you one thing, really. The
13 various plans that there may or may not have been to effect a
14 rescue, did you regard any of those plans as having with them a
15 risk to those who were going to effect the rescue, including
16 yourself?

17 A. Um, well at the initial stage with the rescue plans to dive on
18 scuba, there would have been a risk but at the end of the day we
19 had lives in the pipeline and we were willing to execute that
20 dive using scuba.

21 Q. Is the short answer to my question that there was a risk attached
22 to doing so?

23 A. There would have been.

24 Q. Yeah. Were the divers that you dealt with prepared to take that
25 risk?

26 A. They were.

27 Q. Did they know what that risk might be?

1 A. They would.

2 Q. Yeah. Is there a sort of fraternity amongst divers in this world,
3 particularly in this country?

4 A. Yep.

5 Q. Probably everywhere. If you were in the pipe, would you
6 expect someone to come and try and save you?

7 A. Most definitely.

8 Q. Even if it was a risk to them?

9 A. Yep.

10 **Mr. Chairman:** Thank you. All right, can I ask this, so I can
11 ask everybody else first if they would like to ask any questions,
12 and, if they do, put their hand up? [*Hands raised*] Yes, all
13 right. Well what we'll do is we'll hear first of all from Ms.
14 Alfonso, please?

15 **Ms. Alfonso:** Thank you, Mr. Chairman.

16 **Cross-Examination By Ms. Alfonso:**

17 Q. Good afternoon, Mr. Farah. My name is Nyree Alfonso. I'm
18 representing the interest of the SWWTU. I know that you say
19 you were the diving supervisor on the 25th of February of this
20 year in respect of this matter. Do you have any special—I don't
21 know what the right term is, is it ticket or card as a dive
22 supervisor? You have any specific training as a dive
23 supervisor? Not as a commercial diver. You've said you're a
24 commercial diver.

25 A. No, not as a dive supervisor.

26 Q. Okay.

27 A. Only commercial diver.

1 Q. Okay. To your knowledge, is there specific training to be
2 certified as a diver supervisor?

3 A. There is, yes.

4 Q. Okay. But you don't have it?

5 A. No.

6 Q. Okay. Have you received training as a dive supervisor as
7 opposed to certification?

8 A. No, no, no training.

9 Q. Okay. Thank you very much for that. On this day on the 25th
10 in the afternoon of the 25th, who were the—you're the dive
11 supervisor, who were the standby divers?

12 A. Well, at that point in time we had Kazim Jr. as a standby diver,
13 but, once a dive operation is going on, all divers are considered
14 as standby divers.

15 Q. Okay. Help me out with that, Mr. Farah. You had four divers
16 in the habitat?

17 A. [*Nodding*]

18 Q. Yes?

19 A. Yes.

20 Q. So they could—they were actually doing things in the habitat?
21 They were doing work in the habitat?

22 A. They were doing work, yes.

23 Q. Okay. So they couldn't be—those four people could not be
24 standby divers?

25 A. Yeah, they could. They could be sitting back whilst the other
26 two divers were working, and, if anything happened, they
27 would assist those divers and take them out of the chamber.

1 Q. Mr. Farah, would you—you would know whether all four
2 divers were assigned tasks in the habitat that day?

3 A. A particular task for each diver?

4 Q. Yes.

5 A. No.

6 Q. Okay. So how many divers would have been used to do the
7 work in the habitat?

8 A. Two divers.

9 Q. Two divers. So you're saying that two were active participants
10 in the work and two were standby?

11 A. Yeah.

12 Q. Okay. Is it normal, in your experience, that the standby divers
13 would be in the same environment as the actual divers so that if
14 there was—something untoward happened in the habitat, or
15 around the habitat, they wouldn't be in the same situation of the
16 active participants, the active divers?

17 A. Well, whilst working in the chamber, it was a dry environment
18 so it would—it was not considered that they were diving at that
19 point in time.

20 Q. Okay. So, if you remember, who were the standby divers on
21 the 25th of February?

22 A. Whilst the four divers were working in the water, well, in the
23 chamber, we had Kazim Ali and, if required, Dexter Guerra.

24 Q. Help me out, Mr. Farah. If you have a standby diver, isn't it a
25 best practice that that standby diver, or divers as the case may
26 be, would be topside?

27 A. Yeah.

1 Q. And geared up?

2 A. Uh-huh. He was, yes.

3 Q. And able, and able to get into the water very quickly?

4 A. Yeah.

5 Q. Who is he?

6 A. Kazim, Kazim Jr.

7 Q. Okay. But Kazim Ali seemed, at least from the video we saw,
8 to be ferrying tools to the four people in the habitat?

9 A. Yeah, yeah. He was also assisting them with carrying out that
10 task as well. If they needed any additional tools he would carry
11 it down and give it to them.

12 Q. Okay. So how would Mr. Ali, Mr. Kazim Ali, be a standby
13 diver able to assist in the event of an emergency with the four
14 people in the habitat if he himself was in the habitat?

15 A. Um, it's very unfortunate that at that point in time when he
16 went down that this event occurred.

17 Q. Okay. So he was a participant in the work then? He wasn't a
18 standby diver?

19 A. He was. He was a standby diver.

20 Q. But he was a standby diver exposed to the same risk in the
21 event that he had to effect a rescue? He'd be in the same
22 environment of those he was asked to rescue?

23 A. Correct.

24 Q. Would you agree, Mr. Farah, that would not be best practice?

25 A. Well, I, I would say yes, I agree with that, but how the job was
26 planned, to eliminate the hazards of the Delta P which caused
27 this accident, it was—that was not supposed to occur.

1 Q. Okay. I wouldn't get to Delta P at this point in time. I'm just
2 asking in the environment that you had, you should have had—
3 the best practice would have been a diver or divers fully geared
4 up and waiting to get into the water quickly, immediately?

5 A. Correct.

6 Q. Correct. And that didn't happen here?

7 A. No.

8 Q. Okay. I notice in paragraph two of your—I think this is the
9 original witness statement, yes, your original witness statement
10 at four three nine, you named yourself at D, 2D, as a standby
11 diver as well?

12 A. Yep, uh-huh.

13 Q. You agree with me?

14 A. Yeah, yeah.

15 Q. Yeah? Okay. So, would it be best practice for the dive
16 supervisor to also be a standby diver?

17 A. No, but, given the circumstances that happened that day, yes I
18 was the only one that could have acted as a standby diver,
19 myself and Dexter.

20 Q. Okay. Was Dexter geared up and waiting to go into the water
21 immediately?

22 A. No.

23 Q. Okay. Isn't it true, Mr. Farah, that you yourself had to take the
24 time to put on your gear in order to get down to the habitat, so
25 that caused a delay as well in you getting to the inside of the
26 habitat?

27 A. Well I had the time because I had to wait before the habitat

1 blew back down before I can enter.

2 Q. Okay, but you had to gear up? You had to put on fins and tank
3 and harness—well, it's not harness, the pack that you put—

4 A. Yeah.

5 Q. —the tank on and so on, you had to do—and get your mask and
6 so on?

7 A. Correct.

8 Q. Okay. So wouldn't a standby diver be somebody geared up just
9 like that and waiting to get into the water, as you say, when the
10 water settled in the habitat?

11 A. Yes.

12 Q. Okay.

13 A. Correct.

14 Q. And you had, Mr. Farah, specific duties on the 25th in terms of
15 monitoring some sort of live feed of the habitat?

16 A. Correct.

17 Q. Okay. Wasn't that your primary duty?

18 A. It was.

19 Q. So you would agree with me, then, that the—okay. So do you
20 think in retrospect that having a true standby diver fully geared
21 up, fully able to get into the water immediately, not taking away
22 the dive supervisor off the job, that would be the best practice?

23 A. Correct.

24 Q. Thank you, Mr. Farah. In your supplemental witness statement
25 at page 444, you mentioned that there were two standby divers
26 in the habitat and two standby divers topside. Is it that you
27 were counting yourself and Mr. Guerra as the two standby

1 divers—sorry, I'll let it come up. That's paragraph 14. You
2 see that there?

3 A. Yeah.

4 Q. Is that correct?

5 A. Uh-huh.

6 Q. Were you counting Mr. Guerra and yourself as the two topside
7 standby divers?

8 A. No. That would have been Kazim Jr. and Dexter.

9 Q. And Dexter. Okay, thank you. Going back to best practice,
10 best practices, Mr. Farah, you've already said that this job was
11 done with scuba?

12 A. Uh-huh.

13 Q. Right? Scuba equipment?

14 A. Yeah.

15 Q. Right, and people who were certified to use scuba equipment.
16 Even if it is in hindsight now, in your view would it have been
17 better to have commercial divers undertake these duties that
18 were required of them, such as like Mr. Conan Beddoe and so
19 on and yourself? Yourself and Mr. Beddoe are both
20 commercial divers?

21 A. Right.

22 Q. Would it have been better to use commercial divers? I'll ask
23 you that first.

24 A. No, it would not have mattered.

25 Q. Okay. So that—

26 A. Because we weren't using commercial surface supply
27 equipment.

1 Q. Okay. And that was the next question.

2 A. Right.

3 Q. Would it have been better to use commercial diving equipment?
4 And I'll give you an exam—I'll give you what I mean, all
5 right? Surface air—

6 A. Right.

7 Q. —with an umbilical cord, some form of tether, meaning
8 something attached to your hip, so that if you got into difficulty
9 there will be somebody topside?

10 A. Uh-huh.

11 Q. A tender, that's the right word?

12 A. Yeah.

13 Q. Right, who would be holding the rope that—

14 A. Yes.

15 Q. —is attached to your hip and it would have surface air and that
16 surface air could be supplied not only with a helmet but
17 something, I think the term is hat, isn't it? Is—that is correct?

18 A. Yeah, or dive hat.

19 Q. A dive hat. So something light?

20 A. No, not light.

21 Q. Okay. Aren't there dive hats that are just about a pound, a
22 pound and a half?

23 A. Definitely not.

24 Q. Not the big metal ones.

25 A. Uh-huh.

26 Q. Something that you strap under your chin.

27 A. No.

1 Q. Also known as a dive mask.

2 A. A barn mask.

3 Q. Pardon?

4 A. Barn mask.

5 Q. Barn mask?

6 A. Yes.

7 Q. Yes.

8 A. That's about 18 pounds.

9 Q. Okay.

10 A. Yeah.

11 Q. No. Yeah. Mr. Farah, they're not lighter newer versions of
12 that?

13 A. Not that I am aware of.

14 Q. Okay. Okay. I've leave that and ask it to somebody else but
15 I'm told that they're much lighter units that are about a pound, a
16 pound and a half.

17 A. Okay.

18 Q. Okay. So setting aside, I can't—if you don't know you don't
19 know but with respect to the harness where you could have a
20 rope, where you could have a tender topside holding on to that
21 rope, in retrospect, in hindsight, now that you know what
22 transpired with—in, in, in—on that day, would it not have been
23 safer, best practices, would it not have been safer for the four
24 divers, five?

25 A. In hindsight, yes. It would be.

26 Q. And that's something very—I mean, for want of a better term, I
27 say I've never dived, that's very low-tech, isn't it?

1 A. Low-tech, what, what?

2 Q. Meaning you have a harness, you have a rope, you have
3 somebody topside who's a tender, who is holding that rope so if
4 something happens they're able to hold on to the diver, yes?

5 A. Yeah.

6 Q. So when I say low-tech it's not like—

7 A. Okay, yeah.

8 Q. —you know, expensive equipment, you know, it's state of the
9 art equipment, right, standard stuff?

10 A. Correct.

11 Q. So I say even in hindsight, in retrospect, would it not have been
12 better to have these divers with the harness, with somebody as a
13 tender topside?

14 A. Yeah. In hindsight, yes.

15 Q. But you didn't plan for that eventuality?

16 A. Nope.

17 Q. And you would have worked out, as you said in your witness
18 statement, what would be potential hazards involved in this
19 job?

20 A. Correct.

21 Q. And that, that potential hazard of having to retrieve a diver?

22 A. Uh-huh, was not, no, never considered to that extent.

23 Q. To that extent?

24 A. Yeah.

25 Q. Mr. Farah, I want to ask you a hypothetical. If you can't
26 answer you can't answer. If something had gone wrong with
27 the atmosphere in the habitat—

1 A. Uh-huh.

2 Q. —and forget the pipe, people went down in the pipe, and you
3 had to retrieve a diver because they fell unconscious for
4 argument's sake—

5 A. Right.

6 Q. —that would also be the mechanism you would use to pull
7 them above the water, yes?

8 A. What, what—

9 Q. If they were harnessed—

10 A. Right.

11 Q. —if there was—I'm just trying to say I don't want to just say
12 it's only if they went into the pipeline that that would be useful.
13 If something happened to them in the habitat, having them
14 tethered at a harness, would that not assist in retrieving your
15 divers?

16 A. Yes it would, yes.

17 Q. Yes? Okay. So you would agree then, best practice would
18 have been to have this type of equipment?

19 A. [*Nodding head*]

20 Q. Even if you can't agree on the lighter mask?

21 A. Right.

22 Q. Okay. Mr. Farah, we've heard—I wouldn't go over the original
23 plan which involved only yourself and Mr. Guerra, because
24 that's all you had? Those are the only two divers you had
25 available for the first plan. Let's call it the first plan.
26 Subsequently other divers like Conan Beddoe and Michael
27 Kurban and those sort of—Ronnie Ramoutar and so on, they

1 came on scene?

2 A. Yep.

3 Q. And I see, I take it about 6.30 Mr. Beddoe would have come on
4 scene?

5 A. With?

6 Q. With some equipment, that's Conrad?

7 A. Conrad?

8 Q. I'm sorry, you're correct, they're two brothers?

9 A. Yep.

10 Q. Right? And he came on scene, Conrad I believe it is, with
11 surface air?

12 A. Yeah.

13 Q. That's the right thing. Is it that the barge from which these
14 operations were staged belongs to LMCS, you didn't have
15 surface air there?

16 A. No.

17 Q. Okay so you didn't have—

18 A. We had a air compressor but—

19 Q. You had a air compressor?

20 A. Yeah.

21 Q. But you didn't have like the long umbilical cords that you could
22 have—

23 A. No.

24 Q. —provide—

25 A. No.

26 Q. Okay. At some point in time, it looks to me but I am not sure
27 so you please confirm, around 7.00, 7.30 of that evening, you

1 had not one but three vessels—

2 A. Right.

3 Q. —arrive?

4 A. Well, two.

5 Q. Two?

6 A. Two.

7 Q. Okay, two vessels arrived which were fully equipped with
8 surface air and commercial divers and other equipment?

9 A. Correct.

10 Q. Correct. And at that point in time, because we won't talk about
11 the first plan, another plan was available because you had
12 different equipment?

13 A. Correct.

14 Q. And what was that plan, Mr. Farah?

15 A. To use surface supply equipment and Conan Beddoe would
16 have entered the pipeline to execute the rescue using surface
17 supply equipment and not scuba.

18 Q. So you would have the umbilical cord and you would go—

19 A. Umbilical, communications, lighting, camera.

20 Q. Okay. And, to your knowledge, why wasn't Conan Beddoe
21 able to go down with all that equipment?

22 A. Well, at that point in time we were told that we weren't allowed
23 to dive and we had to stand down until we receive further
24 instructions.

25 Q. Okay. So the first thing I'll ask you is who is "we"?

26 A. LMCS.

27 Q. Okay. You, were you told?

1 A. Yeah.

2 Q. Okay. And other persons who were on the barge—

3 A. Yeah.

4 Q. —employed by LMCS. Okay. And was that—and who told
5 you that?

6 A. At that point in time it would have been Catherine.

7 Q. Okay. Catherine Balkissoon?

8 A. Yeah.

9 Q. And was that prohibition from diving extended to Mr. Beddoe
10 and others who were on these other vessels?

11 A. For everyone.

12 Q. Well, okay. So, how was that communicated to them?

13 A. Well, they told me that the—

14 Q. They told you?

15 A. They told me we were not allowed to dive, um, I don't know if
16 Paria was in communications with the other vessel that they had
17 alongside, but I know they told me that we weren't allowed to
18 dive or anyone else was allowed to dive and enter the pipeline.

19 Q. Okay. But you don't know if they communicated with other
20 divers, you just know they told you?

21 A. Yeah.

22 Q. Did you tell those other divers that you, you—did you pass on
23 the information?

24 A. Yeah. Everybody kept coming and asking me what was going
25 on. I told them that we were waiting for instructions from Paria
26 to execute the rescue.

27 Q. Okay. Did the coast guard have any role there to play in

1 prohibiting people from making a dive?

2 A. Yeah. They came to me personally and told me that I had to get
3 all the divers out of the water.

4 Q. You have to get all the divers out of the water?

5 A. Yep.

6 Q. Okay. And who would those divers have been at that time?

7 A. At that point in time it was Michael.

8 Q. Kurban?

9 A. Yeah, Michael Kurban, Rolly Ramoutar, Conan Beddoe and
10 Corey.

11 Q. I see. And did they comply?

12 A. Yep.

13 Q. They came out of the water?

14 A. They came out.

15 Q. And they went where?

16 A. On to the barge.

17 Q. On to LMCS' barge?

18 A. Yep.

19 Q. I see.

20 **Ms. Alfonso:** Thank you very much, Mr. Farah. Thank you
21 for that.

22 **Mr. Farah:** Thank you.

23 **Mr. Chairman:** Mr. Pegus, did you want to ask any
24 questions?

25 **Mr. Pegus:** I do have a few questions, thank you very much.

26 **Mr. Chairman:** Go ahead.

27 **Cross-Examination By Mr. Pegus:**

1 Q. Good afternoon, Mr. Farah.

2 A. Good afternoon.

3 Q. My name is Chase Pegus and I represent the interest of Kenson.
4 I'd like to take the witness to paragraph 20 of his supplemental
5 witness statement which could be found at page four four five
6 of the witness statement bundle. At paragraph 20 you stated:

7 "Based on my knowledge of the project and the permit to
8 work system, Paria always has a representative present
9 while works are being conducted. Based on what I am
10 aware, their function is to supervise."

11 Yes? Now, based on that statement at paragraph 20, we can
12 take it that you are familiar with the contractual obligations
13 between LMCS and Paria as outlined in the scope of works?

14 A. Yeah.

15 Q. Right. And you are also familiar with the permit to work
16 procedure?

17 A. [*Nodding*]

18 Q. Right.

19 **Mr. Pegus:** And, Mr. Chairman, I'd like to take the witness to
20 the permit to work procedure which could be found—sorry, not
21 the permit to work procedure, the scope of works which could
22 be found at page 546 of the witness statement bundle. It's
23 attached to the statement of Kazim Ali. It's also in the core
24 bundle but I'm using it from this location.

25 **Mr. Chairman:** Yes. Let's have it up then please? Where are
26 we? Just remind me of the page number? Five six four.

27 **Mr. Pegus:** No, I'm seeing 546.

1 **Mr. Chairman:** Five four six?

2 **Mr. Pegus:** Yes.

3 **Mr. Chairman:** Of the witness statements you mean?

4 **Mr. Pegus:** Of the witness statements, yes.

5 **Mr. Chairman:** Just a minute. [*Perusing documents*] Yes.

6 **Mr. Pegus:** Thank you very much.

7 **Continued Cross-Examination By Mr. Pegus:**

8 Q. Now, Mr. Farah, this is the document that you say you
9 familiarized yourself with, yes?

10 A. Yeah.

11 Q. I'd like to focus your attention to clause 2.0. You can indicate
12 when you had the opportunity to read it, please?

13 A. [*Perusing document on screen*] Right, yes.

14 Q. Right. Now, pursuant to clause 2.0, you agree that it provided
15 for supervision of the entire job, yes?

16 A. Yes.

17 Q. And the supervision for the entire job was to be done by LMCS,
18 according to that particular clause?

19 A. [*Perusing document on screen*] According to that clause, yes,
20 LMCS is supposed to supervise the job.

21 Q. Thank you. Now, as far as you know, before the execution of
22 the contract, I'm just asking this based on your knowledge, as
23 far as you know, before the execution of the contract, LMCS
24 did not identify someone from Paria with the expertise to
25 supervise?

26 A. I, I am not aware of that.

27 Q. Okay. Now, in your witness statement you spoke of Paria

1 representatives, yes?

2 A. Yes.

3 Q. You know the name Houston Marjadsingh?

4 A. Yeah.

5 Q. Right. You worked with Houston Marjadsingh, yes, as dive
6 supervisor? For LMCS you would have worked with Houston
7 Marjadsingh?

8 A. On this job, particular job?

9 Q. Yes, Sir.

10 A. I can't—when you say worked with him what do you mean by
11 that?

12 Q. Whether you worked with Houston Marjadsingh on this
13 particular job, whether you saw him, whether you interacted
14 with him?

15 A. No, I don't, I don't know him. I can't put a face to the name so
16 I can't, I can't answer that.

17 Q. Okay. So let me ask the question another way, then. The Paria
18 representative that you speak of in your witness statement, were
19 you familiar with that person's job title as it relates to—

20 A. No.

21 Q. —what was taking place?

22 A. No.

23 Q. Just for my clarification, you know the name Kirt Scott?

24 A. Er, now I do, yeah.

25 Q. Right. You know the name Kirt Scott now but you were
26 familiar with the person at the time you all were doing this
27 particular job?

1 A. No.

2 Q. When you were executing your duty as dive supervisor on this
3 job, is it that you did not interact with the offshore operator?

4 A. Which would have been Kurt?

5 Q. Yes.

6 A. Yeah, he—I interacted with him.

7 Q. Good. You interacted with Mr. Scott before the day of this
8 incident?

9 A. Yeah.

10 Q. Right.

11 A. Correct.

12 Q. Now, based on your interaction with Mr. Scott, you would have
13 been aware that he didn't have the expertise to supervise
14 LMCS, yes?

15 A. No. I can't, can't answer that.

16 Q. All right. We have to take your answer. I'd like to draw your
17 attention again, at the risk of being repetitive, to clause 5.1 of
18 the scope of works and I'd read it for you in the interest of time.

19 "5.0 Contractor's responsibility.

20 Supply adequate, competent and certified/licensed labour
21 for the specific job functions, full-time supervision,
22 materials..."—et cetera.

23 You see that there?

24 A. I do.

25 Q. Right. So here again, in addition to the general provision at
26 clause 2, which was brought to your attention earlier, there's
27 another provision under the scope of works where—which

1 provides, sorry, for LMCS providing full-time supervision for
2 the execution of this job. Agreed?

3 A. Agreed.

4 Q. Look at clause 5.11, a very short provision. And if I may assist
5 you, you agreed that clause 5.11 says:

6 “To have a designated person on site who can report on
7 activities and progress to Paria’s maintenance and
8 operations personnel.”

9 A. Correct.

10 Q. This was LMCS’ responsibility, yes?

11 A. Correct.

12 Q. Almost through it. Can I direct your attention to clause 8.8.2?
13 Eight point eight two, and I’m looking at subclause (h) in
14 particular. The contractor, tell me if you see this:

15 “The contractor shall provide competent and qualified
16 management and technical personnel required for
17 completing the following tasks. Project management,
18 Gantt Charts and project execution plan.”

19 **Mr. Chairman:** Can somebody help me what a Gantt Chart is,
20 please? [*To Commissioner Wilson*] Don’t you tell me, let him.

21 **Mr. Pegus:** What is a Gantt Chart?

22 **Mr. Chairman:** Yes.

23 **Mr. Pegus:** I don’t think that I have the knowledge to give that
24 answer, respectfully.

25 **Mr. Chairman:** Oh, I see, yes. Do you know what a Gantt
26 Chart is?

27 **Mr. Farah:** Neither do I.

1 **Mr. Chairman:** No. Mr. Wilson, perhaps you can help us.

2 **Commissioner Wilson:** Sorry?

3 **Mr. Chairman:** Or am I embarrassing you as well?

4 **Commissioner Wilson:** A Gantt Chart, where is it, H? Project
5 management, Gantt Charts, it's essentially a tool, a software
6 tool used in project management.

7 **Mr. Peterson SC:** I think it's a chart that sets out the stages
8 and progress of the contract so they could look at a particular
9 points and see where the work supposed to be matched against
10 the time to know if you're lagging or ahead of time.

11 **Commissioner Wilson:** Project management tool, yes.

12 **Mr. Peterson SC:** Yes.

13 **Mr. Chairman:** Mr. Peterson, you never cease to astonish me.
14 Thank you.

15 **Mr. Pegus:** Thank you very much.

16 **Continued Cross-Examination By Mr. Pegus:**

17 Q. Mr. Farah, my question, based on this provision, is simple. In
18 order for this to be effectively done, LMCS had to consciously
19 supervise the works that's ongoing, agreed?

20 A. Agreed.

21 Q. Let me direct your attention to clause 9 which can be found at
22 page five seven nine. Now, Sir, for yet another time, there's a
23 provision which states:

24 "The contractor shall provide competent supervision at
25 all times during the execution of the job."

26 And I wouldn't bother to read the rest because that's what is
27 important for our purposes. You see that there, yes?

1 A. Yes.

2 Q. And you agree that that provision places an obligation on
3 LMCS to provide supervision at all times throughout the job?

4 **Mr. Chairman:** I think you should read the rest of it. I think
5 it's important.

6 **Mr. Pegus:** My apologies.

7 **Continued Cross-Examination By Mr. Pegus:**

8 Q. "Contractor supervision must ensure that all employees
9 on the job are aware of the hazards related to the job and
10 the relevant control measures."

11 You see that there, yes?

12 A. Correct.

13 Q. So in addition to providing constant what I would say non-stop
14 supervision, for the execution of these works, there was an
15 obligation on LMCS as well to ensure that all employees on the
16 job, that's your employees, are aware of the hazards related to
17 the job and the relevant control measures. You agree with that?

18 A. Agreed.

19 Q. Now, having familiarized, having reviewed and familiarized
20 yourself with the contract, I mean, I'm sorry to interfere with
21 my friend's case but it is of some importance for us as well.
22 Having reviewed and familiarized yourself with the scope of
23 works, can you identify any contractual obligations on Paria to
24 supervise the works?

25 A. From what you've shown me here, no, nothing.

26 Q. Thank you very much. Now, there is something, just one last
27 area I'd like to address with you. Now, while these works were

1 ongoing, I heard reference made to a monitor that was topside
2 on the berth. Yes?

3 A. Correct.

4 Q. Right. Now, one of the purposes of this monitor was for you to
5 have sight of the divers inside the chamber. Agreed?

6 A. Agreed.

7 Q. Right. Now, for someone who is not familiar with what was
8 going on on the day in question, I mean of course you are
9 familiar so you could look at the monitor and you might have a
10 general idea with respect to what is going on, yes?

11 A. Correct.

12 Q. Right. For someone who is not familiar, I show up on berth 6
13 and work going on tomorrow, can I look at that monitor and say
14 with some degree of certainty the specific task that was going
15 on?

16 A. If you, if you have no idea what the job is about, no, you would
17 not know.

18 Q. Thank you very much, Mr. Farah. I appreciate your attention.

19 **Mr. Pegus:** And much obliged, Mr. Chairman.

20 **Mr. Chairman:** Yes, thank you, Mr. Ramadhar.

21 **Mr. Ramadhar:** I'll [*Inaudible*]. Chairman, thank you very
22 much. The questions you had posed dealt adequately—
23 [*Crosstalk*] Not at all. Chairman, I'm most grateful but the
24 questions that the Chairman himself had posed covered the
25 areas that I intended, so, thank you very much.

26 **Mr. Chairman:** Mr. Peterson.

27 **Mr. Peterson SC:** My friend, Mr. Mootoo—

1 **Mr. Chairman:** Mr. Mootoo, you're going to deal with—

2 **Mr. Mootoo:** I'm going to deal with it.

3 **Mr. Chairman:** Thank you.

4 **Cross-Examination By Mr. Mootoo:**

5 Q. Good afternoon, Mr. Farah. I have a few questions for you. I
6 represent Paria. Your supplemental statement, perhaps I can
7 pick it up here, if I can take you directly to paragraph 22 which
8 is on page 446, now I'd like us to look at this evidence in
9 context but let me just read the paragraph to you.

10 "Before I saw the gush of water, the last thing I saw was
11 when the men were removing the mechanical plug. After
12 the gush of water the camera went blank."

13 You see that paragraph?

14 A. Yes.

15 Q. This bit of evidence concerns the events of the 25th of
16 February, correct?

17 A. Correct.

18 Q. And when you say you saw the gush of water, that was from
19 your position on top the berth looking at the monitor, is that
20 correct?

21 A. Correct.

22 Q. But, as I understand it, and you'll correct me if I'm wrong, after
23 the mechanical plug was removed, the inflatable plug then had
24 to be removed or at least dismantled?

25 A. Yeah.

26 Q. Correct?

27 A. Correct.

1 Q. I think it's common ground in this case, well, the men also—
2 Christopher Boodram gave this evidence—the men removed
3 the mechanical plug and then they attempted to remove the
4 inflatable plug. You accept that?

5 A. Yeah.

6 Q. What's missing, at least to me, is that from your statement you
7 give no account whatsoever of any activity in relation to the
8 removal of the inflatable plug. You accept that?

9 A. Right, yeah.

10 Q. And you also accept that chronologically speaking, the gush of
11 water would have had to have come after the inflatable plug
12 was touched by the workers?

13 A. Correct.

14 Q. So, in the context of your, your, I mean LMCS' overall duty to
15 fully supervise the works, and to undertake that supervision at
16 all times, it's clear that LMCS was not supervising the work at
17 a material time. Would you not accept that?

18 A. No, I won't accept that.

19 Q. Okay. Apart from you, well actually let's get back to your
20 obligations. I think you say in your primary witness statement
21 that, at paragraph two, your obligation on the 25th of February
22 was to supervise the aspect of the diving workers involved in
23 the job to ensure everything is carried out in accordance with
24 the job scope. That's correct?

25 A. Correct.

26 Q. So you were the supervisor on that day and you accept that you
27 were to fully supervise?

1 A. Correct.

2 Q. Yes? But notwithstanding that obligation, you did not see any
3 activity in relation to the deflation of the inflatable plug. Is that
4 correct?

5 A. Yeah, I did.

6 Q. You did?

7 A. They moved the mechanical plug and they were now attempting
8 to deflate the inflatable plug.

9 Q. So, insofar as you say in your statement, “Before I saw the gush
10 of water, the last thing I saw was when the men were removing
11 the mechanical plug”, that’s inaccurate?

12 A. Um, it’s where? Is it here, up here?

13 Q. Well it’s your statement. Paragraph 22. It should be in front of
14 you.

15 A. Where is that? [*Perusing document*] Right. Could you repeat
16 the question now?

17 Q. My question is, you never said in your statement that you saw
18 any activity in relation to the removal or deflation of the
19 inflatable plug. You accept that?

20 A. Yeah, that’s—it’s not here.

21 Q. Yes. And also in your statement you say the last thing that you
22 saw before the splash was the men removing the mechanical
23 plug.

24 A. Correct.

25 Q. And you also accept that before that splash some activity must
26 have taken place in relation to the inflatable plug?

27 A. Correct.

1 Q. Yes. And I'm suggesting to you on the—on your sworn
2 testimony before this Commission, there's therefore a glaring
3 omission in your duty to supervise. Would you accept that?

4 A. No.

5 Q. Are you telling us for the first time today, after giving two
6 statements to this Commission, you are now telling the
7 Commissioners that you saw activity in relation to the removal
8 of the inflatable plug?

9 A. The one—

10 Q. Are you telling us that today for the first time, Mr. Farah?

11 A. I am.

12 Q. Yes. Okay. Well, we're all very keen to hear what happened,
13 so tell us.

14 A. Right. So they removed the mechanical plug and one of the
15 divers had—they pulled the air hose that was connected to the
16 inflatable plug and he had it in his hand, and, soon after that is
17 when the gush of water entered the chamber.

18 Q. So this happened all under your direct supervision?

19 A. Correct.

20 Q. We saw a video on the first day of this Commission with men
21 in the chamber. It seemed to me, and maybe you can help us
22 with this, was one man down in the pipe on the inflatable plug?

23 A. Well, I have not seen that video.

24 Q. Well, let's, okay, let's leave the video aside for one moment.
25 You were there. You were looking at this thing on the monitor?

26 A. Correct.

27 Q. Who deflated the inflatable plug?

1 A. At that point in time it was not deflated.

2 Q. Who attempted to deflate it?

3 A. I can't recall who had the hose in their hand.

4 Q. I see. How many men were in the chamber?

5 A. Four.

6 Q. That was the important aspect of the job?

7 A. With the removal?

8 Q. Yes.

9 A. Yeah.

10 Q. You and you were the man supervising?

11 A. Correct.

12 Q. Your duty was to supervise?

13 A. Correct.

14 Q. Can't remember who it was?

15 A. At this point in time who it was, no.

16 Q. Okay. So how far down were they in the pipe?

17 A. They weren't in the pipe.

18 Q. They weren't in the pipe. So they were standing on the floor of
19 the chamber bending over to remove it?

20 A. No, they were standing above looking down into the pipeline.

21 Q. Right. But did they have to reach down into the pipeline to
22 remove the plug or you can't remember?

23 A. No, no. You wouldn't have to reach down. The hose was
24 connected to the mechanical plug so when they removed that
25 they then got access to the air hose so nobody had to go into the
26 pipeline to—

27 Q. From the top of the pipe how far down was the plug?

- 1 A. Which plug?
- 2 Q. The inflatable plug?
- 3 A. Er—
- 4 Q. From what you could see?
- 5 A. From—no, I would not be able to see how far down it would
- 6 be—
- 7 Q. You wouldn't be able to—
- 8 A. —on the camera. No.
- 9 Q. So the camera wouldn't give you that information?
- 10 A. No.
- 11 Q. Okay. You know Mr. Johnathan Ramdhan from Paria?
- 12 A. I know the name.
- 13 Q. Yeah. He was the site authority on the day?
- 14 A. I believe so.
- 15 Q. You recall him encountering him shortly after there was a
- 16 splash in the chamber?
- 17 A. No, I don't.
- 18 Q. Mr. Ramdhan has given evidence before this Commission of
- 19 Enquiry that he arrived on the barge shortly after the splash.
- 20 A. Right.
- 21 Q. You were on the barge?
- 22 A. After the splash, yeah.
- 23 Q. Yes. His evidence is also that you were laying down on the
- 24 barge holding your head. You dispute that?
- 25 A. No.
- 26 Q. Because you were distraught?
- 27 A. Correct.

1 Q. Extremely distraught?

2 A. Not extremely but—

3 Q. Quite distraught?

4 A. Quite distraught.

5 Q. You had worked with this company for seven or eight years?

6 A. Correct.

7 Q. You had gained all of your commercial diving experience under
8 them?

9 A. Correct.

10 Q. Most of the men, well, most if not all of the men were well-
11 known to you?

12 A. Correct.

13 Q. You will agree with me that one element in an emergency
14 situation, one of the things that is required for the development
15 of a rescue plan is a person who has a clear head and is not
16 emotional. Would you not agree with me?

17 A. Correct.

18 Q. And it's also preferable to have someone who's not emotionally
19 connected to the parties.

20 A. No.

21 Q. You don't agree with that?

22 A. No.

23 Q. You think it's a better practice to have someone making
24 decisions who is emotionally connected to the persons
25 involved?

26 A. If, if, if that is who is available at that point in time.

27 Q. I'm not asking you who was available. I'm asking best

1 practice.

2 A. I—yeah, I believe, yea.

3 Q. It's best practice to be emotionally connected to the person in
4 the situation who has to be rescued?

5 A. I do.

6 Q. And you formed that position based on your extensive training?

7 A. Correct.

8 Q. They taught you that in your safety training?

9 A. Nobody taught me that that's what I believe.

10 Q. That's what—so that's a personal belief?

11 A. Yes.

12 Q. It's not one gained through a process of education?

13 A. No.

14 Q. Okay. Would you agree that in order to execute a rescue plan it
15 is important to have as much relevant information as possible?

16 A. Correct.

17 Q. Yeah? And one of those things is really to understand actually
18 the nature of the event which has taken place?

19 A. Correct.

20 Q. Which has caused the incident?

21 A. [*Nodding*]

22 Q. But when this happened, nobody knew it was Delta P. You
23 accept that?

24 A. When it happened?

25 Q. Yes.

26 A. At the exact moment when it happened, no.

27 Q. In fact, in fact, all the prior planning to that, the hazard of the

1 men being sucked into the pipeline was not considered by
2 LMCS?

3 A. Correct.

4 Q. Good. So when this happened, you actually had no real idea of
5 what had transpired?

6 A. No.

7 Q. And it was against that backdrop that you decided that a, you,
8 among others, that a rescue plan should be formulated in that
9 void of information?

10 A. Correct.

11 Q. Yes. Do you agree, that, in executing a rescue, it is equally
12 important to consider the safety of the persons who are going to
13 be engaged in the rescue?

14 A. Correct.

15 Q. In fact, in LMCS' emergence, well, I mean I know it's
16 described as an emergency response plan but I hesitate to call it
17 that, but, in your emergency response plan, we can pull it up if
18 need be, but would you accept that one of the priorities is to
19 safeguard human life, yes?

20 A. Yes.

21 Q. And in this kind of, in this sort of context, the life you'll be
22 safeguarding as well would be the divers who are to implement
23 that plan?

24 A. Correct.

25 Q. And, in fact, I'm going to read this to you, you tell me if you
26 disagree with this statement:

27 "Following the assessment, onsite personnel are required

1 to respond accordingly, without panic and once it is
2 reasonably safe to do so.”

3 Do you accept that as a good general guide?

4 A. I do.

5 Q. You consider a man holding his head laying down on a barge as
6 being one who could properly be categorized as a man without
7 panic?

8 A. If it was someone else—

9 Q. I’m not asking you that. I’m asking you whether you think that
10 could properly be characterized as a man acting without panic.

11 A. No.

12 Q. No. But you were the, you were the head man on the scene?

13 A. Yeah, well I was more frustrated that we were told that we were
14 not allowed to execute the rescue.

15 Q. But you weren’t—you weren’t told that at that time?

16 A. Of course we were.

17 Q. You weren’t told that. You were told that later on.

18 A. At what time?

19 Q. You were told that later on in the afternoon.

20 A. At what time?

21 Q. Closer to five o’clock but let me take you back to Mr.
22 Johnathan Ramdhan. When he came on the barge, that was—

23 A. At what time did he arrive?

24 Q. He arrived on the barge minutes after 3.00.

25 A. Right.

26 Q. Right? That’s when you were holding your head. We can go to
27 his witness statement if you like but that’s when this was

1 happening.

2 A. Right, but what time, what time was—

3 Q. Don't you—do you—I'm asking the questions. You are not
4 asking the questions. What time was that? Wasn't that shortly
5 after 3.00?

6 A. It would have been there shortly after 3.00.

7 Q. And by that time Paria hadn't issued an instruction to anyone
8 not to dive.

9 A. The permit was pulled from LMCS at just shortly after 3.00,
10 which would have meant we were not allowed to do any diving.

11 Q. Okay. We'll come to the circumstances in which permits are
12 pulled. But Paria didn't give you an instruction at that time that
13 required you not to dive. Isn't that so?

14 A. No. That's not true.

15 Q. Okay. So on your evidence you received your instruction not to
16 dive when?

17 A. Shortly after I returned onto the barge and reported that the
18 divers were not in the chamber.

19 Q. I see. And who gave this instruction to you?

20 A. It was given to Dexter then—

21 Q. No, no, no, I'm talking about you.

22 A. Yeah, Dexter.

23 Q. And this was communicated to you at what time?

24 A. I would say just after three o'clock.

25 Q. Okay can you—that would be an important matter, yes, the
26 timing of that?

27 A. Yep.

1 Q. Right. Can you show me in your statement where you tell us
2 about that, at that time?

3 A. Yeah, I don't have a time to it—

4 Q. Oh.

5 A. —in my statement.

6 Q. All right. It would have been important to put it there, wouldn't
7 it?

8 A. Yes. If I could recall the exact time.

9 Q. All right.

10 A. But I know it was shortly after I returned onto the barge from
11 making my dive in the chamber.

12 Q. Right. That's your evidence. Well we'll look at it. In relation
13 to the rescue plan as well, I, um, I want to suggest to you that in
14 fact LMCS had no real rescue plan at that time but what, in fact,
15 was occurring was simply a mad scramble to try and get men
16 out of the pipe.

17 A. That's not true.

18 Q. Mr. Ahmad Ali came and he gave evidence before the
19 Commission. Are you aware of that?

20 A. I am.

21 Q. You never contacted Mr. Ali to put forward a rescue plan, did
22 you?

23 A. Ahmad Ali?

24 Q. Yes.

25 A. No.

26 Q. You didn't ask him to derisk any plan, did you?

27 A. No.

1 Q. You're not aware of anyone from LMCS who did at that time,
2 are you?

3 A. Not—no.

4 Q. Right. But at that time, your plan had been formulated,
5 according to you?

6 A. Correct.

7 Q. So the plan had been formulated in circumstances where there
8 was a complete absence of any input from the health and safety
9 manager of LMCS, correct?

10 A. Correct.

11 Q. I'm also suggesting to you that on the 25th of February, you
12 never, you, never shared any details of your rescue plan with
13 Paria personnel.

14 A. That's what they say.

15 Q. Now, I'm suggesting that that is the truth.

16 A. Uh-huh, okay.

17 Q. Do you accept it?

18 A. No.

19 Q. I'm also suggesting with you that you didn't share it with
20 Catherine Balkissoon at all. That's what she says. Do you
21 accept it?

22 A. No.

23 Q. You spoke about the revocation of the permits to work. You
24 are familiar with the permit to work system?

25 A. I am.

26 Q. Don't you accept from that system in the event of an emergency
27 or risk situation the permits are to be surrendered?

1 A. Yeah, it should be.

2 Q. Yes. And it should be surrendered as a matter of general safety
3 in order to manage the site?

4 A. Correct.

5 Q. So that there was no real basis to complain about the permits
6 actually having to be surrendered at that time. Would you
7 agree with that?

8 A. At that time, no, but knowing that we had missing divers in the
9 water, it should not have been done.

10 Q. But the permits which were pulled at that time in relation to the
11 work on that day didn't really deal with that situation, so the
12 permits didn't authorize that. Would you not agree with me?

13 A. Did not authorize?

14 Q. The carrying out of rescue diving operations.

15 A. If it did not?

16 Q. It didn't deal with it. It wasn't the subject matter of the permit.

17 A. It was. That was the general work permit for the job.

18 Q. To undertake rescue operations on the 25th?

19 A. It wasn't—the permit was not there to undertake rescue
20 operations but once they pulled the permit Dexter said we were
21 not allowed to do any diving, no one was allowed to enter the
22 water.

23 Q. I see. So that's your interpretation of the consequence—

24 A. Right.

25 Q. —of the permit being surrendered?

26 A. Right.

27 Q. You accept the permit doesn't actually talk about that at all?

1 A. No it does not.

2 Q. Right. Now, you—do you accept that it's a practice in the
3 industry that once an event like this occurs, or some high-risk
4 event like this, it's a practice that all permits should be
5 surrendered or pulled, for the works in question? If you don't
6 have the experience—

7 A. For the works or—

8 Q. For the works. Let's take it in stages. The permit relates to
9 certain works.

10 A. Right, correct.

11 Q. Right? And if you don't know the answer to this question
12 that's fine, but, from your knowledge do you accept that when
13 an accident or an incident of this nature happens, it's industry
14 practice to stop the works and have the permits surrendered?

15 A. Correct.

16 Q. Yes, okay. Now, would I be—you've never conducted a rescue
17 of divers trapped in a pipeline, have you?

18 A. No.

19 Q. Right. So when this occurred on the 25th, in a sense this was,
20 well this was very new to you?

21 A. Yep.

22 Q. Yeah. Have you seen any of the witnesses, witness statements
23 in relation to the evidence by the witnesses to be given in this
24 Enquiry?

25 A. No.

26 Q. Okay. You're aware of a Lieutenant Hargreaves from the coast
27 guard?

1 A. I'm aware of the name.

2 Q. Right. Was he one of the people you interacted with on that
3 day?

4 A. I can't recall.

5 Q. Do you possess, because it's unclear, I had a look at your CV
6 but it was a little bit slim, do you possess any PADI
7 certification as a search and recovery diver specialist?

8 A. No.

9 Q. Okay. Do you have any certification in relation to hazard and
10 risk management awareness?

11 A. Er, yeah, I do.

12 Q. Okay. From OSHA?

13 A. From OSHA, no.

14 Q. Okay. And where did you get that certificate?

15 A. From NEBOSH.

16 Q. Okay. Okay you haven't provided us with a copy of it, have
17 you?

18 A. No.

19 Q. Would it be too much trouble to ask you to have it provided
20 through your lawyers?

21 A. Sure.

22 Q. Okay. And when was that certification obtained?

23 A. In 2010.

24 Q. Twenty ten. So some 12 years prior?

25 A. Yes.

26 Q. Did you, um—is—the nature of this certification I imagine
27 would require some kind of refresher courses?

1 A. No.

2 Q. No?

3 A. No.

4 Q. So you get one certificate in 2010 and you're done?

5 A. Yes.

6 **Mr. Chairman:** It's just like being a lawyer. [*Laughter*]

7 **Continued Cross-Examination By Mr. Mootoo:**

8 Q. Any form of continuing education in relation to that certificate?

9 A. I've done risk assessment training over the years.

10 Q. Right. Any public safety certifications?

11 A. No.

12 Q. Any advanced public safety diver certification from PADI?

13 A. No.

14 Q. Okay. I want to take you to the risks involved at the time your
15 plan, as you call it, was being considered. And tell me if you'll
16 accept the following. Well I think you accepted this one earlier.
17 The cause of the incident was unknown?

18 A. Yes.

19 Q. You accept that?

20 A. Delta P.

21 Q. All right? No, at the time, the cause, the cause was unknown?

22 A. At the exact—

23 Q. Yes.

24 A. —moment in time?

25 Q. Yes.

26 A. Yeah.

27 Q. And while the rescue plan was being formulated?

1 A. No.

2 Q. Okay, so there came a point in time when you were aware that
3 it was Delta P?

4 A. Yep.

5 Q. Okay. And you communicated that to whom?

6 A. To Dexter and Kazim Ali.

7 Q. I see. Did they say anything you to at the time you
8 communicated it to them?

9 A. No, not, no.

10 Q. Okay. They didn't agree—

11 A. We started discussing what could have caused it and—

12 Q. Did they agree, did they disagree?

13 A. They agreed, yeah.

14 Q. Okay.

15 A. They agreed.

16 Q. So at the time it occurred, Delta P was unknown, at least for
17 some time?

18 A. Yeah.

19 Q. All right. Would you agree with me that a risk was that the
20 environment, at least, had some quantities of oil?

21 A. The—yeah.

22 Q. And, in fact, at the time because LMCS had essentially not
23 emptied the pipeline—

24 A. Uh-huh.

25 Q. —because they had operated on the removal of the—on the
26 creation of ullage—

27 A. Yes.

1 Q. —at that time a risk would have been or you believed a risk to
2 be that the pipeline was filled with water and oil?

3 A. Water.

4 Q. Not oil?

5 A. Well, when I went into the chamber and looked into the
6 pipeline there was only water.

7 Q. Okay, but—

8 A. If there was oil it would have floated up to the top.

9 Q. I see. But there came a point in time when Christopher
10 Boodram came out a lot later when you were convinced—

11 A. Yeah.

12 Q. —there was oil in the pipeline?

13 A. Correct.

14 Q. So at that point in time when you were formulating your rescue
15 plan, there was—

16 **Mr. Chairman:** Sorry, I'm sorry to interrupt you, Mr. Mootoo,
17 but there was more than one rescue plan. I just want—can you
18 just at least define it pre-Boodram or post Boodram?

19 **Mr. Mootoo:** Yes.

20 **Continued Cross-Examination By Mr. Mootoo:**

21 Q. Pre-Boodram, the first rescue plan, at that—at the time you
22 were formulating that plan, you believe there was water only in
23 the pipeline is what you told us?

24 A. From what I saw in the riser—

25 Q. Right.

26 A. —yeah.

27 Q. So the plan would have been contemplated on the basis that

1 there was water only?

2 A. Correct.

3 Q. But we now know, after Boodram came out, that there was a
4 fair amount of oil in the pipeline too?

5 A. Correct.

6 Q. Yes? So that when you were contemplating the plan at that
7 time, there was a live risk which you were ignorant of?

8 A. No.

9 Q. So you didn't consider oil in the pipeline to be a risk, as you sit
10 here today?

11 A. I, I, I did but if Christopher came out.

12 Q. No, no, come, come, come Mr. Farah, come. We're dealing
13 with a chronological flow of events here. My question is
14 straightforward. You've told us, and if I get your evidence
15 wrong tell me. You've told us at the time that you formulated
16 the first plan, you believed that the pipe was filled with water,
17 not oil.

18 A. Correct.

19 Q. I think you've also told us that when Christopher Boodram
20 subsequently emerged, you accept that he was covered in oil
21 and that there was therefore a quantity of oil in the pipeline?

22 A. Correct.

23 Q. Okay. Do you consider oil in the pipeline to be a risk to take
24 into account when planning a rescue operation?

25 A. It could be, yes.

26 Q. Yes.

27 A. I would take it into consideration.

1 Q. And my question therefore is, at the time that you contemplated
2 the first plan, that plan was contemplated in ignorance of a real
3 risk that existed in the pipeline. Would you agree with me?

4 A. I, I do not agree.

5 Q. Okay. Now, when that first plan was being contemplated, did
6 you know what was in the pipeline, apart from water and your
7 speculation that the men were in the pipeline? Did you know
8 that anything else was in the pipeline?

9 A. The scuba tanks were in the pipeline.

10 Q. You formed—you operated on that assumption?

11 A. Yeah.

12 Q. Okay. Would you not—apart from the scuba tanks, the, the in,
13 the, the inflatable plug, did you form any view about it at the
14 time?

15 A. No.

16 Q. Did you consider whether it would have been in the pipeline?

17 A. No.

18 Q. Okay. Do you accept that if it was in the pipeline it might have
19 been a risk—

20 A. No.

21 Q. —as to the rescue operations?

22 A. If the diver went in and he encountered that plug we would
23 have to remove it so it would not have been a risk to the diver.

24 Q. Okay.

25 A. At that point in time.

26 Q. So you didn't consider the existence of the plug in the pipeline
27 to be any kind of risk?

1 A. No.

2 Q. Irrespective of the state of the plug?

3 A. Yep.

4 Q. Okay. The plug was—we've gotten some evidence about this
5 and I may have it wrong so you'll correct me if I have it wrong,
6 but the plug was to be, was to be anchored for the purpose of
7 removal? There was a cable involved?

8 A. Which plug?

9 Q. The inflatable plug.

10 A. Yeah.

11 Q. Yes.

12 A. There was a cable.

13 Q. Okay. Did you take into account, when you were conceiving
14 the first rescue plan, where that cable might be?

15 A. No.

16 Q. Okay. Did you think—did you rule out the possibility that it
17 might have been in the pipeline as well?

18 A. Er, if it was connected to the inflatable plug, yeah.

19 Q. Yeah. Did you consider it or you didn't consider it?

20 A. No.

21 Q. Okay. Do you accept that persons entering the pipeline, that
22 that might have been a potential hazard for divers entering the
23 pipeline?

24 A. No.

25 Q. Okay. So the possibility of a diver or a series of divers entering
26 the pipeline and getting entangled in a cable—

27 A. Uh-huh.

1 Q. —you didn't—or, sitting here today you don't consider that to
2 be a risk that sued have been considered at the time?

3 A. Nope.

4 Q. Okay. Did you consider at the time, when that first rescue plan
5 was being considered, the mental state of the divers, of what
6 that state might have been like in the pipeline?

7 **Mr. Chairman:** Which divers, the ones going in or the ones
8 that were already in there?

9 **Mr. Mootoo:** I'll clarify, Sir.

10 **Continued Cross-Examination By Mr. Mootoo:**

11 Q. The divers who were already—who you believed to be already
12 in the pipeline—

13 A. Uh-huh.

14 Q. —did you take into account what their mental state might be?

15 A. Yeah.

16 Q. Did it occur to occur to you that some of or all of them, if they
17 were alive at the time, might have been in a state of panic?

18 A. Quite possible.

19 Q. All right. Did you take into account that if that was possible
20 that that could impair the rescue operations and endanger the
21 divers who were engaged in rescue?

22 A. It would—that would have been a possibility, yes.

23 Q. Right. Did you take that into account?

24 A. I did.

25 Q. And what—how did you mitigate against that?

26 A. Well the diver that was entering would have been connected to
27 a tag line and if he gave the signal to pull him back up—

1 Q. Right.

2 A. —he would have given it and the topside personnel would pull
3 them back up.

4 Q. Yeah. But in the—in a situation with someone trapped in a
5 confined space, do you think it's reasonable that the person
6 seeking to be rescued may try and hold on to the rescue diver?

7 A. Yes.

8 Q. And not let go?

9 A. Yeah. I would hold on, yeah.

10 Q. Right. And might that not pose a serious complication to the
11 rescue diver in a 30-inch diameter pipeline?

12 A. No.

13 Q. Okay. And what about the space, the narrow space in which
14 the rescue divers had to work?

15 A. Uh-huh.

16 Q. That—would you accept that that too was a risk, space
17 confinement?

18 A. No.

19 Q. Okay. When you conceived of this plan, what means of verbal
20 communication did you have with the rescued—with the
21 proposed rescue divers?

22 A. The—could you repeat?

23 Q. What means of verbal communication did you have with the
24 proposed rescue divers?

25 A. Yeah, we discussed the rescue plan together.

26 Q. No, no. When you are—let's fast-forward the scenario. A
27 rescue diver is now down in the pipeline.

1 A. Right, okay.

2 Q. What—did you have any verbal means of communicating with
3 that diver?

4 A. No.

5 Q. None. Don't you think that that would have been important?

6 A. Yeah, we had, we would have a tag line.

7 Q. So all you had was a pull and a tug?

8 A. Correct.

9 Q. And that was tell you everything that you needed to know about
10 what was going on in the pipeline? That's what you're asking
11 us to believe?

12 A. Not everything.

13 **Mr. Chairman:** Be fair. That isn't what he said.

14 **Continued Cross-Examination By Mr. Mootoo:**

15 Q. From your perspective it would be sufficient, I'm asking you?

16 A. It would.

17 Q. Right. Do you consider having some means of verbal
18 communication would be better?

19 A. Yeah, I would.

20 Q. Yes. Did you make any attempt to acquire any apparatus or
21 anything to allow for that to happen?

22 A. I did.

23 Q. You did?

24 A. I did.

25 Q. And none was made available?

26 A. It was.

27 Q. You used it?

1 A. We—

2 Q. You intended to use it?

3 A. Of course we will.

4 Q. But you didn't mention that in relation to what the first plan
5 was, did you, in your witness statement?

6 A. No, that, that was not in the first plan.

7 Q. Well that's what I'm talking about. I'm talking about you—

8 **Mr. Chairman:** Ah, come on. Mr. Mootoo, it's a little unfair
9 of you to jump from one plan to the other which is why I've
10 said to you from the start which one are you talking about?
11 Many of the questions you've asked are perfectly pertinent to
12 the first plan. You've now asked him a question which clearly
13 does not relate to the first plan, it relates to the second one, so
14 you should say. Clarify, at least from him, where we are and
15 what your question is aimed at. Perfectly reasonable question
16 but you must make it clear what you're saying to him, first or
17 second plan or even a third.

18 **Mr. Mootoo:** I'm happy to do so. I just have never moved off
19 of the first plan.

20 **Mr. Chairman:** No, but that—but—

21 **Mr. Mootoo:** Yes.

22 **Mr. Chairman:**—the fact of the matter is that it is self-evident
23 and clear from all of the evidence that there was no verbal
24 equipment available at that stage. It became available later, as
25 we know.

26 **Mr. Mootoo:** Yes.

27 **Mr. Chairman:** When there was a further plan being

1 formulated, so if you want to address that then I'm perfectly
2 happy to hear it.

3 **Mr. Mootoo:** I'm happy to get to that, but what I'm trying to
4 deal with this witness on is the first plan and the feasibility of
5 the first plan, whether any real thought had gone into that first
6 plan, whether the first plan placed men at risk, and, if so what
7 was the nature of the risk.

8 **Mr. Chairman:** All of that seems perfectly relevant to me but
9 I've made my position clear. You must be clear yourself about
10 which plan you're talking about and I certainly wasn't so I'm
11 not surprised if the witness wasn't.

12 **Mr. Mootoo:** I'm happy to make the correction.

13 **Continued Cross-Examination By Mr. Mootoo:**

14 Q. Mr. Farah, unless I tell you otherwise, the only plan I'm talking
15 to you about at the moment is the first plan.

16 A. [*Nodding*]

17 Q. Do you accept that poor visibility in the pipeline would be
18 considered to be a risk—

19 A. No.

20 Q. —to be considered?

21 A. [*Shaking head from left to right*]

22 Q. No? Okay. Do you accept that with the presence of oil in the
23 pipeline, that that could impair visibility?

24 A. It can.

25 Q. Yes. Are you aware of a concept called fatigue management?

26 A. No.

27 Q. Okay. It's not something you've ever heard of?

1 A. No.

2 Q. Okay. For the rescue divers, do you think it would have been
3 important to also have had in place a rescue plan for them in the
4 event that something went wrong?

5 A. We did.

6 Q. I didn't ask you that.

7 A. It would have been important, yes.

8 Q. Yes, okay. You have not, unless I've missed it and if missed it
9 please direct me to it, but I don't see any mention of that in
10 your witness statement. Is it there?

11 A. No, no, not there.

12 Q. Okay. So today is the first time you're telling us about this
13 rescue plan for the rescue divers?

14 A. Er—

15 Q. The first plan, huh?

16 A. Right.

17 Q. This is the first plan.

18 A. In, in my statement?

19 Q. Yes.

20 A. It's not, no it's not in the statement.

21 Q. Okay. It's not in any of the statements?

22 A. I verbally stated on that day.

23 Q. Okay I want to try and understand that rescue plan. I presume
24 that to have a rescue plan to rescue the rescue divers, you need
25 to have other personnel on site?

26 A. Correct.

27 Q. Yeah. How many divers did you have on site when the first

1 plan was conceived?

2 A. We had my—well, initially it was just myself and Dexter.

3 Q. Right. And Kazim Ali Sr., he came?

4 A. Yeah, he came.

5 Q. So three of you all were there and at that point in time you had
6 conceived the first plan?

7 A. Correct.

8 Q. And you intended to execute that first plan straight away?

9 A. Straight away.

10 Q. Right. But don't you accept, given the personnel you had then,
11 you didn't have enough people to safely execute the first rescue
12 plan and have in place a team of people to rescue the rescue
13 divers?

14 A. No. I, I wouldn't agree.

15 Q. Okay, you don't agree. Okay. Who else was there at the time
16 with the capability to dive?

17 A. At that point in time?

18 Q. Yes.

19 A. Myself and Dexter Guerra.

20 Q. Yeah, we just went through that I think.

21 A. Yeah.

22 Q. Okay. So that's—there are four people there at that time who
23 can dive?

24 A. Two.

25 Q. Two?

26 **Mr. Chairman:** Three if you include Kazim Ali Sr., yes.

27 **Mr. Mootoo:** Kazim Ali, yes.

1 **Continued Cross-Examination By Mr. Mootoo:**

2 Q. So you have a contingent of three people and that contingent of
3 three people you say is adequate to execute the rescue and also
4 have a rescue team to rescue the rescue diver if something
5 guess wrong? That's your evidence?

6 A. Correct.

7 Q. Okay. You gave evidence that you had, in fact, worked in a
8 pipeline before. Yes?

9 A. Correct.

10 Q. I think you say that at paragraph 28 of your supplemental
11 witness statement. And you say this was in about 2009 to 2010.
12 You recall that?

13 A. Correct.

14 Q. But that pipeline was 50 inches in diameter, isn't that correct?

15 A. Forty-eight, yeah.

16 Q. Forty-eight. Okay.

17 A. Yes, correct.

18 Q. Would you accept that that's substantially bigger than 30
19 inches?

20 A. It is.

21 Q. Yes. Do you accept that you actually could turn around in a
22 pipeline like that of that size?

23 A. You can.

24 Q. Yes. Do you accept that in a 30-inch pipeline you can't do
25 that?

26 A. No, I, I don't, I've never tried it before.

27 Q. But you think it's unlikely?

1 A. No.

2 Q. Okay. So you think that you can—

3 A. I can, yeah.

4 Q. Okay and you think the divers who were with you on that day,
5 given their size and so on, could readily flip around in the
6 pipeline with 30-inch—

7 A. They had no need to flip around.

8 Q. I didn't ask you that.

9 A. No, they won't, it wouldn't be possible for them to flip around.

10 Q. Right. Okay, but you could?

11 A. I could.

12 Q. Okay. And also, that job you did in 2009, 2010, the pipeline
13 there was in pristine condition?

14 A. I wouldn't say that.

15 Q. But it was the replacement or the renewal of a riser, wasn't it?

16 A. Correct.

17 Q. So when the riser was being inserted, it was being inserted
18 having been renewed?

19 A. Right.

20 Q. So the portion of the pipeline into which you had to go—

21 A. Yes.

22 Q. —didn't have any oil on it, didn't have any substance?

23 A. No.

24 Q. It was free and clear?

25 A. Correct.

26 Q. Yes. You talk about the toolbox meeting.

27 **Mr. Chairman:** I think before we go there we should have a

1 lunch meeting.

2 **Mr. Mootoo:** I'm guided, Sir.

3 **Mr. Chairman:** My watch says 25 past, I know my watch is a
4 little fast so let's see where we are. Yes, I have it as 22 minutes
5 past. Shall we resume at quarter past 2.00? Would that be all
6 right for everyone? Quarter past 2.00? All right, we'll do that.

7 Mr. Farah, would you please adjourn for lunch now? Do not
8 discuss the evidence that you've been giving or any of the
9 question you've been asked with anybody else at all, including
10 your lawyer, all right? Please, have a bit of lunch, come back at
11 quarter past 2.00 and we'll carry on, all right?

12 **Mr. Farah:** Yes.

13 **Mr. Chairman:** Thank you very much.

14 **1.23 p.m.:** *Enquiry suspended.*

15 **2.15 p.m.:** *Enquiry resumed.*

16 **Mr. Chairman:** Good afternoon. All right, just a moment.

17 Mr. Farah, you're still on oath, all right?

18 **Mr. Farah:** Pardon?

19 **Mr. Chairman:** You're still on oath.

20 **Mr. Farah:** Correct.

21 **Mr. Mootoo:** Thank you.

22 **Continued Cross-Examination By Mr. Mootoo:**

23 Q. Mr. Farah, at—can I ask you to turn up paragraph 10 of your
24 principal witness statement, the main one, first one, I beg your
25 pardon, of the 5th of October? And I just want to get some help
26 with a timeline.

27 A. Where—which?

1 Q. This is the first—your first statement dated 5th of October. It's
2 the short one.

3 A. Four four four?

4 Q. Yes. It's on the screen, actually, if that's easier?

5 A. Okay.

6 Q. Right? Before we go to it, I want to ask you, you've given us
7 some times in both witness statements. Those timelines that
8 you have extracted from memory as best as you can?

9 A. From, yeah, from what I could remember.

10 Q. Right. So—

11 **Mr. Chairman:** Could you make sure you move the
12 microphone across a little bit if you're going to be turning your
13 head that far? That's it.

14 **Continued Cross-Examination By Mr. Mootoo:**

15 Q. So you accept there may be errors in some of the timelines?

16 A. Could be.

17 Q. Yeah. Okay. I want to suggest something to you. Well my
18 instructions are that Mr. Piper actually arrived at Paria on the
19 Friday at 4.55 p.m. All right? And there's discussion in your
20 statement at paragraph 10 about going to shore to meet with
21 Mr. Piper, but the boat had to turn back.

22 A. With Mr. Ali?

23 Q. You say this at paragraph 10. Your third sentence:

24 "We were on Paria's boat heading ashore when Dexter
25 messaged from the barge that they were hearing
26 knocking noises coming from the chamber. We turned
27 around to return to the berth."

1 All right? Now, immediately before that you're talking—you
2 say Mr. Ali left for shore to secure additional resources at
3 approximately 15:40 hours so that's 3.40. About 20 minutes
4 later, so that's 4.00 p.m., "I was actioning the rescue plan. I
5 was told that I had to go ashore to a meeting with Mr. Piper."
6 Now, in fairness to you, you don't actually fix a time there but
7 what I'm—what I would like to suggest to you is that you
8 didn't actually—you weren't actually summoned to go to shore
9 to meet with Mr. Piper until after 5.00 p.m., shortly after 5.00
10 p.m.?

11 A. No, no. I was before, but I, I didn't want to leave the site.

12 Q. Okay.

13 **Mr. Chairman:** You're going to have to do better with
14 microphone please?

15 **Mr. Farah:** Oh, right.

16 **Mr. Chairman:** Just so you just move the whole thing over a
17 little bit further? Move, move it—that's it. Move your pad out
18 the way. Pull that—that's it. You got it. Right, so you said, I
19 thank you said no that's not correct. Is that what you said?

20 **Mr. Farah:** Yeah.

21 **Mr. Chairman:** Right.

22 **Continued Cross-Examination By Mr. Mootoo:**

23 Q. Just so we can be clear, because Mr. Piper will come and give
24 evidence, who do you say summoned you to go to meet with
25 Mr. Piper, you recall?

26 A. Pardon?

27 Q. Do you recall the name of the person who told you you had to

1 go to meet with Mr. Piper?

2 A. I remember Dexter coming to me and telling me that Collin
3 Piper requested for me to come ashore to meet with him.

4 Q. Or, I see. So that's just based on what Dexter said you to?
5 Nobody from Paria told you directly—

6 A. Um—

7 Q. —that you had to come to shore to meet with Mr. Piper?

8 A. Someone from Paria, but I can't recall their name. I can't.

9 Q. Okay and you can't recall the time they—

10 A. Um, no.

11 Q. —they told you? Okay, that's fine. Now, there is a toolbox—
12 there was a toolbox meeting held on the 25th of February. We
13 heard evidence from other witnesses about it. But as I read
14 your statement, you tell us you were at that toolbox meeting,
15 yes?

16 A. Correct.

17 Q. You say it happened at 8.30. But can that be an error? Because
18 from what we've seen, the documents suggest the meeting was
19 held at 9.15 and another one held at 9.30.

20 A. Yeah, could, could be an error.

21 Q. Yeah, okay all right. Now, at that meeting, am I right that your
22 primary concern would have really been diving operations?

23 A. Yeah.

24 Q. Yeah? And do you say somewhere in your statement, I believe,
25 that there was a general safety discussion with respect to scope
26 of works for that day?

27 A. Right.

1 Q. Right? Would it be fairly accurate to say that the discussion at
2 that meeting was very general in nature, very high level?

3 A. Correct.

4 Q. Yes? And I want to suggest to you, because some witnesses
5 have given this evidence but that there was no discussion about
6 the removal of the plugs on that day at the meeting.

7 A. Not [*Inaudible*].

8 Q. Is that correct? Would you accept that?

9 A. No.

10 Q. Okay. So your evidence is that there was discussion about that?

11 A. Correct.

12 Q. Okay and I'm suggesting to you that that is, is not, is not, in
13 fact, the case, that there was no discussion about it on that day.
14 Yes?

15 A. If that's your suggestion, yeah, okay.

16 Q. Okay. You don't, you don't treat with that item specifically in
17 your witness statement, do you, in either of them?

18 A. No.

19 Q. Okay. So you're telling us, at least today for the first time, that
20 that's the case. You accept that?

21 A. Telling you?

22 Q. You're telling us today—

23 A. Right.

24 Q. —that that's the first time, or today, rather, is the first time that
25 you've actually said that there was a discussion?

26 A. That there was? Yeah.

27 Q. Yes?

1 A. Yes.

2 Q. Yes, okay. The last area I want to take you to concerns the
3 vents of Sunday the 27th of February. Now you deal with this
4 issue at paragraphs 62.

5 **Mr. Chairman:** I think before you move on, in fairness, Mr.
6 Mootoo, he does raise it, might be slightly ambiguous, but he
7 does raise the issue of a discussion in relation to the removal of
8 the riser. If you go to paragraph 15 of his supplementary
9 statement, he sets out what the job scope was for the 25th of
10 February, and then at 17 he says:

11 “At the toolbox, all the persons involved in the entire job
12 gathered on the barge. The meeting was conducted by
13 Mr. Dhillpaul. We discussed the job scope for the day.
14 Whoever had any concerns or questions had a chance to
15 discuss. There was general safety discussion with the
16 scope of works for that day. I cannot recall which Paria
17 persons were present at the toolbox meeting.”

18 As I say, I accept it might be slightly ambiguous but to say
19 there was no mention of at all is probably not entirely fair. You
20 can perhaps ask him if that’s what he meant by it.

21 **Mr. Mootoo:** No, I accept the correction. I accept the
22 correction.

23 **Continued Cross-Examination By Mr. Mootoo:**

24 Q. Well on the events of Sunday the 27th, you deal with that at
25 paragraphs 60 to 67 of your witness statement. Now, you talk
26 about two meetings having occurred on that day, you recall?

27 A. Yep.

1 Q. Yeah. I want to suggest to you that by the time you went to the
2 first meeting—well let me ask you this. By the time you went
3 to the first meeting, I imagine you had spoken to Kazim Ali Sr.
4 extensively about the incident in general and about rescue
5 plans? Would that be correct?

6 A. Correct.

7 Q. And at the time that you both went to that meeting, the first
8 meeting on Sunday, I want to suggest to you that LMCS'
9 attitude was that by that time the divers had already been lost?

10 A. Not true.

11 Q. Okay. Now you talk about having been asked at the first
12 meeting to go back and do a method statement and risk
13 assessment for a rescue operation. Yes?

14 A. Yeah, correct.

15 Q. I want to take you to look at the submissions bundle which is at
16 page one zero six seven of that bundle. I'm working off the
17 electronic version.

18 **Mr. Chairman:** One zero?

19 **Mr. Mootoo:** Six seven. I think I have one—or, I think it's
20 one, sorry, it's 10167 forgive me. This cannot be right. I'm not
21 sure that I have the right—

22 **Mr. Chairman:** *[Inaudible]*

23 **Mr. Mootoo:** I'm not sure that I have the right—I've been
24 given the right reference. Can I have one moment, please?

25 **Mr. Chairman:** What is the document you're after? I might
26 be able to help you.

27 **Mr. Mootoo:** I'm looking for the email of the 27th of

1 February.

2 **Mr. Chairman:** Yes, we did look at that already once. It's on
3 the screen now.

4 **Mr. Mootoo:** Yes.

5 **Mr. Chairman:** What is the page number, that is one, 10167?
6 We really have that many pages in this?

7 **Mr. Mootoo:** It's the bundle of submissions, okay, right, so, I
8 was right.

9 **Mr. Chairman:** Yes, I'm sorry, Mr. Mootoo.

10 **Mr. Mootoo:** Thank you, thank you.

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. Have you seen this email before?

13 A. No.

14 Q. Okay. You won't dispute that it's an email from Mr. Kazim Ali
15 to Mr. Paul Yearwood sent on the 27th of February at 2.20
16 p.m., right?

17 A. Correct.

18 Q. And this email was after you had the first meeting on the
19 morning?

20 A. Correct.

21 Q. Yes? And this is the—this email follows what you say was a
22 discussion about a method, the need for a method statement and
23 risk assessment for a rescue operation, yes?

24 A. [*Nodding*]

25 Q. And if I ask the operator if they could just go down the screen a
26 bit, you will see, you should see—it's not on this document.
27 Stop. Or, sorry, the email the body of the email itself says:

1 "See attached documents for the above captioned job."

2 You have the method statement, risk assessment and emergency
3 response plan. You see that?

4 A. Uh-huh.

5 Q. So, this would have been an email following the request for
6 these documents earlier on in the day, okay. Okay. I want to
7 take you now to 10200. So 10,200 of that bundle.

8 **Mr. Chairman:** Sorry what's that page number again?

9 **Mr. Mootoo:** One zero two zero zero. It's a document you
10 would have seen previously, Commissioner.

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. So, Mr. Farah, I'm suggesting to you that this is the method
13 statement, this is LMCS' method statement, in fact prepared by
14 you, which accompanied the email on that day. Have a look at
15 it.

16 A. Yeah.

17 Q. This is document prepared by you?

18 A. Correct.

19 Q. All right. And the top of that method statement talks about
20 entry into the riser pipeline to retrieve three scuba tanks. Yes?

21 A. Yeah.

22 Q. And I'm suggesting to you that this method statement, as
23 outlined there, is really about the retrieval of equipment, not
24 divers?

25 A. Correct.

26 Q. Yes? Okay, good. And similarly, the risk assessment which
27 was done is at page 10198 of that bundle. You were involved

1 in the preparation of this risk assessment?

2 A. Correct.

3 Q. And this—I'm suggesting to you that this risk assessment was
4 also the risk assessment that accompanied the email.

5 A. Correct.

6 Q. And this risk assessment, I'm suggesting to you that when you
7 look at it, is essentially about a risk assessment to retrieve
8 equipment, not divers.

9 A. I wouldn't, I wouldn't say that.

10 Q. Okay. Are you seeing anything in this document that expressly
11 speaks about the rescue of divers? I'm suggesting to you,
12 actually, that nothing in the document deals with specifically
13 the rescue of divers.

14 A. Well at that point in time—

15 Q. No, no.

16 A. —Paria—

17 Q. I'm not asking you about that point in time. I'm asking you
18 about the document.

19 A. Right, could you repeat the question?

20 Q. There's nothing in this document that expressly treats with the
21 rescue of divers.

22 A. Yeah, it does.

23 Q. Okay. Can you direct us to what portion of the document
24 you're looking at?

25 A. Well, it gives you the risk assessment based on a diving
26 operation.

27 Q. No, I'm not saying it's not a diving operation. We just looked

1 at the method statement.

2 A. Right.

3 Q. The method statement dealt with the retrieval of equipment,
4 right? That, that, that plan to retrieve equipment involved the
5 utilization of divers to go and retrieve the equipment.

6 A. Correct.

7 Q. Good. I'm not—I'm suggesting to you that this is the risk
8 assessment which accompanies that method statement.

9 A. Correct.

10 Q. Right. And I'm also suggesting to you that this risk assessment
11 is a risk assessment done in relation to that method statement.

12 A. Correct.

13 Q. Good. And therefore, it is not a risk assessment treating with
14 the retrieval of the divers or the rescue of the divers, that's a
15 better word.

16 A. Because we at that point in time—

17 Q. Um, Mr. Farah, I'm not asking you about the time. I'm asking
18 you about the—will you accept—if you don't want to accept it
19 that's fine.

20 A. Well I don't accept it.

21 Q. Okay, good.

22 **Examination By Mr. Chairman:**

23 Q. Well, I'd like to hear what he has to say about that. What do
24 you say it is?

25 A. No, at that point in time Paria's main concern for us not to dive
26 in the pipeline was because there was obstructions in the
27 pipeline, so they told us to do a risk assessment and a, um,

1 gosh, methodology to retrieve the bottles that were—obstructed
2 us from doing the dive which is what we did.

3 Q. For what purpose?

4 A. So they could then send down a camera that would be able to
5 travel further than the obstructions that they encountered—

6 Q. Right.

7 A. —the day before.

8 Q. So what Mr. Mootoo is saying is right, this is not to do with
9 rescuing divers specifically?

10 A. Correct.

11 Q. You weren't going to be pulling out a diver, if—but let me
12 understand this, what you were doing is providing a risk
13 assessment and a programme for retrieval of three scuba tanks?

14 A. Correct.

15 Q. Yes. Are we to take it then that if you encountered a person
16 down there you would leave them there?

17 A. No.

18 Q. Right. So that I'm clear, the three scuba tanks were the
19 obstruction for a camera to be able to go further into the pipe?

20 A. Correct.

21 Q. You provided this assessment to send divers into the pipe to try
22 and retrieve bottles?

23 A. Correct.

24 Q. Yes. Well, I don't suppose they're particularly expensive,
25 those bottles, so it can't be for the value in the bottle? It was in
26 order to provide access to the pipe?

27 A. Correct.

1 Q. Either by camera or perhaps later on if somebody was still
2 alive, a person?

3 A. Right.

4 **Mr. Chairman:** All right. Thank you, Mr.—

5 **Continued Cross-Examination By Mr. Mootoo:**

6 Q. I want to suggest to you that at the time this risk assessment
7 was done and sent, the purpose was, of retrieving this
8 equipment was because LMCS and Paria were of the view at
9 that time that the lives had been lost. That's the first thing I
10 want to suggest to you.

11 **Mr. Chairman:** All right, well, let him answer that first.

12 **Mr. Mootoo:** Yes.

13 **Mr. Farah:** No, definitely not.

14 **Mr. Chairman:** Can I be clear please, Mr. Mootoo?

15 **Mr. Mootoo:** Yes.

16 **Mr. Chairman:** Is the suggestion that Paria were prepared to
17 allow divers to go into the pipe to retrieve bottles but not men?

18 **Mr. Farah:** Correct.

19 **Mr. Chairman:** You're saying that your, your instructions are
20 that this assessment was designed to allow men to go in this
21 pipe to retrieve three bottles?

22 **Mr. Mootoo:** My instructions are that LMCS was repeatedly at
23 that point in time asking for permission to go into the pipe
24 because, one, they were of the view that lives had been lost and,
25 two, that the bodies had to be retrieved, and in order to retrieve
26 those bodies in a humane manner, there was—um, the
27 obstructions had to be removed, and Kazim Ali was of that

1 view and, in fact, on the evidence, on the audio evidence which
2 is before the Commission, he says that and Paria's position is
3 not that they were sending men into the pipe but Paria's
4 position is that at all times it was open to entertaining any risk
5 assessment or any plan that anyone had in relation to the pipe.
6 But they were not prepared to allow anyone to go in there in a
7 way which was unsafe.

8 **Mr. Chairman:** Right.

9 **Mr. Mootoo:** So they were open to hearing all possibilities but
10 they wanted it properly documented.

11 **Mr. Chairman:** I think I understand.

12 **Mr. Mootoo:** Yes.

13 **Mr. Chairman:** What you're saying is whether then or at any
14 other time, whether to retrieve scuba tanks or anyone else, they
15 wanted this sort of documentation risk assessment and method
16 statement in advance?

17 **Mr. Mootoo:** At minimal, yes.

18 **Mr. Chairman:** As a minimum?

19 **Mr. Mootoo:** Yes.

20 **Mr. Chairman:** Right. And you say that the purpose of this
21 was in order to retrieve scuba tanks. Was this done at your
22 client's behest?

23 **Mr. Mootoo:** No.

24 **Mr. Chairman:** No. This is being done at Mr. Kazim Ali's
25 behest?

26 **Mr. Mootoo:** Yes.

27 **Mr. Chairman:** Right.

1 **Mr. Mootoo:** They had an earlier meeting in the day. As you
2 will appreciate, events had moved on significantly since Friday.
3 Persons were concerned about the lives being lost and, I mean,
4 Paria was, Paria was very concerned that time to try and be as
5 humane as they could have been in the circumstances.

6 **Mr. Chairman:** All right, well you could make a speech later
7 on, but I do want to understand about this, that the—Paria were
8 prepared to entertain a diver going in, a diver or divers, going
9 into the pipe on Sunday to retrieve a number of bottles so that
10 that wouldn't interfere with the bodies that they believed were
11 now dead being removed from the pipe being damaged in any
12 way? Is that what I understand?

13 **Mr. Mootoo:** I think that's subset of the general position,
14 which is, Paria at all times was prepared to entertain persons
15 going into the pipe, provided that it could be shown that it could
16 be done in a safe manner, for whatever purpose.

17 **Mr. Chairman:** And do you have instructions as to whether or
18 not this was regarded as safe?

19 **Mr. Mootoo:** No I don't but I can take instructions on it.

20 **Mr. Chairman:** I'd want to know.

21 **Mr. Mootoo:** Yes.

22 **Mr. Chairman:** Yeah, thank you. All right, thank you very
23 much.

24 **Continued Cross-Examination By Mr. Mootoo:**

25 Q. So, coming back to, and this is the last aspect of your evidence I
26 want to deal with, I want to suggest to you that when you say at
27 paragraph 62 of your witness statement that Paria wanted

1 LMCS to do a method statement and a risk assessment for a
2 rescue operation, that is incorrect because that's not what
3 LMCS was contemplating at the time. You're free to reject it.

4 A. I reject.

5 **Mr. Chairman:** What did he say?

6 **Mr. Mootoo:** He rejects it.

7 **Mr. Chairman:** He rejects it. All right.

8 **Mr. Mootoo:** Yes. Sir, I have no further questions for this
9 witness. Thank you Mr. Farah.

10 **Mr. Chairman:** Thank you, Mr. Mootoo. Ms. Persaud Maraj.
11 Is it Maraj or Maharaj?

12 **Ms. Persaud Maraj:** Maraj, please.

13 **Mr. Chairman:** Maraj. I thought so. Everyone kept telling
14 me it was Maharaj, but it's Maraj, isn't it?

15 **Mrs. Persaud Maraj:** Everyone else is wrong.

16 **Mr. Chairman:** And I'm blaming everybody else and you—
17 I—okay, so it's Persaud Maraj?

18 **Mrs. Persaud Maraj:** Yes, please.

19 **Mr. Chairman:** Okay.

20 **Mrs. Persaud Maraj:** Mr. Farah, I'll take you back to
21 paragraph 60 of your witness statement.

22 **Mr. Chairman:** The supplementary or the original?

23 **Mrs. Persaud Maraj:** The supplemental.

24 **Mr. Chairman:** The supplementary.

25 **Examination By Mrs. Persaud Maraj:**

26 Q. In that paragraph, this is in relation to the meeting on the 27th
27 of February—

1 **Mr. Chairman:** Can't hear you.

2 Q. This, this is in relation to the meeting on the 27th of February,
3 Sunday the 27th of February at paragraph 60.

4 "Confirm that the purpose"—this is what you have.

5 "Can you finally confirm that the purpose of the meeting
6 was to tell them"—them being Paria?

7 A. Paria.

8 Q. "—of our plan and convince them at least give us one
9 chance to make a rescue attempt."

10 So, just for clarification in relation to the meetings and the
11 preparation of the documentation that followed the first
12 meeting, what was your understanding of your intention in
13 relation to the meeting that you attended?

14 A. To convince them to do a rescue.

15 Q. Right. But then you prepared documents in relation to retrieval
16 of bottles. Can you explain why that came to be?

17 A. Um, yeah, I, I believe they would have told us that we could not
18 do the rescue because they were unsure of the conditions in the
19 pipeline and the only way for them to reach further past the
20 bottles were to get them removed, so they asked us to do a dive
21 plan to retrieve the bottles from the pipeline.

22 Q. Great. So I'd just like to ask you a few things to clarify what
23 you've said earlier. You were the dive supervisor in relation to
24 this project—

25 A. Correct.

26 Q. —on the 25th. There was another supervisor for the works on
27 the 25th at berth 6?

1 A. Correct.

2 Q. And that would have been Kazim Ali Jr.?

3 A. Correct.

4 Q. In answer to questions posed to you, you said it was unfortunate
5 that he was in the chamber at the time of the incident. Just for
6 clarification, you already have it in your statement, but just for
7 clarification, can you explain what you mean by that so that we
8 understand it? Was he always in the chamber?

9 A. No. He was not.

10 Q. Where was he stationed?

11 A. Alongside the barge.

12 Q. All right. So he wasn't always—

13 A. No.

14 Q. —in the chamber with the men. And in relation to best
15 practice, you have agreed with Ms. Alfonso that it may have
16 been best practice to have a harness with the extension at
17 topside. You recall that?

18 A. Yeah.

19 Q. Right. Now, not in relation to best practice but in relation to
20 what actually occurred on the day in question—

21 A. Uh-huh.

22 Q. —the Delta P as we now know it to be, would you accept that
23 that would have been best practice at that time of that incident?

24 A. No.

25 Q. Could you care to explain in your words why that would not
26 have been?

27 A. Well, if they had a tag line attached to them that could have got

1 caught up on their neck whilst they were making their way into
2 the pipeline and could have resulted in—

3 Q. Further injury?

4 A. —further injury.

5 **Mrs. Persaud Maraj:** All right, I think that's all please, Mr.
6 Commissioner.

7 **Mr. Chairman:** Well I am afraid I have a few questions for
8 you.

9 **Examination By Mr. Chairman:**

10 Q. Can I deal first of all with a question asked by Mr. Pegus? He's
11 the gentleman sitting in the middle there, and you remember he
12 took you to the document that is the scope of works and took
13 you to a number of different sections in that, and inviting you to
14 say it was LMCS' responsibility to supervise the works, and I
15 don't think there's any dispute that it was your responsibility to
16 supervise the works. I want to understand if anybody else had
17 any similar responsibilities, all right? So can I—and a couple
18 of other thing as well, but can I just ask you to have that
19 document please? It's at page five five eight of the bundle.
20 And I want to ask you please to look first of all at paragraph
21 3.1.12 and 3.1.21, so those two. Let's look at 12 first so I want
22 to ask you about it. This is describing the works that were to be
23 carried out as drafted by Paria, correct?

24 A. Correct.

25 Q. It says there:

26 "Cut, insert migration barrier and install a 30-inch flange
27 on to the existing line. Inspection requirement for the

1 flange 100 per cent PT, including root passes VT and
2 hydrotest.”

3 I don't pretend to understand half of that but it probably doesn't
4 matter for my purposes. What it says after that is this.

5 “Note: video stream to be provided topside during work
6 activity for Paria's representative.”

7 Did you provide such a video stream during the work activity
8 for Paria's representative?

9 A. We did.

10 Q. You did. Did they avail themselves of it?

11 A. They did.

12 Q. Over at paragraph 3.1.21:

13 “The contractor”—that's you, yes—“shall supply video
14 footage during the subsea works.”

15 That's what you were doing on that day, subsea works?

16 A. Correct.

17 Q. “And this video must form part of the handover
18 package.”

19 Did you understand that?

20 A. No, I, I was not—that was not my part of the job.

21 Q. No, but you understood that it needed to be recorded?

22 A. No, no.

23 Q. You didn't? That's what it says, doesn't it?

24 A. Yeah, yeah.

25 Q. You can't hand over a video package at the end of the job if
26 you haven't recorded it?

27 A. No, I was never told to record it.

1 Q. Nobody ever told you that?

2 A. No.

3 Q. Nobody at LMCS?

4 A. No.

5 Q. Or at Paria?

6 A. Nope.

7 Q. Anyone?

8 A. Nope.

9 Q. So you didn't?

10 A. No.

11 Q. Could you have?

12 A. Yeah.

13 Q. Paragraph four, please, page five seven zero. Mr. Pegus asked
14 you if you had—if there was any obligation on the—on Paria
15 to, if you could find anywhere in the document, any obligation
16 on Paria to, as it were, supervise or monitor in any way. Can I
17 just ask you to have a look at 4.1 please?

18 "Supply personnel for organizing all work permits and
19 certificates, monitoring contractor's performance and
20 work standards."

21 How did you understand that Paria would monitor contractor's
22 performance and work standards?

23 A. They would be on site and supervising the job—

24 Q. Or looking at it at least?

25 A. —that day, or—correct.

26 Q. How else would they know? Who was doing that?

27 A. They had—as I said they had a couple guys from Paria, Kenson

1 that were on the berth that were popping by and looking at the
2 video from time to time but I can't recall who they are or what,
3 um, positions they hold in the company.

4 Q. To carry on that paragraph, it says, "Approving work done by
5 the contractor", so they had to approve the work you'd done
6 and carrying out quality assurance audits. All right. Yes. All
7 right, I don't think I need to trouble you with any more of that.
8 Now, I do want to ask you a little about what Mr. Mootoo was
9 asking you because you'll recall that he took you through a
10 litany of potential problems that you—or he was suggesting you
11 might not have considered when assessing whether there was a
12 proper plan to rescue these men. You remember he was asking
13 you—

14 A. Yeah.

15 Q. —a number of question before we had our lunch break, all
16 right? And I want to ask you a little about that because he
17 sought to confine the questions about that to the first plan that
18 you had. All right? I'm going to call it plan one, two and three
19 so that I have a clear understanding of what you're saying. All
20 right? Plan one was—is set out at paragraph 26 of your
21 statement. So can we have that up, please? Plan one:

22 "The rescue plan which we devised was that, A, I was
23 going to enter into the riser with an extra set of diving
24 gear so that if I found anyone I could provide it to them
25 to assist them to take them back up."

26 Yes?

27 "B: I would have connected had connected to me a tag

1 line which I would have used to communicate with
2 topside in the habitat, Dexter, who would assist to pull
3 me back up to the riser and I would—

4 C: I would enter feet first.”

5 All right? Now, can I just be—understand what was
6 happening? This is pre Boodram?

7 A. Pre, yeah.

8 Q. So at this stage, did you know whether the men were in the pipe
9 or not?

10 A. I had a, a fair idea that they were.

11 Q. Well, that’s why I asked you, did you know? You didn’t know,
12 did you?

13 A. No.

14 Q. No. You suspected?

15 A. Suspected.

16 Q. Or believed or some other such adjective, but you couldn’t have
17 known for sure, is that right?

18 A. Correct.

19 Q. Right. Were you, nonetheless, prepared to risk your own life to
20 see if they were in there?

21 A. I was.

22 Q. Did you understand that that was a significant risk?

23 A. I do.

24 Q. Especially as has been pointed out to you, very fairly by Mr.
25 Mootoo, that there were a number of issues which either you
26 didn’t consider or ignored? Do you agree?

27 A. Possibly.

1 Q. Possibly?

2 A. But by that time—

3 Q. Almost certain, isn't it?

4 A. —I was willing to go and attempt a rescue.

5 Q. Yes, all right. Well, you could perhaps understand why you
6 weren't wholeheartedly welcomed in attempting such a rescue
7 by those who were responsible for the site? You can
8 understand that, can't you?

9 A. Completely.

10 Q. All right. That's coupled with the fact that when you were first
11 seen after this, almost immediately after it had happened, you
12 were yourself distraught, weren't you? You were laying flat on
13 your back on the barge with your hands over your head clearly
14 upset?

15 A. Correct.

16 Q. Was that borne of the fact that they—you thought they may
17 have died?

18 A. Correct.

19 Q. And how close were these men to you?

20 A. Very.

21 Q. Right.

22 A. Very close.

23 Q. So perhaps we can all understand why you might have been a
24 little distraught, but, what I want to ask you is whether any of
25 the matters that had been identified by Mr. Mootoo in his
26 examination of you were considered later? Do you follow me?
27 There were two other plans that you formulated when other

1 divers had arrived, were there not?

2 A. Yep, correct.

3 Q. In your plan number two, which is set out in your paragraph 37
4 and 38, this is now post Boodram coming out, all right? So the
5 plan changed. First of all, could I ask you this? When Mr.
6 Boodram came out of the pipe, did that change your attitude,
7 bearing in mind it's now two plus hours, two and a half hours
8 after they first disappeared, did it change people's attitude
9 about whether they were still alive or not?

10 A. It did, yeah.

11 Q. Did it or didn't it?

12 A. It did.

13 Q. Yes. Did it give you new hope?

14 A. Definitely.

15 Q. Were you—did you collect yourself by then? Were you less
16 distraught?

17 A. I was, yeah.

18 Q. Right. Now, in effecting a plan number two, were there other
19 divers present?

20 A. There were, yeah.

21 Q. Did Mr. Conan Beddoe arrive?

22 A. He did.

23 Q. Who is Conan Beddoe?

24 A. He is a commercial diver that I work with as well.

25 Q. Commercial diver like you or better qualified than you?

26 A. Well he is a saturation qualified diver.

27 Q. I dent know what saturation qualified diver means. What does

1 that mean?

2 A. Where you live in a chamber and you—

3 Q. You're permanently under pressure?

4 A. Yeah.

5 Q. Right. So that you can go from one job to the next without
6 having to come back to the surface—

7 A. Right.

8 Q. —or surface pressure anyway. All right. So he, would you say,
9 was as experienced as it gets?

10 A. He was.

11 Q. Yes or no?

12 A. Yes.

13 Q. Did you have confidence in him?

14 A. I did.

15 Q. Did Mr. Kazim Ali have confidence in him?

16 A. He did.

17 Q. Was he prepared, when he arrived, to help?

18 A. He was.

19 Q. What did he say? Or what was the approach taken by him with
20 you?

21 A. Well, I explained to him what happened and he then told me
22 that he would go into the chamber to make his own assessment,
23 along with Michael and Rolly.

24 Q. Who's Rolly?

25 A. Rolly, Ronald Ramoutar.

26 Q. Ramoutar. And who is he?

27 A. He is another diver.

- 1 Q. Qualified diver?
- 2 A. Qualified yeah, commercial.
- 3 Q. Like you?
- 4 A. Yeah.
- 5 Q. Commercial diver?
- 6 A. Commercial diver.
- 7 Q. Good diver? You know him?
- 8 A. Yep.
- 9 Q. Have you dived with him?
- 10 A. Many times before.
- 11 Q. As good as you, better than you?
- 12 A. Better than me.
- 13 Q. Right. Did you have confidence in him?
- 14 A. I did.
- 15 Q. Did you formulate a plan between him and Mr. Beddoe?
- 16 A. We did, yep.
- 17 Q. Built around your original plan?
- 18 A. Yep.
- 19 Q. Or changed?
- 20 A. No, same, same plan, using scuba, except Conan would have
- 21 been going into the pipeline.
- 22 Q. Right. So you're now going to go into the pipeline, Dexter's no
- 23 longer involved, is he?
- 24 A. He was on the topside.
- 25 Q. Right.
- 26 A. Yeah.
- 27 Q. But in terms of actually effecting a rescue, who was it going to

1 involve this time?

2 A. It would have been Conan, Michael, Ronald, Corey and myself.

3 Q. Five divers?

4 A. Five.

5 Q. Who were going to be standbys?

6 A. Conan would have been in the pipeline, Michael, um, Corey
7 and Ronald would have been standby.

8 Q. And what would you have been doing?

9 A. I would have been on the top supervising.

10 Q. Right. So that was a plan that you formulated and it still
11 necessitated using scuba equipment. Is that right?

12 A. Yep.

13 Q. You say he went and made an assessment of his own, that's Mr.
14 Beddoe?

15 A. Yeah.

16 Q. At that time you'd obviously learned what you could from Mr.
17 Boodram. Had Michael Kurban been into the pipe?

18 A. He, yeah, he was, yeah.

19 Q. Sorry?

20 A. Yeah, he was in the pipeline.

21 Q. So, did he come back and tell you anything that he had learned
22 from being in the pipeline?

23 A. No. He just told me that he went down and he reached maybe
24 about 10 feet past the elbow and he retrieved one dive tank.

25 Q. What was he using when he went down?

26 A. He was using the hookah connected to a scuba tank.

27 Q. A hookah, that's a long tube?

1 A. Long right.

2 Q. With the ordinary mouthpiece?

3 A. Yes.

4 Q. Yes? So free into the mouth, not part of the mask, free into the
5 mouth, is that right?

6 A. Correct.

7 Q. And so he went down with a tube that was connected ultimately
8 to a tank or some other air source?

9 A. Correct.

10 Q. At the surface?

11 A. At, yeah, in the chamber.

12 Q. In the chamber. And he went down so he was able to tell you
13 conditions inside the pipe?

14 A. Yeah.

15 Q. And to tell Mr. Beddoe conditions inside the pipe?

16 A. Correct.

17 Q. So you were asked a number of questions about what might or
18 might not have been considered by you. By then did you—had
19 you considered whether the accident was a Delta P or not, by
20 this time, this second plan?

21 A. Yeah.

22 Q. Yes? Did you discuss it at all with Mr. Beddoe?

23 A. I did.

24 Q. And what was his view about it?

25 A. Well I explained to him that in order for the chamber to blow
26 back down that everything would have—should have been
27 equalized and that it should not occur again.

1 Q. What was his view?

2 A. He said all right. He was willing to enter the pipe.

3 Q. If you had, given that you now had considered Delta P as being
4 the cause, did it enter your minds at all that there might be some
5 potential latent Delta P still in existence?

6 A. At that point in time, no.

7 Q. Because you thought it had equalized?

8 A. Correct.

9 Q. Is that right?

10 A. Yep.

11 Q. You were asked about oil and that would affect both toxicity
12 and visibility, wouldn't it?

13 A. Yep.

14 Q. Mr. Boodram had been in the pipe for how long?

15 A. I believe maybe close to two hours.

16 Q. Yes, I think perhaps a little more but there or thereabouts?

17 A. Yep.

18 Q. Did he have a mask when he came out?

19 A. No.

20 Q. And did he have any mouthpiece when he came out?

21 A. No.

22 Q. He was covered in oil?

23 A. Covered in oil.

24 Q. And did, um—were you able to ascertain from Michael Kurban
25 who had been down to the elbow and some 10 feet or so past it,
26 as to what the visibility was like?

27 A. He said it was water and he had visibility.

1 Q. He had visibility?

2 A. Yeah.

3 Q. Of course you could have torches. Did you have torches?

4 A. We did.

5 Q. There were, we're told, scuba tanks in the actual pipeline itself.
6 We know that there were. Did you regard that as being a
7 problem in terms of rescue by the time you were taking this
8 second dive?

9 A. No.

10 Q. Did you consider it even?

11 A. No.

12 Q. No. Did Mr. Boodram come out with a tank?

13 A. He came up with a tank but I believe he—when Rolly pulled
14 him out he would a left the tank in the—

15 Q. Dropped it?

16 A. —pipeline.

17 Q. Did Michael Kurban come out with a tank?

18 A. He came out with a tank, yeah.

19 Q. He brought one out, did he?

20 A. Brought one out.

21 Q. And given that you've got a 30-inch pipe, I mean you say you
22 can turn around in it. I think I might quite like to see that, but,
23 um, in a 30-inch pipe, would it be possible to get past the tank?

24 A. It—definitely.

25 Q. Did you consider whether the tanks might have provided a life
26 source for those that were in the pipe?

27 A. It, it could have, yep.

1 Q. You were asked whether you considered the inflatable plug.

2 A. Uh-huh.

3 Q. Did you know where the plug was before the accident
4 happened?

5 A. Before, yeah.

6 Q. Right. And if you had considered Delta P to be the problem
7 that had caused this, where would the plug be? Which side of
8 the people would the plug be?

9 A. Below.

10 Q. Below or past them?

11 A. [*Inaudible*]

12 Q. Would the plug be between you, at the riser 6, and the people
13 that were down there, or the other side of them?

14 A. You're talking about after the incident?

15 Q. After the accident, yes.

16 A. Okay, yeah.

17 Q. Where would the plug be?

18 A. In front.

19 Q. Of them?

20 A. Of them.

21 Q. Yeah. But not between you and them?

22 A. No.

23 Q. Did you consider that?

24 A. No, I, I knew that the plug would have been the first thing to
25 enter the pipeline.

26 Q. You knew that?

27 A. I knew that.

1 Q. All right. Apparently there was a cable attached to it. Did that
2 cause you any concern that there might be a cable attached to it
3 and that you might be, as Mr. Mootoo puts it, snagged by it or
4 caught up in it in some way?

5 A. No.

6 Q. Did you even consider it?

7 A. No.

8 Q. You can consider it now would you please? Would that stop
9 you going in to effect a rescue—

10 A. Definitely not.

11 Q. —if that existed as a possibility?

12 A. It would not stop me.

13 Q. Do you think it should?

14 A. No.

15 Q. He asked you also to consider the mental state of the divers
16 who were in the pipe. First thing I want to ask you is this: is
17 how long have they been diving, these men?

18 A. Over 10 years.

19 Q. Experienced divers?

20 A. Yes.

21 Q. Do you have any training at all, even in the most basic forms of
22 PADI training, what to do if there is an emergency underwater,
23 breathing shallowly, taking not too rapid breaths, things of that
24 kind? Is there a sort of understanding or training about that?

25 A. Yeah.

26 Q. There is?

27 A. Well, once you do your PADI course you would learn—

1 Q. Even the basic PADI course?

2 A. —what to do and what not to do.

3 Q. Yeah?

4 A. As a diver.

5 Q. And whilst they may not be exactly happy about being down
6 there, did you think that it was likely to be a problem and not an
7 unfair point Mr. Mootoo makes, is it, that they might be a bit
8 panicky thinking they're stuck in a pipe?

9 A. They would be.

10 Q. I want to ask you in respect of that. You had, I think
11 formulated in your mind that you were going to go in feet first,
12 is that right?

13 A. Yep.

14 Q. Did you know which way they were in the pipe?

15 A. Yeah, I, I, I do.

16 Q. How?

17 A. From Christopher.

18 Q. Right. What had he told you about that?

19 A. He told me that they were all making their way back towards—
20 well, at that point in time he wasn't sure which direction they
21 were going but he said that he was dragging, I believe it was
22 Kazim Jr.

23 Q. We've heard it as a chain he described.

24 A. Yeah.

25 Q. Did he tell you that or did you know that?

26 A. No, he didn't tell me that, that there was a chain but he told me
27 that all of them were making their way back towards the—

1 Q. Right.

2 A. —the elbow.

3 Q. Because if you go in feet first and the others were in the pipe
4 headfirst, you'd only touch feet to feet, wouldn't you?

5 A. You would.

6 Q. And that would be a problem, wouldn't it?

7 A. It would be.

8 Q. Did you consider that?

9 A. At that point in time, no.

10 Q. All right. The seventh point he made to you is this was a
11 confined space. Well, a pipe is a confined space. Was that a
12 problem as far as you were concerned?

13 A. No.

14 Q. Or indeed any of the other divers who were offering to go into
15 the pipe?

16 A. No, it wasn't. It wasn't a problem.

17 Q. He asked you, before I interrupted him, whether there was any
18 means of verbal communication and at that stage, this is now
19 plan two, were there any facilities at plan two for verbal
20 communication? There's a third plan which, when I think
21 people did arrive with such equipment but not at that stage.

22 A. No.

23 Q. Am I right?

24 A. Yes, you're right.

25 Q. So if you were to formulate this plan two with Mr. Beddoe and
26 others, how were you going to communicate with each other?
27 Did you work out how you would communicate with each other

1 once somebody went into that pipe?

2 A. A tag line.

3 Q. A tag lie?

4 A. Tag line, yes.

5 Q. Various pulls?

6 A. Yes.

7 Q. Had you described to each other what one pull would mean or
8 two or three?

9 A. Yes.

10 Q. Had you worked that out?

11 A. Yep.

12 Q. Between you?

13 A. Yeah.

14 Q. And was everybody happy with that arrangement?

15 A. They were.

16 Q. Right. The next arrangement or issue that he raised was poor
17 visibility. Well, of course, it would have been not ideal, would
18 it? Well, you knew someone had come out the pipe and you
19 knew that Mr. Kurban had gone into it. Did you have torches,
20 as I think you told me you already, you did?

21 A. Yeah, we do.

22 Q. Well obviously oil can impair visibility, but you would have
23 had masks, wouldn't you?

24 A. Correct.

25 Q. He asked you something about fatigue management but since I
26 don't know what it is I'm not going to ask you about it either,
27 but I'm—I imagine it's becoming exhausted or something of

1 that kind. I would simply ask you about adrenalin. Is that
2 something that might have kicked in?

3 A. Definitely.

4 Q. All right. We've taken a little time, and forgive me for doing
5 so, because Mr. Mootoo also took some time, and I want to say
6 not unreasonably, questioning the things that you should and
7 properly ought to have considered and no doubt which others
8 were considering. What I want to know from you please, is, if
9 you had had to put all of those matters in some sort of writing
10 and address them in some sort of way by way of a risk
11 assessment, how long would that take you to do?

12 A. Very long.

13 Q. Did you regard the position that you were in when Mr.
14 Boodram came out of that pipe as being something in which
15 you had to act with a degree of speed if not haste?

16 A. I do.

17 Q. Why?

18 A. Well we had divers trapped in a pipeline, it did not have a—
19 there were a limited amount of air, so we had—

20 Q. Do you have any deer how much air they had?

21 A. No.

22 Q. Was time therefore of the essence?

23 A. Definitely.

24 Q. After you had formulated this new plan with Mr. Beddoe post
25 Mr. Boodram coming out of the pipe, was that plan conveyed to
26 anybody at Paria?

27 A. I can't recall.

1 Q. You didn't anyway?

2 A. We were already in the water.

3 Q. No, no I appreciate, but you didn't?

4 A. No.

5 Q. All right. When you were in the water as you say, about to
6 effect this plan, was it just you in the water or were there
7 others?

8 A. No, I was on the boat.

9 Q. Right.

10 Q. They were in the water?

11 A. They were in the water.

12 Q. Who's they?

13 A. Conan, Michael.

14 Q. Mr. Beddoe, Michael Kurban.

15 A. Beddoe, er, Rolly?

16 Q. And Rolly, do you know his surname?

17 A. Which one?

18 Q. Rolly.

19 A. Ramoutar.

20 Q. Ramoutar, all right. So the three of them were already in the
21 water, were they?

22 A. They were.

23 Q. And what happened when they were in the water about to effect
24 this plan?

25 A. At that point in time, the coast guard came to me and requested
26 that I get the divers out of the water.

27 Q. You need to speak a little closer to that microphone. The coast

1 guard came to you. Can you remember who it was?

2 A. No.

3 Q. Anyway, a coast guard?

4 A. A coast guard, yes.

5 Q. Said to you what?

6 A. That we had—I need to get the divers out of the water.

7 Q. You needed to get them out of the water?

8 A. Yes.

9 Q. Why did he say that? Did you ask him why?

10 A. At that point in time he said that he received instructions from
11 Paria to get all the divers out of the water.

12 Q. He told you that he had received instructions from Paria. You
13 hadn't received any such instructions from Paria?

14 A. Yeah, I did.

15 Q. At that time?

16 A. Yeah, at that time.

17 Q. Who?

18 A. But I disobeyed.

19 Q. From whom?

20 A. I can't recall exactly.

21 Q. Well there was a lady on the barge and a gentleman, wasn't
22 there?

23 A. Catherine was there but I'm not sure if she was there at that
24 point in time. I can't recall.

25 Q. Right. So it wasn't her?

26 A. I can recall.

27 Q. All right, well anyway, somebody you say?

1 A. Somebody.

2 Q. Who was the first person to say to you, "Take the divers or get
3 the divers out of the water"?

4 A. Paria personnel.

5 Q. And what did the coast guard say?

6 A. A that point in time?

7 Q. Yes.

8 A. Nothing. They were—

9 Q. Right, you've got me a little confused now because I thought
10 you said to me that the three of the men were in the water about
11 to effect your plan?

12 A. When you said the first time, I'm talking about this was from
13 plan—

14 Q. This is plan number two we're on.

15 A. Okay, plan number two.

16 Q. Mr. Mootoo was asking you all about plan number one. I'm
17 asking you about plan number two, all right? And these three
18 men Beddoe, Rolly and Michael were in the water.

19 A. Right.

20 Q. About to effect plan number two.

21 A. Sure.

22 Q. Which you've described for us, all right?

23 A. Okay.

24 Q. And I thought you said that the coast guard had asked you to
25 ask them to get out of the water.

26 A. For plan number two, it was the coast guard.

27 Q. Right. So let's just stick with that. The coast guard asked you

1 to get them out of the water not Paria?

2 A. Not Paria.

3 Q. Right. And did you ask them why?

4 A. I did.

5 Q. And what did he say?

6 A. He said that he received instructions that they had to get us out
7 of the water and I asked him why, he said that he couldn't tell
8 me exactly why. At that point in time we had to come out of
9 the water.

10 Q. And did you tell them that were in the water to come out?

11 A. I did.

12 Q. Were they all above surface or there was some—

13 A. They were in the chamber.

14 Q. They were already in the chamber. How were you able to tell
15 them?

16 A. I sent Corey. Corey was at the surface of the water, so I
17 instructed him to go and tell the divers that they had to come
18 out.

19 Q. Corey was at the surface, in the water but on the surface, all
20 right. And did they come out?

21 A. They did.

22 Q. A little while later, a further—a number of other divers arrived.
23 I want to have some sort of idea, please, of timing. So this plan
24 number two when this was happening these men were in the
25 water about to effect and the coast guard's telling them to get
26 out of the water and they do. What sort a time was that? And
27 do it by how long it was after Mr. Boodram came out.

1 A. I think it might have been between six o'clock and 6.30.

2 Q. Right. So some hours anyway?

3 A. Yeah.

4 Q. Right. Plan number three, that was formulated, according to
5 your evidence, when a man by the name of Conan—

6 A. Conrad.

7 Q. —Conrad. He arrived, did he? Who's he?

8 A. He is another commercial diver.

9 Q. Experienced commercial diver?

10 A. Very experienced.

11 Q. Better than you?

12 A. Better than me.

13 Q. Did he arrive with additional equipment?

14 A. He did.

15 Q. And did this equipment include the sort of equipment that Mr.
16 Mootoo was asking about, verbal communication equipment?

17 A. It did.

18 Q. So that divers could now go in with commercial diving
19 equipment into the pipe and be able to speak to those on the
20 surface?

21 A. Correct.

22 Q. Did you tell anybody from Paria that you'd now had this
23 capability?

24 A. Catherine.

25 Q. You told Catherine. Did you ask her—er, did you make an
26 adjustment, therefore, to the plan number two that you'd had—

27 A. I did.

1 Q. —to accommodate this new equipment?

2 A. We did.

3 Q. Did the new equipment also include facial masks?

4 A. It did, yes.

5 Q. You wouldn't be able to talk otherwise would you? It must be
6 a complete mask over the face of a lightweight type that I think
7 Ms. Alfonso was trying to extract from you?

8 A. Well it wouldn't have been lightweight but—

9 Q. It was a facial mask anyway and so that you could
10 communicate. And did that mask have a hose that was going to
11 supply air from the surface?

12 A. It did.

13 Q. How long was that hose?

14 A. Three hundred feet.

15 Q. Three hundred feet. So it would have allowed anybody who
16 was willing to, to have gone down by the 60 or 70 feet to the
17 bottom and then along by some 200 and odd feet, yes?

18 A. Yeah.

19 Q. Did you explain that to Ms. Balkissoon?

20 A. I did.

21 Q. And did you say that you had these experienced commercial
22 divers willing to do it?

23 A. I did.

24 Q. Were they willing to do it?

25 A. They were.

26 Q. What was Ms. Balkissoon's response?

27 A. That she had to receive instructions from Collin Piper.

1 Q. Right. Did you get the impression whether she thought this
2 might work?

3 A. I, I can't say.

4 Q. All right. But in any event, she spoke to Mr. Piper. Do you
5 know if she spoke to him or not?

6 A. I can't say.

7 Q. Did she make a phone call?

8 A. She—I'm sure she would have.

9 Q. But you didn't see her do it?

10 A. No.

11 Q. Or hear what she was saying?

12 A. No—yeah.

13 Q. All right. In any event, did there ever come a time, ever come a
14 time when you were permitted to effect any kind of rescue
15 given the number of people that you had there?

16 A. Yeah?

17 Q. Did there ever come a time?

18 A. That we were permitted?

19 Q. Yes.

20 A. No.

21 Q. And was there something more that you would have liked to
22 have had in an ideal world, is there something more by way of
23 equipment that you would have liked to have had in order to
24 effect this rescue?

25 A. No.

26 Q. Is there anything else that we could have had?

27 A. Nope.

1 Q. Yes, thank you.

2 **Mr. Chairman:** Well I recognize that I've taken quite a bit of
3 time dealing with those issues and anybody else who wants to
4 ask a question arising from that they will be permitted to do so.
5 Does anybody else want to? I see Mr. Mootoo you have your
6 light on and I'll come to you last if I may. Does anybody else
7 wish to ask anything? No. Mr. Mootoo, you're more than
8 welcome to.

9 **Mr. Mootoo:** Thank you.

10 **Continued Cross-Examination By Mr. Mootoo:**

11 Q. The Commissioner has just asked you a series of questions and
12 you've given a series of answers. None of that is set out in any
13 of your witness statements, is that correct?

14 A. I, I can't say that right now.

15 Q. Okay. Well to the best of your recollection?

16 A. To the best of your recollection.

17 Q. It's not.

18 A. Er, no.

19 Q. Right. You—so I can understand this process, you submitted a
20 first witness statement and?

21 **Mr. Chairman:** Can you raise your voice slightly, Mr.
22 Mootoo, please?

23 **Mr. Mootoo:** Yes.

24 **Further Continued Cross-Examination By Mr. Mootoo:**

25 Q. After you submitted a first witness statement, you, help me with
26 this because I'm sure, you came in to the Commission and did
27 you subject yourself to an interview process?

1 A. I did.

2 Q. And that process produced the second statement. How long
3 was that process?

4 A. What, the interview itself?

5 Q. Yes.

6 A. Maybe two to three hours.

7 Q. Okay. And you—the information that's in your second witness
8 statement, that's information that you volunteered when you
9 came in or it was the product of a question and answer?

10 A. A question and answer.

11 Q. And answer sequence? And when you came in for that process,
12 I imagine you were asked about the details of your various
13 plans, is that correct?

14 A. I, I can't recall.

15 Q. But help me if you can, the witness statement which came
16 following that interview process, is the witness statement in
17 which you spoke extensively about the rescue plans, am I right?

18 A. I believe so.

19 Q. Because in the first one you—

20 A. Yes.

21 Q. —you didn't.

22 A. Right.

23 Q. And, in fact, as I read it, would you agree with me that a
24 substantial part, if not the vast majority, of your second
25 statement, deals with the rescue plan, the development of the
26 plans and so on? Is that a fair assessment?

27 A. Yeah.

1 Q. Yeah. And, um, the exchange that the you just had with the
2 Commissioner, all of those details, if they were in your mind at
3 the time, would have been highly relevant to that statement,
4 would you agree?

5 A. I agree.

6 Q. Would you agree with me that it's reasonable to expect that
7 they would have found themselves into that statement?

8 A. Pardon?

9 Q. Would you agree with me that it's not unreasonable to think
10 that if those details were in your mind you would have put
11 them—

12 A. Yeah.

13 Q. —you would have put them in the statement?

14 A. I would have.

15 Q. But notwithstanding that, you didn't?

16 A. I didn't.

17 **Mr. Mootoo:** Okay. No further questions, Mr. Commissioner.

18 **Mr. Maharaj SC:** I would like to ask Mr.—

19 **Mr. Chairman:** Of course. Just a moment. Let me see if
20 there's—I don't think anybody else, Ms. Persaud-Maharaj.

21 **Mrs. Persaud Maraj:** I don't.

22 **Mr. Chairman:** No? All right. Yes, Mr. Maharaj.

23 **Mr. Maharaj SC:** It's in respect of what Mr. Mootoo asked
24 the witness I just want to get one question in respect of—

25 **Mr. Chairman:** Of course.

26 **Mr. Maharaj SC:**—his statement.

27 **Mr. Chairman:** Of course.

1 **Further Examination By Mr. Maharaj SC:**

2 Q. I want you to look at the statement you gave to the
3 Commission. It's at 443 in Volume I. And I want you to look
4 at from paragraph 34, page 448 and you would see that at
5 paragraph 34 you stated that you, you told Michael that his dad
6 was behind him and that to go and rescue him. At paragraph
7 35, I want you to follow me here and see whether I'm saying
8 what you said. And then you said at this time Michael, Rolly,
9 Corey, went back to the habitat and you recall Paria/Kenson
10 person was saying not to dive.

11 "At that point in time we knew that the guys were alive
12 so that we had to attempt a rescue. I discussed with
13 Michael the rescue plan. The plan was the same as I
14 described above except that Michael would enter the
15 pipeline"—

16 And then you went through the plan in that paragraph. Correct?

17 A. Uh-huh.

18 Q. Look at it. And then at paragraph 37, you said:

19 "At this point Conan arrived and I discussed the plan
20 with Conan. Conan, Michael, Corey and Rolly were
21 going to execute the same rescue plan. We were on the
22 boat, Paria and Kenson persons were between the barge
23 and the berth."

24 You see that?

25 A. Uh-huh.

26 Q. And then you went on:

27 "The divers entered the water from the small boat and

1 entered the chamber. The coast guard officers came to
2 me and told me that we had to stand down. They said
3 that no one was allowed to dive and get the divers out”—
4 et cetera.

5 You see that?

6 A. Yes.

7 Q. Then you said:

8 “Cory was on the surface. I told him to go down and tell
9 the divers to stand down, that everyone has to come back
10 to the surface.”

11 You see that paragraph?

12 A. [*Nodding*]

13 Q. And then:

14 “At around 6.30 p.m., Conrad arrived with all the surface
15 supply equipment which we brought onto the barge. The
16 rescue plan was modified so that we would now enter
17 with the commercial equipment. I remember there was a
18 lady from Paria named Catherine who I was
19 communicating with. I was trying to convince Catherine
20 and whoever else was there from Paria as they were all
21 there together. I was trying to convince them for us to
22 make at least one attempt to rescue. She said she was not
23 in charge and kept telling me that she would relay my
24 request to her superiors. I gave her the details of the
25 rescue plan.”

26 Then your next paragraph:

27 “I also tried to convince the coast guard. I don’t

1 remember the officers I spoke to. They just kept saying
2 we couldn't dive and that he had to stand down until they
3 received instructions. I kept going back to Catherine and
4 she kept saying that we don't have permission, just stand
5 down. She said they themselves had additional
6 equipment coming down. She said that a camera was
7 going to come in. It was back and forth, back and forth
8 with the Paria persons. Their position was to stand
9 down. In addition to Conan's equipment, two other dive
10 support vessels arrived, fully equipped with the same
11 surface supply equipment which we had. They also had
12 willing divers as well I discussed the rescue plan with
13 them. The main person to enter the pipeline would have
14 been Conan."

15 **Mr. Mootoo:** I'm terribly sorry to interrupt Mr. Maharaj.

16 **Mr. Chairman:** Somebody has to turn their microphone off.

17 **Mr. Mootoo:** Yes. I'm sorry to interrupt Mr. Maharaj but he
18 said or I understood him to say that he had a question arising,
19 one question rising out of my questions. Perhaps the
20 misunderstanding is mine but I'm not quite sure what's
21 happening.

22 **Mr. Chairman:** Well we haven't had a question yet that's for
23 sure.

24 **Mr. Mootoo:** Well yes.

25 **Mr. Maharaj SC:** I said one issue arising or words to that
26 effect.

27 **Mr. Chairman:** Very well. Look, I mean, if you're seeking to

1 remind the witness of what he said previously in the light of
2 what Mr. Mootoo has put to him, which is not unreasonable, it
3 seems to me it's not unfair either, one of the processes of this
4 exercise is that witnesses don't get an opportunity to give their
5 evidence-in-chief so that they're reminded of their evidence-in-
6 chief. I would encourage them all to read their statements
7 before they come into this room so that they are aware of what
8 they said previously. But how much further are you going to
9 go, Mr. Maharaj?

10 **Mr. Maharaj SC:** I don't know but Mr. Mootoo was putting
11 to the witness that he did not say these things before at the
12 interview with the Commission.

13 **Mr. Chairman:** That's right.

14 **Mr. Maharaj SC:** And I was pointing out, I was pointing out
15 to the witness that what he said here is what he said to the
16 Commission in his statement.

17 **Mr. Chairman:** Certainly in part, yes.

18 **Mr. Maharaj SC:** Yes.

19 **Mr. Chairman:** All right, well, um—

20 **Mr. Maharaj SC:** So I won't be—just, just a few more. I just
21 want to point him out to these last three paragraphs.

22 **Mr. Chairman:** Very well, all three paragraphs at most
23 according to him.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. At paragraph 45 you said that Paria was aware that all the
26 resources came in for the boats to enter the channel and make
27 their way and tie off along side the berth, and then paragraph 46:

1 "I had discussions with Catherine and the other Paria
2 personnel present as to what resources were available us
3 to. Collin Piper whilst I was there did not visit berth 6."

4 And then at paragraph 47:

5 "No one from the management of Paria called me..."—et
6 cetera, et cetera.

7 Okay? So, in your statement to the Commission, you basically
8 gave the three rescue plans, not so?

9 A. Correct.

10 **Mr. Chairman:** Yes. I think in fairness to Mr. Mootoo he was
11 putting it that all the issues that he had asked in cross-
12 examination were not raised by any of the question and answer
13 session that took place and I think that's the point he was trying
14 to make.

15 **Mr. Maharaj SC:** Correct. At that time we didn't have the
16 benefit of Mr. Mootoo.

17 **Mr. Chairman:** I was about—you took the words out of my
18 mouth. Of course we didn't have the benefit of how
19 perspicacious Mr. Mootoo is in seeing this forward, but
20 anyway, thank you very much. Mr. Farah, thank you very
21 much—ah, sorry Mr. Wilson has.

22 **Examination By Commissioner Wilson:**

23 Q. Good afternoon, Mr. Farah. Thank you for coming. I heard
24 you mention in your statement that surface supplied equipment
25 coming. Do you have any recollection of the longest umbilical
26 in any of the equipment that showed up on the site?

27 A. Six hundred feet.

1 Q. Six hundred feet. And that was the longest?

2 A. Yeah.

3 **Commissioner Wilson:** Okay, thank you.

4 **Mr. Chairman:** Thank you very much, Mr. Farah. You are
5 free to go. You can now stay if you like. You can now even
6 watch the screen if you like, all right? But, um, please, don't
7 discuss your evidence with anyone else, all right, that's yet to
8 give evidence, please? Thank you. You're free to go.

9 *[Mr. Andrew Farah leaves Enquiry room]*

10 **Mr. Maharaj SC:** Our next witness is Mr. Michael Kurban.
11 And, um—

12 **Mr. Chairman:** Mr. Kurban is next. We may only be able to
13 deal with Mr. Kurban, I think.

14 *[Mr. Michael Kurban enters enquiry room and is sworn]*

15 **Mr. Kurban:** I, Michael Kurban, solemnly swear that the
16 evidence I shall give to the Commission in this case shall be the
17 truth, the whole truth and nothing but the truth.

18 **Mr. Chairman:** Mr. Kurban, everybody here knows you lost
19 your father and you will be treated with courtesy and respect.
20 I'll make sure of that, all right? I understand that this is not
21 going to be easy for you. I'm sure it's something you've lived
22 with ever since that day. What we're going to do is, is it Mr.
23 Bissessar?

24 **Mr. Bissessar:** Yes. I, I—

25 **Mr. Chairman:** Mr. Bissessar is going to summarize the
26 evidence you've given to us so far, all right? That, I hope, will
27 make it a little easier. Listen to him carefully and if you agree

1 with his summary of your evidence, that will serve as your
2 evidence, all right, and then everybody else here will restrain
3 themselves in asking you such questions as are vital for the
4 purposes of our enquiry and no more. All right? If you have
5 any difficulty or you want to take a break or anything of that
6 kind, you've only to raise your hand, you ask me and you'll get
7 it. All right? Do you understand?

8 **Mr. Kurban:** Yes.

9 **Mr. Chairman:** So please take your time, you've got some
10 water in front of you. I know it's not going to be easy but thank
11 you for coming. All right?

12 **Mr. Kurban:** Okay.

13 **Mr. Bissessar:** Thank you, Chair.

14 Michael Kurban is a marine captain and a certified
15 commercial diver with his own diving company and he also
16 works with different companies. His father was Faizal Kurban,
17 one of the deceased divers. Michael Kurban, following an
18 interview with the legal team, gave a witness statement dated
19 31st O October, 2022. This is at WB 1601. He was
20 represented by counsel during the interview. In his witness
21 statement, Michael Kurban said that the facts in his witness
22 statement were true and correct.

23 Michael Kurban says that on 25th February, 2022 around
24 3.30 p.m. his brother, Nicholas Kurban, called him and told him
25 that there was an incident on berth 6. He spoke to Andrew
26 Farah who believed that the divers were in the pipeline.
27 Michael Kurban arrived at berth 6 with Corey Crawford and

1 Ronald Ramoutar and Corey and Ronald went into the habitat
2 and brought Christopher out of the pipeline. Christopher told
3 him, that is Michael Kurban, that his father, Faizal Kurban, was
4 right behind him and Kazim and Yusof were waiting for him.
5 He said Christopher said to him to go and rescue them.

6 Michael Kurban complains that Paria told him not to dive
7 in the pipeline but he responded that the men's lives were at
8 risk and Paria could not stop them from going to rescue the
9 divers. He recalls that the Paria person told him that he was
10 just telling him what management was saying. The Paria
11 person said that he knew the situation and Mr. Kurban should
12 do what he wants to do.

13 Michael Kurban says that the Paria guys were in the
14 office and were not seeing what was going on at the site. He
15 said that he, Corey, Ronald and Dexter Guerra formulated a
16 new dive plan to go into the pipeline and they assembled the
17 dive equipment and he then went into the habitat and Corey and
18 Ronald assisted him, holding on to the rope while he went into
19 the pipeline feet first.

20 He met one dive tank in the riser which he pushed aside
21 and continued going down the riser, made the bend and entered
22 the horizontal for about 10 to 15 feet. Michael Kurban says it,
23 it was completely dark in the pipeline but he had his dive light
24 with him, and, with the exception of the tank he pushed away
25 and another floating to the top of the riser, he did not see any
26 other objects there. He heard pounding in the pipeline. He said
27 no one was pounding from the outside because he, Corey and

1 Ronald made it clear going in that no one should pound.

2 Michael Kurban explains that the entire length of the
3 pipeline which he entered was full of water. He says that when
4 he arrived at the airtime limit, he was approximately 10 to 15
5 feet in the horizontal and he then came back. Michael Kurban's
6 evidence is that he reported to Corey and Ronald what he saw
7 when he came back and everything was set up to go back into
8 the water. He had commercial helmets connected to an
9 umbilical and Conan was willing to go into the pipeline with
10 him with Andrew and Conrad monitoring from the top.

11 Michael Kurban says that Catherine Balkissoon told them
12 that they were not allowed to go in the pipeline again because
13 management was having a meeting and that Paria will make a
14 decision and let them know. He remembers that the coast guard
15 officers told him that the coast guard were there to make sure
16 that they, meaning Michael Kurban and the divers, do not go
17 back into the pipeline.

18 Around 11.00 p.m. on Friday, Catherine Balkissoon told
19 Michael Kurban and the divers that Paria had appointed Subsea
20 Global to use their divers to bolt the riser back at berth 6 to
21 equalize the water displacement in the pipe and take off the cap
22 on top of the riser at berth 5 as they wanted to bring a crawler
23 camera to send into the pipeline. Michael Kurban says that the
24 job to connect the riser was done at 12.30 a.m. on Saturday
25 morning and the crawler arrived at 3.00 a.m. and left at 5.00
26 a.m., but he was not allowed to see the footage.

27 Michael Kurban recalls that Andrew Farah and Dexter

1 Guerra told him that Paria wanted LMCS to have a permit for
2 anything they wanted to do. Michael Kurban left Paria at about
3 midday on Saturday and he said nothing was happening. He
4 tried to come back on Saturday but Paria did not want him to
5 come back on site. So he went to berth 6 with a friend's boat
6 and stayed at berth 6 until night-time.

7 Michael Kurban says that on Sunday morning while
8 LMCS was trying to remove the habitat with a crane, the
9 emergency brake on the crane failed and the habitat fell into the
10 sea, after which Paria stopped all operations. On Sunday at
11 about 7.46 a.m. Michael Kurban made an international
12 broadcast on canal 16VHF radio from Sunny Day which was
13 the marine channel. He says he made the broadcast to explain
14 what was taking place at Paria. Paria then told him not to
15 broadcast information on channel 16.

16 He says that in the meantime all of Paria's shipping
17 operations were continuing as normal with berthing ships. He
18 left Paria on Sunday morning. Michael Kurban says that his
19 extended family, including his mother, waited at Paria's main
20 entrance car park and he was interviewed by Phillip Alexander.
21 He says that his family was not informed, before the media
22 conference on Sunday, that Paria had moved from rescue to
23 recovery and no one from Paria visited his family before the
24 bodies were recovered. He says that a rescue was possible and
25 that Paria waited out the time and that Paria's officials should
26 have been on site to respond and not in an office.

27 Michael Kurban believes that a rescue could have

1 occurred. He said that LMCS rescued Christopher and this
2 gave them hope that everyone was alive. Christopher told them
3 where everyone was and that his father, Faizal Kurban, was
4 alive and right behind him. Michael Kurban says that even
5 though Christopher was injured, he came out of the pipeline.
6 Mr. Kurban explains that he entered the pipeline and just came
7 back out. He didn't see any reason for Paria to stop them from
8 doing the rescue. He says that Paria waited out the time.

9 Mr. Kurban questions why Paria was having a meeting if
10 they knew that people's lives were at risk. He says that Paria
11 sued have been on the site to respond and that whatever
12 decision was taken should have been taken on site and not from
13 an office. Mr. Kurban further states that LMCS had all of the
14 equipment on site.

15 Mr. Kurban's evidence is that Paria knew about the
16 rescue plan and the equipment because LMC had told them, and
17 told this to Catherine, what the dive plan was. He says that they
18 do not—that they did not do this in a document form because
19 these things take time. They wanted a rescue and they didn't
20 need to present any documents for a rescue operation. Mr.
21 Kurban also said that attempts were made to communicate with
22 Paria about the rescue plans through Catherine and through
23 radioing them.

24 Mr. Kurban, is that a fair and accurate summary of your
25 evidence?

26 **Mr. Kurban:** Yes.

27 **Mr. Bissessar:** Thank you.

1 **Examination By Mr. Chairman:**

2 Q. Mr. Kurban, there's just one thing I'd like to ask you, please? I
3 think you told us in your statement that you had previously
4 dived in a pipeline yourself. Is that right?

5 A. Yes, correct.

6 Q. How long ago was that?

7 A. That was on the same job with Christopher Boodram.

8 Q. I'm sorry, I can't hear you?

9 A. On the same job with Christopher Boodram and my dad.

10 Q. You see, you speak very fast.

11 A. Yeah.

12 Q. I, I—

13 A. On the same job on berth 6 Christopher Boodram was talking
14 about.

15 Q. Right.

16 A. Yeah, that same job.

17 Q. So on berth 6 when the riser there was being repaired—

18 A. Yes.

19 Q. —did you dive in the pipe there?

20 A. Yes.

21 Q. So it's a 30-inch pipe, is it?

22 A. Yes, I—yes, that is correct, it is, yeah.

23 Q. And why did you do that?

24 A. The same thing that needed to put a gasket on the riser to, um—

25 Q. From the inside?

26 A. Yeah.

27 Q. How far into the pipe did you go?

1 A. I couldn't estimate that at that time.

2 Q. Not far?

3 A. Not, probably about 20 feet.

4 Q. Right.

5 A. Yeah.

6 Q. Is it the—and was that the own time you've been, apart from
7 this occasion, the only time you'd been in the pipe?

8 A. Yes, correct.

9 Q. Yeah, all right. Yes, thank you very much.

10 **Mr. Chairman:** I've no other questions. Does anyone else
11 wish to ask Mr. Kurban any questions? Yes, Ms. Alfonso?

12 **Ms. Alfonso:** I'll be very brief, Mr. Chairman.

13 **Cross-Examination By Ms. Alfonso:**

14 Q. Good afternoon, Mr. Kurban. My name is Nyree Alfonso and I
15 represent the interest of the SWWTU. In paragraph 38 of your
16 statement, your witness statement, that is page 1606—

17 **Mr. Chairman:** It's going to be brought to you, Mr. Kurban.
18 It's being handed to you.

19 [*Document handed to Mr. Kurban*]

20 **Continued Cross-Examination By Ms. Alfonso:**

21 Q. You see that paragraph, Mr. Kurban?

22 A. Yeah.

23 Q. Could you explain who the "we" is you're referring to? "We
24 repeatedly tried to convince Paria." Who is "we"?

25 A. Means that we me, Ronald and Farah, Dexter.

26 Q. Okay. And when you say Paria, could you assist me in who in
27 Paria you were referring to?

- 1 A. The Paria personnel that was on site.
- 2 Q. Okay. You know any names at all?
- 3 A. No, not—
- 4 Q. No? Okay, was there a lady by any chance?
- 5 A. Well at that time Catherine didn't arrive.
- 6 Q. Okay, so you know Catherine Balkissoon?
- 7 A. Well I know her that night.
- 8 Q. You know—oh, from that night.
- 9 A. Yes.
- 10 Q. But you didn't know the other persons, the other Paria
11 personnel?
- 12 A. No I wasn't on that job so—
- 13 Q. Okay.
- 14 A. —I don't know the Paria personnel.
- 15 Q. Okay, that, that—fair enough, fair enough. And could you also
16 assist me, later on in that same paragraph, "Paria's plan was to
17 equalize the air, um, to equalize the air. It was not a rescue
18 plan. Paria did not attempt to rescue." So let me just go with
19 that first sentence. Could you assist us in when you say Paria
20 wanted to equalize the air, what did that mean? In your mind,
21 what did that mean?
- 22 A. Well, they say they wanted to remove the cap by number five,
23 the blank.
- 24 Q. The?
- 25 A. The blank.
- 26 Q. I see. Oh—
- 27 A. So they wanted to equalize by connecting the riser by number 6

1 and removing the cap by number 5.

2 Q. Okay. So that is the—that's what they mean?

3 A. That means equalize, they want to equalize the pressure.

4 Q. Oh, I see.

5 A. Equalize the pressure.

6 Q. Thank you very much, because I was a little bit lost when I read
7 that. I thought it was something to pump or something like
8 that. And I just wanted to be clear, Mr. Kurban, you were able
9 to swim past two tanks, as far as you could go down into the
10 pipe with the umbilical?

11 A. First tank was in the surface in the pipe.

12 Q. I see.

13 A. Second tank is where you're seeing the camera.

14 Q. Okay. And you were able to swim past that—

15 A. Yes.

16 Q. Well, twice?

17 A. Once.

18 Q. Once. In, out, okay. Or, so you didn't go past it?

19 A. Yes, I passed the tank.

20 Q. Okay. And on the way out?

21 A. Well yes, I pushed the tank down further and I continue
22 ascending down.

23 Q. Okay, so you passed it—

24 A. Yes.

25 Q. —twice?

26 A. Yeah.

27 **Ms. Alfonso:** Okay. That is all for you, Mr. Kurban. Thank

1 you very much.

2 **Mr. Chairman:** Anyone else? Yes.

3 **Mr. Peterson SC:** Thank you, Mr. Chairman.

4 **Cross-Examination By Mr. Peterson SC:**

5 Q. Afternoon, Mr. Kurban.

6 A. Good afternoon.

7 Q. Just—I wouldn't be long with you. I understand the
8 circumstances. But, the pipe that you said that you had entered
9 previously, on a previous job, was that—what size of pipe was
10 that? Wasn't it a 50-inch?

11 A. I can't be approximately on the size but probably was a bigger,
12 a, a—

13 Q. A bigger pipe. Because I thought it was 50. Was that a dive in
14 which Andrew Farah was involved?

15 A. Yes.

16 Q. Yes. Thought so.

17 **Mr. Chairman:** Was it on the same occasion?

18 **Mr. Peterson SC:** Yes.

19 **Mr. Chairman:** Both you and he had entered that pipe?

20 **Mr. Kurban:** Yes.

21 **Mr. Peterson SC:** Yes.

22 **Mr. Chairman:** Okay, thank you very much.

23 **Mr. Peterson SC:** So you could take it from us it was 50
24 inches? I think—

25 **Mr. Chairman:** Just take it from him that it was 48 since
26 that's the evidence.

27 **Mr. Peterson SC:** Well 48—it was 48? [*Crosstalk*] Well, 48

1 inches or thereabouts.

2 **Continued Cross-Examination By Mr. Peterson SC:**

3 Q. The plan to enter—just now, you are a commercial diver, right?

4 A. Yes.

5 Q. Are you a saturation diver?

6 A. No I'm not.

7 Q. But you know that Mr. Beddoe is a saturation diver? You know
8 that?

9 A. Who's Beddoe?

10 Q. Um, well you know him by Conan?

11 A. Conan.

12 Q. Conan Beddoe?

13 A. Yeah.

14 Q. You know him to be an experienced saturation diver?

15 A. Yes.

16 Q. And that I understand is one of the highest levels of
17 qualifications you can get as a commercial diver? Do you
18 know?

19 A. Right, yeah.

20 Q. That's correct, eh?

21 A. Yes.

22 Q. When you got—approximately what time you got to the scene?

23 A. Approximately 4.30.

24 Q. Four-thirty. So you were there when Christopher Boodram
25 came out?

26 A. Well me, Corey and Ronald was on site.

27 Q. Right.

1 A. We assisted Corey to come, um—Christopher out the chamber.

2 Q. At 4.30 when you arrived, you weren't at that point being
3 restricted by anyone from entering the pipeline?

4 A. At that time, no.

5 Q. Right. And tell me this, when you later were informed that
6 there was a restriction on entering the pipeline, you understood
7 the restriction was not to enter the pipeline as opposed to the
8 habitat?

9 A. Okay, um, so when I reach on site, at that time we dived the
10 chamber. We didn't dive the—

11 **Mr. Chairman:** Could you pull the microphone a little closer?

12 **Continued Cross-Examination By Mr. Peterson SC:**

13 A. We dived in the chamber. We didn't dive in the pipeline.

14 Q. Right.

15 A. The second attempt was to go in pipeline.

16 Q. The second attempt was to go in the pipeline?

17 A. Because when we rescued Christopher.

18 Q. Right. I understand that there were five divers present when
19 you were going to execute a plan. There was—they were
20 Corey, Ronald, Andrew, Dexter Guerra and yourself?

21 A. Correct.

22 Q. But you said that there were—two of those persons were
23 prepared to go into the pipe, two of those five that I just set out
24 there, four and yourself. Who are the two that were prepared to
25 enter the pipe?

26 A. It was only me was—planned to enter the pipe with Corey and
27 Ronald.

1 Q. With Corey and Ronald?

2 A. Assisting me, not going in the pipe, two of them going,
3 assisting me.

4 Q. Beg your pardon?

5 A. They was assisting me in the chamber—

6 Q. Yes.

7 A. —for me to go in the pipe.

8 Q. So who—you were the one willing to go in the pipe or was
9 there any other person?

10 A. I was the one willing to go in the pipe.

11 Q. You were the one willing to go into the pipe. And, in fact, you
12 all went—left topside and went into the habitat to execute that
13 plan to go into the pipe at some stage, right?

14 A. That's what we did.

15 Q. Beg your pardon?

16 A. That's what we did.

17 Q. Yes.

18 A. Yeah.

19 Q. And you had gone down there with Mr. Beddoe also when he
20 arrived?

21 A. That's after.

22 Q. After, yeah?

23 A. After we came back, when I went in the pipeline—

24 Q. Yes.

25 A. —came back out—

26 Q. Yes.

27 A. —with Corey and Ronald—

1 Q. Yes.

2 A. —then we execute a next plan with Mr. Beddoe.

3 Q. Right. Thank you for that.

4 A. Yeah.

5 Q. So you went down with Corey and Ronald, you came back up,
6 then when Mr. Beddoe arrived there was the plan to go to do a
7 rescue, a second attempt?

8 A. The second attempt because the air line, I reach a limit of the
9 air line.

10 Q. Right. That is down the riser and about 20 feet, thereabout,
11 inside?

12 A. Approximately 10 to 15.

13 Q. Or 10 to 15, sorry. All right.

14 A. So basically, when we came back out, we formulate a plan—

15 Q. Right.

16 A. —to go with a scuba tank.

17 Q. Right.

18 A. And that's when Mr. Beddoe was involved.

19 Q. And that's when Mr. Beddoe was assisting you?

20 A. Yes.

21 Q. That plan, what—when—how were you to execute that plan?

22 A. How?

23 Q. Yeah. What was the plan?

24 A. Try to reach a further limit with the scuba tank because we
25 didn't have a limit on a scuba tank.

26 Q. Yeah, but how you all were—who were to be in the pipe, who
27 was to be in the chamber, who was to be up topside, you

1 remember?

2 A. It was Mr. Beddoe, Ronald and myself.

3 Q. Who were in the chamber?

4 A. Yeah.

5 Q. Right.

6 A. And I supposed to go down in the pipe.

7 Q. You supposed to go down in the pipe?

8 A. Yeah.

9 Q. Was—you were the one who volunteered to go down in the
10 pipe at that stage?

11 A. At that stage I was the onlies' one volunteered. Mr. Beddoe
12 was there as well.

13 Q. Anyone else and what—

14 **Mr. Chairman:** Sorry Mr. Kurban, can I ask you to move that
15 whole microphone to your left? That's—yes.

16 **Continued Cross-Examination By Mr. Peterson SC:**

17 Q. Apart from you, understandably, wanted to go into the pipe,
18 was there anyone else at that stage with respect to that plan
19 prepared to enter the pipe?

20 A. Well Mr. Beddoe was prepared as well.

21 Q. To go into the pipe?

22 A. Yes.

23 Q. Yes. That plan, when you all got into the chamber, you all
24 were sitting on the rim of the pipe at that stage?

25 A. Not the rim.

26 Q. Yes.

27 A. It was in the chamber.

1 Q. In the chamber?

2 A. Yeah.

3 Q. Yeah.

4 A. Around the rim.

5 Q. Around the rim?

6 A. Yes. Not on top of the rim.

7 Q. Not on top of the rom. But that plan was aborted?

8 A. Yes.

9 Q. By Mr.—who made that call to abort it, Mr. Beddoe?

10 A. I made that call.

11 Q. You made that call?

12 A. Because when we checked the psi on the tank that we had, and
13 we estimate the depth and the time to take that inside a pipeline,
14 it wasn't enough air.

15 Q. Repeat that?

16 A. It wasn't enough air in the tank that we had.

17 Q. It wasn't enough air in the tank that you had and that's why you
18 all abort it and came back up?

19 A. Came back up to rig the commercial equipment this time.

20 Q. Mr. Beddoe says it a bit differently.

21 A. Uh-huh.

22 Q. And I want to be accurate as to what he said. Mr. Beddoe said
23 that he aborted it because he did not like—he was not—he
24 doesn't—didn't think you were in a sound mind to properly
25 tend him.

26 A. Mr. Beddoe wasn't in a sound mind?

27 Q. You. Let me read his full paragraph to you.

1 "Michael, Ronald and I"—this is Mr. Beddoe.

2 A. Uh-huh.

3 Q. "Michael, Ronald and I then entered the habitat."

4 That's correct, right?

5 A. Correct.

6 Q. "When we entered the habitat, I sat on the RIM of the
7 pipeline to enter and just when I looked at Michael"—I
8 take it that's you—"he did not look as if he was in a
9 sound mind to properly tend me."

10 I guess that's a diving expression. What does that, what does
11 that mean?

12 A. Tend means assist him.

13 Q. To assist him.

14 "So, I made a decision let's wait until my brother come
15 so that we would be in a better—we'll be better equipped
16 to enter the pipeline and we would have better air source
17 as well as communication."

18 So, do you accept—well, you are telling us that the aborting
19 was due only to the shortage of air but Mr. Beddoe is saying
20 when he looked at you, understandably, because your father
21 was at that stage missing, he did not think you were of sound
22 mind to carry out the exercise.

23 A. I wouldn't say so.

24 Q. Yeah, you wouldn't say that?

25 A. Because three of us remained—

26 **Mr. Chairman:** I'm going, I'm going to call a halt to this.

27 Yes, thank you. I don't think this is necessary and—I don't

1 think this is necessary.

2 **Mr. Peterson SC:** Very well, Sir.

3 **Mr. Chairman:** We all understand the position. We
4 understand there's a diversity of opinion here.

5 **Mr. Peterson SC:** Yes.

6 **Mr. Chairman:** But I don't think it's necessary to put that in
7 detail to this witness. I'm very conscious of what Mr. Beddoe
8 says.

9 **Mr. Peterson SC:** Very well, Sir. Once—well, I didn't do it
10 gladly, Sir, but I had to let him know what Mr. Beddoe said as
11 the—

12 **Continued Cross-Examination By Mr. Peterson SC:**

13 Q. So when you—at that stage when you came back up, before
14 you all went into the chamber, on that occasion, where was the
15 plan formulated?

16 A. On the barge.

17 Q. On the barge. Was that plan communicated to the coast guard?
18 Did you see them at that stage?

19 A. Yeah there was—they was around.

20 Q. But at that stage do you recall if the plan was communicated to
21 them or you can't remember?

22 A. Actually, when we was in the water, when we was in the water
23 add we came back out, coast guard told us to come out the
24 water.

25 Q. All right.

26 A. So we came out. We came on the barge, discuss with them
27 what we going to do, what was the plan.

1 Q. Right.

2 A. Coast guard say they wasn't fit to dive in the pipe. Them
3 wasn't trained to dive in the pipe.

4 Q. They said they weren't trained to dive in the pipe?

5 A. They say they not trained to dive in the pipe. Was we
6 formulate a plan as commercial divers we going with
7 equipment in the pipeline.

8 Q. Do you recall, by chance, if you know, which officers told you
9 that from the coast guard?

10 A. I don't recall the name. I don't recall the name.

11 Q. You don't know any of them before?

12 A. Is multiple of them so I can't recall.

13 Q. Yes.

14 A. I was more focused on getting equipment, putting the gear
15 together.

16 Q. No, I was just wondered if you knew any of them before that,
17 you're familiar. But, um, I just want to take you to paragraph
18 14 of your statement where you said that a Paria person then
19 responded to you and was telling you that wash management
20 was saying, but he said that you know the situation and do what
21 you want—14—what you want to do and you said you
22 understand that to be unofficial authorization. So he didn't stop
23 you from doing what he thought you wanted to do. Paragraph
24 14.

25 A. No, he didn't, he didn't—he could—he didn't stop me but—

26 Q. Right.

27 A. But you are—I asked him who stop me—who was telling you

1 to stop me and he said it was Piper.

2 Q. Uh-huh.

3 A. So I told him, I say, men lives at risk, why you—why Piper
4 telling us to stop, not to go in the pipe?

5 Q. Right. And he told you do what you have to do. What I'm
6 trying to get from you is that he didn't tell you you cannot go in
7 the water at that stage?

8 A. We actually was in the water when I was talking to him.

9 Q. Or, okay, right.

10 A. Yeah.

11 Q. And that's when you—after that, that's when you went into the
12 hyperbaric—the habitat?

13 A. Yes.

14 Q. Right. [*Pause*] Just two more questions, Mr. Kurban. Did you
15 tell anyone from Paria what you had encountered in the pipe
16 when you went down and the 10 or 15 feet? Did you speak to
17 anyone?

18 A. Yes, Catherine.

19 Q. And you told her what you encountered?

20 A. Yes.

21 Q. Right. When—do you remember in the series of events at what
22 stage that was?

23 A. That is when we came out the water.

24 Q. When you came out the first time?

25 A. The second time.

26 Q. The second time.

27 A. Came out the water. That's when I met Catherine on the barge.

1 Q. Right.

2 A. And they was asking questions on the—I had reported Andrew
3 Farah and Dexter instantly.

4 Q. Right.

5 A. But they had probably done told Catherine.

6 Q. No well you can't speculate on that?

7 A. So I, I already—when I came I talked to Catherine, I explained
8 to them what was the condition of the pipe.

9 Q. Right that's when you came out from the water the second time
10 or the first time?

11 A. I was in the water all the time. I didn't came out the water.

12 Q. No well the hyperbaric chamber—so you went in the chamber,
13 you went down and you went the 10, the 15 feet and you came
14 back, you came out the chamber?

15 A. Right.

16 Q. Then you went back into the chamber a second time. Is when
17 you came out that second time you said that's when you met
18 Catherine?

19 A. That's when the coast guard let us come out the water.

20 Q. That's when?

21 A. That's when the coast guard let us come out the water and
22 that's when I talk to Catherine.

23 Q. Okay.

24 **Mr. Peterson SC:** That's all I have for this witness, Sir.

25 **Mr. Chairman:** Thank you. Anything else? No? Good. Mr.
26 Maharaj?

27 **Mr. Maharaj SC:** No.

1 **Mr. Chairman:** No. Well I'm pleased to say that that is your
2 evidence today. Thank you. We don't need you again.
3 Grateful for you coming. What I want you to know that
4 certainly everybody over here, and I imagine everybody over
5 there, deeply feel your loss and I'm very sorry about it indeed.
6 We will get to the bottom of this, I can assure you, all right?

7 **Mr. Kurban:** I appreciate that.

8 **Mr. Chairman:** Well, thank you very much for coming and
9 you're free to go. You can stay or leave as you please now and,
10 um, thank you.

11 *[Mr. Michael Kurban leaves enquiry room]*

12 **Mr. Chairman:** We'll take a 10-minute break, please, or shall
13 we make it five? Five-minute break.

14 **3.57 p.m.:** *Enquiry suspended.*

15 **4.03 p.m.:** *Enquiry resumed.*

16 **Mr. Chairman:** Yes thank you. We're going to have next—

17 **Mr. Maharaj SC:** Mr. Conan Beddoe.

18 **Mr. Chairman:** Beddoe, yes. Thank you, Mr. Maharaj. Mr.
19 Beddoe was unavailable on Monday so we've changed the
20 order slightly so he's going to be giving evidence now and he's
21 going to be the last witness today. So, as soon as we all finish
22 with him we can all go home.

23 *[Mr. Conan Beddoe enters enquiry room and is sworn]*

24 **Mr. Beddoe:** I, Conan Beddoe, solemnly swear that the
25 evidence I shall give to the Commission in this case shall be the
26 truth, the whole truth and nothing but the truth.

27 **Examination By Mr. Chairman:**

1 Q. Good afternoon, Mr. Beddoe.

2 A. Afternoon, Sir.

3 Q. What we're going to do is, I understand you're not available on
4 Monday that's why we've moved you slightly out of turn. All
5 right, well, we're trying to accommodate you so, um, what's
6 going to happen next is Mr. Bissessar who sits on the end of the
7 row here is going to read a summary of your statement, all
8 right? Listen to him carefully. If it accurately reflects that
9 which you have told us—

10 A. Yes.

11 Q. —then we need take it no further, otherwise, please tell us
12 otherwise so that we know what you're saying. Then there'll
13 be a number of questions from those who are interested and
14 hopefully we'll get—well we will get you done today. All
15 right?

16 A. Okay.

17 **Mr. Bissessar:** Thank you, Chair.

18 Mr. Conan Beddoe was interviewed by the legal team
19 and submitted a witness statement dated 27th October, 2022.
20 This is at WSB one two four one. He said that the facts stated
21 in his witness statement are true and correct to the best of his
22 knowledge, information and belief. Mr. Beddoe was
23 represented by counsel at the interview.

24 Mr. Beddoe says that he has been a certified saturation
25 diver since 2017 which is the highest level of diving. Part of
26 his training involved living in a pressurized container on a ship
27 for over 20 days in a confined test. This is the same pressure as

1 in underwater. Mr. Beddoe explained that all of the diver
2 courses he had done included rescues as part of the training and
3 he has worked as a diver in the United States, Guyana,
4 Trinidad, Barbados amongst other countries.

5 He has worked locally for OTSL, Hull Support and Trin
6 Dive Underwater Services and internationally for Subsea
7 Global, Miami Divers, Seaquest Diving, Carl Diver and S&J
8 Diving. The type of work which he did as a diver including
9 flanging pipelines, inspection of pipelines, installation of risers,
10 making ties on pipelines, salvage and repairs on pipelines.

11 Mr. Beddoe received information of the accident at
12 around 3.37 p.m. on Friday, 25th February, 2022 from his
13 brother, Conrad Beddoe, who is also a commercial air diver and
14 he arrived at Pointe-a-Pierre at around 5.00 p.m. He says he
15 knew one of the divers, Faizal Kurban, and he had diving
16 equipment and tanks with him. He arrived just as Christopher
17 Boodram was being taken to the hospital and he said he spoke
18 to Christopher Boodram who he knew before the accident. He
19 said Christopher told him “Boy, Conan, go for them boys”, and
20 Mr. Beddoe told him “I”, meaning of course, Mr. Beddoe, “was
21 going.”

22 Mr. Beddoe says he spoke to Andrew Farah, Michael
23 Kurban, Corey Crawford, he knows him as Cor X, and Ronald
24 Ramoutar and together they made a rescue plan by which Mr.
25 Beddoe would enter the habitat to make an assessment using
26 rope while Andrew Farah and another person would be tending
27 the rope from the barge. If Mr. Beddoe assessed that he could

1 do the rescue he would go back in the habitat with Michael and
2 Rory and he would go into the pipeline using a rope and scuba
3 feet first. He said no one at that stage tried to stop them from
4 going into the habitat or the pipeline.

5 Mr. Beddoe entered the habitat and assessed the pipeline
6 and then gave a thumbs up to the others before he, Michael
7 Kurban and Ronald Ramoutar entered the habitat. He looked at
8 Michael and felt that Michael was not in a sound mind to
9 properly assist him, so he decided to wait until his brother,
10 Conrad Beddoe, came to enter the pipeline with better
11 equipment, air source and communications, so they returned to
12 the surface. Andrew Farah then told him that coast guard said
13 they had to wait and after about 15 minutes he was told by his
14 brother, Conrad, that he was at the front gate waiting and
15 Conrad was also waiting on another vessel with surface supply
16 equipment, umbilicals and helmets.

17 When Conrad came they set up the equipment and it was
18 agreed that Conan would go in feet first and someone would
19 tend the hose. He said he had a 300-foot umbilical. Mr.
20 Beddoe explained to his brother, Conrad, how it looked in the
21 pipeline. The plan was for Mr. Beddoe to go in feet first and
22 someone would tend the hose. His intention was to go as far as
23 the umbilical would allow. If he didn't see anything after 300
24 feet, then there was nothing he could do. If he came into
25 contact with one of the men the plan was that he would bring
26 him out. The plan was also that if he encountered any
27 obstructions, he would take them out one at a time at as many

1 times as he could.

2 Mr. Beddoe at this time found out that they were not
3 permitted to go into the water because Paria was waiting on the
4 coast guard. He said he was not involved in any talks with
5 Paria about the rescue plan at this time and Andrew dealt with
6 Paria. After 8.00 p.m. an officer arrived from coast guard and
7 spoke to Conrad and Andrew. Andrew told him that they
8 informed the coast guard of the rescue plan. Mr. Beddoe also
9 observed that other vessels arrived at the site while he was on
10 the barge. The vessel owned as Gulf Stream Marine was
11 owned by OTSL and the vessel known as Waterworld was
12 owned by Subsea Global, used to be called Miami Divers.

13 They arrived to give assistance. They had their full dive
14 spread which included an unlimited source of air and also other
15 divers. Mr. Beddoe says that the coast guard did not render any
16 assistance. They simply arrived and did nothing. He explains
17 that he has done diving in a confined space in the past. He did
18 this at PowerGen when he cleaned their salt water in takes
19 which sucks water from the sea.

20 At 8.30 p.m. Mr. Beddoe went into the habitat with
21 Ronald Ramoutar and bolted on the riser extension to prevent
22 any suction happening again. Adam Houlier from the
23 Waterworld and Subsea Global was in the water holding the
24 light for them. Mr. Beddoe stayed on the barge until 8.00 a.m.
25 Saturday morning hoping that they would get the go-ahead for
26 the rescue. He then went home and waited all day for a call to
27 rescue the men. He was on standby. His brother, Conrad, also

1 left at this time.

2 On Sunday morning, Mr. Beddoe accompanied Kazim
3 Ali Sr., Imtiaz Ali and Andrew Farah to a meeting with Collin
4 Piper, Mushtaq Mohammed and a Paria team to discuss LMCS'
5 rescue plan. The rescue plan was more or less the same as
6 before. The difference now was that Paria would not say that
7 there would be another suction event again because the riser
8 was now extended out of the water. Mr. Beddoe's dad, Russell
9 Beddoe, who is also and ADCI diver was at this meeting.

10 Mr. Beddoe says that in the morning meeting Collin
11 Piper and others were present on behalf of Paria which said that
12 they wanted LMCS to submit the rescue plan and that it wanted
13 a risk assessment, a job hazard analysis and basically a full dive
14 plan that would be required in normal circumstances. Mr.
15 Beddoe says he went back to the office with the LMCS persons
16 who prepared the documents which they showed to him.

17 Kazim Ali Sr., Imtiaz Ali, Andrew Farah and Mr. Beddoe
18 returned on Sunday at about 4.00 p.m. with his father, Russell,
19 and Mr. Haseeb Ali and met with the Paria team where they
20 were eventually advised that Paria was moving from rescue to
21 recovery and would flush the divers out. Mr. Beddoe said that
22 more persons were present at this meeting than the other one.
23 When they got to the meeting everyone announced themselves.
24 Some persons attended via voice conference. He said that there
25 was a person from the coast guard also on voice conference.
26 Kazim Ali Sr. then presented the plan.

27 He says that Krishna Fuentes one of the divers that Paria

1 had on the video—Mr. Fuentes is also a saturation diver and
2 he's also an IMCA certified supervisor. Mr. Fuentes was
3 asking how LMCS was going about doing the plan and who
4 would be going in as it would be a voluntary mission as this is
5 not normal diving. Mr. Beddoe then stepped in and he
6 identified himself to Krishna Fuentes who knew him
7 personally.

8 Mr. Fuentes told him that he agreed with the plan and
9 had no doubt that Mr. Beddoe could execute the plan, that his
10 only concern was the radiation build-up of hydrocarbons inside
11 the pipeline and what side effects this would have on Mr.
12 Beddoe. This was now a concern to Mr. Beddoe because he
13 never took this into account. Collin Piper said that he did not
14 think that radiation would be an issue. Mr. Fuentes asked
15 whether Paria was willing to guarantee that if any side effects
16 happened to him, that is Mr. Beddoe, within 20 years whether
17 Paria would he accountable. At this point, everyone went
18 silent. No one from LMCS responded.

19 Mr. Beddoe explains that he was still willing to go into
20 the pipeline once Paria agreed that they would be accountable
21 to him medically if anything were to go wrong 20 years in the
22 future from radiation. Paria rejected the plan and LMC left.
23 With the exception of Mr. Fuentes, no one said that they had
24 any safety concerns with respect to the plan. However, Mr.
25 Beddoe recalls someone on the video call, as well as the coast
26 guard person, saying what if the line cut? However, according
27 to Mr. Beddoe, there was nothing to cut the line. The coast

1 guard person asked how LMC S was going to move along the
2 pipeline and recover anything. Kazim Ali Sr. answered these
3 questions and the JHA dealt with those issues.

4 Mr. Beddoe had the impression that Paria didn't want the
5 rescue due to the fact that they wanted a recovery due to the
6 fact they were pointing out all the negatives of the plan without
7 actually listening to the entire plan. Mr. Beddoe says he had no
8 hesitation in the plan and he was fully confident in it. His
9 father, Russell, would have been the standby diver to go in if
10 anything were to happen to him. He had no concerns about
11 going into the pipe. Mr. Beddoe says that there was enough
12 room to go in.

13 Mr. Beddoe concludes that diving is his profession, and
14 he would like to know that should anything happen to him that
15 there would be other people who would be willing to come and
16 get him back the same way he was willing.

17 Mr. Beddoe, is this a fair and accurate summary of your
18 witness statement?

19 **Mr. Beddoe:** That is correct.

20 **Mr. Bissessar:** Thank you.

21 **Mr. Chairman:** Mr. Beddoe, just a couple of things please
22 before I hand you over to others?

23 **Examination By Mr. Chairman:**

24 Q. First of all, at paragraph 26 of your statement—it's going to be
25 handed to you now. Just wait one moment please?

26 A. All right. [*Document handed to Mr. Beddoe*]

27 Q. This is a little after I think eight o'clock that night?

1 A. Yeah.

2 Q. Because previous paragraph deals with it at that time. So, what
3 we know at this stage is this, isn't it, that a few hours earlier,
4 Mr. Boodram had emerged from the pipe.

5 A. Correct.

6 Q. And you and a range of others were invited to come and see
7 what you could do to rescue?

8 A. Correct.

9 Q. You're a very experienced highly qualified diver?

10 A. To a point, yeah, I would say so but not really.

11 Q. Well you're being I think a little modest if I may say so. Your
12 qualifications speak for themselves. What I want to ask you is
13 this. First of all, is there a fraternity amongst divers like
14 yourself working in the commercial diving world?

15 A. Yes, we have a association.

16 Q. Right. And do you know many of the people in this country
17 and elsewhere who engage in this kind of work?

18 A. Diving, yes.

19 Q. Yes. And I imagine it's a relatively small compass of people?

20 A. Correct.

21 Q. And no doubt you would expect, if you were in that situation,
22 others like yourself would come to your aid?

23 A. Yeah, I would like to believe so.

24 Q. And so you answered the call to come and help?

25 A. Correct.

26 Q. Did you know the people that were involved in the pipe?

27 A. I've worked with them in the past, yes.

1 Q. And by the time, I was referring you to paragraph 26 of your
2 statement in which you say:

3 "I observed that other vessels arrived at the site whilst I
4 was on the barge. The vessel known as Gulf Stream
5 Marine owned by OTSL and the vessel known as
6 Waterworld is owned by Subsea Global also Miami
7 Divers."

8 You've told us, I think that you used to work for them as well?

9 A. Yeah.

10 Q. "They arrived to give their assistance. They had their full
11 dive spread which included an unlimited source of air
12 and also divers."

13 A. Correct.

14 Q. Pausing there please, at this time around eight o'clock or so—

15 A. Yes.

16 Q. —that evening, a few hours after Mr. Boodram had come out of
17 the pipe, was there anything more that you could have wanted
18 or demanded before entering that pipe to—

19 A. No.

20 Q. —rescue these men?

21 A. No.

22 Q. I mean, in an ideal world could you have said, "Give me this
23 and I will go"?

24 A. Just—we had everything already. We didn't need anything
25 else.

26 Q. All right. That's the first thing. The second thing is this,
27 please? At paragraph 33, would you turn to that please? This

1 is now many, many hours later—

2 A. Yeah.

3 Q. —after Mr. Boodram had emerged from the pipe and one would
4 be forgiven for thinking that perhaps these men may not have
5 survived by now.

6 A. Uh-huh.

7 Q. In any event, this is now Sunday the 27th of February, all right?

8 A. Yeah.

9 Q. And it is in the morning, so something like 36 plus hours after
10 the event happened?

11 A. Correct.

12 Q. Yeah? In the morning, there was a meeting with Collin Piper
13 and others who were present on behalf of Paria and you
14 attended that meeting?

15 A. Yes, I did.

16 Q. “Paria said that they wanted us to orally submit a plan
17 that they wanted a risk assessment, a job hazard analysis,
18 basically a full dive plan that will be required in normal
19 circumstances.”

20 A. Yeah.

21 Q. Right. Now, were these normal circumstances?

22 A. No it's not.

23 Q. Did you regard that demand as reasonable?

24 A. Not exactly.

25 Q. Well you'd better explain what you mean by not exactly?

26 A. Because—

27 Q. Could you turn to that microphone or bring the microphone to

1 you whichever? Yes.

2 A. Basically is, diving is not physically safe on most instances
3 because it's not—we're not designed to be below there.

4 Q. We're not fish?

5 A. No.

6 Q. Right.

7 A. So, in this instance it's entering a pipeline. This is way above
8 normal.

9 Q. Right.

10 A. And we already had everything set to go, we already—

11 Q. So there is an inherent risk whatever you do?

12 A. Regardless what, is risk.

13 Q. Right.

14 A. So, it's not in the normal practice to enter a pipeline.

15 Q. Did you not think that given that it was a significant risk for
16 anyone to be asked to enter that pipe—

17 A. Yeah.

18 Q. —that a demand or a request for a risk assessment, a job hazard
19 analysis, and a full dive plan was not an unreasonable request?

20 A. No. I mean, it fairly is but at the same time it's a rush. We
21 needed a rush on it.

22 Q. You need a rush on it?

23 A. Yeah, because, I mean in my instance I still hoping that they
24 would have been alive.

25 Q. You were still hoping they would be alive?

26 A. Yeah.

27 Q. Well, I dare say everybody else was still hoping they'd maybe

1 still be alive, but that hope was diminishing quickly?

2 A. Correct.

3 Q. Right. What would you regard as the best possible time within
4 which to operate once you knew Mr. Boodram had come at out
5 alive?

6 A. The same Friday night.

7 Q. That Friday night?

8 A. Yeah. We already had everything there.

9 Q. You had everything there?

10 A. Yeah.

11 Q. Do you believe you could have effected a rescue?

12 A. I would like to believe so, yes.

13 Q. On the final day there was some mention of radiation. Are you
14 aware of this radi—or had you—

15 A. At the time—

16 Q. —had you heard of that?

17 A. —at the time, no.

18 Q. You'd never heard of it?

19 A. No.

20 Q. Had you done any research since?

21 A. Not much just minor lil small read-up on it.

22 Q. Yeah. It's a highly controversial—do you know whether that's
23 the case or not?

24 A. Well, without specific facts I can't really dig up in it fully.

25 Q. I don't have anything.

26 **Mr. Chairman:** All right, thank you very much. There'll be, I
27 suspect, some questions from others. I'm going to ask from the

1 back of the courtroom first, please, anybody wishes to ask any
2 questions? Mr. Mootoo? Mr. Mootoo? Then I think it's up to
3 you. Or Mr. Peterson's going to ask?

4 **Mr. Peterson SC:** Yes, thank you.

5 **Mr. Chairman:** All right.

6 **Mr. Peterson SC:** Thank you, Mr. Chairman.

7 **Cross-Examination By Mr. Peterson SC:**

8 Q. Mr. Beddoe, good afternoon.

9 A. Good afternoon, Sir.

10 Q. You're a saturation diver.

11 A. Yes.

12 Q. First time I heard of the term but I gather it's the highest
13 qualification of a diver?

14 A. Yes.

15 Q. Or very high. And at the meeting on the Sunday there was
16 another saturation diver, Mr. Fuentes?

17 A. Correct.

18 Q. Yes. You've known him before that Sunday?

19 A. I knew him before, yes.

20 Q. Yeah, in the industry?

21 A. Yes.

22 Q. You have any reason to doubt his competence in the area of
23 diving?

24 A. No.

25 Q. He is the person who raised the issue of the radiation?

26 A. Correct.

27 Q. Did you—you were hearing about radiation in that context for

1 the first time?

2 A. Correct.

3 Q. And did you ask him to elaborate on—

4 A. Well he did, he did elaborate on it.

5 Q. Because he was saying that that was a risk that you all did not
6 factor in?

7 A. Correct.

8 Q. After he elaborated, were you still convinced that he was just
9 being overly cautious or he didn't know what he was talking
10 about?

11 A. No, well I know him on personal level and I don't think he
12 would put my life at risk by—or just trying to hinder me—

13 Q. Yes.

14 A. —for no apparent reason.

15 Q. For no apparent reason. The coast guard was also part of that
16 meeting?

17 A. Correct.

18 Q. And there was some issue about a hazmat diving suit?

19 A. Yeah.

20 Q. I don't know what that is.

21 A. Well Fuentes mentioned the hazmat suit.

22 Q. And he said there were none in the country?

23 A. Yeah.

24 Q. And it will be too long to bring one in?

25 A. Well, I say it might a take too long to bring one.

26 Q. Or, you said it would take too long?

27 A. Yeah.

1 Q. But did you know if there was any in the country at the time?

2 A. Not hundred per cent but, I mean, it still—it's not something we
3 does use in Trinidad.

4 Q. It's a rare thing?

5 A. Yes.

6 Q. Because, you don't dive into—well, you don't have events like
7 this in Trinidad really?

8 A. No and it's something will dry rot if you—

9 Q. And it's something that will dry rot if it's not used?

10 A. Yeah.

11 Q. The coast guard being part of that discussion, did they volunteer
12 to participate in the rescue?

13 A. No.

14 Q. No.

15 A. They say they not trained to do that.

16 Q. They say they not trained to dive into pipelines?

17 A. Correct.

18 Q. From your experience as a saturation diver which I was
19 impressed when I saw the mode by which you were trained, do
20 you know of any other persons in Trinidad qualified to dive into
21 pipelines like that in that kind a space?

22 A. Confined space?

23 Q. Yes.

24 A. A few. A few.

25 Q. But are those persons also saturation divers?

26 A. Some yes, some no.

27 Q. So it's a rare skill?

1 A. Yeah.

2 Q. When you arrived at the—at Paria's site, that Friday evening I
3 think you got there around five o'clock?

4 A. Yeah.

5 Q. You spoke with Christopher Boodram who you saw was just
6 being boarded onto an ambulance?

7 A. Correct.

8 Q. Yes. And he told you that you should go for those guys?

9 A. Correct.

10 Q. Did he tell you anything about the condition within the pipe?

11 A. No. We didn't have much conversation because they were
12 checking him out, the medic.

13 Q. Did he tell you that they were—

14 **Mr. Chairman:** I'm struggling to hear you, Mr. Beddoe.

15 **Mr. Beddoe:** Or, sorry.

16 **Mr. Chairman:** Just make sure you use that microphone,
17 please.

18 **Mr. Peterson SC:** Yes.

19 **Continued Cross-Examination By Mr. Peterson SC:**

20 Q. You didn't have much conversation, but—

21 A. No.

22 Q. —you realized he was covered in what appears to be black,
23 thick oil?

24 A. Correct.

25 Q. Yeah. And did that inform an opinion you make at that stage as
26 to what the condition in the pipe might have been?

27 A. At the time I wasn't focused on how he was looking. I was just

1 happy to see that he alive and he just tell me, “Ey, the rest a
2 them there. Go for them.”

3 Q. Did he tell you anything about air pockets at that stage?

4 A. No.

5 Q. Right. How did you get from there out to the berth?

6 A. The coast guard vessel.

7 Q. The coast guard vessel took you?

8 A. Yeah. There was a small craft there.

9 Q. Yes. And you got out there and when did you formulate a plan
10 to dive?

11 A. When I got out there probably like about 10 minutes within
12 being there, I spoke with Andrew, I spoke with a couple other
13 guys there and I got dressed and entered the water just to make
14 a assessment for mihsself.

15 Q. And at that stage the coast guard didn't try to stop you?

16 A. No.

17 Q. Neither did any Paria security try to stop you?

18 A. Correct.

19 Q. Yes. And you went into the water and went into the habitat?

20 A. Correct.

21 Q. Yes. You did your assessment?

22 A. Yes.

23 Q. And you came back out?

24 A. Correct.

25 Q. And you what, reformulated a plan or you used the same plan—

26 A. Well, we reformulated a plan which is the same rope to tend the
27 divers down inside.

1 Q. And then you revisited the chamber—

2 A. Yeah.

3 Q. —to execute the plan?

4 A. Correct.

5 Q. And you aborted the plan when—

6 A. At that stage, yes.

7 Q. At that stage. And in the details that were set out we got the
8 reason why you did not—

9 A. Correct.

10 Q. —think that Michael could have assisted you?

11 A. That is correct.

12 Q. You have done rescues before?

13 A. In school, yes, because we don't get to use this as often.

14 Q. Sorry.

15 A. We don't get to do rescues on a real life situation on a normal
16 [*Inaudible*]. Before every job you get to practise a dive.

17 Q. Or you get a—

18 A. Yeah.

19 Q. It's part of your training that persons who are intimately and
20 emotionally involved with a target that you're going to rescue
21 should not be part of the decision-making process?

22 A. I would like to say it depends on the situation.

23 Q. Yes. What you mean by that?

24 A. Because, if it is, if it is your family in there you will be a lil
25 more hasty, yes, which is what you're saying but in my case
26 they are not physically my family, I just know them.

27 Q. Yes.

1 A. But not on a personal level. I know them.

2 Q. Not on personal level.

3 A. I just know them.

4 Q. Yes.

5 A. But I still have the drive to go for them regardless.

6 Q. Yes, yes, no, no, that's commendable. I not attacking that at
7 all. That's understandable. But in the—you have been through
8 drills for rescues?

9 A. Yes.

10 Q. And have you ever had a drill with respect to this type of rescue
11 like in a pipeline or anything that type?

12 A. No.

13 Q. So you said you form—you went in, you assess and you came
14 up and you formulated a plan. Having formulated that plan, did
15 you communicate it to the coast guard?

16 A. No.

17 Q. Did you communicate it to anyone apart from—

18 A. Andrew.

19 Q. Andrew?

20 A. Yeah.

21 Q. Andrew Farah?

22 A. Correct.

23 Q. Part of your team?

24 A. Yes.

25 Q. The first time you were speaking to Paria persons would have
26 been when, the Saturday, the Sunday when?

27 A. Sunday.

1 Q. When you went to that meeting the morning?

2 A. Correct.

3 Q. With Mr. Kazim Ali Sr.?

4 A. Yes.

5 Q. Tell me something. A rescue in something like that 30-inch
6 pipeline, part of a risk assessment would be what size bottles
7 you will use or what source of air you would use?

8 A. Yes.

9 Q. And I saw in your statement you referred to small bottles? Was
10 what is—

11 A. The pony bottle. Is not actually a pony, it's like a cubic feet
12 smaller. It have the 80 and it have the 50. It have some a them
13 come as 30. We were going with the 50.

14 Q. All right. That would have been part of your risk assessment?

15 A. Yes.

16 Q. Yes. I think you told the Commission that the request by Paria
17 to have a risk assessment before a dive like that is not
18 unreasonable?

19 A. No.

20 Q. In fact it's a standard requirement for a dive especially in a
21 confined space like that?

22 A. Yes.

23 **Mr. Peterson SC:** One minute, Mr. Chairman.

24 *[Mr. Peterson SC confers with Mr. Mootoo]*

25 **Continued Cross-Examination By Mr. Peterson SC:**

26 Q. Right, so I was at the stage where you said the plan was
27 formulated and you have your team and you were ready to go.

1 Having seen earlier the oil and Mr. Boodram's skin, did you
2 realize that you were diving into a pipe that may have had
3 hydrocarbons?

4 A. At the same Friday night? No.

5 Q. Right.

6 A. I wasn't thinking about all that at the time.

7 Q. Were you aware as to what may have caused the men to enter
8 the pipe?

9 A. Well that would be differential pressure.

10 Q. Right. Oh, so you're familiar with what we call—

11 A. Yes.

12 Q. —Delta P?

13 A. Yes.

14 Q. All right. And were you aware that the Delta P occurred where
15 a inflatable plug had disappeared into the line?

16 A. At the same Friday night the same said time, no, but it's only
17 after when the—when I entered the water to extend the pipe I
18 got that from it.

19 Q. To extend the riser?

20 A. The riser, yes.

21 Q. Which would have eliminate the possibility of the—

22 A. Correct.

23 Q. —of any Delta P?

24 A. Correct.

25 Q. But earlier in the Friday afternoon when you were—formulated
26 the plan to go into the pipe you did not factor in the possibility
27 of a second—

1 A. A second slip, no.

2 Q. A second Delta P, all right. You call it a slip. All right. What
3 time did the riser go in to eliminate the possibility of a second
4 event, you remember?

5 A. That might have been a lil after 10.00, after 11.00, somewhere
6 there so. It was late.

7 Q. It was late?

8 A. I know it was late already.

9 Q. It was late already. And you had no idea whether there were
10 any other obstructions within the pipe?

11 A. At the time, no. Only when they stuck the camera down inside
12 I saw it on the video.

13 Q. Right. Because your initial survey that you said you did when
14 you were formulating the plan did not—

15 A. Yeah. It did not have anything right there and the water black,
16 so—

17 Q. Right, it did not have any—

18 A. Floating on the surface.

19 Q. Any floating on the surface, and you did not enter the pipe at
20 that stage?

21 A. No.

22 Q. So it's only when the camera was inserted—

23 A. Yes.

24 Q. —and you saw that there was a blockage?

25 A. Yeah.

26 Q. That was Saturday morning?

27 A. That would have been—when the camera went in, yes.

1 Q. Yes, around 3.00—I think was 3.00 a.m.? It was 3.00 a.m. It
2 was around 3.00 a.m. Saturday morning. So you were prepared
3 on Friday night to go in but you realized what I just went
4 through there with a set of risk, you would have been going in
5 without those risks being addressed?

6 A. Yah, but, you will take them out one by one as normal the same
7 way.

8 Q. You will take out?

9 A. Whatever would have been blocking it.

10 Q. Right.

11 A. Because for it to enter it must be able to come back out.

12 Q. Yes, I know.

13 A. It was nothing—

14 Q. I take that. That is with the execution of the plan.

15 A. Yes.

16 Q. But what I'm saying is that when you formulated the plan, all
17 those factors I just pointed out to you, the hydrocarbons, the
18 possibility of the plug being in the line, the possibility of a
19 second event, the blockage, all those factors, those are risk
20 factors you would accept?

21 A. Yeah, at the time, at the Friday night, yes.

22 Q. Those weren't—right, but those weren't factored in in your
23 earlier plan because you weren't—

24 A. No.

25 Q. —aware of them?

26 A. Correct.

27 Q. As part of that, um—one of the risks, you did not have any idea

1 as to how the—well, I know it's a obvious question but we need
2 to get it for the record. You did not know how the men were
3 positioned in the pipe?

4 A. Correct.

5 Q. And your plan to rescue them took into account what—any
6 particular position the men may have been in?

7 A. At the time, no.

8 Q. Because if they were in—

9 A. Because at the time it's more a question of light.

10 Q. If they were head in first it would have been more difficult than
11 if they were feet in first?

12 A. Correct.

13 Q. Yes. I saw something curious from Mr. Fuentes' comment at
14 the meeting on the Sunday. He was asking how you are going
15 to do the plan and who would be going in and he said it would
16 be a voluntary mission. What he meant by that?

17 A. Because at the time you have to volunteer to go inside a
18 pipeline. This is not something that no company has ever hired
19 anyone to enter a pipeline.

20 Q. Yeah, because you said it was not a normal dive?

21 A. Correct.

22 Q. Right.

23 **Mr. Peterson SC:** I want to thank you very much, Mr.
24 Beddoe, for your time.

25 **Mr. Beddoe:** Okay.

26 **Mr. Chairman:** Thank you, Mr. Chairman.

27 **Mrs. Persaud Maraj:** I have one question for Mr. Beddoe.

1 Thank you.

2 **Cross-Examination By Mrs. Persaud Maraj:**

3 Q. Mr. Beddoe, was there any significance of the fact that Mr.
4 Boodram was alive in operation in your mind when you had
5 planned on going in for the dive, the rescue?

6 A. On the Friday night?

7 Q. On the Friday night.

8 A. On the Friday night I didn't actually think much about the
9 dangers of it. I was just more seeing it as a next diver inside
10 there in assistance.

11 Q. All right.

12 A. Need assistance.

13 Q. But what I'm asking you, the fact that Mr. Boodram—you had
14 seen—you said you saw—

15 A. Yes, I saw him.

16 Q. You saw Mr. Boodram. And the fact that he was alive—

17 A. Alive.

18 Q. —and you saw him, did that operate in your mind to any
19 significance?

20 A. Yeah, that would mean that the other guys still alive, because if
21 he came out, the others would be there and then he said go for
22 them, so in other words he would like to believe that they right
23 there too.

24 Q. Thank you.

25 A. So—

26 **Examination By Mr. Chairman:**

27 Q. All of the issues that Mr. Peterson has raised with you that you

1 didn't consider, you've been frank enough to tell us, on the
2 Friday night—

3 A. Yes.

4 Q. —such as the possibility of another Delta P, the oil, the
5 hydrocarbons that were inside there and so on, you remember
6 he was asking you about those?

7 A. Yeah.

8 Q. You knew that Mr. Boodram had come out of the pipe?

9 A. Correct.

10 Q. And was alive.

11 A. Yes.

12 Q. And do you, do you—did you know that the other divers were
13 said to be in air pockets within the pipe?

14 A. At the Friday night? No.

15 Q. So you hadn't acquired that information that others were in air
16 pockets?

17 A. At the Friday night, no.

18 Q. What did you think they were breathing?

19 A. Well, the scuba bottles would have gone in with them and the
20 volume of air would have been trapped somewhere I was
21 hoping it would have have but I didn't guarantee or I didn't
22 even heard about it before.

23 Q. Did you know how long Mr. Boodram had been in the pipe?

24 A. Probably like a hour. I, I, I assuming.

25 Q. Do you know now?

26 A. Not exactly, no.

27 Q. Do you know that it was two and a half hours?

1 A. Two and a half?

2 Q. Yes.

3 A. No I didn't.

4 Q. Well the best diver in the world could he last on one tank for
5 two and a half hours?

6 A. No.

7 Q. Even—no matter how shallow you breathe?

8 A. Correct.

9 Q. But you didn't know that at the time?

10 A. No.

11 Q. Your natural instinct was, "I'm a diver, they're divers, let me
12 help"?

13 A. Yes.

14 Q. Now that was it, isn't it?

15 A. That is correct.

16 Q. And you wouldn't be surprised that there were others at Paria
17 and so on who were saying, "Hold on a minute. We need to
18 take stock before you go charging in there"? You wouldn't be
19 surprised about that, would you?

20 A. No.

21 Q. No. However, there came a time when you did know more?

22 A. Yes.

23 Q. And there came a time when there were a good deal more
24 professionals on site?

25 A. Yes.

26 Q. Did you have in your mind at any point in time, even now
27 looking back on it, any doubt that you might have been able to

1 effect a successful rescue?

2 A. The Friday night I—looking back at it now, I still would have
3 gone.

4 Q. Yeah. There's one other thing I wanted to ask you. Yes. This.
5 You may have been persuaded, because of some argument
6 about potential radiation, not to enter the pipe. I don't think
7 you necessarily are saying that, but, even if you were persuaded
8 not to enter the pipe, were there other divers who were prepared
9 to enter the pipe?

10 A. I didn't speak to anyone else about if they were willing to go in
11 the Sunday after—

12 Q. No, no.

13 A. —we heard about it.

14 Q. Before that, up until that time. I mean, were you the only
15 volunteer?

16 A. I don't know. I didn't ask, I didn't ask much about that. I
17 didn't ask much people.

18 Q. You just volunteered yourself?

19 A. Yeah.

20 **Mr. Chairman:** Yes, thank you very much. Anything else?
21 No? Thank you very much. You're free to go. Thank you for
22 coming.

23 *[Mr. Conan Beddoe leaves Enquiry room]*

24 **Mr. Chairman:** Now, I understand we still have Mr.
25 Ramoutar. Is there any reason why we can't try and dispose of
26 this witness today? Let's have Mr. Ramoutar, shall we? Let's
27 do our best. Do you think you're likely to be lengthy with him?

1 What I don't want to do is to call and then not have him back
2 until Monday with a three-day break bearing in mind what
3 happened today.

4 **Mr. Peterson SC:** After today, Sir, I—

5 **Mr. Chairman:** Y-S.

6 **Mr. Peterson SC:** Yes, we could probably try to get him. Yes,
7 let's have him. That's because he doesn't have anything long.

8 **Mr. Chairman:** Good. Excellent. Thank you, thank you for
9 that, Mr. Peterson.

10 **Mr. Peterson SC:** It's a repetition of areas we have covered
11 before.

12 [*Mr. Ronald Ramoutar enters arbitration room and is sworn*]

13 **Mr. Ramoutar:** I, Ronald Ramoutar, solemnly swear that the
14 evidence I shall give to the Commission in this case shall be the
15 truth, the whole truth and nothing but the truth.

16 **Mr. Chairman:** Do take a seat. Now, it's very important that
17 when you do speak you lower that microphone down so it's
18 level with your mouth and bring it a little closer to yourself.
19 That's perfect, all right.

20 Now, what's going to happen now is Ms. Maharaj, who
21 sits there, is going to be summarizing your evidence you've
22 given, all right, in your statement. That will serve as your
23 evidence-in-chief. It will hopefully save us a little time. Please
24 listen carefully to her summary, all right, and if you disagree
25 with it tell us at the end.

26 **Mr. Ramoutar:** Okay.

27 **Mr. Chairman:** She's going to read that to you now. We're

1 expecting to dispose of your evidence today so that you'd be
2 able to go and not have to return, unless you want to, when
3 you're allowed to, to sit at the back of the court all right? But
4 for now pay attention to what she has to say. Am I right in
5 understanding you're known as Rolly?

6 **Mr. Ramoutar:** Yes.

7 **Mr. Chairman:** Right, okay, thank you. All right, Ms.
8 Maharaj.

9 **Ms. Maharaj:** Thank you.

10 Mr. Ramoutar attended an interview at the Commission
11 and a witness statement was prepared for him. He reviewed
12 and signed his witness statement on the 31st of October. His
13 witness statement is at the witness statement bundle page 1610
14 Volume IV.

15 Mr. Ramoutar is a certified commercial diver. He was
16 the brother-in-law of Faizal Kurban. At about 5.20 p.m. on the
17 25th February Mr. Ramoutar arrived at Paria's compound and
18 headed to berth 6 with Michael Kurban and Corey Crawford to
19 assist in rescue efforts of the missing divers. When they arrived
20 at berth 6 they were told multiple times by Paria personnel that
21 they did not have permission to enter the water. At this point,
22 Mr. Ramoutar stated that he still wasn't sure if the divers were
23 in the pipeline or in the water.

24 Mr. Ramoutar stated that Michael Kurban and Paria
25 personnel had a few words back and forth but he, Mr.
26 Ramoutar, and Corey Crawford entered the water. Corey
27 Crawford and Michael Kurban proceeded with caution to the

1 hyperbaric—sorry, Corey Crawford and Michael Ramoutar
2 proceeded with caution to the habitat. They entered the
3 chamber and heard a voice calling and a knocking sound. Mr.
4 Ramoutar climbed into the habitat. He looked into the pipeline
5 and saw Christopher covered in oil. Christopher got scared
6 when he saw him and pulled back. He asked, “Who is you?”
7 Mr. Ramoutar bent down and told him his name.

8 Mr. Ramoutar then tried to pull him up but he was too
9 slippery. Corey Crawford came into the habitat at this time and
10 they both assisted Christopher out of the pipeline. Christopher
11 kept telling him that Fyzie was right behind. Corey Crawford
12 took Christopher to the surface but Mr. Ramoutar remained in
13 the habitat for about 10 minutes to see if anyone was coming
14 out of the pipeline. He tapped the pipeline with a four-tap
15 emergency, using the chain block, and he felt a vibration of four
16 taps coming back from inside the pipeline. He repeated this
17 code a few times and every time he got the same response.

18 Mr. Ramoutar then went back to the surface and he and
19 Michael and Corey decided to go into the pipeline since at this
20 point they knew that everyone was in the pipeline because
21 Christopher said they were in an air pocket. They then returned
22 to the habitat with a dive tank with a hose on it called a hookah.
23 Mr. Crawford and Mr. Ramoutar assisted Michael Kurban into
24 the pipeline.

25 They held the dive tank and Michael Kurban entered the
26 pipeline with the hookah. He went as far as he could until he
27 reached the limit of the hookah. Mr. Ramoutar and Mr.

1 Crawford tugged him to let him know that the hookah had
2 reached its limits. When he came back out Michael Kurban
3 told him that he reached a little after the elbow and saw
4 nothing. He didn't take anything out of the pipeline.

5 Another diver known to Mr. Kurban as Conan arrived at
6 the site. Michael Conan and Mr. Kurban decided to go back
7 into the habitat. The new plan was that Conan and Mr.
8 Ramoutar would assist Michael Kurban into the pipeline with
9 one tank and with two regulators and two second stage so that
10 two persons could breathe out of the same tank. However, in
11 the habitat Michael Kurban wasn't feeling comfortable and they
12 decided to abort.

13 According to Mr. Ramoutar, they then proceeded to the
14 surface and started making phone calls to get other divers and
15 other equipment. At about 7.30 p.m. Mr. Alvin Seeterram from
16 Subsea Global arrived with his vessel which was fully equipped
17 with commercial diving gears such as hats and a hose with
18 communication and camera. A rescue dive was planned for
19 commercial equipment. Conan volunteered to go inside the
20 pipeline with commercial equipment. However, when they
21 were about to start the dive they were told by Paria officials to
22 wait until the coast guard arrived.

23 The coast guard came around after 8.00 p.m. and after
24 they were briefed by Paria officials, the coast guard indicated
25 that they did not have equipment to go inside because they were
26 not trained for that. Mr. Ramoutar stated that he and the other
27 divers decided to stick to the rescue plan but they were told by

1 Paria officials that they didn't have permission to go into the
2 pipeline and used the coast guard to stop them. According to
3 Mr. Ramoutar the coast guard was armed and told them that
4 they couldn't go into the pipeline.

5 Mr. Ramoutar stated that LMCS as well as Michael and
6 Corey tried on several occasions to convince the Paria
7 personnel and the coast guard for permission to do the rescue
8 by giving them details of the rescue plan, however they said no.
9 Later on Friday the 25th February, Mr. Ramoutar assisted in
10 works to connect the riser at berth 6. He says this was done at
11 about 10.30 p.m. He stated this was done to open the riser at
12 berth 5 as there were reports that knocking was being heard at
13 berth 5.

14 Mr. Ramoutar stated that he was present when Paria
15 inserted cameras into the pipeline in the early hours of
16 Saturday, 26th February. On Saturday, Mr. Ramoutar attended
17 a meeting with Paria and the Minister of Energy and Energy
18 Industries. After the meeting he went back to berth 6 but
19 nothing was happening. He left that evening and returned on
20 the morning of Sunday the 27th February. On Sunday evening
21 he was at Paria's media conference where it was announced
22 that Paria was now moving to a recovery.

23 He was present on Sunday 28th on LMCS' vessel whilst
24 the recovery efforts were ongoing. On Monday the 28th, Paria
25 officials came with special forces at berth 6 and requested
26 LMCS personnel to leave. LMCS personnel refused and their
27 phones were taken from them but Paria asked that LMCS vessel

1 Sunny Day moved to a different location and when they arrived
2 at this new location Paria put tarpaulin in front of where they
3 were going to conduct work to block LMCS from seeing what
4 they were going.

5 Mr. Ramoutar says that LMCS was able to position the
6 boat to try to see the recovery effort and he saw when bodies
7 were retrieved. Mr. Ramoutar stated that based on the
8 information Christopher gave, he believes that the rescue plan
9 would have worked. He says Michael entered the pipeline feet
10 first and if he had gotten into difficulty the hose was tied to him
11 and Mr. Ramoutar and others could have assisted by pulling
12 him back out with the hose. He says the process of Michael
13 going in and out of the pipeline took about 5 minutes.

14 Mr. Ramoutar, is that an accurate summary of your
15 evidence?

16 **Mr. Ramoutar:** Yes.

17 **Ms. Maharaj:** Thank you.

18 **Mr. Chairman:** Yes.

19 **Examination By Mr. Chairman:**

20 Q. Mr. Ramoutar, it hasn't escaped me that Fyzal Kurban was your
21 brother-in-law, wasn't he?

22 A. Yes.

23 Q. Yes, so please accept our condolences, all right?

24 A. Thank you.

25 Q. And I know this can't be easy, so, let me just ask you a couple
26 of questions please first? One thing is for sure, isn't it, in your
27 own mind, is that when Mr. Boodram emerged from that pipe,

1 there was at least one other person who was alive because you
2 were tapping on that pipe and he was tapping back?

3 A. Correct.

4 Q. So in your mind there was no question that there was at least
5 one other person alive?

6 A. Yes.

7 Q. And Mr. Boodram had told you Fyzie, your brother-in-law, was
8 right behind him.

9 A. Yes.

10 Q. Yes.

11 **Mr. Chairman:** I don't think there's anything else I need to
12 ask. Does anybody—I'm going to ask at the back of the court
13 first, does anybody need to ask Mr. Ramoutar any questions?

14 **Mr. Ramadhar:** No thank you.

15 **Mr. Chairman:** No. All right, thank you. Well, um, Mr.
16 Peterson.

17 **Mr. Peterson SC:** Just a few questions.

18 **Cross-Examination By Mr. Peterson SC:**

19 Q. Afternoon, Mr. Ramoutar.

20 A. Good afternoon, Sir.

21 Q. You saw when your colleague, Mr. Beddoe, arrived at the
22 location?

23 A. I—which person is that?

24 Q. Beddoe, Mr. Beddoe, Conan?

25 A. Well, I didn't actually see when he arrived but I—when I—the
26 first time I saw him he was in the water.

27 Q. Or, he was in—okay, right.

1 **Mr. Chairman:** What you need to do is you see that
2 microphone in front of you, move it right to your left. A little
3 more. A little bit more. Thank you. Right, now when you turn
4 to face Mr. Peterson we'll hear you.

5 **Continued Cross-Examination By Mr. Peterson SC:**

6 Q. At that time was it dark or it was just dusk?

7 A. Dusk dark.

8 Q. Right. The coast guard was already there?

9 A. Yes the coast guard vessel was there when I arrived also.

10 Q. Which is what, 5.00, 5.20 thereabouts?

11 A. Yeah. Well, no, when I arrived on the berth was closer to 6.00,
12 minutes to 6.00.

13 Q. And the vessel was already there?

14 A. Yes.

15 Q. The coast guard vessel was already there. Did they prevent you
16 from going into the water at that point?

17 A. No.

18 Q. Did any security from Paria prevent you from going into the
19 water at that point?

20 A. There was no—only was words. They were just telling us we
21 don't have permission.

22 Q. But you all—well, you ignored that anyhow and you all were
23 diving?

24 A. Yes.

25 Q. When Mr. Beddoe arrived you all put a plan together to attempt
26 to rescue?

27 A. Yes.

1 Q. And you attempted to execute that rescue but you aborted it at
2 some point?

3 A. Yes.

4 Q. Yes. You weren't working with LMCS at that time you were
5 working with Neptune?

6 A. Yes.

7 Q. That's another diving company?

8 A. Correct, yes.

9 Q. One of the specialist companies that came was Subsea Global?

10 A. Yes.

11 Q. Were they prepared to dive?

12 A. Yes.

13 Q. Who from that company had joined your plan to dive, if any?

14 A. Well, Mr. Conan also is work with them.

15 Q. Or, he works with them.

16 A. He's a—you know, we freelance with different companies.

17 Q. Or, okay. And Mr. Conan was the person you're talking about
18 from Subsea who was prepared to assist in the dive?

19 A. Yes.

20 Q. Okay, great.

21 A. Among with other divers.

22 Q. Among with other divers, but from other companies?

23 A. Yes.

24 Q. What about the coast guard, did anybody discuss with them
25 their ability to assist in diving?

26 A. Well we were told to—okay, when we told Paria about our plan
27 they told us to wait on the coast guard, divers this time. The

1 coast guard was there but the divers, like coast guard divers was
2 not there, so they told us to wait on the coast guard divers, and
3 when the coast guard divers arrived they say they don't—
4 they're not trained for that, to go down in—you know?

5 Q. To go down in the—because at that point, you knew—

6 A. We knew they was inside the pipeline.

7 Q. Right. And you would be able to tell them the size of the
8 pipeline?

9 A. Yes.

10 Q. The possible conditions of the pipeline?

11 A. Yes.

12 Q. And you formed the view as to the conditions in the pipeline
13 based on what you saw when Christopher Boodram was
14 rescued?

15 A. And what he told me, yes.

16 Q. And what he told you, because you were the one who assisted
17 in taking him at the head of the pipe out of the chamber?

18 A. Yes.

19 Q. Right. And having seen Mr. Boodram, you saw him covered in
20 what appeared to be oil?

21 A. Yes.

22 Q. So you know that the—at least the—one of the hazards in that
23 pipe would have been the oil, presence of oil?

24 A. Yes.

25 Q. All right. Also you knew about Delta P factor?

26 A. Yes.

27 Q. And you understood that that—at that stage did you understand

1 that that could have been a possible reason how your colleagues
2 ended up in the pipe?

3 A. Yes.

4 Q. Right. So you know that—did you also know that there was
5 possibility that equipment would also be in the pipe?

6 A. Yes.

7 Q. And did you know the possibility from that Delta P event that
8 there could have also been a plug, an inflatable plug, in the
9 pipe?

10 A. Yes.

11 Q. Because you have done this kind a work before?

12 A. Yes.

13 Q. And you also knew, apart from the inflatable plug, apart from
14 the equipment, that you did not know how many persons might
15 have been particularly in the pipe or you thought all the men
16 were in the pipe?

17 A. Christopher told us all of them were there.

18 Q. Or, Christopher told you all the men were in the pipe. Have
19 you ever done any rescue close to that or anything like that?

20 A. Well we trained for rescue in the confined space. When we
21 doing course, part of our course is training for, you know,
22 confined space rescue and stuff.

23 Q. Right. So, you—and you will describe that pipeline as a
24 confined space?

25 A. Yes.

26 Q. But in this case with added hazards like the presence of oil, the
27 equipment in the line. You have to say yes, because—

1 A. Yes.

2 Q. And one more thing, the—you said you were familiar with the
3 concept, the principle of the Delta P factor?

4 A. Yes.

5 Q. Did you also consider that there could have been a possible
6 second event?

7 A. Well, yes, but at that time life, you know, saving life was more
8 important.

9 Q. Yeah. All right. So that's what I want to know. So you
10 considered it but you chose—

11 A. Yeah.

12 Q. —that life is—yes. [*Mr. Peterson SC confers with Mr. Mootoo*]
13 Sorry, I thought I—I thought—I thought you had answered it. I
14 asked you about whether you had conducted such a rescue
15 before, you said you were trained to conduct confined space but
16 I asked you if you ever participated in an actual rescue of that
17 kind?

18 A. Not inside a pipeline.

19 Q. Not inside a pipeline, but confined space rescue?

20 A. Yes.

21 Q. Right. So where? Could you tell us what circumstances? Not
22 the exact particulars.

23 A. Well inside vessels. Right? We mostly deal with salvage in
24 vessels, ships, sunken ships and thing, and—

25 Q. Yes.

26 A. —and guys get stuck inside there, you went to rescue them.

27 Q. All right.

1 **Mr. Peterson SC:** Thank you very much, Mr. Chairman.

2 **Mr. Chairman:** Thank you. I think Mr. Wilson has a
3 question.

4 **Examination By Commissioner Wilson:**

5 Q. All right, good afternoon Mr. Ramoutar. I'm hearing about
6 your training in terms of confined space but are you aware of
7 the difference in diving in a pipeline if it's—if any at all, if
8 you're aware of it?

9 A. No.

10 Q. I offer you that diving in a pipeline is called penetration diving
11 or penetrant diving, penetration diving, so it might be slightly
12 different than confined space. Have you ever trained for diving
13 and/or rescue in penetration diving?

14 A. Well no, not inside pipelines.

15 Q. Not inside pipelines. All right. Your commercial diving ticket,
16 it's to a known standard or for from an accreditation body,
17 right?

18 A. Repeat that?

19 Q. Your commercial diving ticket, it's from a known diving body?

20 A. Yes.

21 Q. S trade association with accreditation. And that trade
22 association, there are stipulations into the methodologies of
23 diving throughout and how you execute diving safe works
24 scopes?

25 A. Yes.

26 Q. Right. In your training, in the accredited training site, did you
27 ever come across, a kind a repeating myself here, but I'm

1 getting to something, did you ever come across penetrant
2 diving, penetration diving?

3 A. But that's dealing with the pipeline, right?

4 Q. Yes.

5 A. Well, no.

6 Q. Well, no. In your experience as a commercial diver, then,
7 removing the standards, have you ever made penetration dives?

8 A. I made one, yes, I made penetration—diving is like, um,
9 pipeline, it's the same way in vessel. It have the pipeline, you
10 went into the pipeline to see what is inside there and thing.

11 Q. Uh-huh. At that time were you diving to a known standard or a
12 standard was absent?

13 A. Well probably standard was absent.

14 Q. Standard was absent. Thank you.

15 **Commissioner Wilson:** That's all.

16 **Mr. Chairman:** Yes, thank you very much. Mr. Maharaj,
17 anything?

18 **Mr. Maharaj SC:** No please.

19 **Mr. Chairman:** No, well, I think we made the right decision.
20 Thank you very much indeed for coming, Mr. Ramoutar. As I
21 say, you have our condolences.

22 **Mr. Ramoutar:** All right.

23 **Mr. Chairman:** Thank you for coming. All right, we'll call it
24 a day. You may go.

25 *[Mr. Ronald Ramoutar leaves Enquiry room]*

26 **Mr. Chairman:** Well that's the conclusion of this week. I did
27 indicate previously that we would entertain any question that

1 there might be from the media. If there is any query, given the
2 hour, I suggest you come and ask me later.

3 **Mr. Peterson SC:** Mr. Chairman, I have two housekeeping
4 matters.

5 **Mr. Chairman:** Of course.

6 **Mr. Peterson SC:** We have the pathologist, the experts, the
7 pathologists' reports. We would like to formally—well, we did
8 inquire as to whether we could have gotten images, notes,
9 photographs or any video recording of their examinations but
10 that request will have to come from the Commission to those
11 pathologists to provide it because they're the—

12 **Mr. Chairman:** What is it exactly you want? Have you
13 written and asked for this?

14 **Mr. Peterson SC:** Yes we did, yes.

15 **Mr. Chairman:** Just a minute. [*Mr. Chairman confers with*
16 *Ms. Sinanan*] Well, what I propose to do is this. I understand
17 you have written and asked us to obtain it. I will effect a
18 further request. Do you want them from both pathologists for
19 all four bodies?

20 **Mr. Peterson SC:** Yes, Mr. Chairman. We would like to
21 con—we have—we would like to consult our expert to give us
22 assistance and they have requested that they need, in order to
23 fully advise us, that material, which is—which I'm advised in
24 the examination of a—a post-mortem examination it's a
25 standard thing that notes, videotapes, slides, photographs would
26 have been taken so that, together with the report, would assist
27 our expert to tell us—

1 **Mr. Chairman:** I'm very, I'm very sensitive obviously to
2 photographs of those who have died being used for any purpose
3 other than what is strictly necessary in the process that this
4 Enquiry is engaged in. What I am prepared to do, you say you
5 have an expert. What expert? Is he another pathologist.

6 **Mr. Peterson SC:** Well, it's another pathologist. We're going
7 to be—we are get—seeking expert advice from pathologists.

8 **Mr. Chairman:** Right.

9 **Mr. Peterson SC:** And that is what they would need in order
10 to—

11 **Mr. Chairman:** Can, can I make—

12 **Mr. Peterson SC:**—because apart from that they just have the
13 reports.

14 **Mr. Chairman:** I understand, Mr. Peterson. What I'm going
15 to suggest is this, is that if you give us the name of the
16 pathologist that you want to examine the records obtained by
17 the existing pathologists in this case, what I will do is to arrange
18 for those pathologists to pass the material to your pathologist.
19 You don't need them unless you can persuade me that do you
20 for some reason. It seems to me if it's an—a matter of experts,
21 why is it necessary for you to have pictures?

22 **Mr. Peterson SC:** Well because, Sir, well, we have to get
23 advice. We have to consult with our expert and we will need to
24 cross-examine or examine our experts with respect to the
25 reports and the expert—Sir, the point is that if those are given
26 us to as counsel in the matter, we will give an undertaking that
27 they will be used between the experts for—

1 **Mr. Chairman:** No, I'm sure that that's right, Mr. Peterson.
2 I'm not suggesting that anything other than that, but you'll
3 appreciate that the families of those who have died will be a
4 little sensitive to the company who they may hold in some way
5 responsible for their death is now pouring over pictures of the
6 bodies. And I want to be sensitive to that, and, insofar as it is
7 strictly necessary were your pathologist to have additional
8 information I don't wish to, in any way, prevent you from
9 having that information if it's going to provide assistance to us,
10 but I am anxious to understand precisely why it is necessary to
11 have video footage or photographs and/or the notes of
12 pathologists in your hands if your pathologist is going to give
13 you an opinion. Presumably you have the questions you
14 already have in your mind for him to give you an opinion on
15 them.

16 **Mr. Peterson SC:** I have those too, Sir, but when I'm
17 consulting with our expert we will be in a conference and he
18 would be pointing out certain—and we will be interrogating his
19 conclusion if it's different from the experts.

20 **Mr. Chairman:** Right.

21 **Mr. Peterson SC:** But without that—Sir, I, um, I'm sorry, I
22 got the—

23 **Mr. Chairman:** Mr. Peterson, all right.

24 **Mr. Peterson SC:** You have our undertaking that it will be
25 kept solely for the purpose and—

26 **Mr. Chairman:** I think I want a slightly more restrictive
27 undertaking. I have no difficulty with you and Mr. Mootoo

1 having sight of this material but I would like to restrict it to you
2 two. Is there any reason why that shouldn't apply?

3 **Mr. Peterson SC:** No, Sir. we had planned to keep it to us
4 and our expert, as opposed to even the—

5 **Mr. Chairman:** I think if we can restrict it to you two—

6 **Mr. Peterson SC:** And our expert.

7 **Mr. Chairman:**—and your—obviously your expert yes.

8 **Mr. Peterson:** Yes.

9 **Mr. Chairman:** But you two as part of a team, I will agree to
10 that and I'll arrange for, insofar as I'm able, such notes as may
11 exist or photographs as they exist for you two, together with
12 your expert, all right?

13 **Mr. Peterson SC:** Thank you. Sir.

14 **Mr. Chairman:** And I take you—take it that you'll make sure
15 that that is the position and I know you will. All right, er—

16 **Mr. Peterson SC:** And the second request is we are in course
17 to comply with my undertaking to this commission with respect
18 to the outstanding—

19 **Mr. Chairman:** IMT note.

20 **Mr. Peterson SC:** Videos, um, WhatsApp material. We got a
21 jump drive and we'll be, um—tomorrow.

22 **Mr. Chairman:** Well, I think it's—what we've asked for at
23 the moment is the notes from the IMT.

24 **Mr. Peterson SC:** Yes, and also communication, electronic
25 communication.

26 **Mr. Chairman:** All communications that would have taken
27 place that were part of the process between the various parties

1 at the IMT.

2 **Mr. Peterson SC:** Yes, that's, that's what I understand. That's
3 the undertaking we gave that it will be available by tomorrow.

4 **Mr. Chairman:** Marvellous.

5 **Mr. Peterson SC:** Sir, we have a request in fairness of our
6 client if you can also request from LMCS the communication
7 with respect to that evening where, after the occurrence of the
8 event at 2.50 between the—yeah, between Friday the 25th and
9 Sunday the 27th, WhatsApp communication, emails
10 communication and/or notes, Sir, because we can't do it
11 ourselves.

12 **Mr. Chairman:** So you're asking me to obtain from LMCS
13 there WhatsApp communication. Do you know that there was
14 any?

15 **Mr. Peterson SC:** Sir, that's—well it's, if there are
16 communication. I will not know that, Sir, but the request is
17 always and that subpoena.

18 **Mr. Chairman:** Well it's very wide. I'm not sure I can deal
19 with it. If you're saying—there's a fundamental difference,
20 isn't there, between an IMT, which is a requirement, that it
21 automatically engages in a tragedy such as this, where there are
22 communications between the members of the IMT and minutes
23 to be kept at meetings, notes to be kept, and if you choose to
24 use a telephone to do it, by way of WhatsApp messages, well
25 that's matter for you or for the IMT. That is very different from
26 communications between individuals at the, a completely
27 separate company who don't have any legal obligation to create

1 an IMT or any obligation to keep a particular note. I mean if
2 it—I'm not sure what you're asking.

3 **Mr. Peterson SC:** No, Sir but contractually in this matter
4 LMCS are the first call emergency responders and Paria
5 contractually was to be the second tier. So that first, that's what
6 we are after, what was the communication with respect to
7 LMCS with respect to engaging that emergency provision
8 under the emergency plan which they contractually are obliged
9 to provide in the course of this contract.

10 **Mr. Chairman:** Communications between whom?

11 **Mr. Peterson SC:** Between members of LMCS, Sir, because
12 we heard that there were supervisors, there was the diving
13 surviving supervisors, there was Mr. Ali and all of that, we
14 want to see what was the response at that time with respect to
15 this incident.

16 **Mr. Chairman:** I have to say I'm extremely reluctant to make
17 some sort of Order that is going to disclose potentially personal
18 types of information, concerns that exist between family
19 members, I don't know the bounds of what you're asking me
20 are. Can I put it in this way? Given the hour—

21 **Mr. Peterson SC:** Mr. Chairman, I had that concern too that I
22 don't want to know who loves who but there's the redacting
23 process for that and also when we are disclosing emails, we are
24 scrubbing them to see if they're purely irrelevant material.

25 **Mr. Chairman:** Yes well I don't want anything that's
26 irrelevant obviously.

27 **Mr. Peterson SC:** Yes.

1 **Mr. Chairman:** But I am concerned about drafting any kind of
2 order that would meet what you're asking me for. So what I'm
3 going to do is this, Mr. Peterson. I suggest that since this is the
4 first you've raised of it and here we are in the end of the second
5 week of these hearings, that you put into writing the nature of
6 the Order that you would wish me to make.

7 **Mr. Peterson SC:** Sure.

8 **Mr. Chairman:** You draft it, send it to me via Ms. Sinanan
9 and then we will consider it.

10 **Mr. Peterson SC:** We will—

11 **Mr. Chairman:** There's no reason why we can't correspond,
12 as we have done, by email and if I feel it's fair, then I will make
13 that request but at the moment I'm not prepared to make any
14 kind of Order until I see exactly what it is that you're after.

15 **Mr. Peterson SC:** Sure, Sir. The request, I guarantee you, will
16 be a fair one.

17 **Mr. Chairman:** I'm sure. All right, well you've heard what
18 Mr. Peterson has been saying, Ms. Persaud Maraj, and we'll see
19 what comes my way, all right, and then I'll obviously engage
20 with you on that.

21 Are there any other housekeeping matters that I need to attend
22 to before we break off for Monday? No? Marvellous. Well,
23 look, thank you all very much for your cooperation this week.
24 Much has been learned, I hope, and I hope that the public
25 generally have been both interested, intrigued and informed by
26 what we've heard this week. So thank you all and I will see
27 you all on Monday. Apparently we're not finished. Start time

1 on Monday and it's been suggested 9.30. It's not going to be
2 9.30.

3 **Mr. Peterson SC:** Who suggested that, Ms. Sinanan?

4 **Mr. Chairman:** Relax, Mr. Peterson, I shan't be flying in,
5 unfortunately, until nearly midnight on Sunday night, so I can
6 assure you it won't be 9.30. We'll say ten o'clock, shall we?

7 **Mr. Peterson SC:** Yes, Sir.

8 **Mr. Chairman:** Ten o'clock. Thank you. Please feel free
9 because I have to pack my own things.

10 **5.12 p.m.:** *Enquiry adjourned.*

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EVIDENTIARY HEARING DAY 8

10.00 a.m.: *Enquiry commenced.*

Mr. Chairman: Good morning, everyone. Good morning.

Parties Present: Morning.

Mr. Chairman: Good morning. May I deal first of all with a couple of housekeeping matters? The first is this.

It has become clear that amongst those who were contacted by Paria, Heritage and others during the wake of the incident that we are investigating that Mr. Wilson, who sits with me as a Commissioner, was also contacted. I am satisfied that the contact with him was peripheral, no more than a general inquiry. It seemed to have extended to nothing more than that, “There was an incident. Are you able to help?” And then no further contact after saying, “Well call me”, and that seems to be about as far as it went.

So in those circumstances, I’m satisfied in no way affects at all his independence in this Enquiry but I thought it appropriate to mention it now, and if there are any issues they can be raised with me. If anyone needs to know to what extent there is any documentary support for any of that, I can point them, through my Secretary, in that direction. But I’m satisfied in it in no way affects his independence. So that’s the first thing.

The second thing is rather more problematic, I’m afraid, and it is this, that we will not be sitting tomorrow. The reason why we won’t be sitting tomorrow is because I have had to make a decision about preparedness for this Enquiry. That

1 includes having in our possession all the material that we need
2 in order to carry out this Enquiry. I'm rescheduling the
3 witnesses for tomorrow so that we have them starting on
4 Wednesday.

5 What has happened is this. Paria or their team have been
6 asked to provide a number of documents over a period of time.
7 During the course of this weekend and as late as four o'clock
8 this morning, we were provided with what is, on any view,
9 hundreds and hundreds of pages. It looks what the Americans
10 call a document dump, this [*Mr. Chairman drops bundle of*
11 *documents on desk*] handed to us in the course of halfway
12 through this Enquiry when we have been seeking this material
13 for months.

14 So that there could be no misunderstanding about it, this
15 Enquiry was announced on the 22nd of April of this year. It is
16 inconceivable that those who are responsible for providing
17 material to this Enquiry could not have appreciated that this
18 material was likely to be relevant. We get it this weekend,
19 notwithstanding the fact that we have asked for it on numerous
20 occasions.

21 On the 19th of July, we wrote to Paria asking for all the
22 material that they were obliged to provide. That's ignoring the
23 fact that they already must have appreciated for a period of
24 three months that they were likely to need to provide this
25 material. On the 6th of September they asked for and were
26 granted standing so that the lawyers who are now here, and I
27 don't in any way hold them responsible for this, they will know

1 what enquiries have or have not been made and this is not
2 intended to upbraid anybody. I'm simply making the
3 observation.

4 On the 9th—the 6th of September of this year they asked
5 for and were granted standing. So the lawyers from that day
6 became involved. Rule 16 makes it absolutely clear that they
7 must provide, that is their clients must provide, everything in
8 their possession and control having any bearing on the subject
9 matter of this Enquiry. Clearly they did not, since we've got
10 this over the weekend. That was followed by a specific request
11 about this very material on the 8th of November when we wrote
12 to them asking for it to be provided by the 11th of November,
13 bearing in mind where we were in relation to this Enquiry.
14 Nothing happened.

15 On the 11th of November they asked for an extension.
16 They were granted an extension to the 17th of November. On
17 the 15th of November, they sought a further application for a
18 further extension. They got a further extension to the 22nd of
19 November. On the 22nd of November, having promised to give
20 it to us, they didn't. On the 23rd of November, when they
21 promised to give it to us, they didn't. On the 24th of
22 November, when we wrote to them asking them where is it, we
23 were promised we would get it the next day. We didn't.

24 On Sunday, the 4th, they indicated they were putting together
25 their ICT records to send to us by email. They didn't. Today,
26 or rather on the 6th, I should say, we asked once again and we
27 were told that we would get it by that Friday. They did not

1 provide it. So what we have is the very first time we got
2 anything from them at all in relation to this was during the
3 course of Friday. We got nothing further on Saturday and we
4 got more on Sunday and I still don't know if we have it all.
5 This is not acceptable.

6 I will not permit our legal team, or indeed any of the
7 other legal teams, to have to present their cases half-cocked
8 because that's where we are at the moment, because I haven't
9 been able to read it, Mr. Wilson hasn't been able to read it and
10 most of our team, notwithstanding their best efforts, have not
11 been able to assimilate or read it. We can't provide it to
12 everybody else because it needs redacting. There are phone
13 numbers, names and things like that that are in there. So it's
14 not right that the other teams should not have this material
15 before principal witnesses from Paria are called.

16 So, we will not sit tomorrow so that I and others can read
17 this material so that we know what's there. They include the
18 IMT records. On Wednesday morning we will hear from
19 Catherine Balkissoon. After her we will hear from Collin
20 Piper. He will almost certainly go into Thursday, and on
21 Thursday we will hear from Mushtaq Mohammed. Those are
22 the last three witnesses that we will hear before Christmas. We
23 will get through them. If it means sitting too late I don't care.
24 We will sit until they have been heard this side of Christmas.

25 The other witnesses, Archibald, Fuentes, Yearwood and
26 Flemming Holder will have to be heard next year. I apologize
27 to them for inconveniencing them having been told that they

1 were going to be required this week. It's not fair on them as
2 witnesses and it's not fair on us. Anyway, I don't propose to
3 say anything more about it. That is what will happen. If—and
4 beyond that, I'll make this observation. If there is any more,
5 please, Mr. Peterson, if there is any more, can we have it today?

6 **Mr. Peterson SC:** Yes, Mr. Chairman, I'd make inquiries, but
7 I know that a lot of WhatsApp messages were sent over the
8 weekend, um, IT material. I know initial—I don't have all the
9 details now, I can enquire from my team, but I know that there
10 was some difficulty with loading it on to a jump drive and an
11 external drive, I know there were those difficulties, and, also
12 there was some scrutinizing for doing the same thing you said
13 with respect to redacting irrelevant material that has nothing to
14 do with the Enquiry and persons' personal information and that
15 kind of thing, so that was back and forth, I know, but I didn't
16 realize the—

17 **Mr. Chairman:** All of that, Mr. Peterson—

18 **Mr. Peterson SC:**—but I'll make inquiries.

19 **Mr. Chairman:** All of that would be okay if we were talking
20 about August.

21 **Mr. Peterson SC:** Yes.

22 **Mr. Chairman:** We're in December. This has to have been
23 available. This isn't new material. This has to have been
24 available to your clients since it happened. This isn't
25 something that's just arisen in the recent weeks. This is
26 contemporaneous material. The ICT notes, they must have had
27 it. I mean it's—look, I don't want to apportion blame

1 anywhere.

2 What upsets me, as you will obviously have understood,
3 is that we have lost a day as a result and I don't know whether,
4 for example, Mr. Wei, who's already given evidence, I see that
5 he's evolved in this, obviously he may have to be recalled
6 because there's material here that we may want to deal with,
7 with Mr. Wei, it's not fair on him as a witness for me to make
8 conclusions with Mr. Wilson, at the end of this, that he hasn't
9 been given an opportunity to deal with, which has now been
10 provided us to.

11 It is simply not acceptable. You don't need me to tell
12 you this, Mr.—you know, Mr. Peterson. You've done many of
13 these yourself, I know, and it is not an acceptable way to
14 proceed. It may be that, for some reason or other, people
15 thought that this was going to be an enquiry that could be
16 conducted at a leisurely pace over several years. Well that's
17 not what was happening, it never was what was happening,
18 which is why I set a very strict timetable at the outset. And it,
19 you know, I don't know whose fault this is but it's somebody's
20 fault. I don't really care at this stage.

21 What I want to do is to make sure that we have all of the
22 material that is necessary for us to conduct this Enquiry that
23 anybody to be saying later on, "Well, you didn't have this or
24 didn't have that." So that's where we are at the moment, all
25 right? We will not sit tomorrow. We will deal with the
26 witnesses that we have arranged for today in the hope that
27 there's nothing here that will impact on any of them, and

1 proceed to spend the day tomorrow reading the material that we
2 have now been provided with. All right?

3 Unless there's anything else that anybody else wants to
4 say, I propose that we get on with the first witness. Right.
5 Good. Let's do that, please? I think it's Mr. Seetaram, is it
6 not?

7 **Mr. Maharaj SC:** Yes, Mr. Chairman. Mr. Seetaram, he's at
8 Volume I page 395 and Ms. Vijaya Maharaj will do the
9 summary.

10 **Mr. Chairman:** Thank you. Where might I find him?
11 Volume I, 395, thank you.

12 [*Mr. Alvin Seetaram enters Enquiry room and is sworn*]

13 **Mr. Seetaram:** I, Alvin Seetaram, solemnly swear that the
14 evidence I shall give to the Commission in this case shall be the
15 truth, the whole truth and nothing but the truth.

16 **Mr. Chairman:** Good morning, Mr. Seetaram.

17 **Mr. Seetaram:** Pleasant morning.

18 **Mr. Chairman:** Thank you for coming. What's going to
19 happen is that Ms. Maharaj who sits in the middle of the row
20 opposite you is going to summarize your evidence, all right?
21 Listen carefully, please? Make sure that she's getting it right.
22 If there's anything you disagree with let us know and then, once
23 that's done, do you have any questions Mr. Maharaj?

24 **Mr. Maharaj SC:** Yes, yes.

25 **Mr. Chairman:** So there'll be a few questions to be asked of
26 you afterwards by Mr. Maharaj and then the other counsel who
27 are here may want to ask you some questions, all right?

1 **Mr. Seetaram:** Yes.

2 **Mr. Chairman:** Thank you very much.

3 **Ms. Maharaj:** Thank you. Mr. Alvin Seetaram was
4 interviewed by the Commission. The Commission prepared a
5 witness statement based on that interview and Mr. Seetaram
6 signed his witness statement on the 31st of October. His
7 witness statement is in the witness statement bundle at page
8 395.

9 Mr. Seetaram is a ship captain at Subsea Global
10 Solutions Limited, an international ship servicing and
11 maintenance company. He is the captain of Waterworld which
12 is an 85-foot vessel owned by Subsea Global Solutions. On
13 Friday 25th February at about 4.00 p.m. Mr. Seetaram received
14 a telephone call from Ronald Ramoutar seeking assistance to
15 rescue five divers who'd been sucked into a 30-inch pipeline at
16 berth number 6 Pointe-a-Pierre.

17 Mr. Seetaram stated that at the time of receiving the call
18 he was on board Waterworld which was involved in a job at the
19 Pt. Lisas anchorage. Mr. Seetaram informed Mr. Ramoutar that
20 he needed permission from Subsea's management. When he
21 called back Mr. Ramoutar he indicated that management had
22 given permission to render assistance to the divers.

23 This assistance included the use of Subsea's vessel and
24 their topside connected diving equipment which included
25 diving helmets equipped with communication and lighting with
26 surface supply air. However, Mr. Seetaram said that
27 management indicated that none of Subsea's divers were to go

1 into the pipeline. Mr. Ramoutar indicated that he had divers
2 certified to use Subsea's diving equipment at the incident.

3 Mr. Seetaram stated that the Subsea's team arrived at the
4 site at around 7.15 p.m. Paria gave them permission to proceed
5 to berth number 6. At berth number 6 he recalls seeing other
6 diving companies and vessels. At about 8.45 p.m., Mr.
7 Seetaram recalled seeing another vessel believed to be operated
8 by Hull Support and he also saw a coast guard vessel. A team
9 of five to six coast guard divers in scuba gear came on board
10 the Waterworld vessel and inspected some of their diving
11 equipment.

12 Mr. Seetaram received information from Mr. Ramoutar
13 that permission had been given by Paria to connect the flanges
14 of the pipeline and to install a blank on the pipeline to allow the
15 insertion of a camera in the pipeline to allow for video—for
16 surface video monitoring. Mr. Seetaram explained this job of
17 connecting the pipeline to permit surface video monitoring was
18 done by Conan Beddoe and Mr. Ramoutar and they were
19 assisted by Subsea's Adam Houllier using Subsea's surface
20 supply equipment and his diving suit camera to provide a light
21 source to Ronald and Mr. Ramoutar.

22 The video footage taken of the pipeline was taken by the
23 robotic camera operated by Paria. The coast guard divers left
24 the Waterworld vessel when Ronald, Conan and Adam came to
25 the surface and some returned to the coast guard vessel and
26 some went on to berth number 6. At about 3.30 a.m. when no
27 further requests were made of subsea, they sought permission

1 from Paria to leave berth number 6, however, permission was
2 not granted until about 5.00 a.m. on the morning of Saturday
3 the 26th February, as Paria wanted them to remain on standby
4 as it was still coming up with a rescue plan.

5 Mr. Seetaram, do you agree with that summary of your
6 evidence?

7 **Mr. Seetaram:** Yes, correct.

8 **Ms. Maharaj:** Thank you.

9 **Mr. Chairman:** Thank you. Yes, Mr. Maharaj.

10 **Examination By Mr. Maharaj SC:**

11 Q. Mr. Seetaram, I just have one or two questions for you. You
12 said that you had on board diving equipment and lighting
13 material for diving?

14 A. A full [*Inaudible*]

15 Q. Yeah, available to be used?

16 A. Correct.

17 Q. And you also stated in your witness statement that the coast
18 guard, some coast guard divers came on board and inspected
19 your equipment, your diving equipment?

20 A. Correct.

21 Q. And am I correct to say—well could you give us an idea of
22 what equipment you have, if you could describe them for us?

23 A. He have super lights, band masks, that is helmets, we have
24 diving umbilicals, we have high pressure, low pressure backup
25 air supply, umbilicals length of 375 feet and 200 and—350 feet.

26 **Examination By Mr. Chairman:**

27 Q. Pause there, just so that I understand that, please? The

1 umbilical is literally a tube with a mouthpiece at the end of it, is
2 it, or—

3 A. No, no, no, no, no. The umbilical is the hose with the
4 communication and lighting cables run on to it that is attached
5 to the helmet or the band masks.

6 Q. So that somebody can dive without the need for a tank to be
7 attached to them?

8 A. It still have a tank on your back but a small tank, that's for like
9 a third supply air.

10 Q. Right.

11 A. You're diving off low-pressure air and then it have a switch on
12 the panel in case your low pressure run low you could go to
13 high pressure just by switch.

14 Q. Right.

15 A. And then, the one on your back is the third source a air.

16 Q. Right. So that I am clear, a diver now about to go into the pipe,
17 for example, has got a helmet on, he's got this umbilical cord,
18 yes?

19 A. Uh-huh.

20 Q. Which allows him to breathe air from the surface rather than
21 anything, and that is both high and low pressure which he can
22 adjust depending on what he needs?

23 A. By—on the panel, on the dive station.

24 Q. On the—up, up—

25 A. The diver don't have to do anything.

26 Q. The diver doesn't have to do anything?

27 A. No.

1 Q. Right. So it's done by somebody who's manning that, one of
2 your team?

3 A. Yes.

4 Q. Right. So it allows him to go into the tube with that but he has
5 a backup, which is a smaller tank, on his back so that if
6 anything went wrong he could discard this and put it—

7 A. No, just turn a valve.

8 Q. Just turn a valve?

9 A. Yes.

10 Q. That's all he'd have to do, then?

11 A. Right.

12 Q. What happens if he lost the umbilical for any reason that got
13 severed or—

14 A. It's not so easy to sever.

15 Q. It's not?

16 A. No.

17 Q. So you don't have to worry about that?

18 A. No.

19 Q. Right, okay, thank you very much. And the lengths were—
20 sorry, the lengths were? There are two?

21 A. The line—the longest one is 375 feet.

22 Q. Three hundred and seventy-five feet, yes.

23 A. Then we have two at 350 feet.

24 Q. You had two others?

25 A. Yeah.

26 Q. At 350 feet?

27 A. Yes.

1 Q. And this allowed you both communications to speak as well as
2 breathe.

3 A. Communication, lights, if you want you could hook up video
4 system on it too so you could get footage.

5 Q. Okay. And can they be joined together?

6 A. It's not so easy to join because the cables could—you have to
7 solder the cables and connect it. It's not like a snap-on fitting
8 that you could do it.

9 Q. Right. I appreciate in a—but aside from any Heath Robinson
10 episode—exercise of putting tape around it, is there a method
11 by which they could be?

12 A. Yeah, there is a method they could connect it.

13 Q. All right, lovely. Thank you very much.

14 **Mr. Maharaj SC:** Much obliged.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. And these equipment, from your knowledge and experience,
17 could be used by divers to dive into a 30-inch diameter
18 pipeline?

19 A. Yes once they certify you, because our company has strict
20 rules and policies so our divers was out a dive time due to we
21 was on the rig so they max out their time. That's why we asked
22 if it have qualified divers to use the equipment, and they had.

23 Q. And they had.

24 **Examination By Mr. Chairman:**

25 Q. All right, so it's not that your divers weren't willing to go, it's
26 because they'd already used up the amount of time that they
27 were allowed to be at certain depths?

1 A. Correct.

2 Q. Because they'd been working that day?

3 A. Correct.

4 Q. And, just so that everybody understands that, that's something
5 that's quite strictly enforced, isn't it, that—the amount of dive
6 time that person might have?

7 A. That's correct.

8 Q. And that's dependent on the depth that they'd been?

9 A. Depth and time.

10 Q. And the amount of time that they'd been down there?

11 A. Correct.

12 Q. Right. And they'd already been doing that all day so they were
13 not fit, they would not be permitted on any—

14 A. We scruffle [*Phonetic*] just probably one or two but that's who
15 dive early.

16 Q. Uh-huh.

17 A. They had enough surface interval so they coulda probably do a
18 short period a time—

19 Q. Right.

20 A. —but not much.

21 Q. Right. But it made no sense to use them if you had other divers
22 that could be used?

23 A. Exactly.

24 Q. Right. Thank you very much indeed.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. You were contacted by Mr. Ronald Ramoutar from—on behalf
27 of LMCS?

1 A. Correct.

2 Q. And, based on what you were told and based on your
3 knowledge, you were aware that Ronald Ramoutar had
4 available divers who could have used the equipment?

5 A. Correct.

6 Q. To be able to dive into the pipeline?

7 A. Correct.

8 Q. And you remained there from around 7.15 p.m. on the Friday?

9 A. Correct.

10 Q. And until about 5.00 a.m. on the Saturday?

11 A. Correct.

12 Q. And, during that period of time, you were available to make the
13 equipment available for the divers to use?

14 A. Correct.

15 **Mr. Maharaj SC:** I have no further questions, Mr. Chairman.

16 **Mr. Chairman:** Can I ask you, I'm sorry, before—

17 **Mr. Maharaj SC:** I forgot to ask one question. Can I?

18 **Mr. Chairman:** Please do.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. Um, you said the coast guard divers came on board and they
21 inspected the equipment?

22 A. Correct.

23 Q. And were they impressed with the equipment that you had?

24 A. Yes they were, because they're not aware to that type a diving.

25 Q. Okay, thank you.

26 A. They only know about, um—

27 **Mr. Chairman:** Scuba.

1 **Mr. Seetaram:**—scuba. The hat was something new to them.

2 **Mr. Maharaj SC:** Much obliged.

3 **Examination By Mr. Chairman:**

4 Q. Just a short question, please? Bearing in mind the expertise that
5 you were able to bring to bear together with the equipment that
6 you had, is there anything more that you could have wanted or
7 desired in order to effect the rescue, over and above what you
8 already had?

9 A. No.

10 **Mr. Chairman:** Thank you very much. Yes, would anyone
11 else like to ask any questions? Please put your hands up now?
12 No? I see—yes, just one minute. Anyone else?

13 **Mr. Peterson SC:** [*Inaudible*]

14 **Mr. Chairman:** Of course.

15 **Mr. Peterson SC:** Just one clarification I need, Mr. Chairman.

16 **Mr. Chairman:** Well, I think Ms. Alfonso—I'm going to let
17 you go last. Ms. Alfonso has one matter—well, she has
18 something to ask. Ms. Alfonso.

19 **Ms. Alfonso:** Thank you, Mr. Chairman.

20 **Cross-Examination By Ms. Alfonso:**

21 Q. Good morning, Mr. Seetaram.

22 A. Morning.

23 Q. My name is Nyree Alfonso. I represent the interest of the
24 Seamen and Waterfront Trade Union. I just have one or two
25 questions because my learned Senior, Mr. Maharaj, would have
26 asked a couple of the questions that I wanted to have answers
27 to. With a previous witness I had asked, aside from a diving

1 helmet, is there something lighter that a diver can use and you
2 mentioned earlier this morning a band mask. Could you
3 explain what that is, please?

4 A. A helmet which is a super light.

5 Q. But it's super light?

6 A. Yeah, yeah. It's a complete helmet that goes over your head—

7 Q. Uh-huh?

8 A. —with a horseshoe—

9 Q. Uh-huh.

10 A. —that your head cannot get wet.

11 Q. Okay.

12 A. A band mask is only structured to fit the face—

13 Q. Uh-huh.

14 A. —with straps—

15 Q. Uh-huh.

16 A. —but you still have communication and lights.

17 Q. Could you give me an estimated weight of the band mask?

18 A. Could be over 10 pounds.

19 Q. Okay, could be over 10 pounds?

20 A. Yes.

21 Q. And what's the weight of a diving helmet?

22 A. That's very heavy.

23 Q. Significant? Significant? Okay. You have any idea of that
24 significant weight?

25 A. Over 20-something, depends, 30-pound.

26 Q. Oh, much heavier?

27 **Mr. Chairman:** Why, you've all got big necks.

1 **Continued Cross-Examination By Ms. Alfonso:**

2 Q. I know that Mr. Ramoutar would have called you, Ronald
3 Ramoutar would have called you. Aside from Mr. Ramoutar,
4 did you see any other commercial divers that you recognized
5 and that you felt were competent—well let me—that you
6 recognized?

7 A. Yeah, um, I think was Hull Support. That's a good company
8 too.

9 Q. Okay.

10 A. And theirs is safe—

11 Q. Any individual divers?

12 A. Huh?

13 Q. Any individual divers?

14 A. Where, on barge?

15 Q. No, anywhere, besides Mr. Ramoutar?

16 A. No, it had commercial divers on site there too.

17 Q. Okay because I see one of your colleagues, Mr., I don't know, I
18 hope I'm pronouncing it correct, is it Houllier?

19 A. Adam?

20 Q. Adam? I think there are two of them, so Adam.

21 A. Yeah.

22 Q. He referred to some volunteer divers who could use the
23 equipment in his own statement. Do you know who he was
24 referring to?

25 A. That will be his family, Conan, Conan Beddoe, Conrad Beddoe,
26 Ronald Ramoutar, Corey, all of those are commercial divers.

27 Q. And in your view, Mr. Seetaram, those were divers who were

1 qualified or had the experience?

2 A. Yes, certified, yes.

3 Q. And certified. Good. Thank you very much for that. And
4 certified to go down into the pipeline?

5 A. Certified commercial, yes.

6 Q. Certified commercial divers and who were capable of utilizing
7 the equipment which you have described to the Commission
8 this morning?

9 A. That is correct.

10 Q. Thank you for that. You mentioned Hull Support so when
11 you—when Waterworld arrived at approximately 7.15 p.m. on
12 the Friday, did you see other dive ves—vessels which are used
13 in diving operations?

14 A. They were approaching. We, um, had to get permission to
15 proceed to the site.

16 Q. Okay.

17 A. And direct contact was with through Ronald Ramoutar.

18 Q. Okay.

19 A. And then Paria gave the instruction for us to come alongside the
20 barge.

21 Q. Okay. So it was Waterworld, um, was, what is the name of the
22 vessel that Hull Support came in, you know?

23 A. I'm not sure the name of the vessel.

24 Q. Okay, but Hull Support came with another diving vessel?

25 A. Yeah, them, them get the permission to proceed to the berth.

26 Q. Okay, so they came after—

27 A. We was on the barge and them was on the berth landing.

1 Q. And what about OTSL?

2 A. I not sure.

3 Q. You're not sure. You didn't see OTSL there? So, you—so
4 that, as far as you were concerned, there were two vessels?

5 A. I not sure if it's OTSL or Hull Support, eh.

6 Q. Oh, I see. So there was another dive vessel?

7 A. I think it's Dot Com—

8 Q. Okay.

9 A. —the boat name or something like that. I not sure.

10 Q. Okay, I—well, I don't know the name of the Hull Support
11 vessel, I have to confess. OTSL is Gulf Stream Eagle or Gulf
12 Eagle, something of that nature. You mentioned towards the
13 end of your witness statement that after a certain time, I think it
14 was three o'clock, that you asked permission to depart?

15 A. Yeah because I had to reattend the rig job to finish off that day.
16 We didn't have much to do so at 3.00 a.m. I went on the barge
17 and I spoke to a lady, I cannot recall her name, and asked—
18 explained and asked permission depart. She did not give
19 permission to depart. She said Collin Piper want us to stay still,
20 should in case they want to utilize us, and then, coming closer
21 to 5.00 I went back to her, she made the call and then they—
22 Collin said, um, we can proceed to depart. Permission is
23 granted.

24 Q. Okay. When you first asked the lady who you can't identify
25 but a Paria person—

26 A. Yeah.

27 Q. —at 3.00 a.m. to depart the scene, did she tell you, as you have

1 in your witness statement, something, that they were trying to
2 devise a—they want you to stay for a reason?

3 A. Should in case they need us.

4 Q. And what would they need you for?

5 A. In case they come up with a plan to—

6 Q. Okay, did they tell you—

7 A. —to rescue.

8 Q. —they were trying to come up—this, this lady, sorry.

9 A. Uh-huh.

10 Q. Did this lady tell you they were trying to come up with a plan?

11 A. Not necessarily. She say just in case they want to utilize us.

12 Q. I just want to draw your attention, Mr. Seetaram, to paragraph
13 18 of your witness statement and it will come up on—it's on
14 page 398?

15 A. Uh-huh.

16 Q. There it is? Is that correct there, Mr.—

17 A. Yeah, it's correct.

18 Q. —Seetaram? So they asked you to stand by for an additional
19 two hours in the event that a rescue plan—

20 A. No, no, she didn't say two hours, you know.

21 Q. No, no, no, no, but in the end, between 3.00—

22 A. Yeah.

23 Q. —and 5.00.

24 A. Yeah.

25 Q. But you were asked to stand by for additional time? Let me just
26 say additional time.

27 A. Yeah.

1 Q. In the event that you were needed for a rescue plan?

2 A. Correct.

3 Q. Correct. And were you ever, were you—either the equipment
4 on Waterworld or divers, the volunteer divers, I'll use the same
5 terminology, were they ever used prior to 5.00 a.m. in a rescue
6 plan that you're aware of?

7 A. Negative.

8 Q. Thank you very much, Mr. Seetaram.

9 **Mr. Chairman:** Yes. Thank you. Turn your microphone off.
10 Only this.

11 **Examination By Mr. Chairman:**

12 Q. Did anyone speak to you about a plan that they might have had
13 to effect a rescue, anyone at all?

14 A. Well most of my communication was through Ronald
15 Ramoutar.

16 Q. Right.

17 A. So he devised, they say what the plan was for Conan to go into
18 the pipe using our equipment.

19 Q. Right. So he did explain a plan to you?

20 A. Yeah.

21 Q. And you're an experienced diver yourself. How many years?

22 A. I diving since I is 18 years old commercially.

23 Q. Well that would be helpful—

24 A. I is 48—

25 Q. —if I knew how old you were now?

26 A. —yeah.

27 Q. And I'm reluctant to ask, but, how many years does that make?

1 A. A lot.

2 Q. A lot. Well, you're going to have to help me a bit more than
3 that, I'm afraid.

4 A. More than—

5 Q. You started this so you're going to have to tell me now.

6 A. More than 20-something years.

7 Q. Twenty something. Twenty-one or 29?

8 A. Could be around that.

9 Q. [*Laughter*] I detect a certain reluctance and I'm not going to
10 press you any further, but, well over 20 years of diving
11 experience, is that fair?

12 A. Correct.

13 Q. Right. And you're a commercial diver?

14 A. Correct.

15 Q. Did you see anything wrong in the plan that was described to
16 you by Mr. Ramoutar?

17 A. No.

18 Q. Thank you.

19 **Mr. Chairman:** Mr. Peterson?

20 **Mr. Peterson SC:** Thank you very much, Sir. I'll start there.

21 **Cross-Examination By Mr. Peterson SC:**

22 Q. Mr. Seetaram, what were the details of the plan that were
23 described to you?

24 A. The detail of the plan was for Conan Beddoe to use the
25 equipments, our equipment, to go into the pipe, we have lights,
26 communication, backup air, main air, standby air. And they
27 would a go down to the, well, varies from the barge to the pipe

1 coulda be about 40 feet, so you use 40 feet from 375 feet down
2 into the pipe, they would a travel the whole length of the
3 umbilical and reach to that distance.

4 Q. Three hundred and fifty—75 I think you said or 350?

5 A. Three seventy-five.

6 Q. Three seventy-five was the longest one you had?

7 A. Yeah.

8 Q. But what about the condition inside the pipe and whether the
9 pipe was clear, all of that, you had all those details?

10 A. No, they didn't have no details of the condition inside the pipe.

11 Q. Yeah.

12 A. Besides what Christopher said and that's it.

13 Q. Did you have, did you discuss a risk assessment as to the dive?

14 A. I wasn't planning the risk assessment. I is just the captain of
15 the boat.

16 Q. No, no, I mean, no, when you were discussing with Mr.
17 Ramoutar, did you all discuss the attendant risk in such a dive
18 into a pipe of 30 inches?

19 A. It wouldn't have that discussion with risk with me as I said.

20 Q. Beg your pardon?

21 A. It wouldn't have a discussion with me with risk.

22 Q. Okay.

23 A. I'm the captain. I'm not the dive supervisor.

24 Q. Or, okay, right. All right. Now paragraph 14 of your
25 statement, could we just look at it? I wasn't too clear what you
26 were referring to there when you said Ronald, Conan and Adam
27 remained under the sea for a hour and a half? When was that in

1 relation, if you could tell us?

2 A. Approximately midnight. That's when Paria devised the plan
3 to put on the spool piece, the flange—

4 Q. Yes.

5 A. —to send down the camera, they get the okay for—to bolt up
6 the flange. Adam Houllier is our diver.

7 Q. All right.

8 A. So he went to assist Ronald and Conan in bolting up the flange
9 by using our light communication so that they could see what
10 going on inside for them guys to work to bolt up the flange.

11 Q. Or, so, that hour and a half is around midnight you're—

12 A. Yeah, is around midnight.

13 Q. Right, because I couldn't tell from—right. In answer to the
14 Chairman, you were trying to describe that the cords couldn't
15 be snapped together as a hose. How do you join that and what
16 kind a time frame it takes to join that, if you can help us?

17 A. Once you have the fitting on board, it could be 20 minutes.

18 Q. When you say the fitting what you mean by that?

19 A. It's just something to screw up two a them together and you
20 could join the wires and tape the lights and the communication.

21 Q. Or, I thought was a welding, a solder?

22 A. Nah, nah, no, notten welding.

23 Q. Right. And how—

24 A. The end ah de hose is screw fittings.

25 Q. Did you have those fittings on board?

26 A. Yeah, we have a lot ah fittings on board.

27 Q. Right, okay. And it takes about 20 minutes to join them and

1 you could join them and make it what, about 600 feet
2 thereabouts?

3 A. Yeah, if you want.

4 **Mr. Peterson SC:** Thank you very much, Mr. Chairman.

5 **Examination By Mr. Chairman:**

6 Q. Or if you joined all three it would be a thousand feet—

7 A. Yeah.

8 Q. —nearly the length of the pipe.

9 A. If you wanted to.

10 Q. Yes. Well, no doubt rescue was foremost in everyone's mind.

11 A. [*Nodding*]

12 **Mr. Chairman:** Thank you. All right. Well I think that's it
13 from me, Mr. Seetaram. Thank you very much indeed for
14 coming. Much appreciated.

15 **Mr. Seetaram:** Yeah, thank you.

16 **Mr. Maharaj SC:** The next witness, Mr. Chairman, is
17 Commander Michael Maharaj. And Ms., um—we do not have
18 a summary.

19 **Mr. Chairman:** You got no statement from him?

20 **Mr. Maharaj SC:** No, no statement so we have no summary.

21 [*Mr. Alvin Seetaram leaves Enquiry room*]

22 **Mr. Maharaj SC:** So I would have to ask him a few questions.

23 **Mr. Chairman:** Will you be asking him why he hasn't
24 provided one? Please do.

25 **Mr. Maharaj SC:** Yes, I do—I—

26 [*Lieutenant Commander Michael Maharaj enters enquiry room*
27 *and is sworn*]

1 **Lt. Commander Maharaj:** I, Lt. Commander Maharaj,
2 solemnly swear that the evidence I shall give to the
3 Commission in this case shall be the truth, the whole truth and
4 nothing but the truth.

5 **Mr. Chairman:** Please take a seat. First of all, it's Lieutenant
6 Commander, is that right?

7 **Lt. Commander Maharaj:** Yes, Sir.

8 **Mr. Chairman:** Well thank you for coming, Lt. Commander
9 Maharaj. I appreciate your making the effort and I know that
10 you have a medical condition which affects your back, so I
11 want you to feel free, if you need to, to stand or sit or both as
12 you give your evidence, whatever makes you feel more
13 comfortable. If you're uncomfortable at any point, you need a
14 break, please just let me know, all right, and we'll take a short
15 break so that you can make yourself comfortable, all right?
16 And I do appreciate your coming. And I understand that
17 you've come a little distance and that it is uncomfortable for
18 you generally travelling, so I appreciate your efforts, but, as I
19 say, if there is any issue at all you let us know, all right?

20 **Lt. Commander Maharaj:** Yes, Sir.

21 **Mr. Chairman:** And Mr. Maharaj there is going to be asking
22 you some questions.

23 **Examination By Mr. Maharaj SC:**

24 Q. Good morning, Lt. Commander Maharaj. [*Microphone*
25 *switched on*] Sorry. Yes, good morning Lt. Commander
26 Maharaj.

27 A. Morning, Sir.

1 Q. You were aware that there was this Commission of Enquiry
2 appointed to enquire into the circumstances in which these five
3 divers were trapped in the pipeline and four died?

4 A. Yes, Sir.

5 Q. And you were aware that there were invitations and public
6 notices for you to provide a statement, a submission?

7 A. No, Sir.

8 Q. You were not aware of that?

9 A. No, Sir.

10 Q. Is there any reason why you didn't provide a statement to us?

11 A. I first became aware when I was contacted with a summons to
12 attend, Sir, and, once I was contacted then I contacted the
13 Commission immediately to find out what was the manner and
14 form in which things should proceed. There were several
15 communications made between myself and the Commission,
16 and, based on that, I was then given a date, which is today's
17 date, to turn to. I have, however, on my own, placed down my
18 recollection of the events.

19 **Examination By Mr. Chairman:**

20 Q. Do you have that with you?

21 A. Yes, Sir, but I was told not to come in here with anything.

22 Q. All right. But you made your own note of what your
23 recollections of these events were, did you?

24 A. Yes, Sir. I have at the—in the holding area.

25 Q. Right. So you—at least you've turned your mind to it?

26 A. Yes, Sir.

27 Q. Yes. All right. Well, Mr. Maharaj is going to ask you some

1 questions.

2 A. Yes.

3 Q. All right? If you have any difficulty recollecting or you think
4 you might need a document in order to assist you, you'll let me
5 know, all right?

6 A. Yes, Sir. I think, I think that might be best.

7 Q. Right. Well, I think there's a difference between any notes that
8 you might have made of your own, um, doing your best to
9 recollect events as opposed to a contemporaneous document
10 that might have existed that might assist you—

11 A. Okay.

12 Q. —in coming to a conclusion about the facts. All right?

13 A. Yes, Sir.

14 **Continued Examination By Mr. Maharaj SC:**

15 Q. Okay. Well let's see. In respect of that incident, that accident
16 on the 25th of February this year, you were at Paria on the 25th
17 of February?

18 A. No, Sir.

19 Q. When did you get there?

20 A. I got there on the 26th, but I was made aware on the 25th.

21 Q. You were made aware on the 25th?

22 A. Yes, Sir.

23 Q. And from the 25th were you aware of the activities which the
24 Trinidad and Tobago Coast Guard was involved in, in respect
25 of that accident?

26 A. Not entirely, Sir. I'll explain. So I am an officer in the
27 Trinidad and Tobago Defence Force Coast Guard, but since

1 2018 I am posted at Defence Force headquarters. On that day,
2 the 25th of February, 2022, I got a call from Mr. Eric Mackie
3 who is at the ODPM, sometime after 6.30 in the evening, and
4 he asked me, um, if I could assist him with getting on to the
5 coast guard. So I let him know well, you know, I'm no longer
6 with the coast guard per se, I'm at headquarters, but what was
7 the issue.

8 He mentioned to me that there was an incident at Paria.
9 He wasn't entirely sure what the incident was but he knew that
10 there were some people missing at sea and indicated that he in
11 turn was contacted by somebody by the name of Mr. Archbald
12 who, according to him, was not able to get a response from the
13 coast guard so he asked if he knew anybody who could assist
14 him with that, so Mr. Mackie called me. I told him, I said, look
15 you know, I'm not stationed there but I could certainly reach
16 out to find out if there was some sort of response, so I did call
17 the coast guard ops room and they did tell me that, yes, they
18 were aware of the incident and, yes, an asset or assets were
19 dispatched and were dealing with the incident.

20 Q. But, but, you were a senior officer at the time of this incident at
21 the coast guard?

22 A. No, Sir. That's what I'm trying to explain to you.

23 Q. You were not a senior?

24 A. No, Sir. So the Trinidad and Tobago Defence Force comprises
25 four formations, the coast guard, the regiment, the air guard and
26 the reserves. I joined as a member of the coast guard but since
27 2018—

1 Q. You were—

2 A. —I now am at Trinidad and Tobago Defence Force
3 headquarters.

4 Q. Okay. But I want to draw your attention to what—you
5 mentioned the name of Mr. Archbald.

6 A. Yes, Sir.

7 Q. Um, you know Mr. Archbald?

8 A. No, Sir. I never heard of his name before that.

9 Q. But you know he was connected to Paria?

10 A. I know he was connected to Paria.

11 Q. Right. I want to read to you what Mr. Archbald said in his
12 statement and it's Volume IV page one three two zero at
13 paragraph 33.

14 **Mr. Chairman:** One three two zero?

15 **Mr. Maharaj SC:** One three two zero, Volume IV. One three
16 two zero at paragraph 33.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. And I'm going to read the important part to you.

19 "Around 1824 hours, Lt. Commander Maharaj called me
20 and informed me that the TTCG Interceptor, which was
21 the vessel then engaged in conducting an open water
22 search for the missing divers, must return to Staubles Bay
23 to pick up a TTCG dive crew and equipment to possibly
24 attempt a search and rescue exercise within the pipeline.
25 He asked me to get a message to the TTCG personnel at
26 Pointe-a-Pierre and inform them that he gave that
27 instruction. I then contacted security lead Sheldon

1 Subero who advised that the TTCG had left already to go
2 to Staubles Bay.”

3 Is that an accurate statement?

4 A. Not entirely, Sir.

5 Q. Not entirely. Well what in it is not accurate?

6 A. Right, so, as I mentioned, I got the call from Mr. Mackie who
7 told me that Mr. Archbald, who he knows, was trying to get in
8 touch with somebody from the coast guard. He also
9 WhatsApped, he being Mr. Mackie, also WhatsApped me Mr.
10 Archbald’s contact so I could give feedback directly to him. I
11 contacted the coast guard operations room, found out that,
12 contrary to what was being relayed to me, the coast guard was
13 aware of the incident and they did, in fact, deploy an asset to
14 the site.

15 Now, when I contacted—relayed that information to Mr.
16 Archbald, he then indicated to me that there was no dive team,
17 so at that point I was under the impression that, you know, there
18 were people in the water who were being looked for, um, and
19 then he said there was no dive team so I mentioned to him, I
20 said, well, look, is there anybody—is there any way you can get
21 in touch with the person who is in the Interceptor so I could
22 probably understand what is happening?

23 He then indicated to me that vessel had already left. So,
24 what I told him I would do is that I would get back on to the
25 coast guard operations and find out what was happening. I did,
26 in fact, contact coast guard operations again and they did tell
27 me that the Interceptor was there, was rendering assistance in

1 terms of transporting persons and material to and fro and they
2 did, in fact, leave to embark a dive team. He told me—well,
3 whoever the operator at was at the time told me that the dive
4 team was on the way and should be there in about 50 minutes. I
5 then sent a WhatsApp message to Mr. Archbald on his phone
6 sometime after seven o'clock, maybe 10 to 8.00, and I said
7 ETA 50 minutes and I got a message back from his—

8 **Mr. Chairman:** Fifty or 15?

9 **Lt. Commander Maharaj:** Five zero.

10 **Continued Examination By Mr. Maharaj SC:**

11 A. Then I got back a message from his phone saying thanks.

12 Q. But you were aware that assistance was being required for
13 diving into the pipeline to rescue the divers?

14 A. Not at that time, Sir.

15 Q. Not at that time?

16 A. No.

17 Q. So what Mr. Archibald said here, therefore, is not correct
18 because, according to his statement, he is saying that you gave
19 instructions for the TTCG to return with a dive crew and
20 equipment to attempt a search and rescue exercise within the
21 pipeline?

22 A. That is not accurate, Sir.

23 Q. Okay.

24 **Examination By Mr. Chairman:**

25 Q. Say that again?

26 A. That is not accurate, Sir.

27 Q. That's not accurate. Can I ask you, did you know that a man

1 had by now come out of the pipeline?

2 A. I learned of that later, Sir.

3 Q. You didn't know that at the time you—

4 A. No, Sir.

5 Q. —were speaking to Mr. Archbald?

6 A. No, Sir. When I got the call, like I said, it was about to find
7 people missing in the water—

8 Q. Uh-huh.

9 A. —and apparently there was no coast guard response which is
10 why Mr.—

11 Q. What time are we talking about?

12 A. I got the call from Mr. Mackie shortly after 6.30.

13 Q. After 6.30?

14 A. Yes.

15 Q. So you're speaking to Mr. Mackie about 6.30 on the Friday
16 afternoon and you're saying us to that you were not told at that
17 time that a man had been rescued from the pipe?

18 A. No. What I was told by Mr. Mackie is that there is no—well,
19 what he told me—

20 Q. Yes.

21 A. —right, again, I had no involvement in this operation. Right?
22 What he told me was that he got a message from somebody at
23 Paria, and he called the name of Mr. Randy Archbald who, um,
24 was having difficulty, in his words, getting in touch with the
25 coast guard.

26 Q. Right you said all that.

27 A. Right.

1 Q. I got that bit, sorry.

2 A. Yeah.

3 Q. I just want to cut you off a little. I understand that bit. All I'm
4 interested in is this. Is that when you were WhatsApping with
5 Archbald and when you were speaking with Mr. Mackie,
6 neither of them informed you that a man had been rescued from
7 the pipe itself?

8 A. No, Sir.

9 Q. Both of those conversations were around 6.00 or so or later that
10 afternoon or earlier?

11 A. Right, so I got the call from Mr. Mackie at 6.30—

12 Q. Right.

13 A. —thereabouts and then subsequent to that I think I mentioned
14 that I sent a WhatsApp to Mr. Archbald at about 10 to 8.00.

15 Q. Got you. So can I take it, then, that your first involvement,
16 such as it is, was after 6.30?

17 A. Yes, Sir.

18 Q. Right. And nobody told you that a man had been rescued from
19 the pipe itself?

20 A. Not at that time, Sir.

21 Q. All right thank you.

22 **Mr. Chairman:** Thank you Mr.—

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. Well, could you help us? When was the first time you got to
25 know that a man was rescued from within the pipe?

26 A. Right, so, I became aware, um, I think that would have been
27 sometime, sometime much later, um, because I—after such

1 going to—speaking to Mr. Archibald at that time and then
2 sending that message, I then got in, well I can't remember if I
3 was called or I called, I think I was called by somebody called
4 Ms. Catherine Balkissoon, who was then informing me that the
5 dive team was, in fact, on site and the dive team was, in fact,
6 assisting and that there was somebody who came out of the
7 pipeline at that point in time. That would have been sometime
8 after ten o'clock.

9 Q. After ten o'clock?

10 A. Yeah.

11 **Examination By Mr. Chairman:**

12 Q. You said somebody coming out of the pipe at that point in time.
13 Are you suggesting you were being told that they had only just
14 come out of the pipe?

15 A. No.

16 Q. No. Right. It—

17 A. I was told at that point in time.

18 Q. Yeah, you were told at that point in time—

19 A. At that point, yes, Sir.

20 Q. —that someone had come out of the pipe earlier on that
21 evening?

22 A. Yes, Sir.

23 Q. Right. Did they tell you when?

24 A. No. I, I—so, when I found out that, I asked Ms. Balkissoon,
25 um, if he said anything and she indicated to me that, um, he
26 didn't because when she came he was being medically
27 evacuated or something like that, so she did not speak to him.

1 Q. She did not speak to him?

2 A. No.

3 Q. So she gave you no information about what he may or may not
4 have said when he came out of the pipe?

5 A. No. She said she didn't speak to him.

6 **Mr. Chairman:** Thank you.

7 **Continued Examination By Mr. Maharaj SC:**

8 Q. Lieutenant, you have told us you have been in the coast guard
9 for period of time and you're now in the Defence Force?

10 A. No, Sir, I was always in the Defence Force. It's just that I am
11 assigned to Defence Force headquarters.

12 Q. Oh I see. Okay. Okay.

13 A. Yes, Sir.

14 Q. So, from your knowledge, and what you know of the coast
15 guard—

16 A. Yes, Sir.

17 Q. —can divers at the coast guard dive into confined spaces?

18 A. To the best of my knowledge they have no confined space
19 training, um, and to the best of my knowledge the equipment
20 with which they are outfitted is not of a commercial nature, Sir.

21 Q. And if that is the case, that would be readily known to the coast
22 guard from the time the coast guard knows that it's a dive for
23 within a pipeline?

24 A. Well I can't say when they found out, if they found out before
25 or after they actually got on site, Sir.

26 Q. Okay. But, based on what you have told us, the coast guard
27 would not have the expertise to dive within a pipeline in order

1 to rescue anyone?

2 A. To the best of my knowledge, Sir.

3 Q. Yes. And that would be known by senior officers of the coast
4 guard?

5 A. I'm sure it would be, Sir.

6 Q. He's sure it would be.

7 **Examination By Mr. Chairman:**

8 Q. It's a very specialized business isn't it, going into a pipeline or
9 any confined space, and that's not something that the coast
10 guard would ordinarily become involved in?

11 A. No, Sir.

12 Q. No. My understanding is that you have dive teams available
13 but they're for really open water searches or perhaps if a ship
14 has sunk or something like that they might want to go down and
15 have a look if there's anybody in an air pocket or something,
16 but it's really limited to that, isn't it?

17 A. As far as I'm aware, Sir.

18 Q. As one would readily understand with the coast guard—

19 A. Yes.

20 Q. —this is very specialized and clearly needs expertise beyond
21 that which is normally provided by the, by the coast guard?

22 A. Yes, Sir.

23 **Mr. Chairman:** Yes, thank you very much.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. And would it be correct to say that during that, um—on the
26 Friday, on the Friday evening you were kept informed several
27 times by Paria as to the status of what was happening in respect

1 of the possible rescue?

2 A. Just twice. I mentioned once when I spoke to Ms. Balkissoon,
3 and then sometime after midnight I got a call from Mr.
4 Archbald who indicated to me that the dive team having come
5 on site, made an assessment and indicated that they would not
6 be able to enter the pipeline.

7 **Mr. Chairman:** The coast guard? The coast guard?

8 **Lt. Commander Maharaj:** Yes.

9 **Mr. Chairman:** Yes.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. But from your knowledge, the coast guard had gone there since
12 about 4.00, between four to 5.00 p.m. that evening?

13 A. Well prior to that call at 18:30 I had no idea of what was
14 happening at all there, Sir.

15 Q. Now, on the Saturday—well, have you had any communication
16 with Mr. Collin Piper?

17 A. Yes, Sir.

18 Q. I want to—when did you meet Mr.—well, did you meet Mr.
19 Piper?

20 A. Yes, Sir.

21 Q. When, that was on the Saturday?

22 A. Yes, Sir.

23 Q. At around what time?

24 A. Maybe in the afternoon, after lunch.

25 Q. Were you part of the incident command team?

26 A. No, Sir.

27 Q. Did you attend the meeting of the incident command team at

1 Paria?

2 A. No, Sir.

3 Q. Did you advise the incident command team at Paria?

4 A. No, Sir.

5 Q. Did you have any conversation with members of the incident
6 command team at Paria on the Saturday?

7 A. With Mr. Piper, yes, Sir.

8 Q. With Mr. Piper. And so, let me read to you what Mr. Piper says
9 about that conversation and I want you to tell me whether that
10 is correct. At Volume IV, page 1373 of the witness bundle, at
11 paragraph 166 on—

12 **Mr. Chairman:** Sorry, which page? One?

13 **Mr. Maharaj SC:** One three seven three, Mr. Chairman. One
14 three seven three.

15 **Mr. Chairman:** Paragraph?

16 **Mr. Maharaj SC:** Paragraph 166.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. “Sometime around midday Lieutenant Commander
19 Michael Maharaj of the TTCG visited the ICP for an
20 update. I updated him as to the current status of the
21 rescue efforts. We then moved to a private area where he
22 advised me that his personnel were not certified to use
23 the dive helmet. He also indicated that it was unlikely
24 that the divers in the pipeline were still alive because it
25 was unlikely that they would have had sufficient air to
26 survive for this long. He also advised that we should
27 consider recovery efforts.”

1 Is that an accurate statement?

2 A. No, it is not.

3 Q. Well, let us take it, um—he said that you visited the ICP, which
4 is the incident command post, for an update. Is that correct?

5 A. That is correct, Sir.

6 Q. But you had instructions to visit the incident command post to
7 get an update?

8 A. No, Sir. So, once I was made aware of it, part of my job in
9 Defence Force headquarters is to provide situational updates
10 across the Defence Force to Director Operations and the Chief
11 of Defence Staff and how that is done is we assimilate
12 information from different operations rooms like the coast
13 guard, the regiment and so on, and then we provide a brief
14 synopsis on a daily basis to the Chief of Defence Staff.
15 However, if they ask any questions based on that we should be
16 able to have this contemporaneous information.

17 So while I wasn't involved directly, once I got the call,
18 having received no further information overnight, because the
19 last information I received as I said from Mr. Archbald who
20 indicated that the dive team could not have entered, and then,
21 based on the information I was getting from the OCC at HQ, I
22 understood the dive team to be redeployed for another operation
23 on that Saturday and there was no further updates, so, I went to
24 get an update.

25 Q. Okay. But did you give advice that your personnel were not
26 certified to use the dive helmet?

27 A. No.

1 Q. No. And did you indicate to him that it was unlikely that the
2 divers in the pipeline were still alive because it is unlikely that
3 they would have had sufficient air to survive for this long?

4 A. Absolutely not, Sir.

5 Q. Not.

6 **Mr. Chairman:** Pause there, please? I need to make a note.

7 [*Writing*] Thank you.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Did you advise him that Paria should consider recovery efforts?

10 A. Absolutely not, Sir.

11 Q. Well, you have indicated to us—

12 **Mr. Chairman:** Sorry, Mr. Maharaj, have you finished with
13 that paragraph?

14 **Mr. Maharaj SC:** Yes, yes.

15 **Examination By Mr. Chairman:**

16 Q. Can I just ask you, you said earlier that you attended the ICP,
17 the command post, to update yourself on what was happening,
18 is that right?

19 A. Yes, Sir.

20 Q. And that you were required to put into writing some sort of
21 appraisal of where—update. To whom were you providing
22 that?

23 A. All right, so we get operation reports from different operations
24 arise within the Defence Force.

25 Q. Yes.

26 A. That is then sent to the headquarters operations room. That is
27 then synopsized and sent forward to the Director Operations

1 and the Chief of Defence Staff.

2 Q. Director of Operations?

3 A. Yeah.

4 Q. In the Defence Force?

5 A. Yes, Sir.

6 Q. Right. And did you do that?

7 A. Yes, Sir.

8 Q. So is there a document somewhere which sets out what you
9 were telling the Director of Operations at that time?

10 A. What that document sets out is the—

11 Q. Well, first of all, is there such a document?

12 A. Yes, there are documents—

13 Q. Right.

14 A. —for the—for reports that were sent forward on a daily basis.
15 Those reports are collated from the operations feeds that we get,
16 so yes there are documents that—

17 Q. Which you are the author of?

18 A. I collate the documents, yes Sir.

19 Q. Well, collating is putting together. I'm collating documents but
20 I'm not the author of them, right?

21 A. Right.

22 Q. As I understood it, you were up, you were updating yourself as
23 you regarded it as your responsibility to do so in the absence of
24 having any other operation. So you attended the command
25 post, you thereby updated yourself on what was, you thought,
26 important, you reduced that to writing so that you could send it
27 to the Director of Operations. Have I got that right?

1 A. So—

2 Q. Have I got it wrong? Just tell me one way or the other then you
3 can explain.

4 A. You got it partially right, Sir.

5 Q. Partially right. So tell me the bits that I've got wrong.

6 A. Right, so the information that I get from the different operations
7 rooms—

8 Q. Right.

9 A. —are in detail. It's a very brief synopsis that we send forward
10 to Director Operations and the Chief of Defence Staff. I went
11 to get an update because sometimes, based on the brevity of the
12 information that we send forward, questions are asked by either
13 Chief of Defence Staff to Director Operations to myself or from
14 director operations to myself—

15 Q. Yeah.

16 A. —so that information that I got, having visited the ICP, was in
17 case I am asked to elaborate on any information that I sent
18 forward, yes, Sir. So—

19 Q. There is document that you were the author of?

20 A. There is a document that I signed and sent forward.

21 Q. Right, signed by you?

22 A. Yes, Sir.

23 Q. And sent to your Director of Operations?

24 A. Yes, Sir.

25 Q. Do you have that document?

26 A. I think so. I'll have to check. I think that I—

27 Q. Did you bring it with you, for example?

1 A. Yes, I believe so.

2 Q. Is there any reason why you can't get it?

3 A. Well I was told to leave all the documents outside.

4 Q. No, no, I understand that, but, I mean, it's here, is it, in the
5 building?

6 A. Yes, Sir.

7 Q. Well think we'll take a short break while you get it and provide
8 it to counsel, please?

9 A. Okay.

10 Q. Do you mind? Would you do that?

11 **Mr. Chairman:** We'll take 5 minutes. Ten, 10 minutes
12 please?

13 **11.03 a.m.:** *Enquiry suspended.*

14 **11.10 a.m.:** *Enquiry resumed.*

15 **Mr. Chairman:** Thank you, Lieutenant Maharaj. I appreciate
16 it. What we've done is we've both had a look at it. It doesn't
17 seem to add, to my mind, anything. I don't think Mr. Maharaj
18 does either. So what we're going to do, in the interest of
19 fairness to everyone, the relevant passage, which is just a small
20 part, is going to be copied. The remainder is like, as far as I can
21 see, is irrelevant to any other matters here and they are
22 obviously matters which may be regarded as sensitive, so they
23 are redacted and I'll show it to you before we circulate it. All
24 right?

25 Does that meet with your approval? Are you content
26 with that? Please sit down unless you want to stand. You may
27 prefer standing.

1 **Lt. Commander Maharaj:** That's a document addressed to
2 Director Operations and/or the Trinidad and Tobago Chief of
3 Defence Staff, so, it's not within my remit to say if it should be.

4 **Mr. Chairman:** No, no, I apologize, but it is in mine. So I
5 shall redact everything that is irrelevant. The only part that
6 seems to me to have even some modicum of relevance is the
7 short passage you told us you wrote which is directly to do with
8 this matter. All right? So that small part will be made available
9 to everybody, but I don't think it's going to compromise
10 security in this country. All right? All right, very well.

11 **Mr. Maharaj SC:** Much obliged.

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. So, I want to question you a bit on the updates that you were
14 getting. So you got updates during the Saturday from the IMT?

15 A. No, Sir.

16 Q. Oh no. So how many updates you got on the Saturday?

17 A. Just when I went there. You mean to Paria, right?

18 Q. Yes.

19 A. Yes, so just when I went there like I said I was introduced to
20 Mr. Piper who I was told was the person in charge. I asked him
21 for an update. He indicated to me, that, based on the
22 information that was received from the coast guard dive team
23 and the fact that they can't or were not equipped to conduct the
24 rescue operation, he was getting advice from commercial divers
25 and he—what they were saying is that they were formulating
26 some plans to try to rescue the divers. In fact, he drew a
27 diagram which resembled a—two right angles facing each other

1 like a kind a U and he indicated to me—

2 **Mr. Chairman:** Like behind you?

3 **Lt. Commander Maharaj:** Yes, like directly behind me.

4 **Continued Examination By Mr. Maharaj SC:**

5 A. Um, right, so he drew that diagram or one similar to it
6 indicating that, um, what was happening. They were doing
7 some maintenance works and at that point he also mentioned to
8 me that there were divers still in the pipeline and he was
9 consulting with commercial experts to try to rescue them.
10 Yeah, so that was the update I received.

11 He mentioned there was an option that was being
12 explored for trying to cut the line and get them out, but he said
13 that was not feasible because, based on the information he
14 received, the line was—well, they were not sure where exactly
15 divers were positioned. He also mentioned that the line was
16 concrete coated and that the possibility of cutting the line could,
17 in fact, cause it to be flooded and then it will take a long time,
18 so that option was not deemed to be viable. He also mentioned
19 that—

20 **Mr. Chairman:** Just pause for a moment, please?

21 **Lt. Commander Maharaj:** Yes.

22 **Mr. Chairman:** [*Writing*] Thank you. He also mentioned,
23 you say?

24 **Continued Examination By Mr. Maharaj SC:**

25 A. Yes, he also mentioned that there were information—there were
26 bits of information he was getting from commercial dive
27 experts who indicated to him that, based on their, I suppose,

1 knowledge, it may be unlikely that the divers would have
2 survived. He asked me what I thought. I told him I was here
3 just to get information. I am not directly prosecuting the rescue
4 operation because I'm not part of the chain of command for the
5 coast guard and the coast guard rescue efforts. My job, as I
6 indicated before, is to get information to pass on. He then said
7 that there was also an option being explored, if, in fact, they
8 were deceased, to, er, use a mechanism to flush the line so that
9 a plug of some sort that Paria believed to be in the pipeline
10 would then assist in getting the divers and tools out of the other
11 end.

12 At that point, he asked me if I was okay and I said, yes,
13 but if you consider what you just told me, that would basically
14 extinguish any hope of anybody inside there. He said that this
15 is just an option being considered, like all the options, like the
16 cutting of the line option, and nothing was, you know, decided
17 firmly yet in stone. I reiterated to him that this is something
18 that, I mean, nobody knows for sure what is the status of the
19 people in the pipeline. They didn't even know. But something
20 like this could guarantee their status.

21 Q. Okay, so he was giving you—

22 **Examination By Mr. Chairman:**

23 Q. Sorry, can I, sorry, what sort of time are we talking about when
24 this is taking place when he's explaining these different options
25 to you.?

26 A. Yes, so this is—well, I visited the ICP at shortly after midday.

27 Q. Shortly after midday?

1 A. Yeah, on Saturday.

2 Q. I thought you said after lunch?

3 A. Well, after lunch, yeah. Well—

4 Q. Well, just so that I have a clearer picture, please—

5 A. Yeah.

6 Q. —I mean I have lunch normally between 1.00 and 2.00.

7 A. Right, so, between 12.00 and 2.00, then, some—

8 Q. Between 12.00 and 2.00?

9 A. Yes.

10 Q. That's the time you attended the post, yes?

11 A. That's the time I was speaking to Mr.—yeah.

12 Q. Right, thank you very much.

13 **Mr. Chairman:** Sorry.

14 **Continued Examination By Mr. Maharaj SC:**

15 Q. And after that you left?

16 A. Yes, Sir.

17 Q. And did you go back on the Sunday?

18 A. No, Sir.

19 Q. No. Well, you told us he was giving you all the options—

20 A. Yes, Sir.

21 Q. —that he was contemplating and he was taking—

22 A. Yes, Sir.

23 Q. —in order to effect a rescue?

24 A. Yes, Sir.

25 Q. Did he tell you about the option that the LMCS divers had
26 rescue plans and they are prepared to go into the pipeline?

27 A. No, Sir.

1 Q. No. Did he tell you that Christopher Boodram had come out of
2 the pipeline and said that one of the men was just behind him
3 and the other men were alive in the pipeline?

4 A. No, he didn't mention any name, Sir. He just indicated that a
5 diver came at of the pipeline alive and that at that time he was,
6 he being the diver, said to him, to Mr. Piper, that he was
7 speaking to other divers or he spoke to other divers.

8 Q. So, in your updates, you did not get any information from Mr.
9 Piper or Mr.—anyone, apart from Mr. Piper, you didn't get any
10 information from either Mr. Piper or Ms. Balkissoon or anyone
11 at Paria that LMCS had divers prepared, commercial divers,
12 prepared to go into the pipeline?

13 A. No, Sir.

14 Q. Did you get any information from him that Paria was taking
15 steps, through the coast guard, to prevent LMCS divers from
16 diving into the pipeline?

17 A. No, Sir.

18 Q. No. So all the instructions you got from Paria as to the options
19 that Paria was considering to exercise or was exercising were
20 options that Paria said that they were going to exercise?

21 A. Based on the advice in consultation with the commercial dive
22 experts they were speaking to, Sir.

23 **Mr. Maharaj SC:** I have no further questions for this witness.

24 **Examination By Mr. Chairman:**

25 Q. Did you ever speak to anybody in the coast guard who were at
26 the scene?

27 A. I think when I spoke to Ms. Balkissoon, I think she handed the

1 phone to Lt. Hargreaves and he indicated to me, um, exactly
2 what was then told to me again later by Mr. Archibald, that,
3 based on the assessment they would not be able to enter.

4 Q. They would not be able to?

5 A. To enter the pipeline.

6 Q. Right. So, did you understand that there was the possibility of
7 entering the pipeline to effect a rescue but that you, the coast
8 guard, didn't have the necessary personnel to carry that task
9 out?

10 A. Yeah, I understood that the—

11 Q. Is that—have I got it right?

12 A. Yes, I understood that the coast guard could not have attempted
13 based on their equipment and training.

14 Q. No, no, I follow that.

15 A. Yeah.

16 Q. Not that part of it. It's the bit before that, really. Did you
17 understand that there was at least the potential for a plan to
18 effect a rescue from within the pipeline, that is to say, people
19 actually diving into the pipeline but that you, the coast guard,
20 didn't have that facility?

21 A. No, I wasn't aware of any other plan.

22 Q. You were not aware of any other plan to dive into the pipe?

23 A. No, not outside of the coast guard, no.

24 **Mr. Chairman:** Right, okay, thank you. Yes, first of all, Mr.
25 Ramoutar, anyone else? Right. Well there's a range of people
26 who've put their hands up so I'll ask Ms. Alfonso, please? You
27 can go first and then I'll come to Mr. Ramoutar and then front

1 row.

2 **Mr. Ramadhar:** Ramadhar.

3 **Mr. Chairman:** Ramadhar.

4 **Mr. Ramadhar:** Thank you so much.

5 **Mr. Chairman:** Yes, um, Ramoutar—Ramadhar, forgive me
6 yes. Ms. Alfonso.

7 **Ms. Alfonso:** Thank you, Sir.

8 **Cross-Examination By Ms. Alfonso:**

9 Q. Good still morning, good morning Lt. Commander Maharaj.

10 A. Morning, Ma'am.

11 Q. My name is Nyree Alfonso. I represent the interest of the
12 SWWTU and I just have one question for you really. The
13 others have been taken care of prior to my putting up my hand.
14 I see some interaction between an Interceptor having been sent
15 to Paria's location and that Interceptor being asked to come
16 back for the dive team. Did you mention that or—earlier?

17 A. Yes. So what I mentioned was that the initial call, again it
18 seemed to be a bit confused, the initial call indicated to me that
19 there were no responding coast guard assets.

20 Q. Okay.

21 A. Which I then clarified by calling the operations room and they
22 said yes they were aware of the incident and, yes, in fact, they
23 did deploy an asset.

24 Q. Okay.

25 A. Um, I understood then, subject only to that, that the Interceptor
26 was engaged in searches for personnel, because, I guess the
27 same information that I had which they probably had, I can't be

1 sure, that there was an incident involving people missing in the
2 water and then, as the time went on, I then, in communication
3 with Mr. Archbald he then indicated to me that, you know,
4 there's an Interceptor, yes, but there's no dive team.

5 Q. Okay. So—

6 A. Right? And then—

7 Q. I'm sorry.

8 A. Right. So and then I asked him, I said, well, okay if you're in
9 contact with the Interceptor, could I then speak to somebody
10 from the Interceptor? He got back on to me and said well the
11 Interceptor has already left. So I then contacted the operations
12 room and found out that the Interceptor did, in fact, leave, after
13 having done what I said they did trying to assist in different
14 ways, to get a dive team to return.

15 Q. Okay, so for my clarification, there would have been another
16 team of TTCG officers on site at Paria's facilities prior to the
17 dive team attending?

18 A. Well as far as I'm aware, Ma'am.

19 Q. Okay, so, would you have—in any of your briefings, would you
20 have come across a time at all when, let's call it the first
21 contingent, the first contingent of coast guard officers arrived
22 on the scene, would you have an idea of the time?

23 A. Yes, I think that is in the document that I supplied. I can't
24 remember the time but I could look at the documents and get
25 the time when the—that was the one dated on the 26th. It says
26 a time.

27 Q. Okay.

1 **Mr. Chairman:** It's being copied. You'll have it in due
2 course, Ms. Alfonso.

3 **Ms. Alfonso:** Okay.

4 **Continued Cross-Examination By Ms. Alfonso:**

5 Q. You don't remember four o'clock, five o'clock any of those
6 times?

7 A. No, Ma'am. It's in the document.

8 Q. Okay. So I will—but certainly there was one contingent there
9 before the Interceptor left to collect the dive team?

10 A. I don't understand the question, Ma'am.

11 Q. Okay, so, one asset, you said one asset which is an Interceptor,
12 would have left Staubles, one presumes, left from somewhere
13 and come on Paria's facilities. That Interceptor returned later in
14 the day when you got involved with Mr. Mackie and so on,
15 returned to collect the dive team, yes? So that two contingents
16 from the coast guard would have been on scene, one at an
17 earlier time and I believe, from my reading maybe around 8.40,
18 43 I think is the time, the dive team arrived on the scene. So
19 was there ano—to your knowledge, was there another
20 contingent of coast guard officers which arrived prior to the
21 dive team which did not come till 8.43, as I see from one
22 witness statement?

23 A. I am not sure, Ma'am.

24 Q. Okay. So you don't know if there were any coast guard officers
25 there before the dive team came then?

26 A. Well, I said there were—

27 Q. Yes, okay.

1 A. —I said there was—

2 Q. Yes, okay.

3 A. —[*Inaudible*]

4 Q. So—and the only thing is you don't know what time those
5 officers arrived?

6 A. It's in the document, Ma'am. I can't remember.

7 Q. Okay, so we'll wait for the document. Thank you very much
8 Lt. Commander Maharaj.

9 A. Yes, Ma'am.

10 **Mr. Chairman:** Yes, Mr. Ramadhar.

11 **Cross-Examination By Mr. Ramadhar:**

12 Q. Good morning, Sir. My name is Prakash Ramadhar and I
13 represent the interest of the Kurban family and Yusuf Henry's
14 child.

15 A. Yes, Sir.

16 Q. First of all thank, you for your involvement and your efforts to
17 assist on that day. Now, you've heard and was shown a
18 statement from Mr. Piper in which certain things were said,
19 apportioned to what you would have told him that was
20 inaccurate at best. Is that accurate? Is that true?

21 A. Yes, Sir, just the part that I saw.

22 Q. Remind us which part that was.

23 A. I think it's on page 1373.

24 Q. Yes.

25 A. Paragraph 166.

26 Q. And the relevant part?

27 A. Well the part that I agree with is that it was some time around

1 midday I attended the ICP. I also agreed that we moved to a
2 private area and then he updated me, as I indicated, about
3 different options that they were considering. I disagree
4 fundamentally with what he said about me advising him about a
5 helmet, and furthermore, about shifting the efforts to recovery
6 and not rescue.

7 Q. Explain that for us. What, what did you actually tell him and
8 what is he saying that you told him?

9 A. Well that's what he said, Sir, in the statement here.

10 Q. Yes.

11 A. All right? What I told him—well, I came for an update.

12 Q. Yes.

13 A. All right? And he mentioned to me what the update was. He
14 draw a diagram like this.

15 Q. Yes.

16 A. Indicated, um, where they were working, what happened, or
17 what they think happened which was somehow, he wasn't sure
18 how, the divers became trapped with a—

19 Q. Yeah, forgive me. We heard that. The question I asked you is
20 this. What, in your mind, was the most important difference
21 between what you actually said and what he said you told him?

22 A. Most important difference, Sir, is that what he said is that I
23 made a comment about their ability to survive.

24 Q. Yes.

25 A. And I also made a comment about the fact that they should turn
26 the operation from rescue to recovery. I fundamentally
27 disagree with that because I am in the business of saving lives,

1 as a ship captain prior to my taking up my present position—

2 Q. Yes.

3 A. —and, apart from that, as I indicated to him and to everyone
4 here, I was made to be involved through a call which required
5 assistance.

6 Q. Of course.

7 A. I was not part of the effort that was actually prosecuting the
8 rescue, so how that operates is that the coast guard, we're
9 speaking about the coast guard, the coast guard has of course
10 somebody in charge, the commanding officer, he has different
11 departments one of which is operations and the operations
12 department has assets and personnel to deploy to effect rescue.
13 So I explained, I mean, that I wasn't a part of that. I'm here to
14 get an update—

15 Q. Yes.

16 A. —to provide to my superiors.

17 Q. Thank you.

18 A. So I say all that to say—

19 Q. Yes.

20 A. —there would have been no—it would not have been my place
21 to comment on anything mentioned here—

22 Q. Yes.

23 A. —with respect to survivability and things like that.

24 Q. Right.

25 A. And as a matter—

26 Q. So let me get this clear. You are saying effectively that you as
27 a representative at that time, in the widest sense of the Defence

1 Forces, did not indicate that it should convert itself, that is any
2 effort, from rescue to recovery?

3 A. Absolutely not.

4 Q. Of course. Because, as you just told us, and help us if you
5 could, what is the highest priority in an accident in terms of
6 your training in the coast guard and in the Defence Force?

7 A. To save lives.

8 Q. Save lives. And you appreciate that you're—you're a military
9 man, and, of course, there are risks in all sorts of endeavours,
10 correct?

11 A. Yes, Sir.

12 Q. And in particularly in the water, yes?

13 A. Yes, Sir.

14 Q. But you have to overcome the fear of the risk sometimes to
15 save a life. Is that accurate?

16 A. I would—

17 Q. Once it is—once there is, what shall I say, a viable opportunity
18 to save the life, you balance that with some risk and if there is,
19 you know, no certainty that you're going to fail, you go ahead
20 and you do it, isn't it?

21 A. I would agree theoretically from my own point of view with
22 respect to this operation. I'll have to respect the—and a
23 determination made by the dive team that was onsite.

24 Q. Thank you very much. Now, you are still a member of the
25 Defence Force?

26 A. Yes, Sir.

27 Q. Right? And it was very troubling, to me at least, to have heard

1 that no one from either the Defence force or the coast guard
2 made any effort to coordinate a statement from you for the
3 benefit of the Chairman, the Commission and, of course, all of
4 us.

5 A. As am I, Sir.

6 Q. As you are. And it is by summons then you became aware of
7 the need for you to assist?

8 A. Yes, Sir.

9 Q. And we must thank the legal team and the Commission for that,
10 correct? You got it from whom, the summons?

11 A. Well I was called by the, um, the welfare officer in the coast
12 guard—

13 Q. Yes.

14 A. —who told to me, or who told me that a WPC from the
15 Carenage Police Station—

16 Q. Yes.

17 A. —wants to get in touch with me—

18 Q. Yes.

19 A. —um, because she had summons for me, so obviously I was
20 asking well what was this—

21 Q. Yes.

22 A. —summons about?

23 Q. Thank you very much. That was the first time you realized that
24 it was an effort to communicate with you to get important
25 information?

26 A. Yes, Sir.

27 Q. Thank you. Now, many of us may know and some may not.

1 You referenced Mr. Mackie from the ODPM. What does
2 ODPM stand for?

3 A. The Office of Disaster Preparedness and Management, Sir.

4 Q. The Office of Disaster Preparedness and Management.

5 A. Yes.

6 Q. Was there any level, or an institution that you were aware of,
7 whether in the past or at present, to coordinate issues of
8 disasters preparedness and management outside of the ODPM?

9 A. Well—

10 Q. I'll help you.

11 A. —a former incarnation was NEMA.

12 Q. Right, and, have you ever heard of the NOC?

13 A. I'm sorry, Sir?

14 Q. The NOC, National Operations Centre?

15 A. Yep, I have heard of it, Sir.

16 Q. Yes. Are you aware that it was to coordinate all the arms of the
17 State so that we could have a coordinated effort, and, instead of
18 Mr. Mackie seeking you out, you could have that coordinated
19 effort between the different arms to assist?

20 A. Well, it's my understanding that Mr. Mackie reached out to me
21 because we worked together in the past.

22 Q. Yes.

23 A. And, um, when they asked for—when he was asked if he could
24 find somebody who he could get a response from, from the
25 coast guard, I guess he called me. Um, as to what the NOC
26 does and how they function, I was never a part of the NOC, Sir.

27 Q. You were never part of the NOC?

1 A. No, Sir.

2 Q. So as you were aware, at this point in time, that you would not
3 have been involved in this unless Mr. Mackie, thanks for his
4 assistance from the ODPM, making contact with you?

5 A. Yes, Sir.

6 Q. Thank you. Now, the coast guard, you were a member of the
7 coast guard for how many years?

8 A. I still am, for, it's going on 21 years and three months now.

9 Q. Wow. And that the coast guard is part of our military asset?

10 A. Yes, Sir, one of the four formations that comprises the Defence
11 Force.

12 Q. Thank you. And in terms of the use of force, you have
13 authority to use force to carry out instructions, isn't that
14 accurate?

15 A. In certain circumstances, yes, Sir.

16 Q. Yes, of course. Yeah, in fact, the coast guard is armed with
17 machine guns and other artillery and so, is that accurate?

18 A. Not artillery, Sir.

19 Q. But let me put it, with firearms?

20 A. Yes, Sir.

21 Q. [*Inaudible*] artillery.

22 **Mr. Chairman:** There's a big difference between firearms and
23 artillery.

24 **Mr. Ramadhar:** I brought it back down but I do know that the
25 coast guard does have those high level bores and, and—
26 anyhow, I shan't go into that at this point in time.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. So the coast guard members are armed with firearms, is that
2 accurate?

3 A. No, when carrying out their duty and—

4 Q. Yes, yes of course.

5 A. —according to what that duty is, yes, Sir.

6 Q. Yes. And some of the guns have large guns—I mean some of
7 the boats have large guns on them?

8 A. Some of the vessels, yeah.

9 Q. Yes. In fact, you're aware in the month of February, there was
10 an awful scandal through the country where a baby was shot
11 and killed by members of the coast guard on the open waters?

12 **Mr. Chairman:** Yes, don't answer that. Move on.

13 **Mr. Ramadhar:** Yes.

14 **Continued Cross-Examination By Mr. Ramadhar:**

15 Q. You're aware that the coast guard have the authority to use
16 deadly force in certain circumstances?

17 A. Yes, Sir.

18 Q. Yes. And part of that endeavour or part of the duty is
19 protecting national assets?

20 A. Yes, Sir.

21 Q. Yes. And they receive instructions from whom?

22 A. To do what, Sir?

23 Q. To, to do their duty. Who does the coast guard get its authority
24 from?

25 A. Who the coast guard get its authority from?

26 Q. Yes.

27 A. Well, the commander-in-chief of the military is the President

1 and she divests that operational control of the Force to the Chief
2 of Defence Staff who in turn devolves the, er, management of
3 the different formations to the commanding officers of each
4 formation.

5 Q. You've been extremely helpful. Now, tell us, who gave the
6 coast guard authority to go on to Paria's property on that day?

7 A. I can't say, Sir.

8 Q. But you appreciate the coast guard doesn't act on its own? It
9 has to get instructions, yes?

10 **Mr. Chairman:** Is that right? Is that right the coast guard
11 can't act on its own? It needs permission to enter somebody
12 else's land?

13 **Mr. Ramadhar:** My Lord, let me finesse that question.

14 **Mr. Chairman:** Right.

15 **Mr. Ramadhar:** I appreciate it.

16 **Mr. Chairman:** Then—

17 **Mr. Ramadhar:** Yes.

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. The coast guard has its normal duties, you appreciate that,
20 which all the coast guard members know, and, as a matter of
21 course coastal patrol and so, yeah? Do you know who
22 instructed the coast guard to go on site at Paria that day?

23 A. I can't say, Sir.

24 Q. No.

25 **Examination By Mr. Chairman:**

26 Q. Well, that rather presupposes that there was such an instruction.
27 Now, you need to break that down a little bit. So, are you

1 aware of whether there was any instruction at all to attend
2 Paria's site, of the coast guard? Were they instructed at any
3 point, so far as you are aware, to come on to Paria's waters?

4 A. On the 25th?

5 Q. Yes.

6 A. I'm not aware.

7 Q. You're not aware?

8 A. But I presume there—

9 Q. Well don't presume.

10 A. —has to be.

11 Q. Don't presume, it's fine.

12 A. Yes.

13 Q. You're not aware of any instruction to do so?

14 A. No, Sir.

15 **Mr. Chairman:** Thank you.

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. Lieutenant Commander, were you aware on the afternoon and
18 into the evening of the 25th of February, 2022 who members of
19 the coast guard were taking instructions from at Paria's
20 installations?

21 A. No, Sir.

22 Q. Of course. Did you make any enquiry of them?

23 A. No, Sir.

24 Q. No. Now, as you have told the Chairman, that the highest
25 priority is to save life. Now, as an experienced coastguardsman
26 where persons may have succumbed, well become victim of an
27 accident within—on a water environment, and that there being

1 no sight of persons above the sea's surface, would you consider
2 a rescue effort to be one where time is of the ultimate essence?

3 A. Am I to understand that you're asking if there are people at
4 sea—

5 Q. Yes.

6 A. —below the surface—

7 Q. Yes.

8 A. —and we know that they're below the surface—

9 Q. Yes.

10 A. —if time would be of the essence?

11 Q. Of, not just the—of, you know, the highest level of essence,
12 time?

13 A. Yes, Sir, according to the—

14 Q. Yeah.

15 A. —circumstances, yeah.

16 Q. And you would appreciate, then, that whatever need be done in
17 terms of risk assessment and plans and so, should be
18 accelerated and one does not then have the luxury of reflective
19 thought on all the possibilities that can go wrong? You agree
20 with that?

21 A. It depends on the situation, Sir.

22 Q. Yes, and in the situation where persons, there was certainty of
23 proof of life, in other words, one of the divers had come out and
24 say others were alive within the pipe, the proof of life, would
25 that not create a higher level of urgency in executing a plan?

26 A. It would, Sir.

27 Q. Sorry?

1 A. I say I suppose it would, Sir.

2 Q. Yes.

3 **Mr. Ramadhar:** Thank you very much, Commissioner.

4 **Mr. Chairman:** Thank you, Mr. Ramadhar. Yes.

5 **Cross-Examination By Mrs. Persaud Maraj:**

6 Q. Good morning, Lieutenant Commander. I'd like to take you
7 back to—Kamini Persaud Maraj.

8 **Mr. Chairman:** Could you introduce—

9 **Mrs. Persaud Maraj:** Kamini—

10 **Mr. Chairman:** Yeah, I was going to say introduce yourself
11 first, please?

12 **Continued Cross-Examination By Mrs. Persaud Maraj:**

13 Q. Kamini Persaud Maraj and I act on behalf of LMCS Limited.
14 I'd like you to take you back to Saturday after lunch, or, after
15 12.00 between 12.00 and 2.00 that you had with Mr. Piper. Can
16 you say exactly which room you would were taken to when you
17 would have met Mr. Piper?

18 A. That was in a building close to the terminal area. The room
19 was—it's like a long file room, two desks in it, I'm not sure
20 there was a sign on the door. It was kinda long but overlooking
21 the terminal area.

22 **Mr. Chairman:** Ground floor or first floor?

23 **Lt. Commander Maharaj:** First floor.

24 **Continued Cross-Examination By Mrs. Persaud Maraj:**

25 Q. And when you entered that room with Mr. Piper, was there any
26 other person present?

27 A. Not that I could recall.

1 Q. Was there any recording of the meeting between you and Mr.
2 Piper to the best of your—

3 A. Not to the best of my knowledge.

4 Q. —recollection?

5 A. Recollection.

6 Q. All right. You were taking notes from that conversation and
7 discussion with Mr. Piper?

8 A. Well, it was a discussion like we're having now, um, and I took
9 not at the time, um, well I took note of what he said certainly.

10 Q. You said that you would have moved to a different location, a
11 private, a more private area?

12 A. No, that was the area.

13 Q. That was the area.

14 A. Yeah, so when I—

15 Q. So it's just one area that you would have met him?

16 A. Yes. So, when I came up, I was introduced to him as the person
17 who was in charge.

18 Q. Right.

19 A. I can't remember whom by and then I went—well he pointed
20 me in the direction of this room, um, and he went there and he
21 gave me the update and—

22 Q. All right. You've been helpful.

23 **Mrs. Persaud Maraj:** That is all that I have, Mr.
24 Commissioner.

25 **Mr. Chairman:** Thank you.

26 **Mr. Peterson SC:** Thank you, Mr. Chairman.

27 **Cross-Examination By Mr. Peterson SC:**

1 Q. Morning, Commander.

2 A. Morning, Sir.

3 Q. I'm Gilbert Peterson for Paria and Heritage.

4 A. Yes, Sir.

5 Q. That Saturday when you arrived at Paria's compound, the
6 building you went—you said you went to the ICP in that—

7 A. Well, I presume it was the ICP, because that's where—

8 Q. —incident command post. Right.

9 A. Because that's where—

10 Q. Because it's near the, it's near the, the—overlooking the
11 harbour, I think you said, or the berth?

12 A. Yes, Sir, the terminal area.

13 Q. And you had a conversation with Mr. Piper?

14 A. Yes, Sir.

15 Q. I couldn't help but notice the detail of that conversation without
16 notes. Did you take notes?

17 A. Yes I did, Sir.

18 Q. All right. Of the conversation with him?

19 A. Yes, Sir.

20 Q. All right. As a coastguardsman, a commanding officer, you
21 arrived there almost a day after the initial incident. Were you
22 aware of that?

23 A. Yes, I was aware of the incident from the time I was called
24 and—

25 Q. Right, so it was almost, about 20 hours thereafter that you were
26 arriving at Paria. Isn't that so, give or take?

27 A. Maybe.

1 Q. Yes. You had no view as to the likelihood of the survival of
2 these men as a trained coast guard commander?

3 A. Well I was told by Mr. Piper that there were, in fact, people
4 who survived, at least when he mentioned to me, as I said
5 earlier today on today, right, um, that he said that, um, one
6 person came out, he didn't give me a name, and that person
7 spoke to other people who were in there.

8 Q. Yeah. No, I'm speaking about the Saturday now.

9 A. Because that's what he told me on the Saturday.

10 Q. Yeah, I know. When you're at the Saturday, being aware that
11 these men went missing in the afternoon of the Friday, you did
12 not have a view as to the likely survival of these men as a
13 trained coast guard commander?

14 A. Are you asking me my view now, Sir, or if I had a view then?

15 Q. No, then. Did you not try to muster a view at that point in
16 time?

17 A. I was given certain information.

18 Q. Yeah, I know that. But you, having been given this
19 information—

20 A. The information I—

21 Q. —that a man came out the pipe and all of that.

22 A. The information—yes, so the information that I got on the day
23 before, as I mentioned, initially spoke to an incident that say
24 people missing.

25 Q. Right.

26 A. I later became aware that people were in some sort of pipeline
27 for some works being done.

1 Q. Right.

2 A. I was told later in the evening, by Ms. Balkissoon I think it was,
3 that somebody was taken out of the pipeline.

4 Q. Yes, we got all—yeah, we got all of that. I don't know if I
5 losing it. We got all of that. You visited Paria around midday
6 just after lunch I think you said on the Saturday.

7 A. Yes, Sir.

8 Q. At that stage, knowing all that you know, up to that point, you
9 did not consider a view as to whether those men would have
10 survived, having been missing for about 20 hours now? You
11 didn't think about that?

12 A. Yes, Sir.

13 Q. Having thought of that, what did you do with that thought when
14 you were talking to Mr. Piper?

15 A. Well, as I mentioned when Mr. Piper was exploring the
16 different options, he was exploring options for rescue, one of
17 which I mentioned in terms of was cutting the pipe which he—

18 Q. That's not my question, you know. We got all of that already.

19 A. Well I'm answering the question, Sir, so—

20 Q. Well—

21 A. —which was, did I form an opinion as to it, and the opinion I
22 had, up to that point when you mentioned that, was that there
23 was the possibility of surv—I would not consider—I have no
24 ability to pronounce people alive or dead.

25 Q. We know that. Neither do I, but I am asking you as a trained
26 commander if you had a view as to the likelihood of the
27 survival of those men having been missing in a watery situation

1 for about 20 hours, if you had that view you told me, yes.

2 A. Yes.

3 Q. And I asked you what you did having formed a view? What
4 you did with that view? You kept it to yourself or you told Mr.
5 Piper?

6 A. Well I was—I came there for a feedback, Sir, so I was getting a
7 feedback from Mr. Piper.

8 Q. You were, you were that, dealing with the view you formed.
9 What you did with it?

10 A. Well when he told me about the option of getting the water to
11 push the people out, then I expressed to him my view and the
12 view was, what I expressed to him was that, should this option
13 be considered, you are basically extinguishing any and all hope
14 of survivability, and, as far as I was concerned, there's no
15 reason to say people are surviving or not especially when he
16 told me that somebody who he got out of the pipe spoke to
17 other people.

18 Q. Commander, we got that. That view that you formed, you put it
19 into your reports to your Chief of Operations and Chief of
20 Defence Staff?

21 A. No, Sir.

22 Q. So you kept that view to yourself?

23 A. I'm not sure what you're asking.

24 Q. The view that you told me you formed about the likelihood of
25 the men's survival, you told me you formed view, huh? What
26 you did with it? You didn't tell it to Mr. Piper. I'm just asking
27 you if you communicated it to your Chief of Defence Staff or

1 your Chief of Operations?

2 A. And I just need you to know that I said something to Mr. Piper
3 about that view.

4 Q. You told—no, you said you told Mr. Piper if he was going to
5 flush and all of that, he's going to extinguish. The view that
6 you formed, did you tell it to your Chief of Defence Staff or
7 your Chief of Operations?

8 A. Sir, I'm not sure if you understand what I've been trying to
9 explain.

10 Q. No, all I asked you the view—

11 A. The answer to that question is no.

12 Q. Right, okay. So it's not in the document that we expect to see
13 shortly?

14 A. No.

15 Q. Right. You see, we are instructed and Mr. Piper said that he
16 had that conversation with you as you were referred to in
17 paragraph 66. You are the one who spoke about recovery. And
18 you deny that, right? Let's get it on the record. You deny that
19 you had that conversation?

20 A. I said that before. I am saying it again.

21 Q. Did you not also have a conversation at a family meeting
22 session at another location at Paria [*Inaudible*]

23 A. With who, Sir?

24 Q. The club, the staff club office, did you go there, staff club
25 building?

26 A. Yes, Sir.

27 Q. Right. And you spoke to Mr. Mushtaq Mohammed?

1 A. I was introduced to him.

2 Q. I didn't ask you if you were introduced to him. Did you speak
3 with him?

4 A. No, Sir, after we were introduced.

5 Q. Because I am instructed that you said to him that he should
6 have mentioned recovery to the families.

7 A. That is inaccurate, Sir.

8 Q. Weren't the families there at that meeting that you attended
9 later in the afternoon on the Saturday?

10 A. I think there was a meeting with the family, Sir.

11 Q. You think? You were there. Weren't you?

12 A. There was a meeting of the families, yes, Sir.

13 Q. Did Mr. Mushtaq speak at that meeting?

14 A. I spoke to him after that meeting.

15 Q. No, did Mr. Mushtaq Mohammed speak at that meeting?

16 A. I, I don't know, Sir.

17 Q. How you mean you don't know?

18 A. I can't recall.

19 Q. Commander, you must do better than that. You recall a very
20 detailed conversation with Mr. Piper. You cannot remember—
21 all right, let's back up. How you came to go to the club, the
22 club, staff club house?

23 A. I was told by—we had military persons on the Petrotrin
24 compound that are assisting with, um, security of different
25 things, and I was told by a member of the, er, that military
26 contingent, that the Minister was about to come on the
27 compound.

1 Q. Uh-huh.

2 A. And that he was coming to a meeting.

3 Q. Yes.

4 A. So then I went—I said well where is the meeting?

5 Q. Yes.

6 A. He indicated it was the staff club.

7 Q. Right. When—

8 A. I asked them what security arrangements they had in place.

9 They said that he was coming with his detail and the elements
10 of the Defence Force that were already on the compound would
11 also be there.

12 Q. Who you had this conversation with?

13 A. One of the members of the support team.

14 Q. You can't recall who it is by name, can you?

15 A. I can't recall at this time.

16 Q. Right. So you went across to the clubhouse, the staff club?

17 A. I wanted to ensure that the Minister's arrival was safe.

18 Q. Well the Minister moves heavy so he doesn't need your—well,
19 that's aside. He moves heavy so he doesn't need your
20 intervention, but, you went to the clubhouse. When you got
21 there what happened?

22 A. When I got there I saw that the Minister arrived and there was a
23 meeting that took place inside there.

24 Q. He arrived before you or you arrived before him?

25 A. I arrived before him.

26 Q. Right. And at what stage were you introduced to Mr. Mushtaq
27 Mohammed.

- 1 A. When Minister left.
- 2 Q. All right. And that's after Mr. Mushtaq Mohammed spoke?
- 3 A. [*No audible response*]
- 4 Q. That is a yes?
- 5 A. That's a question, Sir?
- 6 Q. Yes. That was after Mr. Mohammed spoke?
- 7 A. That was after the meeting. I'm not sure if he spoke at the
- 8 meeting.
- 9 Q. But you were present throughout the meeting.
- 10 A. I wasn't present throughout the meeting.
- 11 Q. But you say you got there before the Minister.
- 12 A. I got there before the Minister.
- 13 Q. And you were there up to when the Minister left.
- 14 A. I was not in the room where the meeting was.
- 15 Q. Where were you?
- 16 A. There's a anteroom just outside.
- 17 Q. Mr., um, Mr.—commander, let me give you an opportunity.
- 18 We have a photo of the Minister speaking and you stand up
- 19 behind him.
- 20 A. [*Nodding*] Yes, I was there when the—
- 21 Q. In the room. So don't tell me you were in any side room.
- 22 A. No, I'm saying that—you asked me about Mr. Mushtaq. I'm
- 23 not sure if—
- 24 Q. No, no, no; what you mean you're not—
- 25 A. —he spoke—
- 26 Q. —sure?
- 27 A. —at the meeting.

1 Q. But you said you were introduced to him when the meeting
2 finished?

3 A. Yes, yes, Sir.

4 Q. Right. And Mr. Mushtaq spoke before the Minister or after the
5 Minister?

6 A. I did not—Sir, I was in and out of the room.

7 Q. What do you mean in and out of the room whilst the Minister
8 speaking?

9 A. Well not only when the Minister was speaking, Sir.

10 Q. What were you doing in and out of the room?

11 A. I'm not sure I understand the question, Sir. What does the—

12 Q. Simple. What were you doing in and out of the room?

13 A. Went out the room, checked to see how things were looking
14 outside the room in terms of the security, came back in
15 periodically.

16 Q. It's not for me but it's for the Chairman. I ain't believe you.
17 Who introduced you to Mr. Mushtaq Mohammed?

18 A. I think, I think it was Mr. Piper. I can't be sure. I think it's Mr.
19 Piper.

20 Q. But I am instructed I'm putting to you that you said to Mr.
21 Mohammed that he ought to have mentioned recovery to the
22 families. You're doubting that too?

23 A. Yes.

24 Q. So after they introduced you to Mr. Mohammed, you just had
25 no conversation with him, you left?

26 A. Did I leave?

27 Q. Yes.

1 A. Yes, Sir.

2 Q. He was introduced to you as whom?

3 A. I think was the Manager or the Managing Director.

4 Q. Of?

5 A. Of Paria.

6 Q. And after that, that was it? “Nice to meet you, Mr.
7 Mohammed. I am Commander Maharaj”, and that’s it?

8 A. No, it wasn’t a meeting.

9 Q. You all didn’t discuss the event, the men, survival, anything
10 like that?

11 A. No, Sir.

12 Q. So it was just a social introduction and that’s it?

13 A. Yes, Sir. I came to get the update from Mr. Piper which I did.

14 Q. I’m putting to you that you’re not speaking the truth. Accept it
15 or deny it, because Mr. Piper, Mr. Mushtaq Mohammed will be
16 coming to the box. I’m putting to you, you’re not speaking the
17 truth.

18 A. Sir, I can’t tell you what to put.

19 Q. No, you could tell me is the truth you’re speaking. That’s what
20 you could tell me, it was—

21 A. Sir, I am telling the truth.

22 Q. Yes.

23 A. I swore to tell the truth, that is the truth.

24 Q. Now that I put them words in your mouth, you’re speaking the
25 truth.

26 **Mr. Peterson SC:** Mr. Chairman, no further questions.

27 **Mr. Chairman:** Mr. Maharaj?

1 **Mr. Maharaj SC:** I have no re-examination.

2 **Mr. Chairman:** Okay. Thank you very much for coming. I
3 hope it hasn't been wholly uncomfortable sitting down but
4 thank you very much for coming.

5 **Lt. Commander Maharaj:** Sir.

6 **Mr. Chairman:** Right, you may go. Just leave that there,
7 that's fine. Just leave it there. Thank you very much. I think
8 someone will give you back your documents. If you go out
9 with the clerk, she'll give you the documents that you came
10 with, all right, to make sure you take them with you and we'll
11 have a copy of just those parts that I said. Thank you very
12 much. Right.

13 [*Lieutenant Commander Michael Maharaj leaves Enquiry*
14 *room*]

15 **Mr. Maharaj SC:** Mr. Chairman, the next witness is leading
16 seaman Andre Leidgewood.

17 **Mr. Chairman:** Right.

18 **Mr. Maharaj SC:** What happened is that, um, we had asked
19 the Chief of Defence Force to provide statements and they
20 provided one for Mr. Hargreaves, and then we had seen the
21 name of Mr. Leidgewood mentioned in some other statements
22 given by the fire officers, and we summoned him to appear.

23 **Mr. Chairman:** Yes. Mr. Maharaj was saying that he was
24 never asked to provide a statement. Wait there a moment,
25 please, Mr. Leidgewood. Mr. Maharaj was saying he was never
26 asked to provide a statement. As I understand it, the command
27 was asked to get them all to write their statements.

1 **Mr. Maharaj SC:** Yes.

2 **Mr. Chairman:** That never happened and that was why we
3 felt it necessary to send a witness summons for them to attend.

4 **Mr. Maharaj SC:** Yes, Sir.

5 **Mr. Chairman:** And they had every opportunity thereafter to
6 provide a witness sum—statement, and chose not to.

7 **Mr. Maharaj SC:** No.

8 **Mr. Chairman:** All right, thank you very much. So, Mr.
9 Ledgerwood, am I pronouncing that correctly?

10 **Mr. Maharaj SC:** Mr. Ledgerwood [*Phonetic*].

11 **Mr. Chairman:** Ledgerwood [*Phonetic*], forgive me. Mr.
12 Leidgewood [*Phonetic*] If there was a way of getting it wrong
13 you can be assured that I would have been the one to do so, so,
14 forgive me, Mr. Leidgewood, um—

15 [*Mr. Andre Leidgewood sworn*]

16 **Mr. Leidgewood:** I, Andre Leidgewood, solemnly swear that
17 the evidence I shall give to the Commission in this case shall be
18 the truth, the whole truth and nothing but the truth.

19 **Mr. Chairman:** Yes, thank you for coming, Mr. Leidgewood.
20 Mr. Maharaj, who's standing up in front of you at the moment,
21 is going to ask you a number of questions, all right, and then a
22 number of other lawyers who are here may have questions for
23 you as well, all right? We expect to have your evidence dealt
24 with before lunch, all right, so you'll be able to go. Thank you
25 very much.

26 **Examination By Mr. Maharaj SC:**

27 Q. Mr. Leidgewood I just want to ask you a few questions, so see

1 if you could help us, right?

2 A. Okay.

3 Q. You remember the 25th of February this year?

4 A. I remember.

5 Q. And you—sometime that day you were at berth 6 of Paria?

6 A. Yes.

7 Q. And what were you doing—around what time you arrived
8 there?

9 A. Um, I would have received a call from—I was on duty that day
10 at Staubles Bay, Chaguaramas.

11 Q. As part of the, as part of the coast guard?

12 A. Yes, as part of the coast guard.

13 Q. Yes.

14 A. So I would have received a call to go to render assistance to a
15 incident that took place at the Paria platform. That would have
16 been around 16:00 hours, so I left, I got down there probably
17 like around 45 minutes later. The call I got was that, um, divers
18 went under the water and they didn't come back up so they
19 called coast guard to render assistance. So I went down with
20 me and my crew to make an appraisal of the situation and see
21 how best we could assist.

22 **12.01 p.m.**

23 Q. You were the leader in charge of the group?

24 A. I was the coxswain on the day. The coxswain is a term used to
25 describe the person who is in charge of the small fast patrol
26 craft, and I was the coxswain that day, and I had a crew under
27 my charge.

1 **Mr. Chairman:** Right. Can I just—

2 **Examination By Mr. Chairman:**

3 Q. Help me to understand how it works. Different coast guard
4 work in different ways. So if I want the coast guard, what do I
5 do? What do I have to—how do I get the coast guard?

6 A. You have to call the coast guard. You will call the Operations
7 Department or you call the—the number that you have for coast
8 guard there is a department that answers the call and—

9 Q. You don't just dial 911?

10 A. No. It's a coast guard number to call.

11 Q. Right. So it's not an emergency number like you would for the
12 police or—

13 A. I think they have an emergency number, but it's not like 911
14 or—

15 Q. It's a different one?

16 A. Yes.

17 Q. What is it?

18 A. It's 800TTCG.

19 Q. Say again?

20 A. 800TTCG.

21 Q. TTCG?

22 A. Yeah.

23 Q. Oh, match it up with the letters on the phone. Right.

24 A. Yes.

25 Q. 800 and then TTCG.

26 A. Or 634-TTCG. Yeah.

27 Q. All right. Thank you. And so, I call that number and say I need

1 the coast guard; there's an emergency situation or whatever it
2 is. Yes?

3 A. Yes.

4 Q. And then you respond to that. Do you?

5 A. Yes.

6 Q. Somebody tells you?

7 A. Yes. I get instructions from the senior officers on the day
8 relative to the information they would have received and they
9 would have dispatched to me on what I'm required to do.

10 Q. Got you. And were you at sea already on that day?

11 A. No, I wasn't. I was on the base.

12 Q. You were on shore?

13 A. Yes.

14 Q. Right. So you had to launch the boat and off you go?

15 A. Yeah.

16 Q. And how far away is that? Forgive me for asking these
17 questions. Everybody else here knows all of the answers to
18 that, but I don't.

19 A. This could have been about 13 nautical miles from—

20 Q. Thirteen nautical miles?

21 A. Yeah, from Staubles.

22 Q. Fifteen miles to the ordinary man, roughly, a bit less, perhaps.
23 That sort of distance. Yes?

24 A. Yeah.

25 Q. Right. And then how long would it take you to cover that sort
26 of distance?

27 A. About 45, 50 minutes.

1 Q. Fifty minutes?

2 A. Yeah.

3 Q. What? To go 15 miles?

4 A. On sea, yeah.

5 Q. All right. So that's the length of time it will amount; 50
6 minutes or so to get from where you were to the—

7 A. Yeah.

8 **Mr. Chairman:** Now I understand. Thank you very much.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. So around what time you reached there? Around five?

11 A. Around five, yeah.

12 Q. Five. And who instructed you? You remember who was the
13 superior officer who instructed you to go there?

14 A. I can't remember who was the duty operations officer on the
15 day, but, um—

16 Q. And am I correct in saying that your instructions were included
17 to go to assist in a rescue?

18 A. Yes.

19 Q. And did they tell you, from the instructions you got, where the
20 persons who had to be rescued were?

21 A. The information I got initially was that, yeah, persons went
22 under the water and they did not come back up.

23 Q. Oh, I see. So as far as you were concerned, when you left the
24 coast guard facilities you were going to assist in a rescue in
25 open waters?

26 A. Yes, that's initially. Is only when I got down there I realize
27 what it really was.

1 Q. So when you got down there to Paria, you then found out that it
2 was a rescue from within a pipeline?

3 A. Yes.

4 **Examination By Mr. Chairman:**

5 Q. How many of you were there?

6 A. It was me and five on the vessel.

7 Q. So six all together?

8 A. Yes.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. Right. When you got down there at Paria, did anyone from
11 Paria meet you and brief you?

12 A. Yes. I went alongside the platform. There was somebody in
13 charge of the platform that day—I can't remember his name—
14 and I got off and I spoke to him and he told me exactly what it
15 was happening—what had happened.

16 Q. Okay. Did you also—well, about how many persons from
17 Paria you saw there, if you remember—about?

18 A. At that time it had, um—on the platform itself could have been
19 about two or three people I saw. I spoke to one. But about two
20 or three people I saw at the time.

21 Q. And did you also observe persons from a firm called LMCS
22 who are divers?

23 A. Not initially but afterwards, yes.

24 Q. Afterwards. About how many persons from LMCS you saw?
25 Could you remember?

26 A. I can't remember.

27 Q. But the persons from LMCS, were they divers?

1 A. Yeah, they were divers; they were divers yeah.

2 Q. And were they diving in the water at the time when you went
3 there?

4 A. At the time, I think it had there; it had someone in the water at
5 the time. Yes.

6 Q. But can you tell us if they were divers from LMCS?

7 A. I can't.

8 Q. You can't say?

9 A. I can't say if they were from LMCS.

10 Q. Did you see any divers—well, did you know whether there
11 were divers from Paria?

12 A. Nah, I don't know where the divers were from.

13 Q. Okay. So you arrived there at around five?

14 A. Yes.

15 Q. And how long you stayed there?

16 A. I was there for about an hour and a half initially. Yeah.

17 Q. About an hour and a half.

18 **Mr. Chairman:** Initially.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. Initially. Well, what happened after the hour and a half?

21 A. Right. Well, while I was there, I would have called back to
22 base to inform them of what actually happened. So I was there
23 on standby for them to give me back instructions. I believe
24 they were organizing a dive team to come down.

25 Q. Okay.

26 A. So I was there waiting for them to let me know when to come
27 to get them. While I was there, I was trying to render any

1 assistance I could.

2 Q. But you had a dive team there?

3 A. No, I didn't have a dive team.

4 Q. Oh, you didn't have divers with you?

5 A. I had one diver.

6 Q. One diver. And was that a scuba? That diver was scuba or
7 commercial diver?

8 A. No, not commercial, he was from coast guard; it was scuba.

9 Q. coast guard?

10 A. Yeah.

11 Q. So when you got there and you realized that the rescue was for
12 men who were in a pipeline—

13 A. Yes.

14 Q. —what was your reaction?

15 A. Well, my reaction—I was shocked initially, but I couldn't make
16 an assessment of the dive that had to take place or any rescue
17 operation because I don't specify in diving. So the diver I had
18 on board, he made his assessment and he said he's unable to
19 attempt any rescue. And that is when I would have called back
20 to my base for them to be aware of what's happening and for
21 them to make any further recommendations.

22 Q. But did you communicate what you decided to Paria officials or
23 to LMCS officials?

24 A. Yeah. We told the person on the platform at the time.

25 Q. And you knew that person was from Paria?

26 A. Well, he was on the platform. He said he was the supervisor,
27 so—

1 Q. He was the supervisor?

2 A. Yeah.

3 Q. And did you tell the other persons who were divers?

4 A. No, we didn't communicate with any other divers at the time.

5 Q. Okay. Whilst you were there, you knew that one of the divers
6 who were in the pipeline was—he came out; he was rescued?

7 A. Yeah, I was there while the one came out. Yes.

8 Q. And what did you see?

9 A. When he came out he was covered in oil. You could have only
10 seen his eyes when he opened them and his teeth in his mouth.
11 The—they had someone come to take him to land and they
12 rushed him to hospital.

13 Q. But from what you observed there and your presence there,
14 when he came out, did you know whether the persons who
15 helped him were LMCS divers?

16 A. I can't say. While I was there, I did, however—I was trying to
17 assist, as I said before. So it had times that I would leave the
18 platform and go across to the jetty. About two or three times I
19 did that. Once was to pick up divers from LMCS; once was to
20 pick up two other technicians; and then one diver later on
21 before I left to come back up for the dive team. And I brought
22 them across to the platform for them to do what—well,
23 wha'ever they came to do.

24 **Examination By Mr. Chairman:**

25 Q. So you took your boat to the jetty?

26 A. Yeah.

27 Q. And collect other people?

1 A. At one time a boat had already left the jetty, but it was a bit
2 slow. So my boat being faster to hasten the process, I went
3 across to the boat, they come over on my boat, and I brought
4 them back across.

5 Q. Right. So because you had a quicker boat you picked them up
6 at sea?

7 A. Yes, because I was trying to help.

8 **Mr. Chairman:** I got it, got it.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. And how many persons you picked up?

11 A. First was two, I believe. Then, again, was two other persons,
12 and then the last time was one person.

13 Q. And these were divers.

14 A. Yes.

15 Q. And you saw them dive subsequent to that?

16 A. Yes, I believe so.

17 Q. Yes. Now, did you know the names of anyone of these
18 persons?

19 A. I can't remember.

20 Q. You can't remember. Whilst you were there, did you see
21 anyone dive in the pipeline and came back out?

22 A. Yeah. While I was there, I didn't see how they were getting
23 into the pipeline. But while I was there, it had a point where we
24 heard shouting coming from the pipe, and dah is when, well,
25 they started to be a little more urgent. And ah think dah is
26 when they—someone went into the pipe and eventually they
27 came out with the survivor.

1 Q. With the survivor?

2 A. Yes.

3 Q. But after that, did you see anyone go back into—do you know
4 whether anyone went back into the pipeline?

5 A. I know—it always seemed to have a diver in the water at any
6 point in time it looked like. So I don't know when they would
7 actually go under and try to go into the pipe. I don't know. But
8 it always had divers, more or less, in the water.

9 Q. You remember a name called Michael Kurban?

10 A. I can't remember, no.

11 Q. You can't remember any of the names? Okay. Now, how long
12 you have been in the coast guard?

13 A. Sixteen years.

14 Q. Sixteen years. So would I be correct in saying that the
15 members of the coast guard who are divers are not trained to
16 dive in a pipeline?

17 A. I cannot confirm that. I don't know the training that divers
18 receive while doing their diving training. I have never done it.
19 I don't specialize as a diver.

20 Q. Oh, you're not—sorry.

21 A. No. So I've never done the diving course. So I don't know
22 what—

23 Q. So what position you occupy in the coast guard?

24 A. I am a Seaman. So I am—as I said, I'm a coxswain.

25 Q. So excuse my ignorance. You are a seaman but not a diver?

26 A. Right. So the coast guard, there are different—

27 **Mr. Chairman:** Can you swim?

1 **Mr. Leidgewood:** Uh?

2 **Mr. Chairman:** Can you swim?

3 **Mr. Leidgewood:** Yes, I can swim.

4 **Mr. Chairman:** I just thought I'd check.

5 **Mr. Leidgewood:** So there are different branches in the coast
6 guard. There is Seamen; there is technicians which cover
7 welders, mechanics, electricians. There's writers who are more
8 clerical. However, the seamen, when you come in as a Seaman,
9 it's a broad spectrum. So as a seaman you could do training
10 while in the coast guard to specialize in a certain field. So you
11 could do the diving course and you become a diver; work in the
12 Diving Department. I never did the diving course. I am a
13 medic and a physical training instructor. So I did those two
14 courses while in the coast guard. So I specialize in that.
15 Otherwise, I'm a seaman first so I operate as a coxswain.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Whilst—

18 **Mr. Chairman:** That's like a captain, is it?

19 **Mr. Leidgewood:** Of the small boat. I'm in charge of the
20 small, fast boat.

21 **Mr. Chairman:** Of a small, fast boat. Right, gotcha.

22 **Continued Examination By Mr. Maharaj SC:**

23 Q. Okay. So whilst you were there, and you had seen the survivor
24 came out of the pipeline, how long after the survivor came out
25 of the pipeline that you remained there?

26 A. I can't remember. I can't give a—

27 Q. But there came a time when you handed over to somebody

1 else?

2 A. I didn't hand over down there at the time. Only time I handed
3 over is when I went back up for the dive team and came back
4 down with them, well, the dive team—the officer in charge
5 was—well, he was in charge.

6 Q. Okay. So help us then. So you left the scene at some stage and
7 you went back up to get the dive team?

8 A. Yes.

9 Q. Around what time you left the area?

10 A. Could have been around 6.30.

11 Q. Six-thirty And when you came back with—you came back
12 with the dive team?

13 A. Yes.

14 Q. And was at that time you had Lt. Hargreaves?

15 A. Yes.

16 Q. I see. And he was then in charge?

17 A. Yes.

18 Q. Right. When Lt. Hargreaves came and you came with the dive
19 team, did you see persons diving in the water?

20 A. I believe—yeah. I believe there was people in the water, yes.

21 Q. And how long did you remain with Lt. Hargreaves? Did you
22 remain during the period of time he was there?

23 A. Yeah, I was there for the entire time.

24 Q. Oh, good. And whilst you were there with him, would it be
25 correct to say that divers were trying to go into the pipe, to dive
26 into the pipe, and at first the coast guard were allowing them to
27 do it and then they prevented them from doing it?

1 A. All right. Um, at no time at all the coast guard prevented
2 anyone from diving.

3 Q. At No time?

4 A. I can't recall that at all?

5 **Examination By Mr. Chairman:**

6 Q. Could we be clear, please? There's a difference between
7 making an assertion "at no time did they ever prevent anyone"
8 from making an assertion that "I don't recall seeing anyone do
9 that" or "I didn't do that". What is it? Can you say whether or
10 not any member of the coast guard did prevent anyone from
11 going in—

12 A. No, no; no one from the coast guard prevented anyone from
13 diving.

14 Q. Right. Well, you weren't there for the better part of two hours,
15 I'm assuming, because if you had to go back to the coast guard
16 operations, pick up your divers, Mr. Hargreaves, and all the
17 equipment presumably, and then bring them back again?

18 A. Yeah.

19 Q. You told us the first time that took 50 minutes to make that
20 journey one way. Correct?

21 A. Yes.

22 Q. So it's not unreasonable to assume you took a couple of hours
23 to do that, is it?

24 A. Yes.

25 Q. There and back. So did you leave the coast guard in situ when
26 you left?

27 A. No. When I left I went with everyone who was with me.

1 Q. There were no coast guards there at all for that two—

2 A. There was a big vessel down there at the time, but they were
3 not—they couldn't—the size of that vessel, they could not go
4 into the platform.

5 Q. They couldn't go into the platform?

6 A. No.

7 Q. While you were there?

8 A. No.

9 Q. Or at all?

10 A. No, they couldn't go at all.

11 Q. Because?

12 A. So they were just off providing support.

13 Q. Why couldn't they go in?

14 A. The vessel is too big.

15 Q. Too big?

16 A. Yeah.

17 Q. I thought this took tankers. But never mind. This coast guard
18 boat couldn't come in. Correct? This is a different coast guard
19 boat to yours altogether?

20 A. Yes.

21 Q. It's a much bigger—

22 A. It is different. It's a bigger craft.

23 Q. And different people on it?

24 A. Yeah.

25 Q. Right. So they were standing offshore, were they?

26 A. Yeah, they were standing off—

27 Q. Right. I mean, did they drop anchor or what was—

- 1 A. I don't know.
- 2 Q. You don't know. All right. I mean were they static or were
3 they going round and round?
- 4 A. No, they weren't static. They were moving around.
- 5 Q. Moving around.
- 6 A. I don't think they did drop anchor.
- 7 Q. All right. And so, you left for this period of a couple of hours;
8 you didn't leave any of your people behind?
- 9 A. No, not the people I went with, no.
- 10 Q. Right. So for a period of two hours at any rate, as far as you're
11 aware, there were no coast guards on the berth at all?
- 12 A. As far as I'm aware, yeah.
- 13 Q. Okay. And at no time while you were there as coxswain for
14 your small boat, did you see any of your colleagues or yourself
15 prevent anyone from going in the water?
- 16 A. No time at all.
- 17 Q. One other matter, please. Did you—were any of you armed?
- 18 A. Yes, the crew was armed.
- 19 Q. All the time?
- 20 A. Yes.
- 21 Q. Right. So you have sidearms, do you?
- 22 A. Sidearms?
- 23 Q. Do you have some sort of automatic weapon?
- 24 A. Yes, primary and a secondary weapon, yeah.
- 25 Q. Right. So the primary weapon is a—
- 26 A. A rifle, yes.
- 27 Q. A rifle or an automatic weapon?

1 A. G36 rifle—automatic rifle, yeah.

2 Q. An automatic rifle. Short in length?

3 A. Not really. About this [*Mr. Leidgewood demonstrates*]

4 Q. Okay. And so that's standard procedure that the coast guard
5 carry these two weapons?

6 A. Yes.

7 Q. So you and your colleagues would have been carrying those
8 weapons whilst you were tending upon the scene. Is that right?

9 A. Yes.

10 Q. Okay. And can I take it that at no time did you feel it necessary
11 to pull one of those weapons out and point them at anyone?

12 A. No, at no time at all—

13 Q. This wasn't that kind of situation, was it?

14 A. No, no, definitely wasn't.

15 **Mr. Chairman:** All right. Thank you very much.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. So when you were there leading the team before you went back
18 to get the persons who were the divers, the coast guard had
19 weapons?

20 A. Yeah, my team had weapons.

21 Q. Your team had weapons?

22 A. Yes.

23 Q. And when you are on duty, you'd be holding the weapons but
24 pointing it down. Not so?

25 A. No. The weapons would be slinged across the body.

26 Q. So it's sling across the body?

27 A. Yes.

1 Q. Okay. And when you came back with Mr. Hargreaves, about
2 how many members were in the group that came back with
3 you?

4 A. I think the dive team was about 10. It was 10 of them.

5 Q. About 10?

6 A. Yeah.

7 Q. And did you have any other persons with you or just the dive
8 team?

9 A. Yeah. I had two other people from my crew. So I left back
10 some of who was initially on my crew to make room for the 10
11 divers.

12 Q. And so, when you came back with the divers it meant that the
13 divers had weapons with them also?

14 A. No, the divers had no weapons.

15 Q. So when you came back with the divers, they didn't have
16 weapons?

17 A. No, they didn't have weapons.

18 Q. So who had weapons on that occasion?

19 A. Just the two men on my crew.

20 Q. And who were they? And what about Mr. Hargreaves?

21 A. Mr. Hargreaves didn't have a weapon.

22 Q. He didn't have a weapon.

23 **Examination By Mr. Chairman:**

24 Q. So just three of you, basically; you and your two—

25 A. I didn't have a weapon either.

26 Q. You didn't bring one?

27 A. No, I didn't.

1 Q. Is that normal?

2 A. Yes. As the coxswain, more than likely whenever I'm at sea—

3 Q. Your hands are full?

4 A. Yeah. I have to drive the boat either—if I'm out there on some
5 suspect vessel, if they open fire on us, I can't drive and fire
6 back at them.

7 Q. No.

8 A. I have to either make evasive manoeuvres or some sort of
9 attacking manoeuvres.

10 Q. I gotcha. So it's just the two colleagues of yours that were on
11 the return journey who were armed?

12 A. Yeah.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. Now, I just want to get it clear from you, and I want to give you
15 the opportunity to—so you're telling us that after you came
16 back—you already told us that before you came back, at no
17 time you saw any of your coast guard or you preventing anyone
18 from diving?

19 A. No.

20 Q. When you came back with Mr. Hargreaves and you remained
21 there until you all left—you all left around what time?

22 A. It was after midnight definitely.

23 Q. After midnight?

24 A. Could be after one, yeah.

25 Q. So from the time Mr. Hargreaves came with you until you all
26 left at around midnight, did you see at any time the coast guard
27 prevented persons from diving?

1 A. No, I never saw that.

2 Q. Did you hear any instructions given to the divers from anyone
3 in the coast guard during that period of time for them not to
4 dive?

5 A. No, I never heard that.

6 Q. And you're sure you're speaking the truth?

7 A. I'm telling the truth.

8 Q. Okay. Did you at any time, whilst you were there the first time
9 or the second time, you got any briefing from a lady called
10 Catherine Balkissoon?

11 A. I can't remember. There was only one time I could remember
12 when I was there the first time, someone on the platform, I
13 can't remember who it was, he was on the phone, and he
14 shouted out to us to ask who is the senior person here at the
15 time. And my crew heard him and they identified it was me,
16 and he said someone wants to speak to me on the phone. I took
17 the phone, I answered the call, I can't remember who it was, but
18 what they asked of me was to take charge of the rescue
19 operations there. And I indicated to him that I can't do that as I
20 don't specify in that.

21 **Examination By Mr. Chairman:**

22 Q. Right. I want that broken down a little, please. So you spoke to
23 somebody; wasn't Ms. Balkissoon.

24 A. I can't remember—

25 Q. I think it was only one lady on that—

26 A. It on the phone. It was over the phone.

27 Q. Yes. Just a minute. Someone spoke to you while you were on

1 the berth?

2 A. Yes.

3 Q. To ask you who is in charge?

4 A. Yes.

5 Q. And you told them you were in charge. This is before Mr.
6 Hargreaves arrives or any of the dive team. This is the earlier
7 part. All right?

8 A. Yeah.

9 Q. So it's only your boat there. The other one is standing offshore.

10 A. Yeah.

11 Q. All right. And you're asked, and so you told them it was you,
12 did you?

13 A. I was the on-scene commander at the time, yes.

14 Q. Yeah; no, no, I appreciate that. So you're saying, well, I'm in
15 charge.

16 A. Yeah.

17 Q. Did you speak to someone then on the telephone?

18 A. On the phone, yes.

19 Q. Who did you speak to?

20 A. I can't remember who it was. I remember—

21 Q. Does the name Collin Piper ring any bells with you?

22 A. I can't remember.

23 Q. Can't remember. Well, was the person who spoke to you, did
24 they claim to be in charge on shore? Did they say who they
25 were?

26 A. I think they from Paria, yeah.

27 Q. Right. So somebody from Paria—

1 A. I think so.

2 Q. —who was in authority, whoever it might have been. All right?

3 A. Yes.

4 Q. And they spoke to you and said what?

5 A. They asked me to take charge of the rescue operations.

6 Q. They asked you if you would take charge of the rescue
7 operation?

8 A. They asked me to take charge.

9 Q. And what did you say?

10 A. I said I cannot take charge of the rescue operations because—

11 Q. Just a minute. And you said you cannot?

12 A. Yes.

13 Q. Because?

14 A. I'm not a diver. I'm not trained in diving in any capacity.

15 Q. Because you're not a diver?

16 A. Yeah.

17 Q. So how could you?

18 A. And I have to take instructions from the coast guard.

19 Q. And so, you take your instruction from the coast guard?

20 A. Yes.

21 Q. Did that person or any other person ask you to take charge of
22 security?

23 A. No.

24 Q. And in answer to questions from Mr. Maharaj you made it clear
25 that at no time at all did you ever, or any of your other
26 colleagues, prevent anyone from going in the water.

27 A. At no time at all.

1 Q. Right. And neither were you asked to do so.

2 A. No, never.

3 Q. Did you hear anyone giving instruction that the divers should
4 not go in the water?

5 A. I've never heard that, no.

6 Q. You never heard that?

7 A. No.

8 Q. So at no time when you were there you didn't hear that coming
9 from anyone not to go in the water?

10 A. No.

11 Q. No. All right.

12 **Mr. Chairman:** Thank you, Mr. Maharaj.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. So as far as you can tell us, whilst you were there, you did not
15 see anyone from Paria preventing persons from going into the
16 water?

17 A. I didn't see, no.

18 Q. And you, as far as you know, you and your colleagues did not
19 get any instructions from Paria to prevent persons from going
20 into the water?

21 A. No.

22 Q. And you're telling us here today that from the time you came
23 back with the dive team—

24 A. Yes.

25 Q. —until you left at around what time? Midnight you said?

26 A. It was after midnight. I can't recall the exact time right now.

27 Q. After midnight. During those hours?

1 A. Yeah.

2 Q. There were no instructions you heard from anyone to prevent
3 persons from going into the water?

4 A. I can't recall that, no.

5 Q. I'm sorry?

6 A. I can't remember that, no.

7 Q. You can't remember that. So is it that there may have been
8 instructions given and you heard it but you cannot remember it?

9 A. I, me, can't remember hearing anyone give any instructions like
10 that.

11 Q. You cannot remember?

12 A. Yes.

13 Q. Are you sure?

14 **Examination By Mr. Chairman:**

15 Q. This is the second time you've done that. There's a qualitative
16 difference between "I can't recall" or "I can't remember" from
17 saying "it did not happen". Do you follow what I mean? You
18 do follow what I mean, I'm sure?

19 A. As far as I know, no, that did not happen.

20 Q. You cannot now recall anyone saying to anybody else don't go
21 in the water or whatever it might have been?

22 A. No.

23 Q. No such instruction was ever given?

24 A. No.

25 Q. To your recollection or to your memory or at all?

26 A. To recollection and to memory is not the same?

27 Q. It is the same thing, exactly the same thing. I'm just using

1 another word for the same thing.

2 A. Okay.

3 Q. So either it's that or not at all. Either it did—I can say
4 positively it did not happen, or I can say it did not happen in my
5 presence, or you can say I do not recall that happening?

6 A. I do not recall that happening.

7 Q. Right. Thank you.

8 **Mr. Maharaj SC:** Much obliged. No further questions.

9 **Mr. Chairman:** Can I have a show of hands first before I
10 decide which order—right. Thank you very much. Mr.
11 Ramadhar first, then, please.

12 **Mr. Ramadhar:** Thank you very much, Chairman.

13 **Cross-Examination By Mr. Ramadhar:**

14 Q. Good morning, Sir.

15 A. Good morning.

16 Q. First of all, thank you for your service to our country, and on
17 that evening, the execution of your duty. Now, my name is
18 Prakash Ramadhar. I look after the interest of Yusuf Henry's
19 daughter and Mr. Kurban, his family. He's now deceased, of
20 course.

21 Now, you appreciate the environment you had gone to,
22 you went with the best of intentions. Isn't it?

23 A. Yes.

24 Q. Yes. But it was a noisy environment?

25 A. Not really, no.

26 Q. No? Well, good. There was a lot of movement to and fro with
27 different persons?

1 A. Yes.

2 Q. You were not focused on what other conversations were taking
3 place. You were focused on what you thought you could
4 possibly do to help. Isn't that accurate?

5 A. Yes.

6 Q. Yes. You had gone there without knowing the full scope of
7 what had happened?

8 A. Yes.

9 Q. And you did the best you could with what you had?

10 A. Yes.

11 Q. Correct?

12 A. Yes.

13 Q. That included two other colleagues with machine guns, if I may
14 call it that?

15 A. Yes.

16 Q. Yes. And sidearms. You, of course, had a sidearm with you?

17 A. Yes. No, I did not.

18 Q. Oh, you didn't have any sidearm at all?

19 A. Yeah, I didn't.

20 Q. And, of course, you know, as you told, very colourfully—as
21 you told the Chairman that there may be occasions when the
22 coast guard will be under, basically fire or dealing with high
23 violent potential issues—

24 A. Yeah.

25 Q. —that you need to be able to manoeuvre. Correct?

26 A. Yes.

27 Q. And you're fully aware then of the power to use deadly force in

1 an encounter?

2 A. Yes.

3 Q. And, in fact, you are aware of the use of deadly force by the
4 coast guard just two weeks before?

5 A. Two weeks before?

6 Q. Yes. Shootings of a civilian on the open waters. You know of
7 that—a baby?

8 A. Oh, yes, yes.

9 Q. Of course. Now, you are a Trinidadian and a Tobagonian first
10 before you became a coastguardsman?

11 A. Yes.

12 Q. You love this country. Correct?

13 A. Yes.

14 Q. And you were appalled that a baby had to die in circumstances
15 as it happened. Correct?

16 A. Yes.

17 Q. Now, you knew that that made major news in the country.
18 Yes?

19 A. Yeah.

20 Q. Yes. So let's see where we at now. You've come down; you
21 got a call; you have arrived at Paria; you knew that the assets
22 there were Paria's. It wasn't open water. Is that correct?

23 A. Yes.

24 Q. You knew Paria would have been—being the assets of Paria, it
25 would have been under Paria's control. Correct?

26 A. Yes.

27 Q. And it is Paria who had sought the assistance of the coast guard,

1 isn't it?

2 A. I think so, yes.

3 Q. Yes, of course. And, certainly, as you've told all of us, no coast
4 guards man pointed any gun at anybody and say, "Get out the
5 water; nobody is to go back in"?

6 A. No.

7 Q. Right, of course. But you appreciate that you didn't hear, as
8 you told us before, all the conversations between other persons
9 or among other persons?

10 A. No, I didn't hear.

11 Q. No. You cannot tell us, or so, what Paria officials may have
12 told persons who were in the water?

13 A. No, I can't say.

14 Q. No. But you were there. Notwithstanding making a, what we
15 considered, possibly a reasonable decision you couldn't help
16 with the dive, because you didn't have the equipment?

17 A. No, I couldn't.

18 Q. But you were there still?

19 A. Yeah.

20 Q. And in some form or fashion in communication with Paria
21 officials. Yes?

22 A. Some form or fashion, I guess, yes.

23 Q. Yes. I'm not trying to trap you, you know. I'm sincere when I
24 told you thank you for what you did as best as you could. But
25 you understand the chain of command more than anybody else.
26 You're a military man. Yes?

27 A. Yes.

1 Q. What time did you leave the scene to go retrieve—to help bring
2 back divers? What time did you actually leave?

3 A. About 6.30, yeah.

4 Q. About 6.30?

5 A. Yeah.

6 Q. By which time you knew that someone had come out of the
7 pipe alive?

8 A. Yes.

9 Q. Yes. As a human being first, your anxiety was to try, okay, if
10 we could get the other guys?

11 A. Yes.

12 Q. Isn't that why you left to go and hasten bringing the other
13 divers?

14 A. Well, because I got an instruction to do so, yes.

15 Q. But you as a person, right, you mash the gas, X to board going
16 to get these guys, right?

17 A. Yes.

18 Q. To come back, yes. You do not know what happened, as the
19 Chairman indicated, during that, at least one hour before you
20 returned, in relation to other coastguardsmen from the big boat?

21 A. I can't. I was not there.

22 Q. No, of course, that's the point. But that big boat, like OPV
23 size?

24 A. Small. It's about 50 metres.

25 Q. 150 feet?

26 A. Fifty metres length, yeah.

27 Q. Right. About 151, 60. That had to do with dingy—what they

1 call the small boats that we used to put on them so they could
2 come in?

3 A. Yeah.

4 Q. What you call them? The big boats have smaller ones on them?

5 A. Yes.

6 Q. Service craft?

7 A. You could say a dingy, you could say an interceptor.

8 Q. An interceptor. Fast moving, isn't it?

9 A. Yeah.

10 Q. And that is used to bring sailors to and fro from wherever they
11 wish to have gone. Correct?

12 A. Yes, yes.

13 Q. So when you left that area, you do not know whom or how
14 many others may have come from that—shall I call it the larger
15 boat? What's the name of that big boat?

16 A. Um—

17 Q. We have a few, just a few.

18 A. I can't remember which one it was, no.

19 Q. But that is one of modern boats fully equipped as far as you're
20 aware. Correct? Uh?

21 A. Yeah; as far as aware, yeah.

22 Q. None of those had life-saving, lifelines on them to your
23 knowledge? Like air, airlines, and so?

24 A. Wha' you mean? Like diving equipment?

25 Q. Yes, yes, yes, yes, yes.

26 A. Yes, they supposed to be equipped with diving equipment,
27 yeah.

1 Q. There you go. So was then an enquiry made—and I'm not
2 blaming you; right? And again, I thank you. Any enquiry
3 made by any one there as to the capacity and what that boat was
4 furnished with, whether it could have assisted there and then?

5 A. I doh know.

6 Q. Mr. Hargreaves—what time did he arrive on the scene?

7 A. Um, we got back down there, um, it could probably be around
8 9.00 p.m.

9 Q. Around 9.00. And what time you said you left the scene?

10 A. 6.30.

11 Q. And the next time you returned, Mr. Hargreaves would have
12 been there?

13 A. Yeah.

14 Q. Yeah. So you're talking about 2.2 and a half hours in your
15 absence. Isn't it?

16 A. Could be about, yeah.

17 Q. Do you know the names of the other two of your colleagues
18 who were armed with machine guns and sidearms?

19 A. The other two—when I went back down, you mean?

20 Q. No. When you first went. Remember you said you had two
21 guys—

22 A. Yes.

23 Q. What do you call them in—

24 A. This is mih crew; the crew.

25 Q. Your crew; your crew. Do you know the names of your crew
26 members who had guns?

27 A. I can't remember their names right now but I have it on a—

1 Q. It happens, it happens. Do you know whether anybody took a
2 statement from them as to what they did or did not do or said?

3 A. I doh know. I doh think so.

4 Q. Here you go. So you can't speak to what they said or did?

5 A. I'm speaking for myself.

6 Q. No. Brother, once again, no trick question here. Straight as
7 you get Ramadhar; right? As straight as it is. You cannot say
8 with honesty what they said or did, because you were focused
9 on other things too, isn't it?

10 A. I was, but they're under my charge.

11 Q. Of course, of course, and congratulations. So Mr. Hargreaves
12 returns around nineish; around there, right? I'm not holding
13 you to the minute. He's what rank?

14 A. Lieutenant.

15 Q. Lieutenant?

16 A. Yeah.

17 Q. He's, I understand, in retirement now?

18 A. I've heard so, yes.

19 Q. Yes. You know how long after this incident he retired?

20 A. I don't know. No.

21 Q. Okay, no problem. So as you have indicated, as you say
22 command structure, and so, at that point in time in that area that
23 you had arrived at, Paria was the authority there? It was their
24 assets. Yes?

25 A. Yeah.

26 Q. As you have already told us, you do not know what Paria
27 officials would have told other persons?

1 A. No.

2 Q. No. You do know, as you've been telling us, that there were
3 persons, you know, in and out of the water while you were
4 there?

5 A. Yes.

6 Q. You personally did not attempt to stop anyone?

7 A. No.

8 Q. No. But did you become aware at any point that diving had
9 come to a screeching halt—efforts to dive?

10 A. At a point when they ended for the night, I believe, yeah.

11 Q. Who?

12 A. I don't know who ended the operation.

13 Q. No, but when he returned, was there any effort being made to
14 dive?

15 A. Yes.

16 Q. When he returned around nine?

17 A. Yeah, there were efforts.

18 Q. Who made efforts to dive?

19 A. I don't know who. I can't identify—

20 Q. Was it military men?

21 A. I know they were making assessments while they were there.
22 But I don't think they attempted to dive. No.

23 Q. There you go. Did you see anybody dive when you returned at
24 nine o'clock?

25 A. Yes. I remember it had some—two guys in some big suits with
26 some helmets and they went under the water and—but I don't
27 know who they were from, what company they were from, or

1 what.

2 Q. I see. Well, you do the best you could to help us. Now, when
3 you were on scene, when you had just arrived until you left,
4 your two armed colleagues were in the same area with Paria
5 personnel. Isn't that accurate?

6 A. They were on the boat with me.

7 Q. Yeah. So that they never left the boat?

8 A. Yes. The only time we left the boat is when we came off on the
9 platform when we had just reach to speak to the supervisor.

10 Q. There you go. Let's deal with that. I beg your pardon, I didn't
11 mean to interrupt you. But they did leave the boat together with
12 you?

13 A. Yes.

14 Q. So a fulsome? What? How many coastguardsmen now on the
15 platform?

16 A. It's about three of us up there.

17 Q. Three?

18 A. Yeah.

19 Q. And when you were on the platform, there were Paria personnel
20 in and around the area you were at?

21 A. Yes.

22 Q. Yes. Do you also see part of your duty, not just in terms of
23 rescue, but protection and carrying out instructions?

24 A. Yes.

25 Q. Yes. That includes carrying out instructions to protect Paria's
26 property?

27 A. No. The coast guard is not a private security firm.

1 [Laughter]

2 Q. I know that. It is not a private security; everybody laugh. And
3 hear this one now: It is the people of Trinidad and Tobago who
4 pays for it?

5 A. Yes.

6 Q. Correct. Therefore, it not being a private security, Paria's
7 assets fall as a company belonging to the people of Trinidad
8 and Tobago, isn't it?

9 A. Yes.

10 Q. Yes. And you appreciate that part of coast guard duty is to
11 protect public property?

12 A. Yes.

13 Q. Yeah. Paria has its own private security. You know that?

14 A. [No response]

15 Q. Do you know that?

16 A. I don't know.

17 Q. You don't know?

18 A. Probably.

19 Q. So as far as you are concerned, you were the only ones who had
20 the wherewithal to protect property on that evening?

21 A. I wasn't there to protect property.

22 Q. You were going well.

23 A. I was there to render assistance.

24 Q. Yes. And what assistance did you render?

25 A. I provided transport for the dive team.

26 Q. Right. And anything amounted to help save the lives of those
27 divers?

1 A. When the dive team got there, the senior diver who was Lt.
2 Hargreaves, he would have been in talks with whoever
3 representatives he met there. I had nothing to do with anything
4 they discussed.

5 Q. No, no, no. Once again, brother, I'm not here to blame you,
6 you know. Understand, we congratulate your efforts.
7 Hargreaves spoke to representatives of whom? Paria?

8 A. I don't know who he was speaking to.

9 Q. But they were in uniform, and so? What I mean, the PPEs, you
10 know, the jumpsuits, and so? Yeah?

11 A. There were some. There were others in regular clothing.

12 Q. Thank you very much. And you saw a woman there as you told
13 us?

14 A. I—

15 Q. You can't remember—

16 A. No, I never said that.

17 Q. You didn't say so. I beg your pardon.

18 A. No.

19 Q. You didn't see a woman there?

20 A. There were men and women there.

21 Q. How many women you thought you saw there?

22 A. I can't remember.

23 Q. The woman spoke to you at all?

24 A. I can't remember that, no.

25 Q. Did you speak to a woman there?

26 A. I can't remember, no.

27 Q. You can't remember. Well, you are the person coming in; you

1 are the coast guard. You're the cavalry arriving to save the day.
2 Who did you first think you needed to speak with upon your
3 arrival?

4 A. I said I went to the platform and I spoke to the man who
5 identified himself as the supervisor on the platform.

6 Q. Supervisor belonging to whom? Private security?

7 A. Paria, I believe.

8 Q. Yes. So having spoken to this supervisor, at no stage did you
9 get his name?

10 A. Yes, I got his name.

11 Q. What's his name?

12 A. I can't remember his name.

13 Q. You took a note anywhere?

14 A. Yes, it's written down.

15 Q. Where?

16 A. On the patrol report.

17 Q. On the?

18 A. A patrol report.

19 Q. A patrol report. Do you know whether that has been made
20 available to the Commissioner and his fantastic legal team?

21 A. I do not know.

22 Q. Do you think that would have been important in terms—well,
23 let me make it helpful. When was that report done?

24 A. The report is done after any run the interceptor makes. So
25 whenever we go out, we come back in, you have to—

26 Q. It's a log, isn't it?

27 A. Yes, it's in a log, yes.

1 Q. And you yourself made that log?

2 A. Yes.

3 Q. When did you make that log?

4 A. When we got back to base.

5 Q. What time would that have been?

6 A. It's on the patrol report.

7 Q. And who has access to that now?

8 A. coast guard operations.

9 Q. Who is head of coast guard today?

10 A. Who's head of coast guard today?

11 Q. Yeah.

12 A. The Acting Commanding Officer is Commander Isaac.

13 Q. Isaac. And who is the Chief of Defence Staff?

14 A. Um—

15 Q. All right, don't answer that. I know. You ought to—now, after
16 you made your entry into that log as you have just hinted to us,
17 the name of the person you spoke with or the names of persons
18 you spoke with would be entered there, wouldn't it?

19 A. Yes.

20 Q. And the instructions you may or may not have received from
21 persons on that. Is that accurate?

22 A. Yes.

23 Q. But to be fair to you, that wasn't your highest priority—the log?

24 A. The log is written up after you come back in.

25 Q. Right. But that is not the highest priority. As a seaman, as a
26 human being, as a Trinidadian and Tobagonian, were you not
27 very disappointed that no lives were retrieved under the care

1 and control of the coast guard?

2 A. If I was disappointed? I understood the situation and it seemed
3 that the coast guard couldn't do much to help.

4 Q. And you wanted to do more, isn't it? If you could have saved
5 them you would have, wouldn't you?

6 A. Yes, if I could have I would have, yes.

7 Q. And you are disappointed as a human being that, you know,
8 with what you had you couldn't do it. Isn't it?

9 A. I guess, I guess.

10 Q. No trick question there. But you knew that there were persons
11 who were there willing, able—willing, and able, and available
12 to do rescue. Correct?

13 A. I did not know that, no.

14 Q. You did not know that. So did you know that efforts were
15 being made by persons who were going into the water to try to
16 get to rescue persons?

17 A. Yes, I saw that. Yes.

18 Q. Would it shock you to learn that persons instructed that they
19 should not continue any effort to rescue?

20 A. I've been hearing that—that that is what happened.

21 Q. And you have reason to doubt that?

22 A. I don't know.

23 Q. You don't know. Exactly the point.

24 **Mr. Ramadhar:** Thank you so much, Commissioner.

25 **Mr. Chairman:** Once again, I'm a little disturbed to find out
26 that there's some log somewhere which might help us all
27 understand what was happening contemporaneously.

1 **Examination By Mr. Chairman:**

2 Q. You're telling me that there is a log available which would have
3 your notes of what happened on the night virtually
4 contemporaneous with the events?

5 A. Every time we go to sea, when you get back you have to do up
6 a what is called a patrol report.

7 Q. Well, doesn't surprise me in the least. What does surprise me is
8 that we've been asking the Trinidad and Tobago coast guard for
9 information about their involvement in this matter, particularly
10 given the nature of some of the allegations being made at this
11 Enquiry and before for material in relation to it. What do we
12 get from the Trinidad and Tobago coast guard? The statement
13 of Lieutenant Edric Hargreaves who has apparently retired.
14 We've had nothing from them at all. I'm not having a go at
15 you. Please, understand this. We've had nothing from them at
16 all. We have had to issue summons for people to attend, you
17 included. Did you get any instruction from Commander Isaac
18 to provide a statement to this Enquiry?

19 A. No, I didn't.

20 Q. When was the first time that you heard that you were supposed
21 to come along and give evidence?

22 A. It was about a week before the first day I was supposed to
23 come, which was the 21st November; about a week before or
24 actually a few days before—

25 Q. When you received the summons?

26 A. I got the summons.

27 Q. Yes. Because of the lack of response from the Trinidad and

1 Tobago coast guard?

2 A. I can't—

3 Q. It's not your fault, all right? It's not your fault. But it is, to say
4 the least, disappointing. I mean, are we serious about trying to
5 find out what happened?

6 **Mr. Chairman:** All right. Anyone else, please? Yes. Thank
7 you, Mr. Ramadhar. Now, we have Ms. Alfonso who's going
8 to ask you a few question on behalf of the Union. Can we try
9 and get this done before lunch, please?

10 **Ms. Alfonso:** Yes, certainly. Thank you, Mr. Chairman.

11 **Cross-Examination By Ms. Alfonso:**

12 Q. Good—I think it's afternoon now—good afternoon, leading
13 seaman Leidgewood. Have I pronounced it right?

14 A. Yes, you pronounced it right. Good afternoon.

15 Q. Leading seaman, could you tell us what kind of boat that you
16 would have left Staubles with on at about 16:00 hours—four
17 o'clock?

18 A. It's a fast patrol boat. So it's more or less a speedboat.

19 Q. Like a pirogue or something?

20 A. It's about 40 feet in length, so bigger than a pirogue.

21 Q. So like a big pirogue, kinda?

22 A. Yes.

23 Q. All right. Okay. And you said you received a call at four
24 o'clock in the afternoon. Whom did you receive that call from?

25 A. From my Operations Department. Whenever I'm working, is
26 they always call me to—whenever I have to go to sea, that is
27 where I get my instructions from.

1 Q. Okay. Is there a particular person in the Operations Department
2 that you receive that call from?

3 A. On every day there's a duty operations officer.

4 Q. On this day. I beg your pardon; my bad. On this day, the 25th
5 February?

6 A. There would have been a duty operations officer on the day,
7 yes.

8 Q. Okay. You recall who that person is?

9 A. I can't recall who that person is, no.

10 Q. Okay. So you received a call from whoever the duty officer
11 was on that day?

12 A. Not from him directly or her directly but from the department
13 that calls me to disseminate the information.

14 Q. Okay. From a person from the Operations Department?

15 A. Yes.

16 Q. But you can't recall that person?

17 A. No.

18 Q. Rank of that person?

19 A. No.

20 Q. Okay. And did that person who you can't recall give you any
21 instructions?

22 A. Yes. The instruction was to go to the Paria area. The
23 instruction was persons went under the water and they didn't
24 come back up. We need to go to render assistance.

25 Q. Okay. So your instructions was to travel to the site and to
26 render any assistance that you could?

27 A. Yes.

1 Q. Those were your instructions. As a Leading Seaman, you were
2 the senior rating on the 40-foot, something bigger than a
3 pirogue?

4 A. Yes.

5 Q. And you had five other persons with you or six other persons?

6 A. Five.

7 Q. Five others. So a crew of six all together?

8 A. Yes.

9 Q. So you made your way, you would have told the
10 Commissioner, down to Paria and you would have arrived
11 before five o'clock?

12 A. Yes.

13 Q. And when you arrived, did you go on the, I think crane barge
14 that belongs to LMCS?

15 A. On the what?

16 Q. Crane barge, a barge. Did you see a barge? Did you go on that
17 barge?

18 A. Yeah, there was a barge, yeah. No, I didn't go on the barge. I
19 went on the platform. There was a platform with a little kind of
20 jetty. I went alongside there and I went up on the platform and
21 spoke to the supervisor.

22 Q. Okay. And when you spoke—you said the person who you
23 identified as a supervisor, and I think in response to my friend,
24 Mr. Ramadhar, you said a Paria supervisor?

25 A. I believe it was, yeah.

26 Q. Was that berth noisy at all?

27 A. I can't remember it being that noisy, no.

1 Q. Okay. There wasn't a compressor or anything running or
2 people moving around?

3 A. At times there was, yeah, something running.

4 Q. There was something running?

5 A. Yeah.

6 Q. Okay. So it might have been a little bit noisy?

7 A. Yeah, it could have been.

8 Q. So you have five other officers with you, leading seaman?

9 A. Yeah.

10 Q. What would those officers have been doing? They were with
11 you at all times?

12 A. Yes, they were with me.

13 Q. So everywhere you went, they went?

14 A. Yes. I didn't stay long on the platform. We just get the
15 information and then I went back on the boat.

16 Q. Okay. And when you were providing transportation as you
17 say—because you're a faster boat—to various divers or various
18 people, all of your crew, the remaining five member of crew
19 were always on the vessel with you?

20 A. Yes, they were.

21 Q. Okay. So that's it. Now, you mentioned there being a larger
22 coast guard vessel somewhere in the vicinity?

23 A. Yes.

24 Q. Okay. And you said it was one of the Damen 50-metre vessels?

25 A. Yeah.

26 Q. Okay. And you said that that vessel was too big to come in
27 where you were?

1 A. I believe that would have been the reason, yeah.

2 Q. Okay. Well, if I told you that oil tankers come into that area,
3 you would think that a 50-metre would be able to come in too.

4 Yeah?

5 A. Well, I guess, yeah.

6 Q. You guess. Okay. That 50-metre vessel, with whatever its
7 name is, did it not have a small boat moving from that vessel
8 and in various areas around the water as well?

9 A. No, I don't think so.

10 Q. Was there any other coast guard vessel in the water when you
11 were there, leading seaman?

12 A. No.

13 Q. You're certain?

14 A. Yes.

15 Q. Okay. So the only time that you can't account for is when you
16 returned to base, to Staubles, to collect the dive team?

17 A. Yes.

18 Q. And all your six members went with you?

19 A. Yes.

20 Q. And you're not able to say what happened in that period
21 between when you left to collect the dive team and when you
22 returned with the dive team?

23 A. I cannot, no.

24 Q. Okay. Thank you very much, Leading Seaman. Thank you.
25 Thank you for your time.

26 **Mr. Chairman:** Thank you, Ms. Alfonso. Anyone else? Yes.

27 **Cross-Examination By Mrs. Persaud-Maraj:**

1 Q. Good afternoon. Kamini Persaud Maraj for LMCS.

2 A. Good afternoon.

3 Q. The vessel that you would have left at—in the vicinity of the
4 incident, of the place of incident, can you say what crew was
5 present there?

6 A. No, I can't say what crew was present.

7 Q. Or how many persons?

8 A. No.

9 Q. Are you aware that there was a crew on board in the vessel?

10 A. Well, yeah, they were sailing in the vessel, so it had to—they
11 had a crew.

12 Q. They had a crew. But you won't be able to say how people?

13 A. No.

14 **Examination By Mr. Chairman:**

15 Q. Is there a standard number that are used for those size boats?

16 A. Um, yes, but the number varies based on—I don't know.
17 Different detachments of people who actually work on the boat,
18 they might have something else to do at the time of duty.

19 Q. Right.

20 A. So the number vary. So I can't say how many crew was on the
21 boat [*Inaudible*].

22 Q. Well, more than one and less than 50. So give us an idea of
23 what the normal crew would be?

24 A. Around 20.

25 Q. Right. Thank you.

26 **Continued Cross-Examination By Mrs. Persaud Maraj:**

27 Q. When you were present at the scene—

1 A. Yes.

2 Q. —Berth 5, berth 6, wherever you were, did you ever get a
3 report about LMCS's workers becoming aggressive?

4 A. No.

5 Q. Besides your duty operations officer, who would have given
6 you instructions on that day?

7 A. Just them until Lt. Hargreaves.

8 Q. Until Mr. Hargreaves at—

9 A. He would have—

10 Q. Around 9.00 p.m. that night?

11 A. Yeah, he would have become the On-scene Commander, the
12 person in charge.

13 Q. When you arrived at the scene—and this would have been just
14 after four or thereabout—did you and all your crew of five, six
15 in all, have your cell phones with you?

16 A. Yes, we had our cell phones. Yeah.

17 Q. And at any point in time, did you and/or any member of your
18 crew use your cell phones?

19 A. If we used our phones?

20 Q. Yes.

21 A. Yes, that's how I was communicating with base, with my
22 phone.

23 Q. Sorry?

24 A. I communicated with base with my phone.

25 Q. With base?

26 A. With Staubles Bay; with operations.

27 Q. With operations. Did anybody other than your base call you on

1 your cell phone?

2 A. No.

3 Q. All right. Would you be able to tell us if the crew on the vessel
4 that was docked at the scene whether or not it was armed? That
5 crew was armed?

6 A. My crew?

7 Q. No. The crew that was on the vessel that was docked, the big
8 vessel, whatever the name of that big vessel?

9 A. Oh, they weren't docked but I—

10 **Mr. Chairman:** They weren't docked. They were patrolling,
11 as I understand.

12 **Continued Cross-Examination By Mrs. Persaud Maraj**

13 Q. They were patrolling. My apologies. So would you be able to
14 say if that crew was armed?

15 A. I wouldn't be able to say, no.

16 Q. Is it usual for the crew to be armed?

17 A. Yes.

18 Q. All right. Your attire on the day when—at the time of the
19 incident, could you describe how you were dressed?

20 A. In coast guard uniform.

21 Q. The clothes that you were wearing?

22 A. It would have been coast guard uniform which is a blue shirt
23 and a blue pants, black boots, a black life jacket and a hat.

24 Q. All right. Was there anyone dressed in wet suit on your crew?

25 A. No.

26 Q. No.

27 **Mrs. Persaud Maraj:** Mr. Commissioner, I believe this is all

1 that I would have.

2 **Mr. Chairman:** Thank you, Ms. Persaud-Maraj. Mr.
3 Peterson?

4 **Mr. Peterson SC:** Nothing, Mr. Chairman.

5 **Mr. Chairman:** All right. I ask through you, but I make it
6 public, that we will be writing to your officer, Mr. Commander
7 Isaac, asking for all of the logs that were relevant for that day
8 for him to produce them. You might take that message back
9 with you when you go, please. He should be receiving a letter
10 from me in due course in relation to that. I think Mr. Wilson
11 might have a question for you.

12 **Examination By Commissioner Wilson:**

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. It didn't come out powerfully what your actions were the first
16 time around. I heard that you went case side and you met with
17 a supervisor, but I'm not clear or powerfully—like, what that
18 coordination was like? What actions were you given once you
19 stepped on stepped off the first time around before you headed
20 back up to Staubles?

21 A. When I got there I stepped off the platform and I spoke to the—
22 I stepped on the platform, sorry, and spoke to the supervisor.
23 He told me what actually happened. At that time, I called my
24 Operations Department and told them what he related to me and
25 after that I got back on the boat and, as I said, there were divers
26 trying to make rescue efforts and I was trying to help them in
27 any way I could. They were bringing people—

1 Q. Just let me interrupt. Sorry to interrupt. So divers in the water
2 and you're moving a vessel around with divers in the water?

3 A. No, not where they were.

4 Q. Okay.

5 A. I was a good way off—a safe distance.

6 Q. No problem. Okay. So that's what I'm trying to get in terms of
7 who was coordinating your activity and what really was your
8 activity. You was just jogging around the facility just looking
9 for survivors in the water?

10 A. No, I wasn't actually looking for survivors in the water. I was
11 just off of the platform, a good way off, and they would say—

12 Q. Who would say?

13 A. I can't remember who would say, but they would say, like, it
14 have people coming across from land. As I could recall, the
15 first time we went was for two divers, and then two technicians.

16 Q. Sorry to disturb you; that's what I'm trying to get. Who was
17 coordinating that: it have two divers on land?

18 A. It was someone from on the platform.

19 Q. Okay. So you just deem that as somebody or you assume it was
20 somebody from Paria?

21 A. I—as I say, I can't say exactly who is from Paria or not. I just
22 went down there, I saw people there, I—

23 Q. All right. Sorry to disturb that. So your activities going on now
24 ferrying people back and forth from. What else? Anything
25 else?

26 A. Well, not back exactly back and forth; just to. I didn't take
27 back anyone.

1 **Commissioner Wilson:** All right. Well, thanks for that.

2 **Examination By Mr. Chairman:**

3 Q. Can I just understand it. When you attended—at the point in
4 time when you attended you told us that at that stage all you
5 knew were that there were a number of divers who were
6 missing?

7 A. Yes.

8 Q. You didn't effect any search on arrival of the waters around the
9 berth?

10 A. No, I didn't.

11 Q. No. Was that because it was believed by then that the divers
12 were in the pipe?

13 A. I believe so, yes.

14 Q. And, indeed, whilst you were there one of them came out of the
15 pipe?

16 A. Yes.

17 Q. All right. Thank you. The reason why you were dispatched to
18 come back to your HQ and collect 10 divers was in the hope
19 that they might have been able to effect a rescue?

20 A. Yes.

21 Q. Thank you.

22 **Mr. Chairman:** Does anybody have anything arising from
23 that? Thank you very much. Mr. Maharaj.

24 **Mr. Maharaj SC:** I would like to ask two questions.

25 **Mr. Chairman:** Of course.

26 **Further Examination By Mr. Maharaj SC:**

27 Q. Do you know who was in charge of that large coast guard boat

1 that was outside?

2 A. No, I don't know.

3 Q. Were you in communication with that person at all?

4 A. No, I wasn't in communication.

5 Q. And you would not be able to say whilst you were away
6 whether anyone from that boat—coast guard persons from that
7 boat—went on berth 6?

8 A. No, I don't know.

9 Q. Okay.

10 **Mr. Chairman:** Thank you very much for coming. Please,
11 ask your senior officer, Mr. Isaac, to find that his logs—he'll be
12 receiving a letter from me later today, all right, that we want
13 these logs. Are you going back to your office now?

14 **Mr. Leidgewood:** No, I'm not going back to my office.

15 **Mr. Chairman:** You have a day off?

16 **Mr. Leidgewood:** Yes.

17 **Mr. Chairman:** All right. Is that because of us?

18 **Mr. Leidgewood:** Basically, yes.

19 **Mr. Chairman:** Enjoy the rest of your day off. Tell him
20 tomorrow, but I suspect he'll have had a letter before then.
21 Thank you very much indeed for coming. You're free to go.

22 **Mr. Leidgewood:** Thanks.

23 **Mr. Chairman:** All right. Thank you.

24 So the position is this. Mr. Hargreaves is going to be
25 giving his evidence from Barbados. Yes, he is in Barbados.
26 We have arranged for him to have a video link at 2.30 today.
27 So what I suggest we do is that we will rise now. We will come

1 back shortly before 2.30 in the hope that we can have a video
2 link set up for him, and then after him we'll have Rolph Seales
3 from Kenson.

4 I mention, Mr. Pegus, notwithstanding my instructions,
5 that he should provide his statement by midday on Friday,
6 apparently, it arrived at Saturday night. Anyway, he'll be
7 giving his evidence after Mr. Hargreaves. We'll conclude them
8 today. All right.

9 **Mr. Pegus:** Mr. Chairman, if I may, Saturday night or Friday
10 night?

11 **Mr. Chairman:** Friday night.

12 **Mr. Pegus:** Right. And we did provide an explanation. He
13 was offshore on Friday. So, unavoidably, we could not have
14 done it.

15 **Mr. Chairman:** I know. While he's only had seven months.
16 Never mind.

17 **Mr. Pegus:** Actually, no. He was notified in late October, if I
18 may.

19 **Mr. Chairman:** I struggle to understand why everybody
20 seems to be completely ignorant of an Enquiry taking place.
21 Your President announced back in March of this year that there
22 would be a public Enquiry and nobody does anything. You're
23 waiting for us to say please make a statement; please, come and
24 join us. We did say that, but I said it myself back in August.
25 Nothing happens. Anyway, it is what it is. We have it now and
26 he will give his evidence this afternoon. Whatever time it is,
27 he'll be giving his evidence this afternoon. All right.

1 **Mr. Pegus:** For sure. Yes.

2 **Mr. Chairman:** Thank you very much. So we'll adjourn now.
3 We will resume literally a couple moments before half past and
4 hope that we can have a prompt start at half past two.

5 Thank you very much, indeed.

6 **1.14 p.m.:** *Enquiry suspended.*

7 **2.31 p.m.:** *Enquiry resumed.*

8 **Mr. Chairman:** Who's going to do the summary? Good
9 afternoon. Can you hear me, Mr. Hargreaves?

10 **Lt. Hargreaves:** Yes, I can.

11 **Mr. Chairman:** Marvellous. Do I call you Mr. Hargreaves or
12 Lt. Hargreaves? You're retired—

13 **Lt. Hargreaves:** I'm not retired, Sir. Lt. Hargreaves is fine.
14 I'm an active member, Sir.

15 **Mr. Chairman:** You're not retired?

16 **Lt. Hargreaves:** No, Sir.

17 **Mr. Chairman:** Ah, right. Well, then I will call you Lt.
18 Hargreaves. Thank you for joining us. I understand you're in
19 Bermuda at the moment. Is that right? Barbados?

20 **Lt. Hargreaves:** Yes, Sir.

21 **Mr. Chairman:** So what's going to happen is that I don't
22 know what you can see of us. Are you seeing me at the
23 moment or just hearing me?

24 **Lt. Hargreaves:** I am seeing and hearing you, Sir.

25 **Mr. Chairman:** Marvellous. And can you see the rest of the
26 courtroom?

27 **Lt. Hargreaves:** No, Sir.

1 **Mr. Chairman:** Right. We'll arrange that in a moment. All
2 right. So Mr. Bissessar, who is one of Counsel for the Enquiry,
3 is going to summarize your evidence, all right, and then there'll
4 be a few questions from Mr. Maharaj and then others as it
5 arises. We will definitely dispose of your evidence this
6 afternoon. All right.

7 **Lt. Hargreaves:** Yes, Sir.

8 **Mr. Chairman:** So if you listen carefully to what Mr.
9 Bissessar says and his summary, if you agree with it, hopefully,
10 you will, you will tell us that. If not, you'll point out anything
11 that's wrong about it, all right, and we'll take it from there.

12 **Lt. Hargreaves:** Yes, Sir.

13 **Mr. Chairman:** So thank you very much, indeed.

14 **Mr. Bissessar:** Thank you, Chair.

15 Lieutenant Edric Hargreaves whose regimental number is
16 15040 has been a member of the Trinidad and Tobago coast
17 guard, the TTCG, for over 22 years.

18 He became a Commissioned Officer on 31st October,
19 2013 and his substantive posting in the TTCG since his
20 commissioning was Diving Officer.

21 Lt. Hargreaves gave a written signed statement dated
22 15th August, 2022 to the Commission—this is at WB65—but
23 had not responded to requests from the Commission to be
24 interviewed, and a witness summons was issued for him to
25 attend before the Commission.

26 The written statement provided to the Commission was
27 incomplete, and notwithstanding written requests by the

1 secretary to the Commission on 25th August, 2022, 20th
2 September, 2022, and 28th September, 2022, these were never
3 provided and there was a gap between paragraphs 18 and 20.
4 However, on 29th November, 2022, Lt. Hargreaves did provide
5 the requested pages and the completed witness statement is at
6 supplemental witness bundle 3006?

7 **Mr. Chairman:** Remind me, would you, please, once again,
8 where the original statement was?

9 **Mr. Bissessar:** The original is at witness bundle 65.

10 In his witness statement, Lt. Hargreaves certified that all
11 the facts in his witness statement are true and correct. Lt.
12 Hargreaves' principal duties as Diving Officer included
13 responsibility for the management, safety, and equipment of the
14 TTCG Diving Department; performing exploration or
15 extraction duties; supervising and training TTCG divers; and
16 performing activities related to underwater search and rescue.

17 Lt. Hargreaves says that he has 22 years' experience of
18 scuba diving and is qualified under the Professional Association
19 of Diving Instructors, PADI, with membership No. 269088. He
20 has various certificates including rescue diver dated 21st
21 February, 2010; dive master dated 31st March, 2010;
22 emergency first responder dated 28th August, 2012; and master
23 scuba diver dated 27th July, 2015.

24 Lt. Hargreaves says he was contacted at TTCG on Friday
25 25th February, 2022, at approximately 4.07 p.m. and informed
26 of the accident, and at 8.43 p.m. he arrived at berth 6 with 10
27 members of the TTCG Diving Department, and was surprised

1 by Catherine Balkissoon who identified her team members
2 involved in the recovery operation. She also identified persons
3 with first-hand knowledge of the accident including Michael
4 Kurban who Lt. Hargreaves interviewed.

5 Lt. Hargreaves' evidence is that it was recommended to
6 him by the diving enlisted senior ratings that no scuba rescue
7 attempt should be made because, firstly, the space provided no
8 room for manoeuvrability. Secondly, that the TTCG possessed
9 inappropriate equipment. Thirdly, the cause of the accident was
10 still unconfirmed; and fourthly there was still hazardous
11 material in the pipeline. Lt. Hargreaves says that these all
12 posed serious health and safety challenges which could not be
13 ignored.

14 Lt. Hargreaves explained that he pointed out the
15 limitations and potential hazards to Catherine Balkissoon, and
16 that the TTCG Diving Department was not trained for nor
17 possessed the specialty equipment needed for a rescue
18 operation. He said he advised Catherine Balkissoon that a
19 rescue operation of this magnitude would require commercial
20 equipment such as a dive helmet with ship air supply. Lt
21 Hargreaves said that TTCG divers were only trained to perform
22 operational scuba diving and not commercial diving.

23 Lt. Hargreaves says that after this conversation with
24 Catherine Balkissoon she sought out the assistance of
25 Commercial Vessels which took over the dive rescue operation
26 with the TTCG on standby, and at 1.10 a.m. on Saturday
27 morning all TTCG operations ceased. Lt. Hargreaves recalls

1 that Ms. Balkissoon told him that if Paria required any further
2 assistance from the TTCG dive team he would be notified, and
3 she expressed her gratitude to the TTCG and said that its
4 presence was no longer required.

5 Lt. Hargreaves says that all TTCG personnel departed
6 berth 6, arriving in Staubles Bay in Chaguaramas at
7 approximately 3.30 a.m. on Saturday morning. He says that on
8 Sunday, 27th February, 2022, a virtual meeting was convened
9 with Paria and he and Chief Petty Officer, M. Jarrott, discussed
10 the rescue mission prepared by LMCS. He said that what was
11 proposed created further opportunity for greater casualties. He
12 said an alternative method was then decided on, and a decision
13 was made to have the TTCG Diving Department return on
14 Monday, 28th February, 2022, to offer assistance. Lt.
15 Hargreaves did not, however, say what was the alternative
16 method decided upon.

17 On Monday, 28th February, 2022, at 4.55 a.m. a team of
18 seven TTCG divers departed Staubles Bay for berth 6. Lt.
19 Hargreaves says that the operation was no longer one of a
20 rescue, but a recovery exercise, as the missing divers were
21 presumed to be deceased due to the length of time they were
22 missing under water.

23 He concludes his witness statement in the following
24 terms. Paragraph 19 he says, "At no time during the period
25 Friday, 25th February, 2022 to Thursday, 3rd March, 2022, was
26 either, any member of the TTCG Diving Department, or any
27 other member of the TTDF armed with weapons. Further,

1 neither I nor any member of the TTCG Diving Department nor
2 any other member of the TTDF either physically or through
3 coercion by being armed with any weapons prevented persons
4 from going into the pipe to attempt a rescue.

5 And at paragraph 20 he says: As far as I am aware the
6 decision to prevent persons from attempting a rescue was made
7 by Paria personnel and not by either myself, any member of the
8 TTDF Diving Department or by any member of the TTDF.
9 Neither I, nor any member of the TTCG Diving Department nor
10 any member of the TTDF had the requisite authority to do so.
11 He says that the decision by Paria, however, was based on the
12 assessment by the TTCG Diving Department, that an attempt at
13 a rescue can have severe health and safety implications as
14 stated in paragraphs 9 and 10 of his witness statement.

15 Lt. Hargreaves, can you confirm whether what I have
16 presented is a true and accurate summary of your evidence?

17 **Lt. Hargreaves:** Yes, Sir, except the part where you said that
18 in August I presented the document with incorrect—with the
19 paragraph missing. That was submitted. It was not my fault
20 that what was sent was not accurately received.

21 **Mr. Bissessar:** Chairman, before Lt Hargreaves continues,
22 perhaps I should just indicate that my recollection is that the
23 witness was not put under oath. So before he says anything
24 more, perhaps that can be done.

25 **Mr. Chairman:** Quite so. You were to take the oath. Perhaps
26 that can be done now. Thank you.

27 *[Lt. Edric Hargreaves sworn]*

1 **Lt. Hargreaves:** I, Lt. Edric Hargreaves, solemnly swear that
2 the evidence I shall give to the Commission in this case shall be
3 the truth, the whole truth, and nothing but the truth.

4 **Examination By Mr. Chairman:**

5 Q. Thank you. Mr. Hargreaves, can you just confirm, first of all—
6 leave aside the question of your statement for one moment; I'll
7 come back to that in a second, if I may—but the summary that
8 has been read to you with that caveat, do you agree it's an
9 accurate reflection of what you've told us?

10 A. Yes, Sir.

11 Q. Thank you very much. And I think you were making the point
12 that in the original statement that you provided or your office
13 provided, there was an omission. It stopped at paragraph 18 or
14 halfway through paragraph 18, missing out 19 and resumed
15 paragraph 20, and you were saying that this wasn't your fault;
16 that's an administrative error or something like that. Is that
17 right?

18 A. Yes, Sir.

19 Q. All right. Well, I take it that you didn't do it deliberately, so
20 you can rest assured I'm not going to hold it against you. All
21 right?

22 A. Yes, Sir.

23 Q. All right. Good. So one thing I wanted to ask before any other
24 questions are asked of you. Can you just help me about this.
25 At paragraph—do you have your statement in front of you?

26 A. Yes, Sir.

27 Q. Right. Do you have anything else in front of you?

1 A. No, Sir.

2 Q. Marvellous. Good. Well, at paragraph 13—by all means, look
3 at it if you wish, please—you will see that you deal there with a
4 meeting that you had, a virtual meeting that you had on the
5 27th—Sunday, 27th February.

6 A. Yes, Sir.

7 Q. Can you just tell me that that virtual meeting that you had, was
8 that in the morning or the afternoon?

9 A. Sir, honestly, I believe it was in the afternoon.

10 Q. In the afternoon. Can you give us any sort of idea? Between
11 midday, in the evening, say 6.00? What sort of time?

12 A. I would believe it was right after lunch.

13 Q. Right.

14 A. Yeah. I believe it would have been right after lunch on the
15 Sunday—

16 Q. I have had to ask others this, but when do you take your lunch?

17 A. I believe between 12.00 and 1.00.

18 Q. So sometime after one o'clock you would have had this
19 meeting, you think?

20 A. I believe so, Sir, yes.

21 Q. Marvellous. Thank you. I am not going to hold you to it; just
22 give us some idea that's your best recollection that that meeting
23 was held sometime after one o'clock on Sunday afternoon?

24 A. Yes.

25 Q. So this is getting on to 48 hours after the incident, isn't it?

26 A. Yes, Sir.

27 Q. Yes, thank you very much.

1 **Mr. Chairman:** Thank you, Mr. Maharaj. Mr. Maharaj is
2 going to ask you some questions now.

3 **Examination By Mr. Maharaj SC:**

4 Q. Good afternoon, Lt. Hargreaves. I have a few questions for
5 you, and I'll be glad if you could assist us, please.

6 A. Yes, Sir.

7 Q. I want to go to your witness statement on which you state the
8 grounds on which you advised that no rescue attempt should be
9 made—and that is at paragraph 9 of your witness statement, at
10 page 3011.

11 A. Right. In this—when I was speaking about no rescue attempt
12 will be made, I was speaking in terms of the Trinidad and
13 Tobago coast guard Diving Department.

14 Q. Yes. But at paragraph 9 you stated that: It was recommended
15 to me by the diving enlisted senior ratings that no scuba attempt
16 should be made.

17 A. Yes, Sir.

18 Q. This was because the space in question provided no room for
19 manoeuvrability. We possessed inappropriate equipment. The
20 cause of the incident was still unconfirmed, and there was still
21 hazardous material contained within the pipeline. These all
22 posed serious health and safety challenge which could not be
23 ignored.

24 So I want to ask you questions to each of these grounds that you
25 stated there.

26 A. Yes.

27 Q. The first ground, you said that no scuba attempt should be made

1 because the space in the pipeline provided no room for
2 manoeuvrability. Correct?

3 A. Yes, Sir.

4 Q. So what I want to ask you is that in paragraph 8 of your witness
5 statement, you stated that you had a conversation—Mr. Kurban
6 stated that he was the person who had recovered the drowned
7 diver, one Mr. Christopher Boodram, from the pipeline. Okay?

8 A. Yes, Sir.

9 Q. So you had known—you were aware that Christopher Boodram
10 had just emerged from the pipeline?

11 A. Yes, Sir.

12 Q. Now, Boodram—did you know whether Boodram had scuba
13 diving equipment, or—

14 A. No, Sir.

15 Q. And you were also aware that Michael Kurban—because you
16 spoke to Michael Kurban?

17 A. Yes, sir, I did.

18 Q. And were you aware that Michael Kurban had also gone into
19 the pipeline after Boodram came out?

20 A. No, Sir.

21 Q. But if you were aware, if you had then become aware that
22 Michael Kurban had gone into the pipeline and he went with
23 scuba, would you still maintain that scuba would have been
24 unsafe for the person to go into the pipeline?

25 A. I would like to ask. When you say for who to go into the
26 pipeline? Because when I'm referring to who, I am referring
27 to—in our SOPs as the Trinidad and Tobago coast guard

1 Diving Department, we are not required to do such a rescue. So
2 if that in a sense that you required information concerning
3 scuba, and if somebody wanted to attempt it, that was okay with
4 their SOPs, but in the SOPs of the Trinidad and Tobago coast
5 guard Diving Department, we are not such qualified to do such
6 a rescue.

7 Q. So what you were—in effect what you meant, then, that no
8 coast guard officer should go into the pipeline?

9 A. Yes, Sir.

10 Q. But you are saying that if there were other persons who were
11 prepared to go into the pipeline you did not see a problem with
12 that?

13 A. No, Sir, because at the time, as I said, I was there to assist with
14 any operation that was being—would have [*Inaudible*] and this
15 was my clear indication, that the Trinidad and Tobago coast
16 guard is not qualified or equipped for such. But again, we were
17 there to render assistance because that is our due diligence of
18 the Defence Force of the coast guard Department to render
19 assistance in any capabilities that they wanted.

20 **Examination By Mr. Chairman:**

21 Q. Before you carry on, can I interpret that to mean this, Mr.
22 Hargreaves, that you would not order any one of your divers to
23 effect a rescue using scuba equipment?

24 A. In such a pipeline?

25 Q. Yes.

26 A. Yes, Sir.

27 Q. In that scenario, yes, that you were faced with, it would not be

1 right for you to order someone to do it. But if someone
2 volunteered that would be a different matter. Is that what I am
3 to understand?

4 A. No, Sir. Even in volunteering I would have to stand down that
5 request, because, again, as I said, based on our SOPs requires
6 sufficient qualification and experience, and nobody in my
7 department was even such qualified or have the experience to
8 perform such a rescue. So, again, even if a volunteer came
9 forward from the Diving Department it would have been same.

10 Q. So you wouldn't have let even one of your men, even if he had
11 volunteered, go into the pipeline with scuba equipment.

12 A. No, Sir.

13 Q. Is that what I'm to understand?

14 A. Yes, Sir.

15 Q. But you wouldn't—am I also to understand you would not
16 stand in the way of somebody outside of your team voluntarily
17 saying, look, I'm happy to go and do it?

18 A. No, Sir, I would not stand in the way of a rescue attempt.

19 Q. No. And I suppose if he was related to somebody in the
20 pipeline you'd be even less inclined to stand in his way?

21 A. Correct, Sir.

22 **Mr. Chairman:** Thank you. Thank you, Mr. Maharaj.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. And you said as part of your grounds that with scuba equipment
25 there would be a problem of manoeuvrability in the pipeline?

26 A. Yes, Sir.

27 Q. But Christopher Boodram—were you aware that Christopher

1 Boodram had scuba and he manoeuvred himself out of the
2 pipeline?

3 A. No, Sir.

4 Q. But you know he came out of the pipeline?

5 A. Well, that is what I was told, that he was rescued on top the
6 pipeline. I didn't know he was inside the pipeline. That's all I
7 was told. I didn't know he went into the pipe.

8 Q. Oh, I see. You did not know that Christopher Boodram was
9 inside of the pipeline?

10 A. No, Sir.

11 Q. When was the first time you knew that he was inside? Well, at
12 any time after, did you find out that he was inside of the
13 pipeline?

14 A. I believe this would have been after he went—I think after he
15 went and said or either somebody said that he was inside the
16 pipeline. I didn't know he was inside the pipeline. Nobody
17 told me he actually went into the pipe. I was told he was
18 sucked into the pipeline and he was rescued coming out. That's
19 what I was told.

20 Q. Okay. So you were aware that he was rescued from inside the
21 pipeline?

22 A. Yes, Sir.

23 Q. And before you arrived at Paria that day, did you know that the
24 divers were in the pipeline?

25 A. No, Sir.

26 Q. You didn't know they were in the pipeline?

27 A. No, Sir.

1 Q. Did you know anybody was in the pipeline—anyone was in the
2 pipeline?

3 A. From the information which came through the coast guard
4 Operations, that four divers were missing by Paria berth 6 and
5 they were to go and make an assessment to see if a rescue—
6 only later in the evening then we were told that they were
7 sucked inside the pipeline. That was later the night.

8 Q. Okay. So based on what you are telling us, coast guard officers
9 are not trained to dive into a pipeline?

10 A. No, Sir.

11 Q. And they do not have the equipment to dive into a pipeline.
12 Correct?

13 A. No, Sir. Correct, Sir.

14 Q. Right. So if when you left to go on this mission you knew that
15 you were going on a mission to rescue divers from inside a
16 pipeline, would you have gone?

17 A. It would have been still my due diligence to go and render
18 assistance, because the Trinidad and Tobago coast guard is to
19 respond to all seagoing [*Inaudible*], it is my job as part of a
20 search and rescue environment to go and render assistance. But
21 at the same time—

22 Q. I'm sorry, go ahead.

23 A. No, what I'm saying is that this is our due diligence as the
24 Trinidad and Tobago coast guard Diving Department to and
25 render assistance and search and rescue purposes. Yes, we may
26 not be qualified to such, but at the same time we still have to be
27 there to provide assistance in the event of anything that they

1 needed.

2 Q. But the assistance you have to provide was to assist in the
3 rescue from the pipeline?

4 A. Correct, Sir. So the assistance would have been, in that, if it is
5 such an attempt was made, we would have been there to help
6 assist, not to go in, but probably be around the area in the water
7 in that capacity, to render assistance to the other divers while
8 the attempt is being made, but not to enter the pipeline.

9 **Examination By Mr. Chairman:**

10 Q. So that I'm clear, please. First of all, you were unaware that
11 Mr. Boodram had been sucked into the pipeline and had made
12 his way out. Is that right or wrong?

13 A. That is correct, Sir, I was not aware.

14 Q. All right. All you knew is that he was near the mouth of the
15 pipeline and someone had helped to haul him out from that
16 position?

17 A. Yes, Sir, that is what I was—

18 Q. It is on that basis that you were proceeding until you came to
19 learn that the other four remaining divers were still in the
20 pipeline?

21 A. Yes, Sir.

22 Q. All right. And it was on that basis that you were, as it were,
23 operating on a misapprehension of the facts when you first
24 joined the boat to go to the berths 5 and 6? Is that right? We
25 know that they were sucked into the pipeline, but you were not
26 aware of that when you gathered your divers together and your
27 equipment and headed off back to berth 6 in order to effect a

1 rescue, you didn't know that at that time?

2 A. No, Sir.

3 Q. Right. And it's only when you got there that you came to find
4 out that that was the position?

5 A. Yes, Sir.

6 **Mr. Chairman:** Right.

7 **Continued Examination By Mr. Maharaj SC:**

8 Q. So you were not aware, then—you were not aware that
9 Christopher Boodram was sucked into the pipeline with scuba
10 diving equipment—

11 A. No, Sir.

12 Q. —and that he manoeuvred himself out of the pipeline with
13 scuba diving equipment? You were not aware of that?

14 A. No, Sir.

15 **Mr. Chairman:** Over a period of two hours.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Over a period of two hours; you were not aware of that?

18 A. No, Sir.

19 Q. No. And you were also not aware that after he was rescued,
20 Michael Kurban went in with scuba with an umbilical, and went
21 15 feet in the horizontal path? He went down the riser and he
22 went 15 feet in the horizontal path of the pipeline underwater.
23 You were not aware of that?

24 A. No, Sir.

25 Q. But you spoke to Kurban when you went there?

26 A. Yes, Sir, but he did not interpret to me that he went into the
27 pipeline. He didn't tell me that.

1 Q. He didn't tell you that?

2 A. It's Ms. Balkissoon who told me that he was the one that went
3 and rescued Mr. Boodram.

4 Q. But were you interested to find out how that rescue took place?

5 A. Sir, honestly, at that time I can't say if I was interested because
6 he was behaving very erratic, as I stated, and he wasn't really
7 somebody to be, like, talking face-to-face, because he was
8 using a lot of explicit, and, like I said, I didn't really want to
9 have that energy. Because at the same time I understand the
10 situation, but like I say, if it was a conversation of what it is he
11 were doing, then probably yes. But at the time, that was not the
12 discussion at that time.

13 Q. But, Mr. Hargreaves, you gave an opinion here in paragraph 9
14 that it was not safe for anyone to do a rescue in the pipeline. So
15 I'm asking, one of the things you relied upon was the question
16 of scuba diving equipment cannot be used. In effect what you
17 were saying you need commercial air supply and diving
18 equipment. Am I correct?

19 A. Yes, Sir.

20 Q. And were you not interested in talking to Christopher
21 Boodram? You were there when he came out of the pipeline?

22 A. No, Sir.

23 Q. But were you not interested in talking to Kurban to find out
24 whether he knew of anybody who went in the pipeline; did he
25 go into the pipeline?

26 A. As I said, Sir, Mr. Kurban, when I saw him he was dressed in a
27 blue jumper and he was—he told me, yes, he was one of the

1 rescue divers that was there and he rescued Mr. Boodram. But
2 at the same time, as I said, he was in a very erratic state, and
3 using a lot of 'explicit's and asking why it is we doh go in the
4 pipeline, why it is we don't try to help, or anything like that.
5 And he just—eventually he walked off and that was the last I
6 saw of him.

7 Q. Well, according to your grounds, would you agree with me that
8 your decision not to have a rescue was influenced by the fact
9 that the TTCG did not have appropriate equipment and was not
10 trained for that purpose?

11 A. For the grounds of the Trinidad and Tobago coast guard, yes;
12 we are not trained for that. So, no, I would not have attempted
13 my team to do such a rescue.

14 Q. But you knew whilst you were there that commercial equipment
15 was available for any diving to be done in the pipeline?

16 A. Yes, Sir. Because when I came I saw divers in the water and
17 they were attaching a riser onto the pipeline from what I was
18 observing. So, yes, they were there doing work and—

19 Q. And as a matter of fact, you advised Catherine Balkissoon that
20 she should get commercial equipment if persons are to go into
21 the pipeline—commercial diving equipment. Correct?

22 A. Yes, Sir. Yes, Sir.

23 Q. And as a matter of fact, whilst you were there you saw that she
24 contacted commercial boats nearby and commercial boats took
25 over the rescue operation?

26 A. Well, that's what I was looking at. Yes, Sir, I saw them in the
27 water. They were performing duties as a diver. They had on

1 helmet and umbilical and their boats were there and they were
2 being used. I don't know if it was a—I don't know if that was
3 the rescue operation, but they were being used.

4 Q. But they were trying to do a rescue?

5 A. I can't say if they were trying to do a rescue, Sir, but I know
6 they were there in the water. When I came they were there in
7 the water.

8 Q. But did you prevent persons who were trying to do a rescue in
9 the pipeline from doing that rescue?

10 A. No, Sir, I don't have the requisite qualifications to stop such a
11 rescue.

12 Q. Did Paria instruct you to prevent persons from going into the
13 pipeline?

14 A. No, Sir.

15 Q. No?

16 A. No, Sir.

17 Q. Paria never gave you instructions to prevent person from doing
18 a rescue in the pipeline, from within the pipeline?

19 A. No, Sir.

20 Q. You are telling the Court that?

21 A. Yes, Sir. The only person I spoke to was Ms. Balkissoon that
22 said night. I didn't speak to nobody else on that night because
23 she was the person who would, I would have assumed, being
24 the Incident Commander, based on she was the senior
25 supervisor at the time on site and I was dealing all information
26 through her alone.

27 Q. And according to your evidence, she did not give you

1 instructions on behalf of Paria to prevent persons from going
2 into the pipeline?

3 A. No, Sir, she did not.

4 Q. So when you say at paragraph—the last paragraph of your
5 witness statement at paragraph 20. I want you to read that
6 paragraph. It's on the screen.

7 A. "As far as I'm aware, the decision to prevent persons
8 from attempting a rescue was made by Paria and not by
9 myself nor either members of Trinidad and Tobago
10 Defence Force Diving Department."

11 Q. Okay. I want you to read paragraph 20 to yourself, and then I'll
12 question you?

13 A. [*Reading*] Yes, Sir.

14 Q. In the first sentence:

15 "As far as I'm aware, the decision to prevent persons
16 from attempting a rescue was made by Paria personnel
17 not by either myself or any member of the TTDF
18 Diving Department or any member of the TTDF."

19 What do you mean by that?

20 A. Right. So what I mean, Sir, is that the timings that I came and
21 when I was speaking to Ms. Balkissoon I wouldn't have known
22 what happened between the hours, well, when the incident
23 happened to the time I arrived. So I could only speak on the
24 accounts of after I came, which was at 8.43 p.m., and at that
25 time I could say that we did not get any instructions to prevent
26 persons. If an instruction came before, that would have been
27 probably on Paria's side, but not from the Trinidad and Tobago

1 coast guard or the Defence Force. So that is what I'm stating.
2 But I should have put based on the timing because, as I said, we
3 did not prevent it in that time.

4 Q. Lt. Hargreaves, I'm suggesting to you, in paragraph 20 of your
5 witness statement that you have stated that Paria made a
6 decision to prevent persons from attempting to go in the
7 pipeline and that you—and that decision was made on the
8 advice given by you. You don't agree with that?

9 A. Advice given? No, Sir.

10 Q. Okay.

11 A. The advice I say—if an advice was given is because, like I said,
12 the Trinidad and Tobago coast guard is not qualified. Paria
13 cannot make a decision based on my assessment for my team.
14 The—

15 Q. Listen to me what you said in the last:

16 "The decision by Paria, however, was based on the
17 assessment by the TTCG Diving Department and that
18 an attempt at rescue can have severe health and safety
19 implications as stated in paragraph 9 and 10."

20 A. Right, Sir. So understand what I'm trying to say is that because
21 the Trinidad and Tobago coast guard made an assessment Paria
22 probably went with that assessment. But you see now, as I said,
23 we are not trained for such. We are not trained. So if they
24 made an assessment based on—if they made a decision based
25 on our assessment, I cannot do anything about that. But what I
26 did know is that I did tell them is that we cannot make such,
27 because at the same time the environment was unsafe for us. It

1 was unclear for us and we cannot do such. If they made an
2 opinion and say, hey, well, if the coast guard is not doing it,
3 then nobody should do it, that is on their part, Sir, not the
4 Trinidad and Tobago coast guard or the Trinidad and Tobago
5 Defence Force.

6 Q. But if the coast guard does not have any experience in diving in
7 a pipeline and does not do commercial diving in a pipeline or
8 commercial diving, how could it make an assessment of
9 whether diving in a pipeline was safe or not? Could you
10 explain that to us? How can it do that if it has no experience,
11 not trained to dive in a pipeline? You as an officer also not
12 trained to dive in pipeline. You have never done it with
13 commercial and you have never done it with scuba. How could
14 you make an assessment whether diving in that pipeline was
15 safe or unsafe?

16 A. Again, Sir, the assessment was for my team of the Trinidad and
17 Tobago coast guard Diving Department. It was not for anybody
18 else. If somebody else came and said, hey, we want to make an
19 attempt, we were going there to assist.

20 **Examination By Mr. Chairman:**

21 Q. Sorry, can I just follow this? You were being asked to provide
22 a team of divers to effect a rescue. That's the first thing, isn't
23 it? We agree on that, don't we?

24 A. Yes, Sir.

25 Q. You are saying, from what I understand you to have said so far,
26 is that you did not understand the full implications or the
27 requirements for that rescue until you got there and made an

1 assessment of your own. Is that right?

2 A. Yes, Sir.

3 Q. Your assessment was, first of all, that your team were just scuba
4 divers. I say just; obviously experienced scuba divers, but
5 nonetheless, just scuba divers. That's the position, isn't it?

6 A. Yes, Sir, operational scuba divers. Yes, Sir.

7 Q. As a result of what you then discovered about the nature of this
8 rescue, it was clear to you that it would be quite improper to
9 invite any of your people to effect such a rescue?

10 A. Yes, Sir.

11 Q. That did not mean that there weren't others who might have
12 been very well qualified to carry out such a rescue, did it?

13 A. Correct, Sir.

14 Q. And if there were such others it was a matter for them together
15 with Paria and whoever else to make their own assessment. It
16 did not involve you. Is that right?

17 A. Correct, Sir. Yes, Sir.

18 Q. When you say:

19 "As far as I'm aware, the decision to prevent persons
20 from attempting a rescue was made by Paria personnel
21 and not by either myself or any other member of the
22 TTDF Diving Department."

23 What you mean is, is that you had no part to play in a decision
24 not to attempt a rescue by others?

25 A. Yes, Sir.

26 Q. And when you say:

27 "The decision by Paria, however, was based on an

1 assessment by your Diving Department, that an
2 attempt at a rescue can have severe health and safety
3 implications...”

4 —as stated in your earlier paragraphs, what you mean by that is
5 any decision that Paria might have made in relation to that was
6 in relation to your team and only your team. Is that what you
7 mean?

8 A. Yes, Sir.

9 Q. Right. So the net result is this then, isn't it, is that insofar as
10 you had dealings with Paria about effecting a rescue, you were
11 asked to do so; on assessment you decided your people were
12 not best placed to do so and you told them that?

13 A. Yes, Sir.

14 Q. But you did not tell them, did you, that they should not effect a
15 rescue with people who were qualified?

16 A. Correct, Sir, because they never indicated to me that they had
17 persons qualified.

18 Q. And notwithstanding your own qualifications and experience,
19 you were in no position to make an assessment of whether or
20 not commercial divers who were on the site were the right
21 people to carry out such a rescue, were you?

22 A. Yes, Sir.

23 Q. Right. So if anybody at Paria or anywhere else relied on your
24 recommendation not to effect a rescue, they would have
25 misunderstood you because all you meant by that was that they
26 should not effect a rescue with your people or scuba divers?

27 A. Correct, Sir.

1 **3.05 p.m.**

2 Q. That's it, isn't it? That's what we should take away from your
3 evidence. Thank you. I want to go to the aspect of your
4 evidence and the evidence in the matter about the TTCG, the
5 coast guard, being armed with weapons that day.

6 A. Yes, Sir.

7 Q. Could you assist us, when you got on the scene at Paria there
8 was another coast guard vessel, am I correct?

9 A. No, Sir.

10 Q. No. How many vessels accompanied you from Staubles Bay to
11 Paria, was it one?

12 A. Only one, Sir.

13 Q. Only one?

14 A. It was one, Sir, and it had a ship—it had a vessel, a ship was,
15 was in the vicinity to—in the event of further assistance, it had
16 a ship in the vicinity but, um, small vessel and Interceptor, was
17 only one, Sir.

18 Q. It didn't have a coast guard vessel in the vicinity of your coast
19 guard vessel when you arrived?

20 A. No, Sir, not to my knowledge.

21 Q. Did the vessel you were in, were the officers armed?

22 A. Yes, Sir, I would say they were armed so I did make an error in
23 my last statement stating that there would not have been no
24 weapons. So yes, I must say the ship's crew, they were armed
25 with weapons.

26 Q. Before I go on, you said there was—who was in charge of that
27 ship that you said was in the waters, the coast guard vessel?

1 A. The big ship, the big vessel?

2 Q. Yes.

3 A. I think—I believe the officer in charge, the captain would have
4 been Lieutenant Joseph.

5 Q. And do you know what his, that mission, the mission of that
6 ship was there that day?

7 A. No, Sir. No, Sir.

8 Q. Did you communicate with that ship with the person there?

9 A. No, Sir.

10 Q. There is evidence in this case that has been adduced by
11 witnesses that they were prevented by the coast guard from
12 entering into the pipeline to effect a rescue.

13 A. At what time that would have been conveyed, Sir?

14 Q. Well, at various times, but during the period you were there, did
15 you see any attempt being made to rescue divers, rescue
16 persons from the pipeline?

17 A. Sir, just now. Say that over, Sir? I didn't understand what you
18 said.

19 Q. During the period of time you were at—

20 A. Paria.

21 Q. —at sea, at Paria—

22 A. Right.

23 Q. —did you prevent—well, first I should ask you, did you see any
24 rescue efforts being made or trying to be made for persons to be
25 rescued from the pipeline?

26 A. What I can say, Sir, is that when I—when I arrived I saw divers
27 in the water, so I would have been—I would have presumed

1 that probably as they were attaching the riser on probably a
2 rescue attempt was being formulated of such, and that was the
3 only thing I could have say because they were divers,
4 commercial divers in the water at the time when I came. But to
5 say if a rescue was being formulated or being performed, no, I
6 cannot say, but I know there were men in the water and we
7 were watching them while they were performing their task of
8 putting on the riser at the time.

9 Q. When you, um—when you prepared your witness statement,
10 were you aware that there was the allegation being made
11 against the coast guard that there were attempts made by the
12 coast guard to prevent persons from attempting rescue from the
13 pipeline?

14 A. Yes, I heard about it. I heard allegations, Sir, yes.

15 Q. Right. And did you think that you had to make—in making
16 your statement—you are making a statement on behalf of the
17 coast guard?

18 A. Yes, Sir.

19 Q. And did you think that you had to make inquiries about that to
20 try to help the Commission to get to the truth of the matter?
21 Did you make any such—did you check the records? Did you
22 make any such inquiries?

23 A. Make such inquiries from who?

24 Q. From the coast guard, from the coast guard records. Wouldn't
25 the coast guard have records of what happened—

26 A. Yes, Sir but—

27 Q. —on duty when vessels are on a certain mission?

1 A. Yes, Sir. So what I would say is that the vessel would have a,
2 a, um, a vessel number and it would have a cockswain—

3 Q. A?

4 A. —so which means—somebody to drive the vessel, a cockswain.
5 The crew falls under a different operational department called
6 squadron. They are given taskings in a different nature. From
7 my recollection when I went down, there was no other coast
8 guard vessel in the area at the side of the berthing area in that
9 capacity, because, like I said, we reached down there minutes to
10 nine the night so I cannot say if a coast guard vessel was there
11 from before, I can't say for that. All I knew is that I had to wait
12 on a vessel to be escorted down to the site.

13 Q. But, um, would the coast guard have records, if there was a
14 coast guard vessel there, right, assuming there was a coast
15 guard vessel there, would the coast guard have a record of that
16 vessel being there on that particular day?

17 A. Yes, they would have a chronological record—

18 Q. Yes.

19 A. —of the—

20 Q. And they would have a, and they would have a record of who were
21 on that vessel?

22 A. Yes, Sir.

23 Q. And who were in charge of that vessel?

24 A. Yes, Sir.

25 Q. Correct? And—

26 A. Yes, Sir.

27 Q. —what activities they were involved in?

1 A. I can't say about the ac—I can't say about the activities. Um,
2 but—

3 Q. But wouldn't they have a log of what mission they was on and
4 what they were doing?

5 A. Yes, Sir.

6 Q. Yes. And they would have a record of the—of whether there
7 was guns and whatever it is?

8 A. Well, Sir, Sir, the—

9 Q. And—

10 A. —the SO—the SOP, the SOP is one of such of the Trinidad and
11 Tobago Coast Guard squadron department is that once you—
12 ship goes to sea you are asked to be armed. You are armed as a
13 coast guard officer ascending to a nature out at sea. So, yes,
14 they would have weapons to carry out their duties. As such,
15 they were given instructions to do such, to go and attempt or to
16 go and see whether what it is was going on, so, the squadron
17 departments that go to sea, they are all armed.

18 Q. Okay. So let me get to the final aspect of it. So, according to
19 you, you left Staubles Bay with the intention of doing a rescue,
20 correct? Assisting in a rescue, okay?

21 A. Assisted in a rescue, yes, Sir.

22 Q. And you thought that this rescue would have been in open
23 waters, correct?

24 A. Yes, Sir.

25 Q. Right.

26 A. Yes, Sir.

27 Q. When you got there, you found out it was not a rescue in open

1 waters, correct?

2 A. Yes, Sir.

3 Q. And therefore, as far as you were concerned, you considered
4 you all were not trained for that, you had no equipment for that,
5 correct?

6 A. Yes, Sir.

7 Q. So what was your mission? What was your mission then at
8 Paria for the rest of the evening and into the night and the early
9 hours of the morning?

10 A. To, to render—

11 Q. What was your mission?

12 A. To render any assistance that they would be needed. I was
13 given instructions.

14 Q. Assistance to do what?

15 A. I was given instructions to stay on site and to render any
16 assistance—

17 Q. Who gave you those?

18 A. —to Paria or—what's that?

19 Q. Who gave you those instructions?

20 A. Those instructions would have come from the duty
21 commanding officer.

22 Q. So the coast guard commander gave you instructions to remain
23 on site to give whatever assistance is necessary or was it—

24 A. Yes.

25 Q. —assistance only in respect of rescuing?

26 A. Assistance to rescuing. That was our main purpose. Yes, Sir.

27 Q. Well when you, when you went there you could not rescue

1 because you could not assist in rescuing?

2 A. Right.

3 Q. So what was your mission there, remaining there? Was it to
4 help out Paria in carrying out instructions?

5 A. No, Sir.

6 Q. No. Was it to help in rescuing?

7 A. It was just to help in rescuing, yes.

8 Q. But you could not help in rescuing because you cannot rescue
9 by diving into a pipeline.

10 A. Correct.

11 Q. So how could you help in the rescue?

12 A. Because that is the role of the Trinidad and Tobago Coast
13 Guard in any sea going nature we are there to assist. And if it is
14 we have to stay there and see what it is going on, we were there
15 to assist. As I told Ms. Balkissoon, if any assistance they
16 needed in anything, we are here.

17 Q. Any assistance who needed, Paria needed or LMCS needed?

18 A. Correct.

19 Q. Any assistance who needed?

20 A. Anybody who wanted the assistance, they could have asked for
21 it.

22 Q. So anybody who wanted to go and dive in the pipeline, you
23 would assist for them to dive in the pipeline?

24 A. I will assist not, not for me to dive in the pipeline. If they
25 wanted to go and dive in the pipeline.

26 Q. But it had people who are saying that they wanted to dive in the
27 pipeline. Do you know that?

1 A. Well Sir, up to, up to this time, when we were there, nobody
2 came and told us we wanted to attempt to dive in the pipeline.

3 **Mr. Maharaj SC:** I have no further questions for this witness.

4 **Examination By Mr. Chairman:**

5 Q. Just taking stock for a moment please? You, I believe, arrived
6 with your team of 10 diving, scuba diving rescuers at about
7 quarter to 9.00 that evening?

8 A. Yes, Sir.

9 Q. That you had well in mind was well over three hours after Mr.
10 Boodram had come out of the pipe? You knew that?

11 A. No, Sir.

12 Q. I'm sorry, you didn't know that?

13 A. Just now, you're saying that or—

14 Q. Yes, I'm asking you if you knew that Mr. Boodram, the man
15 who had been rescued from the pipe, had come out about three
16 hours plus before you arrived?

17 A. No, I didn't know that, Sir.

18 Q. Well why wouldn't you have asked?

19 A. I was told by Ms. Balkissoon when I got there.

20 Q. You were told what?

21 A. That the—Mr. Boodram was res—was one of the guys who was
22 rescued.

23 Q. Yes, but—

24 A. She told me—

25 Q. You would have wanted to know, surely, how long before he
26 had been rescued, wouldn't you?

27 A. Well Sir, I did ask to attempt to talk to the individual but they

1 said he was—

2 Q. No, no, no, no, no forget him. Forget Mr. Boodram. He's been
3 whisked off to hospital. I want to know, please, you were going
4 there to effect a rescue. Now I appreciate you couldn't because
5 you didn't have the right people and I'll come to that in a
6 minute. But, I want to understand, you see, presumably you
7 would have wanted to know first of all, when did this accident
8 happen? What time? Second, did they have breathing
9 equipment when they—when the accident happened? Third,
10 what time did Mr. Boodram come out of the pipe? Fourth, how
11 long since then to now has he been out of the pipe? All of these
12 must have been relevant factors for you to estimate whether you
13 were prepared to even consider a rescue of your own people, by
14 your own people, surely? Now you may not remember doing
15 that but surely you must have done?

16 A. Well Sir, I believe at the time in—questions was asked but at
17 the same time it's based on what question—what answers were
18 given. So, yes, we may have asked it but I being honest, I
19 really can't remember at that time because, as I said, it was late
20 in the night and there was a lot of confusion on. I did ask about
21 Mr. Boodram and they said that he was at the hospital and I did
22 question if it is we could go and interview him and I believe I
23 was turned down. I can't say by, I can't remember who
24 because they didn't tell us which hospital he was or anything
25 like that.

26 Q. You were turned down?

27 A. Yeah, well they told us he couldn't he interviewed at this time

1 because—

2 Q. Who told, who told you that?

3 A. I can't remember, Sir.

4 Q. Was it the lady?

5 A. But I did, but I did—I, I really can't remember who it was if it
6 was Ms. Balkissoon.

7 Q. All right.

8 A. But I know I did ask about his welfare and how was he and they
9 said that how he was a little shaken up.

10 Q. Well, because you would have regarded it as important to have
11 got from the person who has just emerged from the pipe such
12 information—

13 A. Correct.

14 Q. —as he might have been to give you if you were going to send
15 anybody or allow anybody to go into the pipe, I follow that.
16 But anyway, are you telling us that you would—you did not
17 appreciate that between the time that this accident happened
18 and your arrival at berth 6 that six hours had passed?

19 A. No, Sir, because when I got the initial call—

20 Q. Don't matter about the because. Is it a yes or a no to that? You
21 can give me the because in a minute. Are you saying that you
22 did not, no one told you that there was a 6-hour gap between
23 the accident happening and your arrival of your 10-man team
24 arriving to effect a rescue? Did you know that or not?

25 A. I would say I did not know fully, because, when I got the call at
26 after 4.00 the afternoon, I was just told of an incident that four
27 divers was missing.

1 Q. Yeah.

2 A. And, right? So that's why I'm saying that I was aware but I
3 was not aware of the detailed information at the time.

4 Q. All right. This is not detailed—forgive me, Mr. Hargreaves,
5 you're an extraordinarily experienced diving expert, certainly
6 with scuba, with many, many years and many qualifications,
7 only a few of which have been read out by Mr. Bissessar but
8 anybody wants to look can have a look online. You've got a
9 large number of qualifications as a diver and a huge amount of
10 experience. You know, more than most, that anybody who is
11 underwater, even as an experienced diver, has limited time.

12 A. Yes, Sir.

13 Q. Right.

14 A. Yes, Sir.

15 Q. And it follows from that that you, as a first line rescuer, would
16 have wanted to have effected a rescue, if it was possible, as
17 soon as possible, yes?

18 A. Yes, Sir.

19 Q. Right. One of the things you would want to know, beyond
20 anything else, is, when did this happen? How long is it? How
21 long have they been missing? Surely that is the—if not the first
22 thing it's got to be at least the first three things you'd want to
23 know?

24 A. Well, Sir, actually I did but, again, the information coming
25 through to the operation department, they only indicated to me
26 that the in—when the incident happened, which I got the call
27 after 4.00, that it happened, I believe it happened could be

1 about after 2.00 or minutes to 3.00 in the afternoon, that a
2 incident happened at Paria, so yes, one of my questions would
3 have been how long would have been they missing and how
4 long again in that sense but, again, the information was not
5 detailed, and, for a diver of my interest to get detailed
6 information because you must have detailed information to
7 perform such a rescue, at least you understand your parameters
8 in what you would have attempted and it's only when we
9 understood that they were sucked into the pipe then we realized
10 that, okay, um—

11 Q. Forgive me, forgive me I'm going to stop you, because, you
12 know, in a way it's not really—I'm not really interested in the
13 de—that level of detail.

14 A. Okay, Sir.

15 Q. I simply want to know from you, and it is a pretty
16 straightforward question, Lieutenant, either you knew it was six
17 hours had passed or you didn't.

18 A. No, Sir, I didn't know it was six hours when I arrived.

19 Q. Okay. Anyhow the fact is, is we now know it was and
20 obviously that would have, had you known, would have
21 affected your view about things, all right? In the event, you
22 identified four separate matters that you thought were important
23 to reject any question of your people being able to go and effect
24 a rescue. Correct?

25 A. Yes.

26 Q. Four things you identified. One was, this was a confined space,
27 that is to say that what you describe it as, there was no room for

1 manoeuvrability, somebody couldn't turn around in the pipe,
2 could they?

3 A. Yes, Sir, because, based on the size of the equipment that we
4 use, a BCD is 18 inches in width, and—

5 Q. Making it even more restrictive?

6 A. Correct, Sir.

7 Q. Yes.

8 A. Whether you have on the right equipment, yes, it would have
9 been very difficult especially with fins.

10 Q. Mr. Hargreaves, Mr. Hargreaves, I'm not criticizing your
11 assessment. I think they're entirely fair points, all right? I just
12 want to address them, if I may. All right? First one is that you
13 say that you didn't—there was no room for manoeuvrability
14 and part of the reason why you observed that was because your
15 people were not trained in confined space rescue, were they?

16 A. Yeah. Correct, Sir.

17 Q. Right. So if you had someone who was trained in confined
18 space rescue, that would have dealt with that issue for you,
19 wouldn't it?

20 A. Yes, Sir. I believe—

21 Q. Right.

22 A. —that would have—

23 Q. Second point, that you didn't have the necessary equipment.
24 You said you had inappropriate equipment which you've
25 identified us to and to Mr. Maharaj and that is the truth, isn't it?
26 You didn't have the appropriate equipment?

27 A. Yes, Sir.

1 Q. But there were others who were there who did, weren't there?

2 A. [*Moving head*]

3 Q. That's right, isn't it? You have to say yes or no.

4 A. Yes. Yes, Sir.

5 Q. So there were? So that dealt with that point, didn't it?

6 A. Yes, Sir.

7 Q. Right. The third thing you identified was that you were
8 unaware of the cause of the incident or it was still unconfirmed.

9 Is that right? You didn't know what had actually caused these
10 men to be sucked into the pipe, did you?

11 A. Correct, Sir.

12 A. No, Sir I did not know.

13 Q. Did anyone say to you the words Delta P?

14 A. No, Sir.

15 Q. You're looking quizzical. Do you know what Delta P is?

16 A. Yes, I know what is differential pressure, yes, Sir.

17 Q. Right, differential pressure, exactly. Did anyone suggest to you
18 that the reason why these men were in the pipe was because
19 they got sucked into there because of differential pressure?

20 A. No, Sir.

21 Q. Did it occur to you that it might be that they were in there
22 because of differential pressure?

23 A. No, Sir.

24 Q. You had no answer to that question of as to what might have
25 caused the incident?

26 A. Yes, Sir, because at the time nobody was clear-cut to say, well,
27 what caused the incident.

1 Q. All right, fair enough.

2 A. So nobody could—

3 Q. Leave that one to side. Leave that one aside. Fourthly, this,
4 that there was still hazardous material contained within the
5 pipeline.

6 A. Yes, Sir.

7 Q. Where did you get that from?

8 A. I was told, I believe Ms. Balkissoon because they said it was a
9 oil, oil riser so oil would have been, um, lodged in the pipeline
10 itself

11 Q. All right.

12 A. And I know with oil and diving equipment it's not best of
13 friends I would say, because, one, it malfunctions the
14 equipment and it is kind of difficult to breathe in scuba with oil
15 in the water.

16 Q. Right, well, leaving aside scuba, we've set that to one side.
17 Your view is they shouldn't go in with scuba equipment, but,
18 given that there was now top quality equipment for commercial
19 diving available, such as hoses and full head masks and/or
20 helmets if necessary, all of that, that would have dealt with your
21 concerns about hazardous material being in the pipeline, would
22 it not?

23 A. Yes, Sir.

24 Q. Yes. So, the only thing, then, that I take away from this is that
25 you were concerned about and remained concerned about was
26 the fact that nobody, as far as you were concerned, had
27 confirmed to you what had caused the accident?

1 A. Correct, Sir.

2 Q. All right. Very well. Thank you very much. I don't—oh yes,
3 there's one other thing I did want to ask you about from your
4 statement. Yes. On Sunday the 27th of February, paragraph 13
5 of your statement please, on Sunday the 27th of February, you
6 said that there was a virtual meeting and I asked you about this
7 how little before, all right, but the upshot of that meeting, you
8 knew by then that no rescue mission had actually been
9 performed, don't you?

10 A. No, Sir.

11 Q. You didn't know that?

12 A. No, Sir.

13 Q. So you mean when you had this virtual meeting, along with
14 your CPO, who's CPO?

15 A. Chief Jarrott, Chief Petty Officer.

16 Q. Chief Petty Officer? Right, Chief Petty Officer Jarrott, you and
17 he sat down together in a virtual meeting with whom?

18 A. It would have been members of LMCS and the Paria health and
19 safety team.

20 Q. Can you remember who was there?

21 A. I believe Mr. Piper was there, and there was someone from
22 Heritage. I can't remember her name, offhand.

23 Q. Uh-huh.

24 A. Um the LMCS I think it was the owner—

25 Q. Kazim Ali?

26 A. —was there.

27 Q. Senior.

1 A. Yes, he was there, and—

2 Q. Oh. I think we know which meeting you're talking about then,
3 fine. Anyway these people were there when you had this
4 virtual meeting with them?

5 A. Yes, Sir.

6 Q. And there was discussion that whilst they're there that the
7 rescue mission was prepared by LMCS?

8 A. Yes, Sir.

9 Q. Right. However—and you say this:

10 “However, that method which LMCS proposed to utilize
11 created further opportunity for greater casualties.”

12 A. Yes, Sir. That, um—

13 Q. That was your opinion, was it?

14 A. Because based on what they discussed and what they wanted to
15 do—

16 Q. Right.

17 A. —um, to my opinion, my opinion again, as I said, I just find it,
18 it was very—it was hazardous in the way what they wanted to
19 do.

20 Q. Right. Well I—

21 A. I mean, it was—I don't know if it was—

22 Q. It's fair to say—I'm sorry, carry on.

23 A. No, Sir, I'm saying I don't know if it was disclosed the type of
24 rescue even they wanted to try, but, again, when they spoke it,
25 it was kind a inappropriate—

26 Q. Right. What—

27 A. —the way what they wanted to do.

1 Q. Whatever it was, you were uncomfortable with it and you made
2 that clear?

3 A. Yes, Sir.

4 Q. All right, I got you.

5 A. Yes, Sir.

6 Q. You then say this:

7 “An alternative method was then decided on and a
8 decision was made to have the TTCG diving department
9 return on Monday, the 20th of February, to offer
10 assistance to the ongoing exercise.”

11 Well, leaving aside the unfortunate turn of phrase, did you
12 mean by that that your team was going to come back on the
13 Monday to offer assistance in a rescue or something else?

14 A. No this—I—the alternative method they decided on was to
15 flush the pipe and that’s why they told us to return on Monday
16 to help in aiding the recovery after the flushing would have
17 been commenced.

18 Q. You mean by then it was already decided that they were dead?

19 A. Yes, Sir.

20 Q. All right. Thank you very much.

21 **Mr. Chairman:** Yes. Hands up please for those who are
22 interested in asking Mr. Hargreaves any questions? Yes, Mr.—
23 er, Ms. Mootoo, did you have your hand up? Not Mootoo. Ms.
24 Alfonso, did you have your hand up? I was looking at Mootoo
25 thinking he was going to but [*Crosstalk*] Yes, sorry.
26 [*Crosstalk*] No, um, perhaps he should tell us.

27 **Ms. Alfonso:** Um, yes, yes, I did have—yes, it’s true—

1 **Mr. Chairman:** Right.

2 **Ms. Alfonso:** I did have my hand up, Sir.

3 **Mr. Chairman:** All right, Mr. Hargreaves, Ms. Alfonso from
4 the trade union is going to ask you some questions, maybe Mr.
5 Mootoo will do as well, but, for the moment it's Ms. Alfonso.

6 **Lt. Hargreaves:** From where?

7 **Ms. Alfonso:** Oh.

8 **Mr. Chairman:** From the union. She'll introduce herself.

9 **Ms. Alfonso:** Yes, but, Sir, can—he indicated that he couldn't
10 see anybody else in the room.

11 **Mr. Chairman:** Can you see Ms. Mootoo? Perhaps you'd
12 stand up. [*Laughter*]

13 **Lt. Hargreaves:** I'm seeing her, yes. I'm seeing her now, yes.

14 **Mr. Chairman:** Ms. Alphonso is going to stand so you can see
15 her.

16 **Ms. Alfonso:** Okay, is that any better? Well—

17 **Lt. Hargreaves:** Yes, yes, Ma'am I can see you.

18 **Mr. Chairman:** Right, he can see you now. All right.

19 **Ms. Alfonso:** Okay, thank you very much, Lieutenant.

20 **Cross Examination By Ms. Alfonso:**

21 Q. Good afternoon, Lt. Hargreaves. I am—

22 A. Good afternoon, Ma'am.

23 Q. My name is Nyree Alfonso. I represent the interest of the
24 SWWTU and I have a few questions I would like to ask you.

25 A. Yes, Ma'am.

26 Q. Lt. Hargreaves, following from the line of questioning of the
27 honourable Chairman, I want to try and understand the time

1 frame. You say that you received a telephone call at 4.07 on
2 Friday the—

3 A. Yes, Ma'am.

4 Q. —25th. Could you explain—and you received a call that divers
5 were missing in the water. Let's start with that's your first
6 information?

7 A. Yes, Ma'am.

8 Q. But you don't arrive, and I don't mean you personally, you and
9 your other dive team members do not arrive until 8.00, until
10 four and a half hours later and a little bit over that too.

11 A. Yes, Ma'am.

12 Q. So if you—would you consider that an emergency, four divers
13 are missing, unaccounted for in the waters off of Paria's
14 facilities? That would be an emergency?

15 A. Yes, Ma'am, I would consider it an emergency, yes.

16 Q. Okay. So those of us who may be called upon to—be
17 unfortunate enough to call upon the coast guard to assist us in
18 case of emergency, why would it take four and a half hours for
19 the designated dive team, because this is a designated dive
20 team, actually two, why would it take four and a half hours to
21 get from Staubles to Paria's facilities?

22 A. Well Ma'am, one, it was the Friday afternoon. I know the
23 majority of the diving department fellas, they would have been
24 dispersed already and who probably would have been home in
25 their house and when an emergency was called, when that
26 emergency was called, based on the areas of where my team
27 lives, I have to give them a window to respond to the

1 headquarters, to the diving department base in Staubles Bay,
2 and that is what initiated right after.

3 Q. So let me get this. So you have a diving emergency, four divers
4 are unaccounted for, they're clearly not on the surface, one
5 assumes they're not on the surface, they're under water and you
6 think a window of four and a half hours is, what, rapid
7 response?

8 A. No, I wouldn't say a window of four and a half hours—

9 Q. Okay, but—

10 A. —in our SOPs.

11 Q. Okay from the first time—

12 A. Yes, in terms—

13 Q. —you received the call—

14 A. In terms—

15 Q. —it took you more than four and a half hours to reach on, on
16 the location, yes?

17 A. Yes, Ma'am, because I had to wait on a vessel to carry us down
18 there.

19 Q. Okay, so there was also vessel issue, a transportation issue?

20 A. Yes Ma'am.

21 Q. Okay. Let me ask you something, Mr. Hargreaves. Is the
22 person or the vessel that you came—okay, the vessel that you
23 came from Staubles down to the location at just before quarter
24 to 9.00 on Friday, was that captained by Mr. Leidgewood?

25 A. Yes, Ma'am.

26 Q. Okay. In the trip—how long did that trip between Staubles and
27 Paria's facility take?

1 A. I would say an hour and a half.

2 Q. Okay. In an hour and a half, Lt. Hargreaves, did you—you
3 knew that Mr. Leidgewood had come from the site to collect
4 you and to carry you back? Did you know that?

5 A. No, Ma'am.

6 Q. You didn't know that leading seaman Leidgewood had been on
7 the scene before he collected the dive team and yourself?

8 A. No, Ma'am.

9 Q. So in an hour and a half, Lt. Hargreaves, you're the senior
10 officer, you're far senior than leading seaman Leidgewood, you
11 had no conversation with the leading seaman who had just
12 come from the scene? He didn't tell you—

13 A. N Ma'am.

14 Q. —anything about the scene that he had just come from?

15 A. No, Ma'am.

16 Q. Hmm, oh. Most extraordinary. Very extraordinary. So when
17 you arrived on the scene, all you have in terms of information is
18 whatever was relayed to you at 4.07, missing divers?

19 A. Yes. Yes, Ma'am.

20 Q. I see. Most extraordinary.

21 **Mr. Chairman:** Unbelievable.

22 **Examination By Mr. Chairman:**

23 Q. Did you not speak to Mr. Leidgewood?

24 A. When, when, when was that, Sir?

25 Q. Well, I thought he came to pick you up?

26 A. Well, yeah, we had to wait on the vessel. I—the vessel, if
27 they—the vessel came, I didn't know where they were but they

1 came and we went.

2 Q. No, when he picked you up and was taking you to berth 6 to
3 assist with this rescue, did he not tell you, “Look, I’ve just been
4 there. There is a terrible thing, you know. These guys were
5 sucked into a pipe and I managed to get—one of them managed
6 to come out”?

7 A. No, Sir.

8 Q. “I was there when he got out”.

9 A. No, no.

10 Q. Did he speak to you about it at all?

11 A. No, Sir. I had no recollection of that information with Mr.
12 Leidgewood.

13 Q. He said—I mean, did you talk to him at all about what
14 happened or any information he might have been able to give
15 you about what happened at berth 6?

16 A. No, Sir.

17 Q. I want to be clear about this. Are you saying you can’t
18 remember or are you saying there was no conversation?

19 A. I can’t remember any conversation myself and leading seaman
20 Leidgewood. On the way to Paria with my team, I can’t
21 remember any conversation we had.

22 Q. Of course, if he had any information, it was something you
23 would have wanted to know, isn’t it?

24 A. Well, Sir, let me be honest, yes. The information from the
25 leading hand would have been appropriate, but, again, he’s not
26 a diver. He may not understand what was going on, so, at the
27 same time, based on how information does he skewed in the

1 possess, it would have been better that I get the proper
2 information when I received on site and not from a third-party
3 or fourth party.

4 Q. Well, your loyalty does you credit, but I'm afraid, um, surely
5 you would have wanted to know every little scintilla of
6 information from an experienced man, a seaman, who would
7 have been able to at least give you his own appraisal. I
8 understand he had one diver with him, anyway. But, are you—

9 A. Okay.

10 Q. —seriously saying that you weren't interested in anything he
11 might have been able to give you by way of information before
12 your arrival?

13 A. I wouldn't say I was not interested, Sir.

14 Q. Good.

15 A. That would be inappropriate—

16 Q. Yes.

17 A. —to say I was not interested.

18 Q. So, help us, please? Is it the case then that he said absolutely
19 nothing to you in the several minutes or so that it must have
20 taken him to get you there?

21 A. Well like I said, Sir, I can't recall having a conversation with
22 Mr. Leidgewood.

23 Q. Perhaps there was a conversation; you'd just forgotten, then.
24 All right, thank you.

25 **Ms. Alfonso:** Thank you, Mr. Chairman.

26 **Continued Cross Examination By Ms. Alfonso:**

27 Q. Lt. Hargreaves, you have a very impressive, well I'll say a

1 résumé, but a very impressive resume of diving qualifications
2 and certifications, very lengthy and very long but I notice one
3 of them, or two of your qualifications are referred to something
4 called public safety diving. Am I correct?

5 A. Yes, Ma'am.

6 Q. Okay. Now public safety diving doesn't that involve the
7 recovery of persons and/or bodies below the water?

8 A. Yes, Ma'am.

9 Q. Okay. And in addition to public safety diving certification,
10 which you received fairly recently, 2019, yes, you also have
11 surface support, a specialty in surface support?

12 A. Yes, Ma'am.

13 Q. Okay. Also in public safety diving?

14 A. Yes, Ma'am.

15 Q. Yeah? Okay. So, you—so part of your training and experience
16 is the recovery of bodies or live people, hopefully more live
17 people? So—

18 A. Yes.

19 Q. And in confined spaces too.

20 A. No, Ma'am.

21 Q. No?

22 A. Public safety does not go in to—well into confined space
23 diving.

24 Q. I didn't say pipelines, huh, confined spaces.

25 A. No, Ma'am. Confined space is different. Confined space is—
26 confined space is enclosed. For example, cave diving is
27 considered confined spaces. Anything that is enclosed and

1 inability to manoeuvre properly is considered confined space
2 diving.

3 Q. And you don't have any certification in that area?

4 A. No, Ma'am.

5 Q. Okay. But you have a certification with respect to what was
6 the, what's the right term to use here, surface supply of air?

7 A. Right.

8 Q. From—so you—

9 A. Surface supply in support of public safety is that public safety
10 diving is considered law enforcement diving, right, and in law
11 enforcement you have to be able to support from on top the
12 diver in that capacity. So that is what I mean by—that is what
13 the certification meant where that you can support someone
14 from on top the surface.

15 Q. Okay. I—

16 A. It's not, it's not an—it's not in event of using, um, air supply
17 from vessel. That is something totally different.

18 Q. Okay. But your qualification in public safety diving is to—
19 allows you to—well, your training allows you to effect
20 underwater search and rescue operations, no?

21 A. Yes, Ma'am.

22 Q. Okay. You also have a certification that allows you to inspect
23 underwater pipelines, yes?

24 A. Outside of the pipeline we can do inspections outside of a
25 pipeline to make sure that—

26 Q. Outside a pipeline.

27 A. —yeah, outside the pipeline, not inside.

1 Q. Okay. And that includes remote operated vehicles as well?

2 You have a—

3 A. RO—ROV.

4 Q. —you have certification in that?

5 A. In ROV, yes, Ma'am.

6 Q. I hope I got it right. Is not remote operated vehicles, that's
7 ROV?

8 A. It's, it's the same, it's the same thing, ROV, yes, Ma'am.

9 Q. I hate acronyms. I always get it mixed up. So, when—I know
10 you don't have it in your witness statement. When you arrived
11 at minutes to 9.00, quarter to 9.00 thereabouts on Friday, did
12 you find yourself on a vessel called Waterworks?

13 A. Waterworks? Waterworks? Waterworks?

14 Q. A diving vessel, a diving assisting vessel called Waterworks?

15 A. I could—we could be because I know we had to use one of the
16 vessels to move, manoeuvre onto the platform because they
17 were berthed alongside the, the, um, one of the areas and the
18 dive, the Interceptor had to go alongside there for us to come
19 off. So, we had to transit through one of the boats to go on to
20 the platform.

21 Q. One of the witnesses that preceded you today, Lt. Hargreaves,
22 indicated that you were on a dive vessel called Waterworks and
23 that you were inspecting—your team. Five or six of the dive
24 team were inspecting the equipment on that vessel. You will
25 agree that happened?

26 A. I can't recall. I can't remember, Ma'am. It probably did. I
27 can't remember.

1 Q. And they said that you were very interested in this equipment
2 that you were not familiar with. Would that be correct?

3 A. Like I said, Ma'am, I really can't remember if I did speak to
4 somebody on the vessel or if I did say that. Um, I can't
5 remember.

6 Q. No, were you—okay, so you could have spoken to somebody
7 but did you inspect equipment? Did you inspect commercial
8 diving equipment, helmets, umbilical cords, that type of thing?

9 A. Yes, I'm not—I am, I am not authorized to inspect those type of
10 equipment, Ma'am, because I'm not trained in equipment. I
11 may be—I may have had an interest in it because it is
12 something that I do want—I did want to do at some point, but,
13 for me to inspect somebody else's equipment would be very
14 appropriate for me especially if I'm not trained or qualified in
15 the equip—in using the equipment, so how—I can't inspect
16 somebody else equipment.

17 Q. Okay. Did you have an interest to the extent that you wanted to
18 see what it looked like?

19 A. Well, again, like I said, Ma'am, I did have an interest in
20 becoming a commercial diver at some point.

21 Q. I see.

22 A. And I wanted to see what it looks like, as I say, but I guess I
23 really can't remember if I did do such at that—on that night in
24 questioning because like I said we had to use one of the vessels
25 to go back.

26 **Mr. Chairman:** Yes, thanks. Where is this going, Ms.
27 Alfonso?

1 **Ms. Alfonso:** I just want to know if he saw the equipment, Sir.

2 **Mr. Chairman:** All right.

3 **Ms. Alfonso:** All right?

4 **Lt. Hargreaves:** Well Ma'am, to be honest, diving equipment
5 would be—the diving equipment was laid—would have been
6 laid on the deck of the boat, so, I mean, if it is we had to pass,
7 yes it would have been there to go through, but, like I said, I
8 can't pick up somebody's—

9 **Mr. Chairman:** All right, we've flogged this subject enough, I
10 think. Can we have another subject, please?

11 **Ms. Alfonso:** Okay.

12 **Continued Cross Examination By Ms. Alfonso:**

13 Q. And I don't want to traverse this area again, you would have
14 formed the view that it was not safe for your team to, to—

15 A. Correct Ma'am.

16 Q. —to conduct any rescue using scuba or anything else for that
17 matter?

18 **Mr. Chairman:** Well, if you don't want to traverse it again—

19 **Ms. Alfonso:** Yes but I have one question to ask him based on
20 that—

21 **Mr. Chairman:** All right.

22 **Ms. Alfonso:**—Mr. Chairman.

23 **Continued Cross-Examination By Ms. Alfonso:**

24 Q. Would you accept—because you have your—aside from the
25 qualifications I've pointed you to, you have certification as a
26 rescue diver, yes?

27 A. Yes Ma'am.

1 Q. Yes, right. So would you accept, Lt. Hargreaves, that if one is
2 to effect a rescue there may be some level of risk?

3 A. Yes.

4 Q. To the rescuer?

5 A. Yes.

6 Q. He is going to rescue somebody but there may be some level of
7 risk to the rescuer himself or the, or, or, you know, if it's more
8 than one person. You'll accept that?

9 A. Yes, Ma'am, I will accept the risk, yes.

10 Q. Okay. But your job as the head of the dive team would be to
11 mitigate that loss or manage—sorry, mitigate that risk or
12 manage that risk?

13 A. Yes, Ma'am.

14 Q. Minimize it, any, any, any, any of those things. That would be
15 your job, yes?

16 A. Yes, Ma'am. I must make an—a proper risk assessment must
17 be done at the site to understand the feasibility of such
18 operations.

19 Q. And as you say risk assessment, Lt. Hargreaves, did you make
20 any risk assessment whether a rescue attempt could be made
21 with equipment that you may have seen, laid out on the deck of
22 a certain vessel, even if you can't remember the name of the
23 vessel?

24 A. Again, Ma'am, as I said, if a risk assessment would have
25 been—was done, it would have been done by the team or even
26 the team that was there before, because if they had—if there
27 was a commercial equipment boat there in the vicinity, which

1 means the supervisor there would have made—could have
2 made an assessment also in that capacity, because he is a
3 commercial trained individual, so yes a risk assessment would
4 have been done on their behalf and provided information in that
5 capacity to the higher authority for an attempt of rescue to be
6 made.

7 Q. Okay, but you made no such assessment yourself other than?

8 A. I made an assessment—

9 Q. Other than it can't be done, your officers—

10 A. For my—

11 Q. —can't, can't do it? Your ratings can't do the dive?

12 A. Correct.

13 Q. And you can't do the dive?

14 A. Yes, Ma'am.

15 Q. Are you familiar with a vessel called Fair Chance?

16 A. Fair Chance? Um—

17 Q. That's a vessel that overturned in Chaguaramas.

18 A. Yes, Ma'am.

19 Q. Okay. Were you or any of your divers on that scene in April of
20 this year?

21 A. Yes, Ma'am.

22 Q. In April of this year.

23 A. Yes, Ma'am, we were at the scene, yes.

24 Q. Okay. My instructions are that certainly coast guard divers
25 dived into that vessel.

26 A. Yes.

27 Q. Okay. And that—this was a little—well I don't want to say a

1 little cargo, but this was a Caricom cargo vessel, not a very big
2 vessel. Isn't that, isn't that diving into confined spaces, Lt.
3 Hargreaves?

4 A. I wouldn't say confined space because, one, there's difference
5 between confined space and penetrating dives, right? So, a
6 vessel of that nature and size would have been considered being
7 a penetrating dive. It is not a confined space because, one, the
8 cabins would have been opened and what we did first was an
9 assessment around the vessel to see if there were any areas
10 where diving could be—have been done inside the spaces based
11 on the size of the space. That was done first, an assessment.

12 Q. Is it then your evidence this afternoon that the coast guard does
13 have the capability to do penetration diving then?

14 A. Yes, but not in a pipeline. It's a totally different concept.

15 Q. You recall that the Fair Chance was a vessel that had turned
16 upside down, yes?

17 A. Yes Ma'am.

18 Q. So you're diving with the hull this way [*Demonstrating with*
19 *hand*] and the cabins and accommodation below water?

20 A. It would have been, it would have been the keel on top and the
21 cabins underneath, yes.

22 Q. Yes, thank you, but your dive team was quite capable of
23 performing that, what turned out not to be a rescue either?

24 A. Um, I wouldn't—I would say we performed because, one, what
25 we identified, there were a lot of debris in the boat that caused
26 us to reach to the diver—to the victims that were in the vessel,
27 because of the amount of debris that was blocking—was doing

1 blockage of the doors and thing and I remember that was one of
2 the assessments that there was a lot of debris and because of
3 where they were located in the lower space of the vessel, it was
4 very difficult to manoeuvre down through the debris into that
5 space so a dive when—a decision was made to float the vessel
6 in that way.

7 Q. Wouldn't that be a very difficult dive, Lt. Hargreaves, because
8 of the cargo that we—had come loose—because of all the
9 things that were loose floating around at the, the—well, the top
10 of the vessel which was below the water?

11 A. Well, again, Ma'am, as I said, the assessment that was done by
12 the guys who did the assessment, they came and gave their
13 expert advice on it and say that, you know, this is the most we
14 can do and what is the parameter, because, with the information
15 that we got that day that the, the survivors or the—not the
16 survivors, the victims, they were in the area that they wanted us
17 to look but again it was inappropriate—

18 **Mr. Chairman:** Right, I, I—

19 **Ms. Alfonso:** I accept. I accept that. I accept that, Mr.
20 Chairman. I accept that. I got what I wanted from Lt.
21 Hargreaves. Thank you very much, Lt. Hargreaves, for your
22 information. Thank you.

23 **Mr. Chairman:** Yes, Mr. Ramadhar.

24 **Cross-Examination By Mr. Ramadhar:**

25 Q. Good afternoon, Lieutenant.

26 A. Good afternoon, Sir.

27 Q. You're in Barbados today?

1 A. Yes, Sir.

2 Q. I am Prakash Ramadhar. I represent the interest of the child of
3 Yusuf Henry and Mr. Kurban who unfortunately died in the
4 event. Of course, you were very eager for the truth to be told in
5 this matter, is that true? Is that accurate?

6 A. Yes, Sir.

7 Q. When did you prepare first your statement?

8 A. I believe as soon as the counsels of the State informed me,
9 through the Defence Force lawyers, that a statement is to be
10 provided.

11 Q. And when was that?

12 A. I would believe could be August, somewhere about there, Sir.

13 Q. And certainly by August you would have known there were
14 serious statements or considerations that the coast guard of
15 Trinidad and Tobago prevented, in some form or fashion, an
16 effort to rescue the deceased divers. You knew that?

17 A. Yes. Yes, Sir.

18 Q. Did you put in your statement any denial of that, yes or no?

19 A. Yes, well we did—yes, Sir.

20 Q. You put in your statement that the coast guard did not prevent
21 an attempted rescue of the deceased divers?

22 A. Yes, Sir.

23 Q. Thank you very much. Now, when did you go to Barbados?

24 A. I went on—I left to Barbados on the 25th of May of this year.

25 Q. Oh, you've been there for this time?

26 A. Yes, Sir.

27 Q. Okay. Thank you very much. Now, as a military man you

1 knew full well, and I'm so grateful to the Chairman and of
2 course my most learned Senior, Mr. Ramesh Lawrence
3 Maharaj, at whose feet I've learned and continue to learn, that
4 you, on the way to the scene and the site as you've described it,
5 made no effort to ascertain from persons who were already or
6 who had already been at the site to find out the conditions there.
7 Is that still accurate?

8 A. Yes, Sir.

9 Q. Yes. Is that part of your military training to not find out as
10 much as you could before you arrived?

11 A. Well again, Sir— like I said, that.

12 Q. No, my question is very different, you know. Is that part of
13 your military training to not ascertain all that you could before
14 you arrive on site?

15 A. I would have gotten the information from the commander
16 who—

17 Q. We're dealing with training. Training. Is it part of your
18 training to not find out?

19 A. Of course it's part of my training to find out.

20 Q. Thank you.

21 A. But to find out from the source, the authority.

22 Q. So, part of your training, as you've indicated, and forgive me
23 for trespassing, Chairman, you did not ascertain from anyone of
24 the coastguardsmen who had been on site? Is that accurate?

25 A. Yes, Sir.

26 Q. Thank you. You knew, when you got to the site, that you'd be
27 meeting someone in authority. Is that accurate?

1 A. Yes, Sir.

2 Q. Yes. And who was that person you were expecting to speak or
3 meet and speak with?

4 A. I would have been believed it would have been an incident
5 commander.

6 Q. And who be that?

7 A. Um, at the time when I met the person there was Ms.
8 Balkissoon.

9 Q. Yes.

10 A. She was the senior person on site.

11 Q. Yes.

12 A. I would have believed she would have been the incident
13 commander at the time because she was the one giving me
14 information, nobody else.

15 Q. That was very easy. Now, having met and spoken with the
16 incident commander could you tell us, as best as you can, what
17 time that might have been?

18 A. That—I believe we arrived at 8.43, um, well it probably took us
19 at least 5 to 10 minutes. I would have believed it was after 9.00
20 when we met.

21 Q. Yes.

22 A. Um, because, um, like I said there was a lot of—

23 Q. Okay. We're good. We're good there, right? Just after 9.00?

24 A. Yes, Sir.

25 Q. Did you ever see and speak to a Mr. Piper on site?

26 A. No, Sir.

27 Q. No. But you agree you said the words that basically an

1 assessment on site, and tell us if it is correct, is the best thing to
2 be on site and making assessments there and then?

3 A. Yes, Sir.

4 Q. Yes. Because a lot could be lost in communication, isn't that
5 correct?

6 A. Yes, Sir.

7 Q. Now, even here, there was uncertainty by what your written
8 word was, which I'm sure you would have read before you
9 signed, as to whether you gave an instruction or a
10 recommendation only in relation to coast guard's divers or in
11 relation to any diver? You agree with that? Mr. Maharaj so—

12 A. Yes.

13 Q. —brilliantly handled that. Yes?

14 A. Yes.

15 Q. You agree with that?

16 A. Yes.

17 Q. Now, Ms. Balkissoon—oh, before I get to that, you said
18 something quite interesting, that there was a lot of confusion in
19 the area that you were operating within. Is that still accurate?

20 A. As I—so, well let me be clear up what is confusion.

21 Q. Yes I want you to be clear.

22 A. Right. So because of the—um a lot of—there were a lot of
23 vessels—

24 Q. Uh-huh.

25 A. —in the area, so when I say vessels, other small vessels, small
26 boats.

27 Q. Right.

1 A. And it was very confu—it was a confused area for us especially
2 to get alongside.

3 Q. Ah.

4 A. So that's what I meant by confusion in that we couldn't really
5 get a proper berthing, so we had to use one of the vessels to
6 berth alongside because of the amount of vessels that was
7 pitched in and out of the area that we were around.

8 Q. I appreciate what you've just said. So that when you got on
9 board to solid ground, when I say solid ground, a non-, a non-
10 floating environment, a platform, there was no confusion there?

11 A. Um, I wouldn't say it had any confusion, no. Like I said, I was
12 dealing with one individual.

13 Q. Yes, with one individual?

14 A. And then she was—

15 Q. Yes.

16 A. Yes, Sir.

17 Q. Ms. Balkissoon—

18 A. She was [*Inaudible*]

19 Q. She was the boss?

20 A. —she was provided [*Inaudible*]

21 Q. Yes, she was the boss lady, by which time she had already
22 told—certainly you would have known, having spoken with
23 her, that there was a live rescue around sixish, at least before
24 7.00?

25 A. On—no.

26 Q. What?

27 A. No, I didn't know that, Sir.

1 Q. So having spoken to the person in authority, you did not know,
2 after having spoken to this person in authority, there was a live
3 rescue around—before six o'clock that evening?

4 A. No, Sir. I was just told that Mr. Boodram was one of the
5 persons that was rescued. They didn't give a timing. Timing
6 was—there were no timings for anything I [*Inaudible*]

7 Q. You are a diver and you appreciate underwater rescue of men
8 who are submerged, to put it mildly, time is of the most
9 important essence, isn't it?

10 A. Yes, Sir.

11 Q. Right. To make your assessment you will need to know as to
12 how long they—

13 A. A time.

14 Q. Yeah, how long, you agree with that?

15 A. Yes, Sir.

16 Q. Yes. Tell me something. In your experience, you knew the
17 incident occurred, as you told Mr. Chairman, around three
18 o'clock and you were there after nine o'clock, yeah? Eh?

19 A. Yes, Sir.

20 Q. Six hours having passed, yeah? Did you form the view that the
21 men were already dead?

22 A. No, Sir.

23 Q. No? I want to suggest, because it, it is the only possible
24 reasonable explanation that many had thought and written them
25 off as dead and therefore there was no urgency to attempt any
26 rescue for them. Tell me if that doesn't make sense?

27 A. It makes—that makes perfect sense.

1 Q. Thank you so much.

2 **Mr. Ramadhar:** Mr. Chairman, do forgive me. I have called
3 you My Lordship many times and I will repeat that.

4 **Mr. Chairman:** Pales into insignificance as to what I've called
5 everybody else, so don't worry about it.

6 **Mr. Ramadhar:** Thank you.

7 **Continued Cross-Examination By Mr. Ramadhar:**

8 Q. Now, Mr. Maharaj dealt with this and I am almost afraid to trod
9 the ground upon which he has walked but you went there and
10 you made a decision to not pursue a dive by the coast guard and
11 he asked you a very significant question, and I will explore that,
12 and thank you Mr. Maharaj for this. Your function, after you
13 had made a clear, definitive decision to not endeavour a rescue
14 by the coast guard, was no longer part of the rescue of the men
15 in the pipe, is that accurate?

16 A. Yes, Sir.

17 Q. Yes. How many coastguardsmen remained thereabouts on the
18 platform or close to the berth after that decision was made?

19 A. After the decision was what, a rescue would not be performed?

20 Q. Yes.

21 A. I mean, at the end of the day we were there until—we were
22 there until to render any assistance.

23 Q. Yes.

24 A. So we remained, we remained but at the same time, as I said, no
25 formal plan came to us indicating of a rescue attempt or
26 anything was going to happen, right at any time. We were there
27 waiting for assistance to help in any assistance possible.

1 Q. So you were left literally and figuratively in the dark as to what
2 next, isn't it?

3 A. Basically yes, Sir.

4 Q. Yeah. But did you as a—first—forgive me, eh, you're coast
5 guard yes but first you're a Trinidadian and Tobagonian, right,
6 a citizen, yes? And before that you're even that—even that,
7 you're a human being. Were you deeply concerned about the
8 wellbeing of the men who had gone missing, about whether
9 they're alive, they're dead, what conditions they were in?

10 A. Yes, Sir, that would have been going through my mind based
11 on the parameters of what happened.

12 Q. Yes.

13 A. Um, the urgency as, I said, um, the most, the most we could
14 have done was I'll just keep asking questions about, you know,
15 what is the next step and this is where I did indicate I asked Ms.
16 Balkissoon and she, um—concerning, like you know, if any of
17 you required of us again for everything because at the same
18 time—

19 Q. Yes.

20 A. —they were not giving us any clear information of if an attempt
21 was to be going on if an attempt—all I saw, as I said when I
22 reached, was that there were divers in the water—

23 Q. Yes.

24 A. —in commercial use putting on that riser, and I was—I
25 believed or used that to say, well, hey, probably an attempt is
26 being done.

27 Q. Thank you. Mr. Hargreaves, I want to tell you, first of all, the

1 country is grateful to our protective services. You put your
2 lives on the line for us every day, police, coastguardsmen,
3 Defence Force, firemen and, you know, EMT. I just say these
4 things, but what I want to enquire of you is this. And you just
5 told us that you made enquiries of the authority there, Ms.
6 Balkissoon, as to what next. Did she respond to you what next?

7 A. No, Sir.

8 Q. No. So there you were, you too are an authority figure, because
9 you were the most senior coastguardsman on site, is it not true?

10 A. Yes, Sir.

11 Q. Yes. Ms. Balkissoon was the most senior authority from Paria
12 on site, is that also true?

13 A. I believe, I believe so, she was because—

14 Q. What you believe is what it is, okay? So you believe that she
15 was and she's the person that you spoke with, correct?

16 A. Yes, Sir.

17 Q. Now, what time did you transmit to her that you, as far as you
18 are concerned, could not authorize a dive by your
19 coastguardsmen? What time was that?

20 A. Hmm. That would have probably been, I would say, between—
21 it wasn't, it wasn't, it was, it was a lil while after so I believe
22 between—after we spoke she carried us to the barge and where
23 the incident happened because, like I said, we were on the
24 platform so we had to transfer to the barge.

25 Q. Yes.

26 A. And then she showed us around an area of where the tanks of
27 the LMCS divers were, and—

1 Q. Sir, with all due respect, with all due respect—

2 A. I just, I just trying to ascertain—I trying to get a timing
3 because, again, as I say I don't want to be incorrect

4 Q. Oh.

5 A. I want to—so, because, like I say, um, so I would believe
6 between, I would say about 9.20, nine, 9.30—

7 Q. Yeah.

8 A. —in that, in that, in that aspect because the walk from the
9 platform to the barge probably take us—

10 Q. Right. Sir, we do not—we cannot—we don't have the luxury
11 of time, just like the gentlemen who died didn't have the luxury
12 of time for all of this.

13 A. Right. Yes.

14 Q. My question is, right, approximately what time was it that you
15 transmitted your decision to Ms. Balkissoon that the
16 coastguardsmen you could not authorize a dive by them,
17 9.30ish, ten o'clock?

18 A. It would be, it would be before ten o'clock, yes.

19 Q. Before 10.00, but between 9.30 and 10.00, you think?

20 A. Yes, Sir.

21 Q. Right. Now, when you arrived, you saw men in the water,
22 divers, swimmers, whatever, correct?

23 A. Yes, yes, Sir.

24 Q. Yes. Did you see any effort made after you communicated to
25 Ms. Balkissoon, any effort to dive into the pipe, yes or no?

26 A. No, Sir.

27 Q. No. Did you make an inquiry, as you have already told us,

1 what next? “Listen men in there.” You know as a diver, every
2 second counts, isn’t it?

3 A. Yes, Sir.

4 Q. Yes. Did you make an enquiry from her what next? Is it that
5 no dive is to take place?

6 A. No, Sir, I didn’t, I didn’t get that. I just asked what about the
7 emergency plan.

8 Q. Yeah.

9 A. And—

10 Q. So you never asked her what, what is the next dive, what is the
11 next effort going to be made to save these men?

12 A. Well actually they were the ones to provide the information
13 because they were there before.

14 Q. Or. And having not provided to you as a senior
15 coastguardsman interested as a Trinidadian, a human being
16 first, you made no enquiry, “When are we going to implement
17 anything”, isn’t it?

18 A. No, Sir, I did not enquire.

19 Q. Of course. But tell His Lord—Mr. Chairman and other
20 Commissioner, all of Trinidad and Tobago, after you
21 communicated your decision, you cannot tell us that any effort
22 was made to dive into the pipe?

23 A. No, Sir.

24 Q. No. Now, how many coastguardsmen were on the scene after
25 you communicated your decision that no coastguardsman will
26 be permitted to go into the pipe?

27 A. My whole thing—my well team was there, Sir.

1 Q. How many?

2 A. Ten.

3 Q. Ten. A little army, isn't it?

4 A. I don't know about—

5 Q. Well, you know, if it's a small island, yeah, 10 is a large
6 number of military men. You agree with that?

7 A. Yes, Sir.

8 Q. Yes. Several of whom were armed with machine guns, correct?

9 A. No, Sir. The diving—

10 Q. None?

11 A. —department was not armed with machine guns. The squad—

12 Q. None of them had machine guns?

13 A. The squadron department, the squadron men on the vessels
14 were the ones—

15 Q. Sir, Sir, my question is, none of them had guns on the scene?

16 A. Yes, Sir, the squadron, yes. The squadron were armed.

17 Q. Right. You know what a bouncer is?

18 A. A what?

19 Q. The term bouncer, nightclub bouncer, hmm?

20 A. Yes, Sir.

21 Q. Right. You know what a enforcer is?

22 A. Yes, Sir.

23 Q. Right. You know sometimes they don't have to say a word, the
24 boss man there and he say something and the fellas just in the
25 back lay back, as Mr. Gilbert put it, moving heavy. You said it
26 earlier about the Minister. you said the Minister travels heavy.

27 **Mr. Chairman:** You've become Mr. Gilbertson again.

1 **Mr. Ramadhar:** Did I? I've known him for 35 years. Don't
2 tell me I'm now mistaking who he is.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. Right, you understand the concept, right? To be fair to you,
5 you do not know what Ms. Balkissoon told men who were in
6 the water or who were or who wished to assist in a rescue?
7 You do not know what she told them?

8 A. No, Sir.

9 Q. No. What you do know is that the communication, as you've
10 told us before, was between coast guard and who, who?

11 A. Paria.

12 Q. Yes. But you all were standing around?

13 A. Yes, Sir, we were just there to—

14 Q. Yes, yes. Yes, yes.

15 A. —we were standing around willing to assist.

16 Q. And after, as, just to be clear, after that communication of your
17 decision, there was nobody trying to go into the pipe again,
18 isn't it true?

19 A. Correct, Sir.

20 Q. Yes. Now, Sir, you used the term sucked into the pipe. Sucked
21 suggests what, differential pressure?

22 A. A suction.

23 Q. Yes. Differential pressure. Correct?

24 A. Yes, Sir.

25 Q. Yes. You in the many years, even before you became a
26 coastguardsman and you went into your diving, and since that
27 time till today, can visualize any rescue into a confined space as

1 a pipe? Can you even visualize that?

2 A. Um, with the proper training and equipment—

3 Q. Yes.

4 A. —yes, it can happen. Because, like I said, confined space
5 diving is what cave divers do.

6 Q. No, I understand all that.

7 A. And—

8 Q. Let's keep it to the pipe. Let's keep this pipe straight.

9 A. Okay.

10 Q. Okay? And stay within it, okay? You could visualize that
11 happening with the proper equipment, as you've told us, proper
12 training?

13 A. Yes.

14 Q. And the will to do it, correct?

15 A. Yes, Sir.

16 Q. Did you ascertain from anyone on site, seeing that you were
17 there, first of all, interested in rescue as an officer of the State
18 of Trinidad and Tobago, where there was that capacity in your
19 numbers, I don't mean coast guard, I mean in the numbers who
20 had, you know, the coalition of the willing, we're trying to put
21 it like that, who were present, did you ascertain whether there
22 was anyone with that capacity, training and equipment?

23 A. No, Sir, nobody at that time came forward.

24 Q. So you had given up hope all together about a rescue because
25 the coast guard did not think it—

26 **Mr. Peterson SC:** Can the witness be allowed to answer the
27 question, Sir?

1 **Mr. Chairman:** Just a, just a, just a minute. Just a moment.
2 Mr. Ramadhar, you can make your speech later on, all right?
3 I'm going to permit you to make a speech later on.

4 **Mr. Ramadhar:** Oh.

5 **Mr. Chairman:** Looking forward to it. But—

6 **Mr. Ramadhar:** I did not know.

7 **Mr. Chairman:** But—

8 **Mr. Ramadhar:** I did not know.

9 **Mr. Chairman:** But, please don't make it now. Just ask him a
10 question.

11 **Mr. Ramadhar:** And I'm most grateful. But, I thought they
12 were questions but in the questions there may have been an
13 inkling of a speech.

14 **Continued Cross-Examination By Mr. Ramadhar:**

15 Q. Now I don't mean to speechify you, Mr. Hargreaves, right, but
16 what was my question?

17 **Mr. Chairman:** It wasn't a question, it was a speech. I keep
18 telling you.

19 **Mr. Ramadhar:** Mr. Peterson, has successfully almost
20 derailed me but I will not get completely derailed.

21 **Continued Cross-Examination By Mr. Ramadhar:**

22 Q. Now, Sir, you having made the decision, right, you having
23 made the decision that the coast guard couldn't and would not
24 go, did you ascertain whether any in that number of persons
25 who were there, some of whom would have been in the water in
26 and out, as we shall call them, the coalition of the willing, had
27 the capacity, that is the training, the equipment, to go in and

1 save lives? Did you?

2 A. Sir, as I said, if such information was to come out—

3 Q. Yes.

4 A. —Ms. Balkissoon would have relayed such to me. We have
5 seen people on standby that are willing to assist and want to
6 attempt such, and at that time, like I say—

7 Q. Yeah.

8 A. —that nothing of the sort was brought to my attention—

9 Q. Correct.

10 A. —and we were just there waiting for further instructions.

11 Q. And—

12 **Mr. Chairman:** All right, all right, all right, let me just ask
13 you this please?

14 **Mr. Ramadhar:** Sure.

15 **Examination By Mr. Chairman:**

16 Q. Leave aside the 10 divers that you brought yourself, were there
17 many divers there in the course of that evening?

18 A. When you say many divers, as in commercial divers?

19 Q. Well, any divers at all to start with. Were there a large number?
20 I say large number, a significant number of divers present
21 during the course of that evening.

22 A. I saw, I saw two vessels, two commercial vessels, two dive
23 commercial vessels were on site.

24 Q. Yeah, well, I'm less interested in number of vessels. I'm
25 more—

26 A. I, I, I—

27 Q. —interested in number of divers.

1 A. —I don't—I can't say the, I can't say the number. I can't say
2 the number of divers, Sir. I doh don't know—

3 Q. Right.

4 A. —how much their teams would require. I can't say.

5 Q. Let's be clear. There were probably around another I want to
6 say 10 at least other divers present other than your own 10?

7 A. Um, I can't say, make that assumption of how much, but, yes
8 there were divers present also on the commercial vessels.

9 Q. And you saw—

10 A. But I cannot say—I can't say how much.

11 Q. All right, all right, well let's, let's say six. I believe there were
12 more, but never mind, let's say that it was just six.

13 A. Yes.

14 Q. There were two vessels fully equipped with commercial diving
15 equipment?

16 A. Yes, Sir.

17 Q. Yes. And did you, as the most senior officer present, and in
18 charge of the coast guard present on the scene, did you speak
19 with Ms. Balkissoon, who was the most senior person present
20 on behalf of Paria as to what might—well use might be made of
21 those divers and their equipment?

22 A. No, Sir. She did not indicate to me whether—

23 Q. No, no, no, no, no. Never mind what she indicated to you. Did
24 you say to her, “Look, Ms. Balkissoon, we are not able to effect
25 this rescue but it's clear that there are commercial divers here
26 who can. What shall we do? You and me, let's work it out
27 what we're going to do? There are men down there. What are

1 we going to do?" Did you ask her that?

2 A. No, Sir.

3 Q. Did you make any suggestions at all as to how they might be
4 rescued?

5 A. I did ask a question, yes, about how the rescue would—how the
6 rescue attempt would have been—

7 Q. And the response was?

8 A. I didn't really get an answer.

9 Q. You didn't get an answer. So let me understand this, then, Mr.
10 Hargreaves. Between the time when you made it clear that
11 none of your 10 divers were going to carry out any kind of
12 rescue, which you tell us was sometime between 9.30 and ten
13 o'clock that evening, between that time and when you finally
14 left that night, what were you actually doing?

15 A. We were just standing by waiting for any information
16 concerning a rescue and we were told, we were told to stand by
17 to help assist in anything going forward and I believe I said in
18 my statement that I believe it was around after 11.00, let me
19 just get back to, to that— when the—

20 Q. As a matter of fact you were never asked do anything? Is that
21 what you're saying?

22 A. Yes, I was not asked to do anything.

23 Q. After you made it clear you were not going to subject any of
24 your divers to any kind of rescue attempt and you tell us you
25 were put on standby by Paria, you were not actually asked to do
26 anything?

27 A. Yes, Sir.

1 Q. And as a matter of fact, you did nothing?

2 A. Yes, Sir.

3 Q. Do you need any more?

4 **Mr. Ramadhar:** Permit me, please? I shan't be long.

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 Q. Now, Mr. Hargreaves, you said something quite interesting to
7 all of us earlier and just to remind you, you say, or you said that
8 you had made efforts to speak with Christopher, the survivor.
9 Is that still true?

10 A. Yes, I did ask about his welfare when I said that how I wanted
11 to speak to him as how he was the person who was rescued and,
12 um, I was told that he was in the hospital.

13 Q. Yes.

14 A. And I believe that they were not allowing anyone to see him,
15 um—

16 Q. Yes. And, and, and—

17 A. —as such.

18 Q. —and to be clear with you, we understand—your reputation
19 precedes you, Sir, that you're a man with specifics, you're a
20 very specific person scientifically minded, correct?

21 A. Yes, Sir.

22 Q. Yes. Who is the “they” that didn't want you to speak to him?

23 A. Um, I really can't recall who is the they but I know like I said I
24 was passing the information through Ms. Balkissoon—

25 Q. Yes.

26 A. —um, to get information.

27 Q. To short-circuit—

1 A. So I believe—

2 Q. —to short-circuit the long version, somewhere along that line
3 you got from Ms. Balkissoon, who was on your end, that there
4 was a reluctance for you to speak with Mr.—with Christopher,
5 isn't that accurate?

6 A. I would believe so, yes.

7 Q. Thank you.

8 A. Because again—

9 Q. Thank you. Now, you said also something quite interesting.
10 Do you know Mr. Kurban's son attempted rescue so his father
11 and his brothers in water? Do you know that?

12 A. Did I know if he attempted?

13 Q. Yes, to rescue his own father and his colleagues.

14 A. No. I was only told that he, um, helped with Mr. Boodram.

15 Q. Right.

16 A. I didn't know about the others.

17 Q. You knew he had actually gone into the chamber, correct?

18 A. Yeah. He—

19 Q. I put it as gently as I could, because you are not saying you
20 knew he had gone into the pipe, you knew he had gone into the
21 chamber, correct?

22 A. The habitat, yes.

23 Q. Yes, the habitat. But he was acting erratically?

24 A. Yes, Sir.

25 Q. Yes. In other words—

26 A. I mean, he was emotional, very emotional. Very emotional.

27 Q. Of course. Your daddy dying and he's right there and you have

1 all of the resources of Trinidad and Tobago available and
2 nobody going in to save his own father? What do you expect
3 him to be?

4 **Mr. Chairman:** All right, all right.

5 **Mr. Ramadhar:** I'm sorry, I'm sorry, I'm sorry. I'm sorry I
6 lost my [*Inaudible*]. Sorry—

7 **Mr. Peterson SC:** Playing to cameras. Camera is present.

8 **Mr. Ramadhar:** You know, Mr. Peterson could—

9 **Mr. Chairman:** All right—

10 **Mr. Ramadhar:**—could talk about cameras—

11 **Mr. Chairman:** Yes, I—

12 **Mr. Ramadhar:**—all right, but I have heart.

13 **Mr. Chairman:** No, no, look, I'm not going to get into a spat
14 over this but you, you do need to just confine yourself to asking
15 questions.

16 **Mr. Ramadhar:** Of course.

17 **Mr. Chairman:** As I've said to you already, I will give you
18 your opportunity to make your speech at the conclusion of all of
19 this.

20 **Mr. Ramadhar:** Yes.

21 **Mr. Chairman:** All right?

22 **Mr. Ramadhar:** Yes.

23 **Mr. Chairman:** Now, you will have that opportunity.

24 **Mr. Ramadhar:** Of course.

25 **Continued Cross-Examination By Mr. Ramadhar:**

26 Q. But you used the word "erratic". You understand that's a
27 specific term you used?

- 1 A. Yes, Sir, because he was using a lot of explicit language.
- 2 Q. Right, the obscene.
- 3 A. He yes—yes, he was—
- 4 Q. Right, cussing, huh?
- 5 A. Yes he was.
- 6 Q. And in fact, apart from the obscene language, he was basically,
7 “What are you all doing”, isn’t it? “What is going to happen?”
8 “What is the plan?” “Anybody going to help save the men?”
9 Isn’t that what he was about?
- 10 A. He was not talking to specifically the divers that were not,
11 because, yes, we were there because he was speaking in
12 general—
- 13 Q. Oh.
- 14 A. —um, on the deck, on the deck of the, of the, um, LMCS barge.
- 15 Q. Right.
- 16 A. After. Yeah that is—
- 17 Q. How far away were you from he when he was speaking these
18 obscenities and other things?
- 19 A. I was about three feet.
- 20 Q. Three feet.
- 21 A. Because at that time—
- 22 Q. So he’s right in your face, right up?
- 23 A. No, I wouldn’t say—um, at that time we were actually
24 understanding that COVID was still round so we were not
25 really speaking in close proximity but three to four feet apart,
26 yes he was. And—
- 27 Q. So you were, you were exercising COVID protocols, yes, yes?

1 You were concerned about COVID protocols?

2 A. Well Sir I don't want nobody speaking in my face in that
3 manner.

4 Q. Right. So, in other words, he was literally within your space?

5 A. Yes he was.

6 Q. Yes. You were offended by that, were you not?

7 A. Um, I wouldn't say offended, because I—

8 Q. Did you tell him to back off, back off?

9 A. No I didn't.

10 Q. Did you back off?

11 A. No I didn't.

12 Q. So you maintain the protocols with the space of three feet?

13 A. He walked off eventually and—

14 Q. Eventually, I coming to that.

15 A. And after he walked off, that was the last time I saw him.

16 Q. You were an authority figure. Did you, at the time, know that
17 he was intimately involved in rescue operations?

18 A. I was not intimately. All I know that he was the person that
19 was assisting Mr. Boodram. That's all I was told.

20 Q. It never came to your attention that his father was in the pipe?

21 A. No.

22 Q. Nobody you this?

23 A. No.

24 Q. No.

25 A. The names of the persons in the pipe were not disclosed at that
26 time to me.

27 Q. That's all right. That's all right. Well, we're not talking about

1 names here. So, when did you first learn—

2 A. Only—but you said, you said specifically his father—

3 Q. Yes.

4 A. —so how would I have known his father—

5 Q. Right.

6 A. —was in the pipeline if names were not provided?

7 Q. Or, okay. That's fine. You appreciate somebody—you could
8 know somebody's relationship, father/son without knowing the
9 names, you know that, right? Just to humour you a little bit.
10 You know that, don't you?

11 A. Yes, Sir.

12 Q. Yes. When did you first learn that this fella who behaving
13 erratically, that his father was in the pipe?

14 A. I believe that would have been after the names were given out
15 of the missing—of the gathering of persons who were—

16 Q. When, when, when?

17 A. That would have probably been—

18 Q. Wednesday, Sunday, Saturday?

19 A. I can't remember. I can't remember when.

20 Q. So you say eventually he walked off, huh?

21 A. Yes, eventually he walked off.

22 Q. Yes. Did you do anything after he walked off?

23 A. Well, yeah, I went back to Ms. Balkissoon to get information
24 again. Like I said, Sir, we, we—

25 Q. Yes. All right, we get that, so you gone to Balkissoon. Did you
26 find out who this young upstart erratic behaving person was?

27 A. Of course I did state in my statement that she introduced me to

1 him.

2 Q. Right. I'm not interested in—

3 A. Yes, she introduced me to him.

4 Q. —we stay within your live evidence.

5 A. Yes, I know who he was.

6 Q. Yes, okay. Did you ascertain whether he was a person capable
7 of doing the very thing that you had said your coastguardsmen
8 could not do—

9 A. No I didn't.

10 Q. —that is to dive into the pipe? Huh?

11 A. No, Sir.

12 Q. Ms. Balkissoon didn't volunteer that to you, did she?

13 A. No, Sir.

14 Q. Now, remember I asked you about bouncers, right, and you
15 know what a bouncer is, men who are there to enforce things,
16 right? You agree?

17 A. Yes.

18 Q. Who were the main authorities on site that day? Give me the
19 names? Not the names of persons but authorities, State
20 authorities.

21 A. State authorities?

22 Q. Yes.

23 A. To be honest—

24 Q. I thought you were all along.

25 A. Well I am, yes, but at that time I only knew of myself, when I
26 say myself I would say the Trinidad and Tobago Coast Guard
27 because no other agency was provided, saying that you know

1 we have say fire services we have this we have—

2 Q. Police, or police either?

3 A. —um, no, or police, correct, no other State agency.

4 Q. Or no—and they gave us earlier, private security for Paria?

5 A. Um, Paria private security I believe was on site. They were
6 with guns.

7 Q. As was—

8 A. I can't say. I can't say.

9 Q. Why can't you say?

10 A. Um, I can't say because I didn't see them but I you know they
11 were on site but I didn't because, um—

12 Q. Oh.

13 A. I didn't see them. I didn't see them, but I know that normally
14 those pipelines would have security on it but—

15 Q. All right, let's, let's—we could go along with speculation but
16 we shan't. Question. You are the most visible armed security
17 agents of the State on site, you agree?

18 A. Um, yes, I would say so, yes.

19 Q. And not, not just that. The other Interceptor boat right there,
20 it's a fast little boat, zzzzt, right, you carry guns and everything
21 on that, correct?

22 A. Yes, Sir but they, the men did not come off the vessel, they
23 were on the vessel.

24 Q. But we're talking about in the area.

25 A. They never came off the vessel.

26 Q. Yeah, in the area of this catastrophe and there was a larger coast
27 guard presence, a military boat, isn't it?

1 A. Yes, Sir.

2 Q. Yes. Patrolling up and down?

3 A. No, Sir. No, Sir, they were not patrolling.

4 Q. They were anchored of course?

5 A. Yes, Sir.

6 Q. Thank you. And of course you know from your wide
7 experience and years in the coast guard that that boat carries a
8 lot a resources, men, machines, material, ammunition, guns,
9 yes?

10 A. Well, yes, Sir it's a vessel, it's a vessel, yeah.

11 Q. Yes. It's a military vessel.

12 A. Yes, Sir.

13 Q. And we joked a bit earlier. It carries artillery?

14 A. I dent know about the artillery but—

15 Q. You don't know they have big guns with large bores?

16 A. Sir, if it have I am—

17 Q. You do not know whether—hold on, hold on, hold on, no if, if,
18 if, if now. You were there. You're a coastguardsman. You are
19 not aware that the [*Inaudible*] vessels carry fixed, high, give me
20 what is the word for it, boy, um, um—

21 A. Yes, Sir but the vessel was nowhere in vici—that vessel was
22 nowhere close to the dive site, you know, to what happened.
23 That was a good, a lil way off of it. They were not in the
24 presence of any—

25 Q. No, we know they couldn't come and park by the berth. We get
26 that, but they was within sight?

27 A. And, to be honest, yeah they was in sight but they were—

1 Q. Thank you.

2 A. —barely visible.

3 Q. That's all I want to know. All I want to know, did that vessel
4 provide any, any, any assistance in terms of material, men or
5 anything to you?

6 A. I can't—I can't—no, no Sir, not to me, Sir, no.

7 Q. Sir, looking back on things, looking back on things as you were
8 the authority from the coast guard and representing the State of
9 Trinidad and Tobago on site, how would you rate the
10 importance of rescuing these men that evening?

11 A. Of high, high, high importance.

12 Q. High, well we have, uh, low, medium, high, highest, highest
13 even. Where do you put that?

14 A. At highest.

15 Q. Highest. Looking back now, all that you today know, would
16 you have done it differently?

17 A. Um, when you say differently as in the Trinidad and Tobago
18 Coast Guard or you mean—

19 Q. Anyhow because you are a part of the coast guard and you're
20 part of the society. Would you not have spoken better with Ms.
21 Balkissoon to get more information, find out who were
22 available and to say, "Look, fellas all yuh willing to risk—you
23 know, this is something that we could achieve"?

24 A. No. Um, to be honest, willing to risk it would have put me at a
25 disadvantage, because, one in my—in our SOPs we are not to
26 perform such a rescue because it would have made me, um—

27 Q. Responsible?

1 A. —incapable—

2 Q. Make you responsible?

3 A. It would have made—and if it is that I—

4 Q. Hold, hold, hold, hold. You will answer my question. It would
5 have made you responsible, correct?

6 A. Yes.

7 Q. Thank you very much. No further questions.

8 **Mr. Chairman:** Right. Yes, please? Ms. Persaud Maraj is
9 going to ask you a question now.

10 **Cross-Examination By Mrs. Persaud Maraj:**

11 Q. Lt. Hargreaves, Kamini Persaud Maraj of LMCS. Are you
12 hearing me?

13 A. Yes, Ma'am.

14 Q. I have a few questions for you. Can you say whether you
15 appreciate the difference between a rescue and a recovery?

16 A. Um, yes, I will appreciate the difference but to say a rescue,
17 one, you have to be on site to perform an immediate rescue
18 which means, say, for example, something happens on spot and
19 you are there, you can perform a rescue ne time because you
20 were on site.

21 Q. Okay. So, a rescue, let's just break this down in terms of what
22 we're dealing with. We have some men in a pipe, yeah,
23 agreed?

24 A. Yes, Ma'am.

25 Q. Right. Your understanding of a rescue would mean that there
26 would be an attempt to save their lives, is that correct?

27 A. Yes, Ma'am.

1 Q. All right. As opposed to recovery, which is not necessarily to
2 save their life but to recover whatever is in that pipeline
3 inclusive of deceased bodies?

4 A. Um, well yes, I mean if, if we recover them alive also could be
5 said—could be of—could be used in—widely too because, like
6 I say, it does cover, it does cover the parameters of rescue also,
7 so a recovery of somebody is also either between alive or
8 deceased, so, it depends on how you use the term.

9 Q. Okay. So, at the night in question at round 9.00 p.m. let's just
10 make it simple, around 9.00 p.m. when you would have gone on
11 site, your understanding was that you were there for the purpose
12 of a rescue of men?

13 A. Yes, Ma'am.

14 Q. Not a recovery?

15 A. No, a rescue.

16 Q. All right. Might the witness be shown paragraph seven of his
17 witness statement?

18 **Mr. Chairman:** Look at paragraph seven of your statement.

19 **Continued Cross-Examination By Mrs. Persaud Maraj:**

20 Q. And you would have read your statement?

21 A. Yes.

22 Q. Before—okay.

23 A. Involved in, in, any, any members involved in the recovery
24 operation?

25 Q. Right. So you're saying in this paragraph, upon your arrival at
26 berth number 6 you would have met with Catherine Balkissoon
27 who you came to learn was the team lead engineer at the

1 operations with Paria. She apprised me of the incident and
2 identified her team members involved in the recovery
3 operations. Do you see that?

4 A. Yes, Ma'am.

5 Q. Right. So, again, I'm going to ask the question did you
6 appreciate that your presence was for the purpose of rescue or
7 recovery?

8 A. Well, like I said, it depends. It would be rescue, yes, but again,
9 we also use the term recovery in the same context. So it's not
10 to, it's not to say—

11 Q. So you're saying it's interchangeable for your purpose?

12 A. Yes. Yes because like I said we have been on dives where we
13 performed a recovery of live personnel. It's like I say how you
14 use the term.

15 Q. And how did you intend to use the term when you're describing
16 recovery operations?

17 A. In the best interest you have to be very optimistic of what was
18 going on, so, yes, the term recovery in my statement would
19 have been as of rescue purposes.

20 Q. Okay.

21 A. Because like I said—

22 Q. I'm going to put, I'm going to put to you that—

23 A. Uh-huh.

24 Q. —the use of recovery operation was not intended to mean
25 rescue. You can answer that.

26 A. Say that over?

27 Q. The use of the term recovery operation by you in your

1 paragraph seven was never intended to mean rescue.

2 A. Why would you say that?

3 Q. A live rescue. You can answer that.

4 A. Yes, I believe it were—a live rescue would have been possible,
5 yes, but like I said it's how you use the term recovery because
6 you can recover somebody alive also.

7 Q. All right.

8 A. It's a, it's a difference, as I said, in how you use the term.
9 Some people take it in a negative or in a positive. It depends on
10 how you use it, but, at the same time search and rescue, search
11 and recovery, they're words, they are used differently. It
12 depends on the person interpreting it.

13 **Examination By Mr. Chairman:**

14 Q. You see it's quite an important question you're being asked by
15 Ms. Persaud Maraj, because, factoring in risk, putting your own
16 men at risk to effect a rescue is different from factoring in
17 putting your men at risk for recovery, isn't it?

18 A. Well, Sir, well let me state that probably I used the wrong term
19 in that context.

20 Q. No, no, just answer my question first then you can say whatever
21 you like. What I want to know is, when you're factoring risk,
22 rescuing someone you might be prepared to take a greater risk
23 than if you're simply recovering a body. You follow what—

24 A. Yes.

25 Q. —I'm asking you, don't you?

26 A. Yes, Sir.

27 Q. Do you agree with me, that, in assessing risk, it depends on

1 whether you think you're rescuing someone or recovering a
2 body?

3 A. Um, like again, yes, but again, it depends on how you use the
4 term so that's why I say I probably used the wrong terminology
5 in that one.

6 Q. Whatever the terminology, rescuing someone who's alive as
7 opposed to recovering someone who's dead is a difference in
8 approach taken by you or any first line rescuer in any sphere,
9 would you not agree? There is a quantitative difference
10 between the two?

11 A. It depends on how you use it.

12 Q. Dead or alive, I don't care which term you use, if you're
13 recovering someone who's dead or rescuing someone who's
14 dead it is different from recovering or rescuing someone who's
15 alive. The risk factors are different, aren't they? Do you have a
16 difficulty with this question?

17 A. No, Sir, I have no difficulty, Sir.

18 Q. Right. Well please answer it, then?

19 A. Yes.

20 Q. Yes what?

21 A. Well—

22 Q. Yes there's a difference between the two?

23 A. Yes, yes there's a difference in the two.

24 Q. Thank you very much.

25 A. But.

26 **Mr. Chairman:** That wasn't so hard. Thank you, Ms. Persaud
27 Maraj.

1 **Mrs. Persaud Maraj:** Thank you.

2 **Continued Cross-Examination By Mrs. Persaud Maraj:**

3 Q. Now, Lt. Hargreaves, you've said to this Commission today
4 that you've spoken to Ms. Balkissoon. Is there any other
5 person that you would have spoken to from Paria to the best of
6 your recollection?

7 A. That night?

8 Q. On the 25th.

9 A. On the 25th? No.

10 Q. No?

11 A. Not to my knowledge.

12 **Ms. Persaud Maraj:** Might the witness be shown at page one
13 three six one, that's the evidence of Mr. Collin Piper, paragraph
14 82?

15 **Mr. Chairman:** He can't be shown it. You can tell him
16 what's in it.

17 **Mrs. Persaud Maraj:** Okay.

18 **Continued Cross-Examination By Mrs. Persaud Maraj:**

19 Q. I'm going to read for you What Mr.—

20 **Mr. Chairman:** He hasn't a document.

21 **Mrs. Persaud Maraj:** Oh, I appreciate that, Mr. Chairman.

22 **Continued Cross-Examination By Mrs. Persaud Maraj:**

23 Q. I'm going to read to you what Mr. Piper says. At his paragraph
24 82 of his statement he says this.

25 "At about 16:45 hours I was advised by either Visham or
26 Leandra that the TTCG had arrived and had commenced
27 a search and rescue pattern in the sea in the vicinity of

1 berth number six. I was also advised by Visham and/or
2 Johnathan that the Lt. Hargreaves indicated that when the
3 incident was reported to them not many details were
4 given and they did not have the appropriate equipment on
5 site to enter the water or the hyperbaric chamber, but that
6 a dive crew was on its way to berth 6.”

7 Would you like to change—having heard what Mr. Piper has
8 said, would you like to change your evidence that you just gave
9 to the Commission?

10 A. Change what, Ma’am?

11 Q. I asked you if you’d spoken to anyone else and I’ve just read to
12 you the account of Mr. Piper.

13 A. But I didn’t speak to Mr. Piper.

14 Q. No, he’s not saying that you spoke to him.

15 A. That team.

16 Q. Allow me to read it back to you very slowly. At around 1645
17 hours, I—

18 **Mr. Chairman:** All right, we’d better have it on the screen,
19 otherwise no one’s going to follow it, so just put it on the
20 screen, please?

21 **Mrs. Persaud Maraj:** Page one three six one of the witness
22 bundle, paragraph 82.

23 **Continued Cross-Examination By Mrs. Persaud Maraj:**

24 Q. Can you see that on screen, Lt. Hargreaves.

25 A. No.

26 **Mr. Chairman:** One three six three?

27 **Mrs. Persaud Maraj:** One three six one, please.

1 **Mr. Chairman:** Paragraph?

2 **Mrs. Persaud Maraj:** Eighty-two.

3 **Lt. Hargreaves:** No, I can't see it.

4 **Mrs. Persaud Maraj:** Permit me to read it back to you and I'll
5 read from the part or the portion that pertains to you.

6 **Continued Cross-Examination By Mrs. Persaud Maraj:**

7 Q. I was also advised, this is Mr. Piper saying, that he was advised
8 by Visham and/or Johnathan, that Lt. Hargreaves indicated that
9 when the incident was reported to them, not many details were
10 given and they did not have the appropriate equipment on site
11 to enter the water or the hyperbaric chamber, but that a dive
12 crew was on its way to berth number 6.

13 **Mr. Chairman:** Right. So breaking that down, did you speak
14 to somebody called Visham or Johnathan?

15 A. No. I don't know who is that. Visham? I don't know.

16 Q. Did you indicate that when the incident was reported you didn't
17 have very many details?

18 A. Well, like I said, yes, in when—the coast guard operations
19 spoke to me—

20 Q. What you said so far. He said that there was a, there was an
21 incident at Paria where four divers was missing and that is all I
22 was told and that we supposed to scramble team to head down
23 to make an assessment of what was going on. We didn't know,
24 I didn't, um, and got the call at after 4.00, I was at Defence
25 Force headquarters and I didn't reach down there, I don't know
26 who—I never spoke to anybody from Paria.

27 Q. All right. Anyway, you didn't have all the appropriate

1 equipment on site to enter the water or the hyperbaric chamber,
2 is that correct?

3 A. At what time that was?

4 Q. Well, I'm assuming this relates to the period of time when you
5 were first or when he was first asked about it. As far as I'm
6 aware that's before you arrived on site. This is at 1645.

7 A. Sixteen forty-five?

8 Q. Which I believe to be on the Friday, so I don't think we could
9 take that any further.

10 **Mrs. Persaud Maraj:** Yes, yes please Mr. Chairman.

11 **Examination By Mr. Chairman:**

12 Q. All right? And the fact of the matter is you didn't arrive until
13 much later in any event, did you?

14 A. Yeah, that was correct, Sir. I didn't—

15 Q. Yeah.

16 A. —I was nowhere in the vicinity.

17 Q. And when you did arrive you had your divers with all their
18 equipment, but, it was clear that that wasn't the equipment that
19 was necessary to effect any kind of search?

20 A. That is correct, Sir.

21 Q. Yeah, well I think we—

22 **Mrs. Persaud Maraj:** As you please. All right.

23 **Continued Cross-Examination By Mrs. Persaud Maraj:**

24 Q. Were you—so, earlier you answered to Mr. Ramadhar, I think it
25 was, that you were the person in charge at the site from the
26 TTCG

27 A. In charge of—

1 Q. —from the—

2 A. Yes, I was the most senior—I was the most—I was the most
3 senior person on site, yes, from the coast guard, yes.

4 Q. You were the most senior, but prior to your arrival, would you
5 be able to say who was the most senior officer there?

6 A. No, Ma'am.

7 Q. No. At any point in time were you informed by Paria that you
8 are to take control of that site?

9 A. No. And, and, who by Paria would say such a thing?

10 Q. Well, it's in the statement of Mr. Piper at paragraph 109 that the
11 TTCG should take control of the site to safeguard Paria/Kenson
12 personnel and to take control of the ongoing rescue operations.
13 And this would include preventing LMCS divers from entering
14 the pipeline.

15 A. Oh, really? I know, I know, I know nothing of that. Nobody
16 indicated to me that Mr. Piper told the coast guard because, like
17 I said, we were not—we are not authorized to take control of
18 anything. We were there to help in assistance. Nobody told me
19 about taking control of anything that.

20 **Mr. Chairman:** *[Inaudible]*

21 **Mrs. Persaud Maraj:** Paragraph 109. It's on screen.

22 **Continued Cross-Examination By Mrs. Persaud Maraj:**

23 A. I trying to read it, honestly, but, like I said I never had no
24 conversation with Mr. Piper about taking control of anything.

25 Q. I accept same, but I must ask you of that. You said that the
26 initial report that was given to you at around 4.00 p.m. that day
27 that there were four missing divers? You've said it repeatedly

1 this afternoon.

2 A. Yes there were four missing, there were four missing divers in
3 Paria, four missing divers—well four divers were missing.

4 Q. Four di—at, at around 4.00 p.m., the first time you heard of
5 this?

6 A. Four oh seven was when the call came in from our [*Inaudible*]
7 operations, yes.

8 Q. All right. Did you learn subsequently there were actually five
9 divers missing and one recovered?

10 A. No.

11 Q. Or throughout this incident your—

12 A. No.

13 Q. —understanding is that there were four persons?

14 A. There were just four, yes.

15 Q. So—

16 A. Only when I reached onsite then I was told about Mr. Boodram,
17 but, again, they did not say if he was a fifth or if he was one of
18 the four. They just said he was one of the persons who was
19 rescued, so nobody told me he was a fifth individual.

20 **Examination By Mr. Chairman:**

21 Q. May I ask you, was anyone else from your team, that is to say,
22 the grub that were finally brought back to berth 6, the 10 divers,
23 yourself, Mr. Leidgewood and his team, were any of those
24 people, other than yourself, in touch with anyone from Paria?

25 A. No, Sir.

26 Q. To your knowledge?

27 A. Um, no, Sir, not to my knowledge because, um, again, as being

1 the senior person on site and then I had a Chief Petty Officer
2 with me and Petty Officer of course we had full control of our
3 team and the men on the boat and they knew that nobody
4 couldn't come off that vessel unless it had to pass through one
5 of the seniors or myself so they were on the vessel at all times.

6 Q. So any communication between—

7 A. No, Sir.

8 Q. —Paria and yourself or your team would have been through
9 you, is that the—

10 A. Yes, Sir. Yes, Sir.

11 Q. Do you think there's even a remote possibility that somebody
12 else from your team would have had a conversation with
13 anybody from Paria without your knowledge?

14 A. Um, Sir that, that, um, I can't say because I know the, the, the
15 trust of my men and they know exactly how I operate and if any
16 information had to go through one of them, and I doubt Paria
17 would have had their numbers or anything because I know
18 strictly I was the only person with a cell phone on the site at
19 that time.

20 Q. All right. Thank you.

21 **Mr. Chairman:** Yes?

22 **Mrs. Persaud Maraj:** Mr. Chairman, I think that would be all
23 for this witness that I have.

24 **Mr. Chairman:** Your turn, Mr. Mootoo.

25 **Cross-Examination By Mr. Mootoo:**

26 Q. Good afternoon, Lt. Hargreaves. My name is Jason Mootoo
27 and I represent the interest of Paria and I only have one or two

1 questions for you. In the course of giving your evidence earlier
2 today, you spoke about a meeting that was held on Sunday, the
3 27th of February, 2002 at which LMCS—2022, forgive me, at
4 which LMCS proposed to utilize a method which you say
5 created further opportunity were greater casualties. You recall
6 giving that evidence?

7 A. Yes, Sir.

8 Q. Yes. What's not in your statement is the reasons why, in your
9 opinion, the method proposed by them created a further
10 opportunity for greater casualties. I'd like you to tell the
11 Commission, in your own words, why you considered their
12 method one which would create that situation?

13 A. Um, can I say, can I say what they, what they proposed—

14 Q. Please do?

15 A. —to do?

16 Q. Tell us, in your own words, as far as you're aware, what they
17 proposed to do and why you feel that create—in your
18 professional opinion, why that created a greater risk?

19 A. Right, right, right, so what they, what they proposed was
20 lowering a diver into the pipeline on a rope and pulling him or
21 you—attaching him to a pulley or something like that and using
22 him and lowering him on a rope into the pipeline and, on
23 hearing it, I believe, I mean like I said, I wouldn't—I was
24 advised putting a rope to tie on to somebody in a 60-foot
25 vertical pipe because it would have either caused some type of
26 infraction or pain to the diver itself and then we'll have another
27 situation on hand, and I think that was the main, one of the

1 main reasons why to me that when I said it was—I didn't like it
2 because of the rope, that rope indicating you want to lower a
3 man into the piping on a rope, I asked—because when they did
4 their emergency plan, when they showed the emergency plan, it
5 didn't state clearly how it would have been executed and that's
6 when they decided—that's when they said about the rope issue
7 and I think that was the main concern for me about lowering a
8 person into the pipeline with a rope.

9 Q. Right. And you communicated that concern to Paria on the
10 Sunday, didn't you?

11 A. Well they were all there. They were all there in the meeting so
12 I, um—they asked about this, and, I mean, like I said I, I gave
13 them my opinion that, you know, and LMCS didn't question to
14 say, well, you know, we'll try a next method or anything like
15 that, or, you know, because, like I said, they were there. Um,
16 they were all in the—well I was virtual, they were sitting there,
17 and, um, I didn't have—when I objected to the method itself I
18 told them I don't like the method. They didn't indicate, “Okay,
19 well, you know, we'll try something else” in that capacity, so—

20 Q. Did you form the view that the method really was not properly
21 thought-out?

22 A. Um, I would believe so. I believe that, yes, it wasn't very
23 thought, properly thought-out because like, again, a rescue plan
24 would not involve, I being honest, lowering a man on a rope
25 which, you know, into a pipeline and using, you know,
26 whatever methods to pull him back out in a vertical 60-foot
27 drop. Again, it's gravity you're looking at.

1 Q. Okay. Just one other area. Randolph Archbald, he is the
2 health, safety, security and quality lead at Paria Fuel Trading
3 Company Limited. He's given a statement in the Commission.
4 He says he spoke to you at approximately 23:00 hours on
5 Friday the 26th—Friday the 25th of February. He says that:

6 "Lt. Hargreaves eventually advised me that the TTCG
7 would not be able to attempt a rescue into the pipeline.
8 He advised that such a dive in the pipeline was too high
9 risk and that there were too many unknown factors."

10 I know that that—the assessment as to the dive is consistent
11 with what you've said today but earlier on when you were—
12 well, you were asked whether you spoke to anyone at Paria
13 other than Ms. Balkissoon. Is it possible that, um, you did in
14 fact did speak to Mr. Archbald and that you have forgotten?

15 A. To be honest, to be honest with that I really can't recall talking
16 to Mr. Archbald because I—first time I'm actually hearing the
17 name.

18 Q. Right.

19 A. I don't know if it is the information could have been relayed
20 but, like I said, I can't remember speaking to Mr. Archbald
21 personally because I really can't recall it. I really can't recall
22 that.

23 Q. Okay, so is it possible that it did happen but you can't recall
24 now, or is it the case that you didn't speak to him?

25 A. I mean, honestly, Sir, I would have none who I spoke to so
26 that's why I say I don't recall speaking to him, but, like I said I
27 know I was speaking to Ms. Balkissoon alone.

1 Q. Okay, thank you.

2 **Mr. Mootoo:** May I have one moment? [*Mr. Mootoo confers*
3 *with Mr. Peterson S.C.*] No further questions.

4 **Mr. Chairman:** Thank you, Mr. Mootoo. Just one matter
5 arising from that.

6 **Examination By Mr. Chairman:**

7 Q. Was it your understanding that the person who was going to be
8 lowered in a rope was going to drop, not free fall but in air
9 down a pipe till he got to the bottom, held by a rope? Was that,
10 was that your understanding?

11 A. Well, yes, Sir, because we didn't know how far the water or
12 how far water or oil or anything in the pipeline would have
13 been. We didn't know how far up the levels would have
14 been—

15 Q. Who's "We"?

16 A. —in the pipeline.

17 Q. Who's "We", we the coast guard or we generally.

18 A. As in we the coast guard. We, I—well, sorry, I did not know.

19 Q. You didn't know. Right. So when you say we what you mean
20 is you did not know where the water level started in that pipe?

21 A. Yes.

22 Q. That's why you had an apprehension about someone being
23 lowered in pipe by a rope?

24 A. Yes.

25 Q. Hopefully not around their neck. Yes?

26 A. Yes, Sir.

27 Q. Yes, thank you very much.

1 **Mr. Chairman:** Anything arising from that? No. I think Mr.
2 Wilson wants to ask you a question.

3 **Examination By Commissioner Wilson:**

4 Q. Good afternoon, Lt. Hargreaves.

5 A. Afternoon.

6 Q. I just want to take you back to the examination by the lady from
7 the Seamen and Waterfront. I heard you mention a numerous
8 amount of times that you conducted a risk assessment and/or
9 you conduct a risk assessment. I want to sort of interrogate
10 your dive planning. Are risk assessments always a part of your
11 dive plan?

12 A. Yes, Sir.

13 Q. All right. Thank you. And do you have any formal training in
14 risk assessments?

15 A. Yes, Sir.

16 Q. So before you execute an activity or a rescue, do you use any
17 risk assessment tools and/or any other tools like your
18 decompression tables and stuff, incorporating it into that risk
19 assessment?

20 A. Yes, Sir you must convey to your table based upon the amount
21 of time and length that you would attempt to dive, and, um
22 based on the depth also too, so, yes, that would have been
23 conveyed in the plan for a risk assessment.

24 Q. What I'm trying to get at also is, is your risk assessment a
25 verbal exercise or is it a proper, sit down and have a dive plan
26 before you execute?

27 A. Um, well you must sit down and plan out the dive because

1 our—one of our roles is you dive—you plan the dive and then
2 you dive the plan so what we will do is plan it and then execute
3 it after.

4 Q. How long does a risk assessment or a dive plan usually take
5 when you're going into an emergency type res—um, situation?

6 A. It depends, it depends on the environment, Sir.

7 Q. Okay. So, again back to—and I appreciate the difference
8 between confined space and penetration diving into a pipeline,
9 so for the example of going into a confined space or into a
10 vessel, how long would—that plan would have taken on site?
11 Do you do it at Staubles or do you do it on site?

12 A. Which one Ish that, the—

13 Q. The—one of the—not pipeline.

14 A. Or, the vessel?

15 Q. Yes.

16 A. Right, so what we did, the one at—that pipe, that vessel would
17 have done at Staubles Bay because what we would have gotten
18 is the schematics of the boat and ascertain what entry point can
19 be used to gain access as based on the areas of entry, is it that
20 through a scuttle or probably through a door in that way, and
21 what we would also look at is based on information from, um,
22 individuals who were on the boat, given that there were a lot of
23 debris, so we want to make sure the assessment of the vessel
24 was safe also to penetrate in that matter, based on the amount of
25 debris that they were carrying at the point in time when the
26 about overturned.

27 Q. Thank you. Are you risk assessments documented and

1 archived?

2 A. Um, I would say it wouldn't be documented as in documented
3 and archived, um, like I say we would speak about it, draw it
4 out on the board, on a board and understand, you know, what is
5 the parameters to do, but nowhere it is not documented to say
6 and archived in that capacity.

7 Q. Okay.

8 A. But we do write it out but for our knowledge.

9 Q. Okay. No problem. I just want to switch over to coast guard
10 diver training. I understand you're the head of the diving team
11 in coast guard, so what I want to sort of interrogate is, from
12 when you get an initial qualification under the coast guard
13 management system or practices or standard operators
14 practices, do you guys do competency assessments for—

15 A. Yes, Sir.

16 Q. How often?

17 A. So one of the criteria—so, in becoming a coast guard diver,
18 one, this is an eight-week programme, but to be a part of the
19 diving department, yes you have to be recruited under being
20 one of the top tiers in the training, and your competency would
21 go through basically a six-month period as an inductee into the
22 department, so which means you would be qualified and trained
23 to a certain level. All my dive, most—the majority of my
24 divers are qualified as dive matters and assistant instructors
25 equivalent and public safety divers, so, you will have to go
26 through a extensive period of training and competency and your
27 dive—

1 Q. Or, just excuse, just excuse, sorry to interrupt. I want to offer
2 you there's a difference between training qualifications and
3 competency. So, where I'm going—

4 A. Yes there is.

5 Q. So where I'm—

6 A. Competency, competency means also that you must be able to
7 do what we do, especially in diving departments, so, yes, you
8 would be taken out with a operational dive and you be given
9 tasks to perform and make—and you will be literally
10 schooled—not schooled, you will be educated in how you
11 operate also too.

12 Q. Right. So where I was going with the competency assessments,
13 to your competency assessments, does it interrogate rescue
14 dives, penetration dives, confined space dives, recovery body
15 dives? What does the assessments cover? What do the
16 assessments cover, sorry?

17 A. Um, so, operationally the assessments would not cover one
18 confined space. We have done limited penetration dives
19 because, like I say, it's not something common that we do but
20 one of our main common training is rescue and performing
21 rescues, for example, a lost diver and how we would mark, um,
22 based on information how we would mark the area, using tidal
23 streams and understanding how tide works and what we would
24 use in ascertaining a proper direction of where to start proper
25 search.

26 Q. Thank you. Outside of the competency assessments, do you
27 guys drill and the frequency of those drills?

1 A. Um, I would say not as much because, for one, the diving
2 department is, honestly is always on call. When we do get a
3 downtime, our drills will more ascertain to equipment checks
4 and making sure that the equipment is proper because you don't
5 want to go on a site and the equipment is not working properly.
6 So one of—I know for sure that we do make sure and check
7 when it comes to our drills is making sure our equipment is
8 spot-on at all times and we have no wear and tear that in the
9 event of a dive that it becomes into an incident for one of our
10 own.

11 Q. Okay, thank you for that. And lastly I just want to touch on the
12 phrase where you said, um, once you ascertain that you were
13 not willing to make a rescue that you remained on site to render
14 assistance. Do you have a medic on your team?

15 A. Yes.

16 Q. Or anyone with medical training?

17 A. Yes, Sir.

18 Q. One personnel or two persons?

19 A. Two personnel.

20 Q. And that could possibly fall under rendering assistance in the
21 event someone comes out injured or something, coast guard is
22 an option?

23 A. Yes, Sir.

24 Q. Okay.

25 A. I have two EMTs on my team.

26 Q. Okay. I heard you use the phrase "incident commander". Are
27 you familiar with incident management or that philosophy?

1 A. Yes, Sir.

2 Q. Are you familiar with the phrase, “command and control”?

3 A. Yes, Sir.

4 Q. Okay. So, one of the things, and let me back it up, even out of
5 Paria, have you ever been part of an incident management or
6 managing an incident for any other operator in Trinidad and
7 Tobago?

8 A. Um, not in Trinidad, but, in Dominica I was the person for the
9 hurricane Maria incident where I had to—I was deployed on
10 that to do an assessment of the port of Dominica for our vessels
11 to render assistance.

12 Q. Okay, thank you. So, lastly, on that point under rendering
13 assistance, and you’re familiar with the philosophy of incident
14 management, and in your experience have you ever seen the
15 coast guard utilized in a security capacity, enable, essentially
16 securing a site where there’s an incident from any errant
17 vessels, anyone coming in to take photography and stuff? Now
18 I ask you this understanding that you are the dive team but were
19 there any other vessels performing that security—

20 A. Not to my knowledge, Sir, no.

21 Q. Okay.

22 A. No, not to my knowledge.

23 Q. And you were not instructed by—and were you instructed by
24 the IMT to perform security at any time?

25 A. IMT?

26 Q. The incident command team, so—

27 A. No. I really didn’t notice a incident command team.

1 Q. Yes.

2 A. But no, nobody, nobody of that nature told me to perform any
3 type of command and control in that, if you want to put it in
4 that way, to anybody.

5 Q. Okay. Thank you for that, Mr. Hargreaves?

6 **Mr. Chairman:** Thank you Mr. Hargreaves. One thing.

7 **Examination BY Mr. Chairman:**

8 Q. You said in answer to my colleague Commissioner, you do
9 understand about risk assessment and you carry out risk
10 assessment as part of a dive plan invariably, all right? Can I
11 just ask you, who did you get your risk assessment training
12 from?

13 A. The OSHA academy.

14 Q. OSHA.

15 A. Yes.

16 Q. Thank you.

17 **Mr. Chairman:** Right. That's it for today, thank you very
18 much. You can—we can lose I think now. Thank you very
19 much, indeed, Mr. Hargreaves for coming along, albeit to
20 whatever location you are in Barbados. I hope the weather
21 there is as good as it is here and I appreciate your contribution.
22 Thank you very much indeed. All right, so he can cut off.

23 I was hoping, as you know, to deal with Mr. Seales
24 today. We are not now going to deal with it. I think we've all
25 had enough today and he's likely to take at least an hour, so it
26 seems to me we're going to have to lose him today. He will be
27 advised. Mr. Pegus, he will be advised as to when he is needed.

1 It will not be this year. It's going to be in January now, all
2 right? So if you could tell him we'll certainly advise him. I
3 think he's still here? Yeah he's still here so—

4 **Mr. Pegus:** I would relay the message, Mr. Chairman.

5 **Mr. Chairman:** Yes. Well, convey as I will ask my Secretary
6 to do, our apologies that we didn't get to him today. I had
7 every intention, as you know, of doing so but we have not been
8 able to.

9 **Mr. Pegus:** We totally understand.

10 **Mr. Chairman:** All right. Good. Well, tell him we will let
11 him know when he's required, and as I've indicated we will not
12 be sitting tomorrow. We will sit at nine o'clock on Wednesday
13 please, nine o'clock on Wednesday when we will hear first of
14 all from Catherine Balkissoon and we will have Mr. Piper,
15 please, at around—he need not come until lunchtime. All
16 right? So I don't want to inconvenience people unnecessarily
17 but he can come at lunchtime and he'll be call as soon as we
18 finish with Ms. Balkissoon. That's the programme for the rest
19 of this week. It's Balkissoon, Piper and then Mohammed who
20 will give evidence, Mushtaq Mohammed, is it?

21 **Mr. Peterson SC:** Mr. Chairman, you said after lunch but I
22 realize your lunch is not truly lunch. You say Mr. Piper to
23 come—

24 **Mr. Chairman:** My lunch is a very different lunch to
25 everybody else's.

26 **Mr. Peterson SC:** You say Mr. Piper to come after lunch,
27 so—

1 **Mr. Chairman:** Yes. I think if he comes here for two
2 o'clock—

3 **Mr. Peterson SC:** Two o'clock.

4 **Mr. Chairman:**—that will be sensible, thank you very much.
5 All right, good. That's what we will do. Thank you very,
6 everybody. Please feel free to pack up and go. I'm going to
7 grab my papers in the usual way. Thank you.

8 **5.08 p.m.:** *Enquiry adjourned.*

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EVIDENTIARY HEARING DAY 9

9.00 a.m.: *Enquiry commenced.*

Mr. Chairman: Good morning, all. Can I just mention that the material that we received from Paria over the course of the weekend, last weekend and Monday, has now been posted on the Internet. Unfortunately, there are two versions of it, because the very first version we had, the one that I rather unfortunately threw down on the desk yesterday, was the smaller version. This is the larger version, because there were some that were double-sided. So there are two versions—the original smaller version plus this larger version, which are both on the website for everyone to access. So you’ll forgive us if we are, during the course of the evidence, referring to two paginated bundles. I’ll try to make sure that everybody understands where we are with that. But that’s the position at the moment.

Can I mention, please, Mr. Peterson, that tomorrow we will be hearing from Mr. Mushtaq Mohammed as I understand it. He is the Terminal and Trading General Manager. I would like him, if you would, please, indicate to him to deal with the reason why we had this material so late, please. It would be helpful to understand what the position was. So if you could forewarn him of that—I don’t want to spring it on him—I should be grateful.

Mr. Peterson SC: Yes, Sir.

Mr. Chairman: Thank you very much. Who’s going to be doing—no, we don’t have any summaries of this, do we, Mr.

1 Maharaj?

2 **Mr. Maharaj SC:** Ms. Vijaya Maharaj.

3 **Mr. Chairman:** She's going to summarize the—all right,
4 marvellous. Thank you. So it's Ms. Balkissoon first, is it not?

5 **Mr. Bissessar:** Yes; 1327.

6 **Mr. Chairman:** Sorry, is there a problem?

7 **Mr. Peterson SC:** The witness had a long night and was
8 requesting if she could have had her coffee with her instead of
9 water, and I cleared it with Counsel to the Commission but I
10 heard it was taken from her.

11 **Mr. Chairman:** I don't have a problem with her having a cup
12 of coffee, if that makes you feel more comfortable, Ms.
13 Balkissoon.

14 **Mr. Peterson SC:** Neither did, Mr. Maharaj, Sir. I did clear it
15 with him.

16 **Mr. Chairman:** Can we arrange for someone to let her have a
17 cup of coffee?

18 **Mr. Peterson SC:** She has her coffee.

19 **Ms. Balkissoon:** I didn't get time to drink it on the way. I was
20 so nervous. I'm sorry.

21 **Mr. Chairman:** First of all, there is absolutely no need to be
22 nervous. All right? We're all sitting down. We're not wearing
23 wigs and gowns like they do in some places. All right? So you
24 relax. I'll arrange for you to have a cup of coffee. You're
25 going to take the oath first. This gentleman is going to ask you
26 to take the oath, and once he's done that, you sit down; we'll
27 wait for coffee to arrive, all right, and then we'll make a start.

1 Okay?

2 **Ms. Balkissoon:** Sure. Thank you.

3 *[Ms. Catherine Balkissoon sworn]*

4 **Ms. Balkissoon:** I, Catherine Balkissoon, solemnly swear that
5 the evidence I shall give to the Commission in this case shall be
6 the truth, the whole truth, and nothing but the truth.

7 **Examination By Mr. Chairman:**

8 Q. So first of all, while the coffee is being arranged for you—is
9 that your coffee?

10 A. Yes. It's kind of attached to me since—well, I don't know,
11 since I started working.

12 Q. All right. Well, look, you use that whenever you feel you need
13 to.

14 A. Thank you.

15 Q. There's water there also for you.

16 A. Thank you.

17 Q. First of all, let me apologize. I understand you were scheduled
18 to give your evidence yesterday. That has been delayed, no
19 doubt, has added to your nerves. All right? But as I've said,
20 there's no need to be nervous. If for any reason you need to
21 take a short break or anything like that, you just indicate that to
22 me, okay, and then we'll make sure that you have one. Okay?

23 A. Thank you very much.

24 Q. All right. So first of all, what's going to happen, Ms. Maharaj
25 who sits opposite you, is going to summarize the statement that
26 you've made and provided to us. All right? That will serve as
27 your evidence-in-chief as we call it, as if you'd given it

1 yourself, delivered it here. But it's quicker to do it that way.
2 All right? But you know, I am assuming, what is in your
3 statement.

4 A. Yes, but it was written a long time ago.

5 Q. Well, of course. But if anyone refers to any part of it you'll get
6 a copy of it and it will be put in front of you, all right, so you'll
7 be able to see—it's not a memory test, all right. We're trying to
8 get to truth here. So if you need it to answer any question, all
9 you need do is ask, all right, and we'll make sure you have it.
10 All right?

11 A. Okay. Thank you.

12 Q. So Ms. Maharaj is going to read a summary of your evidence.
13 Listen to it carefully, please. If you agree with that summary
14 you'll tell her so. If there's something you disagree with, you
15 will let us know. All right?

16 A. Sure.

17 Q. After that there'll be some questions from Mr. Maharaj who sits
18 opposite you also. He'll ask you some question on behalf of the
19 Commission. After that there'll be a number of other lawyers,
20 not all of them but some of them who may want to ask you
21 questions. All right? So we'll take it from there one step at a
22 time. One way or the other, you will conclude your evidence
23 today. All right?

24 A. That would be good.

25 **Mr. Chairman:** So please relax. Don't worry about it, and
26 Ms. Maharaj will now deliver the summary.

27 **Ms. Vijaya Maharaj:** Thank you.

1 Ms. Catherine Balkissoon submitted a witness statement
2 to the Commission dated 16th August, 2022. It's in the witness
3 statement bundle at page 1327. Ms. Balkissoon has been acting
4 in a position of Technical Lead at Paria since November 2021.
5 She reports to Mr. Michael Wei, the Technical Maintenance
6 Manager.

7 Ms. Balkissoon first learned of the incident involving the
8 five divers through Mr. Wei on Friday 25th February at 3.55
9 p.m. He indicated that Mr. Piper may require assistance. She
10 immediately called Mr. Collin Piper who asked her to come
11 onsite. The incident command team had to be convened under
12 Mr. Piper as the Designated Incident Commander in response to
13 the incident, which could be classified as a major emergency.
14 The incident command team designated incident command post
15 as a shipping building at Paria's premises in Pointe-a-Pierre.

16 Ms. Balkissoon arrived at Paria around 5.00 p.m. on
17 Friday. She attended an incident management meeting at the
18 shipping building and was again informed of the incident and
19 that water searches were being conducted.

20 Mr. Terrence Rampersadsingh, Paria's Maintenance
21 Planner and Ms. Balkissoon then left for berth 6. While on her
22 way to berth 6 she observed the retrieved diver who she later
23 learnt was Christopher Boodram being transported in a vessel
24 heading toward shore.

25 Her role in the aftermath of the incident was to provide
26 onsite, logistical, and technical assistance in support to the
27 search and rescue efforts to update the incident command team

1 on her observations and information from onsite and to act as
2 the liaison, where necessary, between persons onsite and the
3 IMT and vice versa.

4 Upon arrival at berth No. 6 at about 6.00 p.m. Ms.
5 Balkissoon called Mr. Paul Yearwood, Paria's HSE
6 Coordinator and requested lights, and she introduced herself to
7 Mr. Dexter Guerra, LMCS' Construction Supervisor. She
8 stated that upon her arrival at berth 6, she observed both Paria
9 and Kenson personnel onsite, including HSE, operations and
10 maintenance personnel.

11 She observed persons who appeared to be LMCS divers
12 in the water and going back and forth, in and out of the water.
13 She also observed that the air compressor was running and
14 concluded that the hyperbaric habitat was unlikely to have been
15 flooded. Ms. Balkissoon observed LMCS persons huddled
16 together looking at something small being held by one of them.
17 Ms. Balkissoon was informed by Paria's HSE personnel that a
18 GoPro camera was recovered and she requested that same be
19 secured if possible. She was also informed that a scuba tank
20 was recovered from within the chamber.

21 Between 6.00 p.m. and 6.30 p.m. Ms. Balkissoon was
22 informed by Andrew Farah, LMCS' Dive Supervisor, that
23 LMCS was running out of scuba air and their divers with diving
24 equipment were trying to make their way from Carenage. Ms.
25 Balkissoon made attempts to seek assistance for an escort for
26 LMCS' divers and to source additional scuba tanks. She called
27 Mr. Paul Yearwood for such assistance.

1 She observed LMCS divers in the water in the vicinity of
2 the hyperbaric chamber and that visibility was decreasing due
3 to the time of night. She tried to source additional lighting.
4 However, she observed that lights from Paria's tugs and vessel
5 were used to assist with visibility.

6 After 7.00 p.m. Mr. Piper instructed Ms. Balkissoon that
7 further diving was unsafe and not allowed. She placed her
8 phone on the loudspeaker so Mr. Piper's instructions were
9 audible to the persons around and she relayed the instructions to
10 the group of LMCS personnel which included Mr. Dexter
11 Guerra. Some of the said LMCS personnel reacted in a hostile
12 manner. At this time, divers were still in the water and no diver
13 came out of the water or stopped diving after Ms. Balkissoon
14 delivered Mr. Piper's instructions.

15 Ms. Balkissoon informed Mr. Piper that in spite his
16 instructions persons continued diving. Mr. Piper asked whether
17 he should call security. Ms. Balkissoon responded that you
18 shouldn't as calling security would make things worse. To her
19 knowledge, no instruction was given by Mr. Piper or anyone
20 else to the coast guard or any Paria security personnel to
21 enforce Mr. Piper's instructions. She states that while she was
22 on berth 6, no officer of the coast guard, no member of Paria
23 security, or any other person did anything to enforce Mr.
24 Piper's instructions.

25 A ROV camera arrived at around 7.35 p.m. but LMCS
26 Dive Supervisor, Andrew Farah, advised it was too big to fit
27 into the pipe and would not work. Around the same time

1 representatives of Professional Inspection Services Limited
2 arrived with a camera. However, it could not be used as it did
3 not have sufficient light and the tether line was about 100 feet.

4 Around 8.00 p.m. LMCS personnel indicate they were
5 hearing knocking sounds from the vicinity of berth 5 and they
6 wanted to open the flange. Ms. Balkissoon passed this
7 information on to Mr. Piper. Ms. Balkissoon herself did not
8 hear such sounds. Around 8.30 p.m. to 9.00 p.m. Ms.
9 Balkissoon spoke with the coast guard and showed Lt.
10 Hargreaves the cut riser on the crane barge so he could
11 understand the size of the pipeline. However, he indicated that
12 a dive rescue was too risky and the coast guard were not trained
13 nor have the equipment to perform commercial dives.

14 Around 9.15 p.m. Mr. Kazim Ali Sr. told Mr. Piper and
15 Ms. Balkissoon about the knocking sounds reportedly being
16 heard at berth No. 5 and requested that LMCS be permitted to
17 install the topside riser and remove the flange at berth No. 5.
18 Around 10.00 p.m. Ms. Balkissoon observed LMCS divers
19 entering the water to install the topside to the lower piece of the
20 riser. Ms. Balkissoon stated that Mr. Piper told her that Mr.
21 Boodram had indicated that he came across two air pockets and
22 two weld seams on his way out. At around 11.00 p.m. Mr.
23 Piper instructed Ms. Balkissoon to not remove the flange at
24 berth 5 and he also instructed that the cover from the habitat
25 needed to be removed.

26 Ms. Balkissoon indicated that between 10.30 to 11.00
27 p.m. she spoke several times to the coast guard officers

1 providing updates. Around midnight a new borescope camera
2 was used in the pipeline. Ms. Balkissoon was advised that the
3 camera did not show any air pockets or signs of missing divers
4 and they could not proceed beyond a further point in the pipe.

5 Between midnight and 1.00 a.m. on Saturday 26th
6 February, Ms. Balkissoon asked the incident management team
7 whether the flange at berth 5 should be removed as requested
8 by Mr. Kazim Ali Sr. However, she was told by the incident
9 management team to stand down on that activity as they were
10 waiting on camera assessments.

11 At 2.15 a.m. Lt. Hargreaves with the coast guard asked to
12 be stood down and Ms. Balkissoon referred him to the incident
13 command team who would make that decision. At around 3.00
14 a.m. Ms. Balkissoon observed that a pipeline crawler with a
15 camera was inserted inside the riser at berth No. 6. She was
16 informed that the crawler could not move past the scuba tank
17 that blocked the pipe.

18 At around 3.35 a.m. she called Mr. Yearwood to enquire
19 about sourcing additional oxygen tanks as Mr. Andrew Farah
20 had indicated that while the decompression chamber was
21 available for Mr. Boodram on the vessel Gulf Stream Eagle,
22 three additional tanks of oxygen were needed. However, Ms.
23 Balkissoon was subsequently informed that the tanks were no
24 longer necessary.

25 At around 4.30 a.m. Ms. Balkissoon was instructed by
26 the incident command team to proceed with the removal of the
27 blank flange at berth 5. Around 6.00 a.m. the crawler was

1 inserted into the riser at berth 5. The crawler went in vertically
2 but then the camera went black due to the presence of oil at the
3 bottom of the riser. Ms. Balkissoon stated that around 9.45
4 a.m. she attended a meeting with Mr. Kazim Ali Sr., Mr. Wei,
5 and Mr. Piper in the shipping building.

6 Mr. Kazim Ali Sr. indicated that the migration barrier
7 was moved and dropped into the sea and LMCS was in the
8 process of taking out the inflatable plug when the incident
9 occurred. She explains that around lunchtime she went to the
10 offshore control room and requested an operator, Mr. Narine, to
11 perform a water and oil dip at berth No. 5 in order to determine
12 if the inflatable plug was really intact or acting as a seal within
13 the pipeline. He reported to Ms. Balkissoon that one foot of
14 oily emulsion was detected which meant that there was some
15 water in the oil. Ms. Balkissoon relayed this information to the
16 incident management team.

17 Around 5.45 p.m. on Saturday, 26th February, a meeting
18 was held with the incident command team to outline a plan for
19 the night shift that included the removal of the chamber,
20 installation of booms at berth 6, removal of oil on the top of the
21 riser, and pumping out of water from berth No. 6. Ms.
22 Balkissoon indicated that this plan was intended to determine
23 whether a rescue dive into the pipeline from berth 6 could be
24 accomplished after removal of the chamber and any oil and any
25 obstruction in the line.

26 At around 10.30 a.m. on 27th February, a brief session
27 was conducted to follow up on the plan from Saturday to clear

1 the line. The plan was to fill the riser at berth No. 5 with water
2 using the Laing pump to move the oil from the horizontal part
3 of Sealine 36 so that the oil could be pumped out of the line
4 into the La Reine B vessel which was at berth 6. However,
5 during the course of the morning, Ms. Balkissoon was informed
6 that the operation by Paria had changed to focus on the
7 recovery of the divers. At around 12.40 p.m. Ms. Balkissoon
8 requested a video footage which had been collected so that it
9 could be used by the incident command team in a risk
10 assessment for a dive operation proposed by LMCS.

11 At about 2.00 p.m. Ms. Balkissoon requested Operator
12 Mr. Narine to perform water and oil dip at Berths 5 and 6. The
13 result of this dip show that the water level was higher at one
14 end of the pipeline than the other and it meant that the inflatable
15 plug was acting as a seal. She said this meant that the
16 horizontal part of the line was likely filled with fluid and this in
17 turn would eliminate any air pockets. She also stated that the
18 inflatable plug could be used as a water displacement device to
19 assist in the recovery.

20 At 3.00 p.m. the Paria and Heritage engineers and Ms.
21 Balkissoon commenced technical evaluation preparation of risk
22 assessment and operation procedure documents associated with
23 a water displacement exercise using the inflatable plug that was
24 already in the line. Around 7.15 p.m. during an IMT meeting,
25 Ms. Balkissoon was informed of the requirement to commence
26 onsite activities to recover the bodies of the four divers at 4.30
27 a.m. on Monday, 28th February.

1 Ms. Balkissoon was involved in the recovery efforts for
2 the bodies of the divers from Monday, 28th February to
3 Wednesday, 2nd March, and she gave details of those efforts in
4 her witness statements.

5 Ms. Balkissoon, is that an accurate summary of your
6 witness statement?

7 **Ms. Balkissoon:** Yes, but there's just one mistake. The La
8 Reine B can't fit at berth 6—

9 **Mr. Chairman:** Sorry, say that again? Pull the whole thing
10 towards you a little bit. That's it, yes.

11 **Ms. Balkissoon:** The La Reine B, which is a vessel that we
12 use, can't fit at berth 6. So that would have been at berth 5. I
13 don't know if I—

14 **Mr. Chairman:** Right. All right. Thank you very much. That
15 aside, you agree with the summary of your evidence, do you?

16 **Ms. Balkissoon:** Yes.

17 **Mr. Chairman:** Thank you very much.

18 **Examination By Mr. Chairman:**

19 Q. Before Mr. Maharaj ask you some questions, can I just
20 establish, please, your experience and your qualifications? I
21 think you've been in the industry for some years?

22 A. Well, yes.

23 Q. Don't be shy. Just tell me, please, how many years have you
24 been in the industry?

25 A. I would have started working in Petrotrin from probably 1998.

26 Q. From '98?

27 A. Yes, all the way through in the refinery until it was shut down.

1 And then I would have moved over into Paria. My degree is in
2 Chemical and Process Engineering, but I would have worked
3 also in—

4 Q. Right. I'm going to have to ask you to do what I asked Ms.
5 Maharaj, is to just slow down a little bit, please, because I
6 struggle to keep up with the speed at which you speak.

7 A. Sorry.

8 Q. All right. So it's very clear, it's just a little fast for me and I
9 want to try and make a note as well.

10 A. Okay.

11 Q. Just revise: you've done about 25 years or so in the industry?

12 A. Correct.

13 Q. Right. And were you at Paria when it was first created?

14 A. Yes.

15 Q. And your role there has been described as a Technical Lead. Is
16 that right?

17 A. Well, when I started Paria I would have been in Operations as
18 the Onshore lead.

19 Q. Right. And now, you're there still, I take it?

20 A. Yes, and I'm the Technical Lead now—

21 Q. You're the Technical Lead now and you were at the time of this
22 incident?

23 A. Yes.

24 Q. Right. And you've told us about your qualifications. As
25 Technical Lead, what does that require you, in broad terms, in a
26 couple of sentences, to do?

27 A. As Technical Lead I'm the technical authority onsite. So that

1 means scope of works, inspection falls under me, the lab, all the
2 engineering services.

3 Q. Right. It's a substantial job?

4 A. Yes, it is.

5 Q. Well, marvellous. All right, thank you very much. I needed to
6 know that because the questions that are going to be asking
7 you, so that everybody else knows, you're not just passing
8 information when you were onsite on that day, passing
9 information. You have an expertise of your own to bring to
10 bear.

11 A. I have an expertise in Process Engineering, yes.

12 Q. Yes, thank you. All right.

13 **Mr. Chairman:** Thank you very much, Mr. Maharaj.

14 **Mr. Maharaj SC:** Much obliged.

15 **Examination By Mr. Maharaj SC:**

16 Q. Ms. Balkissoon, I want you to relax and I want you to try and
17 help us in answering some of the questions. Okay?

18 A. Sure.

19 Q. Would it be correct to say that Paria, on that date, had a written
20 documented Incident Command System to manage major
21 emergencies?

22 A. Yes, we have a policy.

23 Q. That—it's documented?

24 A. The policy is documented. We've taken—

25 Q. And would you agree with me that the accident which occurred
26 on the 25th February this year in which the five divers were
27 sucked into that 30-inch diameter pipeline was a major

1 emergency?

2 A. Yes.

3 Q. Yes. Now, I want to refer you to Paria Incident Command
4 System which has been documented, and it's in core bundle one
5 at page 107.

6 **Mr. Chairman:** 107.

7 **Mr. Maharaj SC:** 107.

8 *[Document handed to Ms. Balkissoon]*

9 **Ms. Balkissoon:** Thank you.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. And you see at page 107 a mini heading: "Incident Command
12 System for Major Emergencies"—after the heading "Paria"?

13 A. Yes.

14 Q. And I'll just—you see the second paragraph—well, I'm sorry,
15 the second sentence:

16 "Paria shall therefore develop and implement emergency
17 response plans for all credible emergency situations that
18 may arise. The Incident Command System is utilised for
19 scenarios such as impact of tropical storms or hurricanes,
20 major fires, offshore spills and other major emergencies."

21 You see that?

22 A. Yes.

23 Q. And then you see, "The Principles behind managing a response
24 to an emergency...are", and it has a few. And the first one is
25 safeguarding human life?

26 A. Agreed.

27 Q. So would you agree with me that in accordance with the

1 principles in the Incidents Command System which is
2 documented by Paria, its paramount aim in managing a major
3 emergency is to safeguard human life?

4 A. Yes.

5 Q. Yes. Now, if you go to page 107A, the next page. I see your
6 name at No. 7, Catherine Balkissoon, Onshore Lead. You were
7 a member of the Incident Management team. Am I correct?

8 A. On that night, yes.

9 Q. And there is a diagram at page 107E which shows the structure
10 of the IMT on that night. Am I correct?

11 A. Yes.

12 Q. Yes. Now, if you go to page 107B at paragraph 1.0: “The
13 Objectives of this Plan are:” And it has several, but I’ll refer
14 you to the first one.

15 “To ensure that there is a clear, documented Plan for
16 responding to Major Emergencies”

17 A. Yes.

18 Q. Do you understand this to mean that in respect of any major
19 emergency which can arise from any one of the works or
20 operations being done, there should be a documented plan for
21 responding to a major emergency?

22 A. Yes.

23 Q. Yes. Did Paria have any plan to respond to any emergency
24 arising from an active Delta P hazard situation?

25 A. No.

26 Q. No. You are aware now, at least now or after the incident, that
27 the accident was caused by a latent Delta P hazard which

1 became active when the plug—

2 A. Sorry. You want to repeat that? The accident was caused—

3 Q. You're aware—you became aware after this accident that the
4 accident was caused by a latent Delta P hazard which became
5 active on the 25th February when the inflatable plug was
6 removed?

7 A. Well, is that the root cause? Meaning that the plug was
8 removed causing the—I don't know if you want me to explain
9 further, all right, but when that plug was removed, the
10 mechanical plug, and as they were in the process of removing
11 the inflatable plug, right, the accident occurred which pulled the
12 men in.

13 Q. Yes, yes.

14 A. Right. So I'm sorry if I'm a little bit technical.

15 Q. No. All I'm asking you, after this accident occurred, in the
16 position you occupied on the IMT, you became aware that the
17 accident was caused by an active Delta P situation?

18 A. You see, I'm not saying that, because—

19 Q. Well, you want to tell us what you are saying?

20 A. Yeah, if you mind, because I want to assist as much as I could,
21 right. Well, I'm more accustomed to math than English, right,
22 so let me explain, right. I'm allowed to do that or—because at
23 the time, if you remove the mechanical plug and if you are in
24 the process of removing the inflatable plug, right, because I
25 hear you say about a latent Delta P which, okay, no problem,
26 but we have latent risk everywhere, in a tank, et cetera. So I
27 don't want to say—that's why I asked you if that's the root

1 cause.

2 **Examination By Mr. Chairman:**

3 Q. Well, let's see if we can shorten this. You understand what
4 Delta P is, don't you?

5 A. Yes.

6 Q. Right. There's a differential in pressure between one side of a
7 barrier and the other?

8 A. Correct, correct.

9 Q. There was, was there not, we now know, a differential in
10 pressure between one side of the plug and the other?

11 A. Correct.

12 Q. Right. When you remove the plug it wanted to equalize?

13 A. Correct.

14 Q. That causes a problem?

15 A. Yes.

16 Q. And it sucked the men into the pipe?

17 A. Yes.

18 **Mr. Chairman:** Proceed.

19 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. So I'll be correct in saying, because I've looked, Paria did not
22 have any emergency—well, any—

23 A. No, we didn't.

24 Q. You didn't have any plan?

25 A. Yeah.

26 Q. Now, according to—

27 **Mr. Chairman:** Before you move on, do you now?

1 **Ms. Balkissoon:** No.

2 **Continued Examination By Mr. Maharaj SC:**

3 Q. According to page 107C—if you look at 107C—

4 A. Yes.

5 Q. At paragraph 5.1, you see at the middle of the paragraph, just a
6 heading; it's darkened.

7 “The ICS is activated by and mobilized upon notification
8 of an emergency.”

9 You see that?

10 A. Say that again? 107C; which paragraph?

11 Q. 107C under 5.0, 5.1; you see at about the fourth paragraph; it's
12 darkened.

13 “The ICS is activated by and mobilized upon notification
14 of an emergency.”

15 A. Yes.

16 Q. So am I correct to interpret that to mean that if you do not have
17 a plan before to deal with a situation if there is such an
18 emergency, the ICS is activated so a plan can be devised to deal
19 with the emergency?

20 A. No. The ICS is activated whenever we have an emergency
21 whether or not—because we do have emergency response plans
22 for fires, for other—

23 Q. Okay. So the ICS is activated whenever you have an
24 emergency?

25 A. Yes.

26 Q. So on that date you didn't have a written plan to deal with the
27 emergency. So was the ICS activated then?

1 A. Yes.

2 Q. Yes. And that is how you all had meetings. The IMT met?

3 A. Yes.

4 Q. Yes. Now, at page 107D under “Incident Action Plans”?

5 A. Yes.

6 Q. Do you see “For simple”—at about lines 5:

7 “For simple incidents the plan may be oral or written.

8 Large or complex incidents will require that the action
9 plan be documented.”

10 A. Yes.

11 Q. Okay. In this matter, having regard to the position you occupy,
12 your experience, would you regard this incident that occurred
13 on the 25th as a simple incident or a large or complex incident?

14 A. A large and complex.

15 Q. A large or complex incident. But it says there:

16 “Large or complex incidents will require that the action
17 plan be documented.”

18 A. Yes, it does.

19 Q. But you did not have a documented plan?

20 A. No, we don’t have a documented plan.

21 Q. No. So would I be correct to say then that in devising a plan on
22 that date—because you all were trying to devise an action plan
23 to deal with this emergency?

24 A. Correct.

25 Q. So you were treating it like a simple incident?

26 A. No, you would not be correct to say that.

27 Q. You not treating it like a simple incident. But since this

1 incident occurred, have steps been taken by Paria to have a plan
2 to deal with Delta P, a written plan to deal with the Delta P
3 emergency?

4 A. No.

5 Q. No.

6 **Examination By Mr. Chairman:**

7 Q. You think they should?

8 A. I think we should engineer out the possibility of the impact of a
9 Delta P in this situation.

10 Q. Certainly you should try and do that, but in the event you failed,
11 do you not think you should have an emergency plan to deal
12 with it if you failed to engineer out the prospect?

13 A. I don't think that we could ever come up with an acceptable
14 emergency plan to rescue someone in there. That's my opinion.
15 I haven't had—

16 Q. That's not quite the same thing, is it? Having a contingency
17 plan, an emergency plan to deal with the various types of Delta
18 P situations that might exist, different forms, do you not think
19 it'd be worthwhile having some sort of plan to deal with that?

20 A. Well, there's a little bit of misunderstanding, really, right,
21 because we do have Delta P situations all through the plant.
22 When we pumping that's a Delta P—

23 Q. Yes.

24 A —and so on. So a pumping emergency response plan could
25 have been a loss of containment, a leak, which we do have. We
26 have plans to deal with those things. But the Delta P as it
27 pertains to this particular event, right, I mean, I prefer to

1 engineer it out. Right? To the best of my knowledge, I'm
2 unsure if we could ever have an emergency plan such that, you
3 know—

4 Q. Right. So that I understand, please.

5 A. Yes.

6 Q. You're saying that you think it's not possible to have a plan that
7 could deal with a Delta P situation; that it's simply not
8 something that you could document in a way that you could
9 action?

10 A. To the best of my knowledge in my expertise, I don't think
11 there is anything that—and, I mean, it's something that sits with
12 me every day, eh. I don't think there's anything that I could
13 have done more to have an emergency response plan such that
14 you could make it safe for someone to enter, and so on. That's
15 my opinion.

16 Q. I'm not sure I do understand what you're saying and I don't
17 want to misrepresent you. I don't want to misrepresent you.
18 Do you think that it is worth trying to find a plan that could deal
19 with such an emergency for the future or not?

20 A. Yes, it's worth trying to find a plan.

21 Q. Thank you. Have you?

22 A. No.

23 **Mr. Chairman:** That's all I want to know. Thank you very
24 much.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. Ms. Balkissoon, you told us this morning you have been with
27 Petrotrin and then you have been with Paria. Okay?

1 A. Yes.

2 Q. You have been working with Petrotrin and then you continued
3 to work at Paria. Correct?

4 A. Yes.

5 Q. Right. Petrotrin—well, let's say Paria is engaged in doing—in
6 having works like this, which was being done on the 25th
7 February, in which risers were being cut and replaced under
8 water in hyperbaric chamber?

9 A. Yes.

10 Q. And would you agree that from the experience you have and for
11 the qualifications you have, that if you have a hyperbaric
12 chamber under water and you have to cut pipe and replace pipe,
13 there comes a situation in which you could have differential
14 pressure in the pipe and in the habitat?

15 A. There are many ways to handle a Delta P. That's why I'm
16 saying I would have engineered it out. Now, differential—

17 Q. Right. There are many—no, sorry. Go ahead.

18 A. Well, okay. Let's look at the habitat, right.

19 Q. Yes. There are many ways to handle a Delta P. And, therefore,
20 if you have such works being done, there are ways to handle it.

21 A. Yes.

22 Q. But would you not agree that in creating an emergency response
23 you will have to have a plan to be able to know what are the
24 risks and the risks must not occur and, therefore, if the accident
25 occur, how you would deal with the accident?

26 A. Yes, but we don't—okay. Like, for example, right, even the
27 document that you keep referring me to, that Incident

1 Command System, if you look at 107, right—I'm not trying to
2 be facetious, all right—but if you look at No. 107, right:

3 “Paria shall therefore develop and implement emergency
4 response plans for all—”

5 **Mr. Chairman:** Sorry, sorry, where are we? Forgive me, Ms.
6 Balkissoon.

7 **Mr. Maharaj SC:** At page 107 she said. Page 107. I think
8 it's at the top of the page, the second sentence.

9 **Ms. Balkissoon:** I'll try to slow down, right.

10 “Paria shall...develop and implement emergency
11 response plans for all credible emergency situations that
12 may arise.”

13 Right? What I'm trying to explain, right, is that by having the
14 compressor on and flooding and pushing around the liquid on
15 the other sides, right, that is a sort of a Delta P, right. Because
16 at that point in time you're relying on the compressor to ensure
17 the chamber is dry. The risk involved is if the compressor drips
18 it becomes flooded, so you'll have an emergency response plan
19 to address that. What I'm trying to say, and maybe I'm not
20 explaining very well, is that inside a pipe if you have two forms
21 of barrier, right, and those barriers are such that—and we could
22 talk about, well, okay, we could try engineering off flooding,
23 whatever it is, right. If those two barriers are in place, then to
24 have an emergency response plan, that entails someone trying
25 to go in to do certain things, it's not something that—I mean,
26 we could try to get one, but it's not something that I'm in a
27 comfortable place to ever have to do again. So my preference

1 would have tried to engineer out the risk. You understand? So
2 like in a—trying to explain.

3 **Examination By Mr. Chairman:**

4 Q. I think I get you. I mean, it obviously makes sense to try and
5 prevent anything from happening.

6 A. Correct.

7 Q. That's what you mean by when you say engineering out the
8 risk. So for example, in a plant that has gas and oil, one of the
9 potential dangers is fire or even explosion.

10 A. Yes, correct.

11 Q. So you try and engineer out the prospects of that happening,
12 minimize it to its bare minimum, so that there—there will
13 always be a potential risk, but you try and engineer it out.
14 Don't you?

15 A. Yes.

16 Q. What I think Mr. Maharaj is trying to get at with you is that
17 there is in pipes and the kind of work that is part of Paria's
18 operation, there are likely to be Delta P situations from time to
19 time. Like you said yourself, even the hyperbaric chamber
20 itself was a sort of differential pressure—

21 A. Yes.

22 Q —between what's in the chamber and what's outside the
23 chamber.

24 A. Correct.

25 Q. Right. Of course, we understand that. Well, we do now. I
26 confess straight away I didn't before, but I do now. And so,
27 what I want, and I think Mr. Maharaj is getting at, is that given

1 that there are those latent risks inevitably on the site that is
2 Paria, whilst on the one hand you would want to engineer out as
3 best you can those risks, there remains a latent risk. And I think
4 all that we are trying to get at is that given that there is a latent
5 risk, why don't we have a plan to deal with that in the event that
6 you haven't managed to engineer it out? It isn't the first time,
7 is it, that somebody has died as a result of Delta P? Is it? Well,
8 not at Paria, but I am saying in the world.

9 A. Well, first time to my knowledge that someone has died in a
10 pipe.

11 Q. Well, they die in a variety of different potential ways given that
12 Delta P exists in different environments.

13 A. Yes.

14 Q. We've learnt that much. Right, you've come to give your
15 evidence. So it's really a question of whether or not there is a
16 plan to try and deal with it should you fail to prevent the act
17 happening in the first place like you do with fire or explosion.

18 A. Okay. Well, I can only say we don't have one.

19 Q. Yes, I understand. Where are we? We've recognized that there
20 isn't one, and we're now looking at seeing what might have
21 been foreseen?

22 A. Um, yes.

23 Q. Well, the fact that you recognize it—and you've heard of Delta
24 P? You know what it is?

25 A. Yes.

26 Q. You probably knew that a lot longer than I have. Right?

27 A. Yes. I mean, thinking back, I wouldn't have known Delta P as

1 it relates to—I'm not a diver or anything, right.

2 Q. No.

3 A. But, I mean, you do know that there is a Delta P situation across
4 inherently: once side is higher than the other. So that's what
5 Delta P is: difference in pressure.

6 Q. Yeah. We have it in an aerosol can.

7 A. Yeah.

8 **Mr. Chairman:** All right.

9 **Mr. Maharaj SC:** Much obliged.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. Okay. So there is no plan; this accident occur. So at the IMT,
12 you all were trying to come up with a plan in order to deal with
13 this emergency?

14 A. Based on our ICT training, and so on, yes.

15 Q. Yes. Now, I just want to ask you, in the IMT that existed, did
16 you all have drills at all over the period of time to deal with
17 emergencies that may happen?

18 A. We don't have drills per se. What we have is that we run like a
19 tabletop, but not a full drill to say that we go out and we have
20 the full IMT in place. However, unfortunately, we have had a
21 number of instances, at least for myself since I've been at Paria,
22 at least more than five.

23 Q. And those drills are drills to sort of show what you must do in
24 an emergency response in respect of certain scenarios?

25 A. Not only to show what we must do; to identify if we have any
26 gaps, to see if the timing, and so on, is on point; if everybody
27 knows what they're supposed to do. It provides also a little bit

1 of training for our operator guys. So there are a number of
2 reasons why you do drills and that also is one of them. Yes.

3 Q. Did you all—and you keep record of these drills? There are
4 records of the drills and what you do?

5 A. That would be lodged with HSE, because it's—

6 Q. Sorry?

7 A. It would be part of the HSE.

8 Q. Yes, but there'll be written records, contemporaneous records?

9 A. Yes.

10 Q. Did you all ever have any drill to deal with a Delta P hazard in
11 a pipeline where men could be sucked into the pipeline?

12 A. No.

13 Q. No. As a member of the IMT on that date, would you agree
14 that your role—because you were sent by Mr. Piper to berth 6
15 to monitor what was happening after the accident. Am I
16 correct?

17 A. It was not just to monitor what was happening after the
18 accident.

19 Q. Well, tell me what your role there was as a member of the IMT?

20 A. Okay. So I would have gone outside to also provide a first-
21 hand knowledge, a direct line of what's happening onsite to Mr.
22 Piper. Right? In the event that—because that particular role
23 calls for directing any tactical operations, and so on. So in the
24 event there was a plan to be actioned onsite, that's what I would
25 have been there to do. Right? I also would have been able to
26 identify what resources they had onsite, find out if—and see if
27 there's anything onsite that would have been needed further that

1 was not being provided and pass that up to the Incident
2 Commander. Right? So that's how the IMT works. Right?

3 Q. So were you interested on that date in assessing whether any
4 rescue efforts could have been made that day to rescue the
5 divers?

6 A. I would have been interested in finding out what resources were
7 available. Right?

8 Q. And the resources would be their what, commercial diving
9 equipment?

10 A. Yes.

11 Q. Commercial divers?

12 A. Divers, yes.

13 Q. And willing divers?

14 A. Yes.

15 Q. Experienced divers?

16 A. No, because the—there's another section called planning, right?
17 So at the end of the day, when I get information I pass it up to
18 the Incident Commander. The Incident Commander together
19 with his planning, and so on, persons would have determined
20 what level of competency is required in order to execute a plan.

21 Q. But you would pass the information as to whether onsite there
22 are experienced divers?

23 A. I can't—I don't have records, Sir, of competency. I won't
24 know that.

25 Q. But would you not be involved in talking to divers—
26 interviewing divers who are available and want to go into the
27 waters?

1 A. No. I would have been talking to Andrew Farah who was the
2 dive supervisor from LMCS.

3 Q. So you were only talking to Andrew Farah?

4 A. Yes.

5 Q. How many hours you spent at berth 6 that evening? From what
6 I saw, you went there at about six o'clock. Am I correct?

7 A. Correct.

8 Q. What time did you leave?

9 A. Six the next day.

10 Q. Six the next day. And during that period of time, you saw
11 people were diving?

12 A. I saw people were diving, yes.

13 Q. And did you consider that one of your ways to assist the IMT
14 was to try to see whether there would be willing divers to effect
15 a rescue?

16 A. Yes, and that information was passed up.

17 Q. And that information was passed. Who you passed that
18 information to?

19 A. Collin.

20 Q. Around what time you passed that information, you first passed
21 that information to him?

22 A. That would have been, probably around, even around as early
23 as—when I came onsite I saw them in the water. Right? And
24 that—early as probably around seven.

25 Q. Around seven?

26 A. Yes.

27 Q. Now, in paragraph 8 of your witness statement—you have it

1 there before you?

2 A. I have something called Core Bundle Volume One.

3 Q. Okay, no, no. You'll get it now.

4 A. [*Document shown to Ms. Balkissoon*]

5 **Ms. Balkissoon:** Paragraph 8?

6 **Mr. Chairman:** Page 1329.

7 **Continued Examination By Mr. Maharaj SC:**

8 Q. Yes, 1329. I'm sorry.

9 A. Sure.

10 Q. You see at the—that is when you started heading to the
11 shipping building on your arrival. And later on you said that
12 you left and you were going to berth 6. You see that?

13 A. Paragraph 8.

14 Q. Look about three lines to the end of the paragraph.

15 “While on my way to berth 6 I observed the retrieved
16 diver who later I learned to be Christopher Boodram
17 being transported in a vessel heading towards the shore.”

18 Correct?

19 A. Yes.

20 Q. So whilst you were going to berth 6, you observed that—at that
21 time you may not have known the name of the diver, but you
22 observed that one of the divers was rescued and was going on
23 shore?

24 A. Yes.

25 Q. Right. The purpose of you going to berth 6 at that time was to
26 assist the IMT in giving them information, and part of that
27 assistance would be to see whether the men, wherever they

1 would be, could be rescued?

2 A. Yes.

3 Q. And, therefore, you would have seen one diver returning to
4 shore and, therefore, your paramount aim that day would have
5 been to save human life, not so?

6 A. And preserve human life.

7 Q. And preserve human life. So you saw him going on shore. Did
8 you know where the other divers were at that time?

9 A. In the very instant, no.

10 Q. No. How long after you knew where they were?

11 A. As soon as I arrived, because I would not—so I'm coming to
12 the berth and I'm seeing him heading this way. I would not
13 have known where he came from. I don't know if he was
14 picked up from sea search or so.

15 Q. But you knew he was one of the rescued divers?

16 A. I knew someone was injured, yes.

17 Q. But you knew he was one of the rescued divers. Am I correct?

18 A. I did not know he was a rescued diver, no. All I knew—

19 Q. You said:

20 I observed a retrieved diver who I later learnt was
21 Christopher Boodram.

22 A. Yes.

23 Q. So you knew then that he was one of the retrieved diver?

24 A. Retrieved, yes.

25 Q. So when you saw him and you knew he was one of the divers,
26 did you consider it important for you to give directions to turn
27 around and to go with him and get information about the other

1 divers?

2 A. No, because he was heading to shore, and at shore they would
3 have had support staff there also.

4 Q. So as far as you were concerned, you were not—you didn't
5 consider it important at that time to get information from
6 Christopher Boodram, well, that retrieved diver, as to where the
7 other divers were?

8 A. Because it would have been my understanding if someone came
9 out and was heading towards shore in an injured state, whatever
10 information he could have in that time would have already been
11 communicated. And then he would have headed to shore where
12 he could have been speaking to—

13 Q. In paragraph 9 of your witness statement you said that you
14 considered your role in the aftermath of the incident to provide
15 onsite logistical and technical assistance and support to the
16 search and rescue efforts.

17 A. Yes.

18 Q. So if that was your aim, would you not think it was important
19 on seeing him to get—did you consider it an urgent matter, that
20 quick action; time was of the essence?

21 A. Well, I thought it might be more important to head to the site
22 where, perhaps, they had more people injured—I mean, sorry,
23 who were injured and needed assistance. If I'm seeing—

24 Q. But if you went with him, you would have assisted in getting
25 the information quicker to the IMT?

26 A. No, because I would not have known who's on the tug or the
27 vessel with him that was going and carrying him. The onsite

1 commander, right, would have—it's not me alone in that
2 moment. You would have had other Paria people there, other
3 Kenson people there. Just because I personally would not have
4 asked the vessel to turn around and go for me to jump on to
5 another vessel to get information, that doesn't mean
6 information wasn't sought.

7 Q. But did you have another member of the IMT with you?

8 A. No.

9 Q. Was Mr. Harrichan with you at that time?

10 A. No, he wasn't.

11 Q. But he was not a member of the IMT? He was not a member of
12 the IMT, was he?

13 A. He would have been there prior to my arrival.

14 Q. So you had Mr. Harrichan there where you were going?

15 A. Yes.

16 Q. And you were the member of the IMT?

17 A. Yes.

18 Q. Would you not agree with me that for the IMT to get quick
19 information, if you would have gone with Mr. Boodram and
20 whatever information you could have got or the condition,
21 where he was rescued, all the relevant information, you could
22 have given it to Mr. Piper immediately?

23 A. I'm not sure, because you're asking me to ask in that moment
24 how much information I would have received from Mr.
25 Boodram, and so on. I don't know if that would have been my
26 best route at that time. I can only tell you what I did.

27 **Examination By Mr. Chairman:**

1 Q. Can I ask you; you said in answer to Mr. Maharaj that you
2 thought that there were support staff at shore ready to receive
3 him?

4 A. Yes.

5 Q. Yes. So what did you anticipate the support staff would be
6 doing?

7 A. When they received him?

8 Q. Yes.

9 A. Well, making sure to stabilize him because I don't know what
10 condition he would have been in. Right?

11 Q. Sure.

12 A. And also arranging for him to go into the ambulance, and, if
13 possible, seeking more information.

14 Q. Yes. So, and probably in that order, I imagine.

15 A. Yes.

16 Q. So first of all, make sure he's okay; whatever needs to done
17 medically is attended to?

18 A. Yes.

19 Q. And then to make sure he was whisked off to the hospital by
20 ambulance?

21 A. Correct.

22 Q. And then to try and ensure that you had as much information
23 from that man as you could possibly obtain given the lack of
24 knowledge of what had happened?

25 A. Yeah, and given his ability to impart that knowledge. Yes.

26 Q. Yeah, well, obviously, it would depend on his condition. If he
27 was unconscious he couldn't not have done very much?

1 A. True.

2 Q. But the fact remains is that those were the sorts of things that
3 you would have expected to happen?

4 A. Yes.

5 Q. And part of the reason, I suppose, why you didn't feel it
6 necessary to turn around and join him?

7 A. Yes.

8 **Mr. Chairman:** Right. Gotcha.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. Now, when you reached berth 6, you saw LMCS divers in the
11 water. Correct?

12 A. Yes.

13 Q. Around what time you would have reached berth 6?

14 A. Around six.

15 Q. Around six. And during the time you were at berth 6, would I
16 be correct, from what I see in your witness statements from
17 paragraphs 12 onwards, that you were assisting the divers to get
18 scuba tank, et cetera?

19 A. Yes.

20 Q. Yes. At that time you saw them diving in the open waters?

21 A. I can't see inside the hyperbaric—

22 Q. I know, you couldn't see inside the hyperbaric. So it's open
23 waters?

24 A. Yeah.

25 Q. But at that time you knew that the other divers were in the
26 pipeline?

27 A. Yes.

1 Q. Yes. And you would assume, although you were not seeing
2 them diving in the pipeline, that they were diving in an effort to
3 try and see what they could do to rescue the divers?

4 A. Yes.

5 Q. And you were trying to help them in that process?

6 A. Well, not by going in the pipe or anything. I mean—[*Ms.*
7 *Balkissoon laughs*]

8 Q. No, by providing the scuba tanks, et cetera?

9 A. Yes.

10 Q. Yes, yes. Having arrived at berth 6 at about six, would I be
11 correct to say that the—you saw the—did some of the divers
12 talk to you during—when you arrived?

13 A. When I came on to berth 6?

14 Q. Yeah?

15 A. When I came on to berth 6—well, I don't know how much you
16 know, right, but berth 6 is like the platform on top but the
17 divers, and so on, would have been more associated with the
18 barge.

19 Q. On the barge. Yes. And you went on the barge?

20 A. Yeah.

21 Q. Yes. And when you went on the barge, was that LMCS barge?

22 A. That was the Sunny Day.

23 Q. I'm sorry?

24 A. I think it's called the Sunny Day, or something. I can't
25 remember the name of the barge.

26 Q. Right, okay. And you would have talked—you would have
27 spoken to the LMCS divers?

1 A. I would have spoken to Andrew and Dexter.

2 Q. Andrew Farah and Dexter Guerra?

3 A. Yeah.

4 Q. And at some stage they wanted to get lighting and you assisted
5 in getting lighting. Am I correct or—

6 A. Well, I noticed it was getting dark, right, so as soon as I came I
7 saw it was getting dark, right. And I asked, I think HSE, to
8 organize some lights. And when I went on the barge it was still
9 getting dark and we didn't have any lighting towers, and so on.
10 Right? So I think I called Michael, who was in the logistics, to
11 try and get some lights. And I also spoke to—

12 **Examination By Mr. Chairman:**

13 Q. Michael?

14 A. Wei.

15 Q. I wonder if I could ask you to use the surnames. I know you
16 know them, obviously, by their first names, but it helps me
17 because they're sometimes the same names.

18 A. True, yes.

19 Q. So it would just help me to know who we're talking about. So
20 if you would, please.

21 A. Yeah, sorry.

22 Q. That's all right.

23 A. Yeah. So I would have asked Michael Wei to help me to get
24 some lighting, and so on, because we do have on shore, we
25 have lighting towers, right, but in the absence of that, I also ask
26 operations people, because those vessels like the tugs and the
27 launches, they do have lights in front. So I asked them if they

1 could have just positioned themselves so we could have
2 actually, you know, see better.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. So you were facilitating the lighting in order to assist the divers
5 in whatever rescue efforts they were making?

6 A. Whatever rescue efforts that we could have done that night, yes.

7 Q. Yes, yes. And those were the divers from LMCS?

8 A. At the time, yes.

9 Q. Yes. There were no divers from Paria at that time?

10 A. No.

11 Q. And, as you said, you couldn't see where they were diving, if
12 they were diving in the chamber or not. But as far as you were
13 concerned, at that time you knew the men were in the pipeline
14 and you were assisting them to do whatever rescue they could
15 have done?

16 A. Yes.

17 Q. Yes. But you got a call at around 7.00 p.m.?

18 A. Yes.

19 Q. From who? Mr. Piper?

20 A. From Mr. Piper.

21 Q. And he told you that the divers should not be allowed to dive in
22 the pipe?

23 A. Well, he didn't say, to the best of my memory, that divers were
24 not allowed in the pipe, eh. From my best recollection, he used
25 the words "stop diving", or words to that effect. Right?

26 **Examination By Mr. Chairman:**

27 Q. No diving at all?

1 A. Well, he didn't say no diving at all, but he didn't—to me, in
2 that moment, he didn't say don't go into the pipe.

3 Q. Well, your paragraph 15 of your statement says that at seven
4 o'clock Mr. Piper called you to instruct you that further diving
5 was unsafe, not allowed, or words to that effect.

6 A. Correct.

7 Q. And that was his instruction.

8 A. Correct.

9 Q. Right. He didn't differentiate, did he, according to what you
10 say there, between the pipe, the chamber, or the open ocean?

11 A. No, he didn't.

12 Q. No. No diving, that's it?

13 A. No diving, because it was unsafe.

14 Q. Yes. No, I understand why he's saying it, but that's what you
15 understood to be his instruction?

16 A. Yes.

17 **Mr. Chairman:** Thank you.

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. So at 7.00 p.m. you knew that Christopher Boodram was in the
20 pipe and he had come out alive. Correct?

21 A. Yes.

22 Q. Yes. Whilst you were there, did you also found out that
23 Michael Kurban had gone into the pipe and had come out alive?

24 A. I knew that Mr. Kurban was diving, and I knew that around that
25 time they would have recovered items.

26 Q. I'm sorry?

27 A. I knew they would have recovered like a tank and a GoPro.

1 So—

2 Q. Yes, but weren't you aware that he had gone into the pipe?

3 A. It was told to me that he went in the pipe, yeah. I can't—

4 Q. He told you that?

5 A. No, he didn't, other people did.

6 Q. Other people did?

7 A. Yeah. He was in the water, eh.

8 Q. Did you talk to him about going into the pipe, what the
9 condition was in the pipe, and things like that?

10 A. At that moment in time, no.

11 Q. No. Were you interested to find that out from him?

12 A. At that moment in time?

13 Q. Yes.

14 A. No. At seven o'clock you're talking, right?

15 Q. Yeah. At any time were you interested to find out that from
16 him?

17 A. Later on.

18 Q. Around what time?

19 A. Later on while he was—and this is my memory, right—later
20 down when he was—

21 Q. Take your time. I know this must be very difficult. So take
22 your time to try to help us.

23 A. So later on—I mean, that night was very difficult, right, and it
24 continue to be a difficult—so later on when I saw him sitting on
25 one of the—well, it's a bollard you call it—right. And he was
26 just sitting there and he was in coveralls, and, I mean, he was
27 very distraught. Right? I went up to him and asked him,

1 well—because I didn't know it was his father at the time, right.
2 Remember I don't know any of the LMCS people really, right.
3 I went up just to ask him, well, you okay, that kind of thing.
4 And in the course of that conversation he said, well, I went in
5 the pipe. So I asked him, well—he say he couldn't go in that
6 far. But, I mean, that conversation was all tied up together with
7 his dad, and so on. Right. So it wasn't information that we
8 didn't have already.

9 **Examination By Mr. Chairman:**

10 Q. What time?

11 A. That would have been like very early in the morning or some
12 time—it was way after, way after.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. In the early hours of the morning?

15 A. Yeah. Because, I mean, rain started to fall too and we were all
16 trying to huddle and—

17 Q. But, let me see if I could jog your memory. You remember Mr.
18 Hargreaves came there at some time?

19 A. It would have been after Hargreaves and they left, eh.

20 Q. No. But you remember he came there at some time?

21 A. Yes.

22 Q. You remember he came around what time?

23 A. He came around half eight, nine.

24 Q. Eight, nine. And didn't you introduce Mr. Hargreaves to him
25 and to tell Mr. Hargreaves this is one of the men who would
26 know?

27 A. I introduced him because I knew he was one of the divers in the

1 water. So I said, look, this is one of the divers in the water,
2 right. This is one of the people that would have assisted Mr.
3 Boodram, and that was the extent of my—

4 Q. But you are the representative of the IMT at the scene to help
5 the IMT to get relevant information to possibly send divers into
6 the pipeline?

7 A. Yes.

8 Q. And you knew—let's say you knew just before eight o'clock or
9 at eight o'clock when Mr.—

10 A. If suppose so, okay.

11 Q. Did you not think that you should have talked to Mr. Kurban to
12 find out what he saw in the pipe in order to give that
13 information to the IMT?

14 A. He didn't come out in oil or anything, eh. This is Mr. Kurban
15 you're talking about. Right?

16 Q. Yes; he didn't come out in oil or anything. Yes.

17 A. He didn't come out in oil or anything.

18 Q. No, but you knew he had gone into the pipe.

19 A. No. I was told that—I don't know how far he went or if is
20 anything. And you have to understand too, eh.

21 Q. But were you interested to find out how far he went?

22 A. To the best of my knowledge, he might have only gone in just
23 at the corner, because that is where they said they got the tank
24 and the—

25 Q. That is where they say they got the tank? Who they?

26 A. LMCS.

27 Q. Who?

1 A. Someone in LMCS. Remember I didn't speak to Kurban
2 directly. He was in the water at the time.

3 Q. No, but he came out of the water?

4 A. Yes, sometime later. I don't know when.

5 Q. And you introduced him to Mr. Hargreaves?

6 A. Sometime later—well, there's different sorts of instruction, eh.

7 There is the Chairman is over there; please go speak to him.

8 And there is "Good afternoon, Sir, this is Mr. Lynch, this is Mr.

9 Ramesh". So there are different kinds of introduction. And—

10 Q. Okay.

11 A. And at that point in time Mr. Kurban was not in the best state of

12 mind. Well, I don't want to—you know. It's not somebody I

13 would have gone up to.

14 Q. Were you aware that his father was in the pipeline?

15 A. No, Sir, not at that time.

16 Q. No. Did you communicate the information about Mr. Kurban

17 to the IMT on that night, on the Friday night?

18 A. The information about Mr. Kurban to?

19 Q. Yeah, to the IMT?

20 A. Which information that was?

21 Q. The information that you found out that Mr. Kurban had gone

22 into the pipe, and had come out alive, and he didn't have oil on

23 him.

24 A. I would have. If you go back to my statement, right, when I

25 said—

26 Q. What paragraph?

27 A. Just now, eh; looking for it. You see when I said that people

1 are in and out the pipe—the in and out and I wasn't sure where
2 they were, that would have been—where did I say this? Hold
3 on. And they had something like a GoPro, that is when I told
4 him. Is it 12?

5 Q. Paragraph 12.

6 A. Yeah, I'm not very—yeah. So in here I knew that people were
7 diving in and out. Right. You understand?

8 **Examination By Mr. Chairman:**

9 Q. One of the good things, if I can say that, about your statement,
10 is that you put it chronologically in terms of time and you give
11 in each, almost every paragraph, you deal with the time that
12 you're dealing with. Do you follow?

13 A. Yes.

14 Q. Which is very helpful, if I may say so. All right. But in
15 paragraph 12 you don't actually give a time. What you say in
16 paragraph 12 at the end is that:

17 I was informed by Paria HSE personnel, whose name I
18 do not remember, but their GoPro camera was recovered.

19 A. Yes.

20 Q.
21 I requested the said HSE personnel to secure the same if
22 possible. I was also informed that the scuba tank was
23 recovered from within the chamber.

24 You see that?

25 A. Yes.

26 Q. Right. Given that that is between paragraphs which deal with
27 six o'clock and 6.30, is that when you discovered that they had

1 recovered, someone had recovered, apparently, a GoPro camera
2 and a tank?

3 A. Yes, yes, and that's when I called Collin Piper.

4 Q. Right. So you told him that sometime between 6.00 and 6.30?

5 A. Yes.

6 Q. Right. So it follows from that that you must have been told,
7 obviously, in order to tell him?

8 A. Yes.

9 Q. Right. Do you recall who told you?

10 A. No. It would have been an HSE person at that time. But with
11 respect to speaking to Kurban, Mr. Kurban, right, and knowing
12 that it was his dad, and so on—

13 Q. No, no, you've told us that. I got that. What I'm interested in
14 and what Mr. Maharaj is interested in knowing is when you got
15 that information, did you understand from where it had come?

16 A. I would have assumed it came from inside the chamber or
17 inside the pipe.

18 Q. Someone has obviously been in the pipe?

19 A. Correct.

20 Q. And had recovered these items?

21 A. Yes.

22 Q. Did you ask who?

23 A. No, I didn't ask who.

24 Q. Did you think it prudent to ask who?

25 A. There were only at that time, early, they only had about three
26 people there, which would have been—I don't know their
27 names.

1 Q. No, no, it doesn't matter who their names are. I just want to
2 understand. Did you not think it important—you knew that
3 about between 6.00 and 6.30 that less than an hour earlier a man
4 had been recovered from the pipe?

5 A. Correct.

6 Q. You knew that time was of the essence?

7 A. Yes.

8 Q. And you now know that somebody else had been in the pipe to
9 retrieve these items?

10 A. Yes.

11 Q. Did you not think it prudent to find out directly from that
12 person, if at all possible, what they observed having gone in the
13 pipe so that you could relay that back to the IMT?

14 A. So if you look immediately after, which was 13, I did go to
15 Andrew.

16 Q. Yes, you did.

17 A. All right. I mean, I did speak to him. I didn't ask him because
18 the divers are in the water. I didn't go to Kurban and ask him,
19 well, what did you see, how far it is, and so on, I didn't ask him
20 that. I went to Andrew and I asked him, look, what else you
21 need at that time. I didn't ask him what did I see—what did he
22 see. I didn't ask him that. No, I'm telling you.

23 Q. No, no, I understand and I appreciate your honesty about it.
24 But, I mean, just think about it now, all right?

25 A. Yes.

26 Q. You knew a man had emerged from the pipe some hours after
27 the first incident?

1 A. Yes.

2 Q. He was whisked off to hospital?

3 A. Yes.

4 Q. You knew that another person had gone into the pipe and had
5 recovered a number of items from inside the pipe?

6 A. Yes.

7 Q. And you would understand that it was important for the IMT to
8 know as much as they possibly could about the conditions in
9 that pipe?

10 A. Yes. I also—

11 Q. Just a minute, please. So is it the case, then, that you didn't
12 find out first-hand from the person who went into the pipe what
13 the conditions were? That's the first question.

14 A. No, I didn't find out myself.

15 Q. Did you find out from Mr. Farah, Andrew Farah, as to what he
16 knew about the conditions in the pipe following Mr. Kurban
17 going in?

18 A. No, but—there's a but.

19 Q. Yes, I imagine there would be.

20 A. Okay. But at that time, right, I'm seeing divers in the water and
21 I know that there is an LMCS Dive Supervisor there, Andrew,
22 right, and I would have understood that they were going in the
23 pipe, and so on, right, and they were doing what they could to
24 rescue whoever they could have rescued. I didn't find out at
25 that time or until probably later too, about what were the
26 conditions in the pipe, because at that time Andrew is diving,
27 Andrew is organizing his divers to go on. I didn't know—

1 Q. The problem I have with that, Ms. Balkissoon, is this, is that
2 within half an hour of that, or so, you had Mr. Piper issuing an
3 instruction to you and all the other divers “Do not go in the
4 water; no diving allowed; it is unsafe.”

5 A. Correct.

6 Q. That is what he was telling you?

7 A. Yes, he was. Surely it would have been incumbent upon you to
8 have found out everything you could from those who had been
9 in the pipe to tell him that. You made the observation in
10 answer to Mr. Maharaj a little while ago that it didn't appear to
11 you as if Mr. Kurban was covered in oil.

12 A. No, he didn't.

13 Q. Right. Well, that was quite an important factor, don't you
14 think, to have relayed that information to the IMT?

15 A. No, but, but, but, the IMT would have—well, I'm making an
16 assumption and I shouldn't—but I do know that Mr. Boodram,
17 because I was told, had oil all over him.

18 Q. Oh?

19 A. I also knew—I'm just—

20 Q. No, no, we understand that. You were told that. When were
21 you told that?

22 A. When I arrived onsite.

23 Q. Right, okay. So he had oil all over him?

24 A. So he had oil all over him, right, and we didn't know what
25 caused it. At that time, I didn't know what caused it.

26 Q. What caused the oil to be over him, or why it was there?

27 A. What caused the event; I didn't know that. I do know that one

1 person had oil; one person didn't. So when Collin called to say
2 stop diving and he says it's not safe to do so, right, it's not only
3 whether or not someone came up with no oil on them, eh.

4 Q. But did you tell him that? You see, what we're trying to find
5 out is what information was being relayed to the IMT and what
6 they were doing with the information they had. Did you say to
7 Mr. Piper when he was giving you the instruction at seven
8 o'clock, "No diving because it was unsafe", did you say to him,
9 look, there's been a man who's just, only within the last half an
10 hour been inside the pipe. He's recovered a tank; he's
11 recovered a GoPro. He didn't appear to me to be covered in oil.
12 Did you give him that information?

13 A. So at seven when he said stop diving and I would have walked
14 away—

15 **Mr. Maharaj SC:** I would have, sorry?

16 **Ms. Balkissoon:** I would have walked away and took my
17 phone off speaker. At seven o'clock he said stop diving.

18 **Examination By Mr. Chairman:**

19 Q. Yes.

20 A. Yes. Right. So that my phone was on speaker, and when my
21 phone was on speaker I wanted everybody to hear also because
22 it's directly, so there's no miscommunication too. And he said,
23 look, stop diving because it's not safe, or words to that effect.
24 And by that time, obviously, people were not happy. I took my
25 phone off and I walked away. And then—because I asked
26 Collin: When you say diving—I mean, I'm not a robot to go
27 like, okay, stop diving. I wanna know, well, okay, well, when

1 you say stop diving, well, why? What's the reason?

2 Q. What did he say?

3 A. Because it's not safe. We don't know the conditions; we don't
4 know how much oil in there.

5 Q. Exactly.

6 A. Wait, no.

7 Q. Right.

8 A. Hold on.

9 Q. Fair enough.

10 A. And you also don't know if it is that the condition still existed.
11 Right? I told him about the GoPro and thing, but that was
12 earlier. So he knew that.

13 Q. You did tell him that?

14 A. Yes, earlier; sometime earlier I told him. But when he—in the
15 heat of the moment if someone says, okay, you're onsite, you
16 see people diving, right, I didn't stop—you notice I didn't stop
17 them initially because, well, why not, because I'm seeing
18 Andrew there and he's diving. Right? Moving on, right,
19 sometime after I talked to Collin and I say, well, look, we
20 recovered X, Y, Z. Right? Then he calls me later, which is
21 when I asked, and he says, look, stop diving because it's not
22 safe. You don't know what's going on in there. And then like,
23 you know, well oh, okay, hold up; yeah, I really don't know.
24 It's not that they have fallen into the pipe and can't get out. It's
25 more than that. I don't know if something could have happened
26 more. Right? And you have to recognize too that I don't know
27 even if Mr. Boodram came up with an amount of oil, I don't

1 know where that oil pocket was. I do know it's fuel oil, and I
2 do know—I mean, you can't really swim in fuel oil. So this is
3 how it was. I'm sorry if I don't have the answers you want to
4 hear, but that's how—

5 Q. I don't have any particular answer I want to hear. I do have
6 particular questions, but I'm gonna leave it to Mr. Maharaj to
7 ask them.

8 A. Sure.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. So let's see if I can get this from another way.

11 A. Sure.

12 Q. During the time you were there that evening, did you have any
13 instructions or did you believe Mr. Piper wanted to find out
14 what was the condition in the pipe from Mr. Kurban?

15 A. From Mr. Kurban?

16 Q. Yes?

17 A. No.

18 Q. No. You had no instructions from Mr. Piper to get from Mr.
19 Kurban what the condition in the pipe was when he went in?

20 A. No.

21 Q. No. And it would be correct to say from what you are telling us
22 today that you were not interested to find out from Mr. Kurban
23 what was the condition in the pipe when he went in?

24 A. Say it again, I were not interested?

25 Q. I'll take my time and I'll repeat the question.

26 A. Sure.

27 Q. Okay. On that date when you were there, you did not consider

1 it important for you to find out from Mr. Kurban what was the
2 condition in the pipeline when he went in the pipeline?

3 A. I didn't ask him.

4 Q. I did not?

5 A. Ask him.

6 Q. And you did not consider it important to ask him?

7 A. In hind—I can't say if it was important at the time or not, but I
8 didn't ask him.

9 Q. But on hindsight, do you think that you should have asked him?

10 A. Yes.

11 Q. And that you should have communicated that—where if you
12 asked him and he had given you answers, communicated that to
13 the IMT?

14 A. Yes, but—there's a but. Right?

15 Q. And you considered that that would have been relevant for the
16 IMT to consider in order to make decisions in respect to any
17 rescue plan that they have?

18 A. The information that could have been provided by Mr. Kurban
19 would not have been enough for us to derisk—

20 **Examination By Mr. Chairman:**

21 Q. How do you know?

22 A. Because—

23 Q. How do you know?

24 A. Because, no, because he didn't have any oil on him, eh.

25 Q. Sorry?

26 A. He didn't have any oil on him.

27 Q. Yes. But unless you know what he was going to tell you, how

1 could you possibly determine whether that information was
2 enough or even just some contribution towards the overall
3 information received?

4 A. I didn't say it wasn't a contribution. I said that it won't have
5 been enough.

6 Q. Well, what did you understand the information to be?

7 A. I understood that he would have gone down in the vertical and
8 some very small part of the horizontal.

9 Q. Right.

10 A. And I understood that he would have come out without oil.
11 And I also understood at the time, right, that the ocean would
12 have come into the pipeline and thus that could have explained
13 the presence of water. I would not have known, right, how far
14 that water is versus oil, but I do know as far as he went had
15 water. And that's what I understood.

16 Q. Yes, but you had no idea what he might tell you about
17 visibility, about potential obstacles, whether he could see into—
18 to what extent he could see in the pipeline, anything like that at
19 all?

20 A. Yes, and I believe I answered.

21 Q. No, no. You don't know about those things, because you didn't
22 ask him?

23 A. No, no, and I said I—yeah.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. But you agree with me that if you wanted to get the full
26 information of what was in the pipe, you could have got it from
27 Christopher Boodram?

1 A. No, not the full information, no.

2 Q. Not the full information?

3 A. No, not the full information, no.

4 Q. Do you know that he spent two hours in the pipeline?

5 A. Closer to three.

6 **Examination By Mr. Chairman:**

7 Q. Yep, correct; closer to three. You're correct.

8 A. Yeah, closer to three.

9 Q. It was about two and three-quarter hours he was in the pipeline?

10 A. Yeah.

11 **Continued Examination By Mr. Maharaj SC:**

12 Q. And do you consider Mr. Boodram could have given you
13 important relevant information to know what was the condition
14 in the pipeline at that time?

15 A. I consider his information important, yes.

16 Q. And you had a golden opportunity to turn around and go and
17 meet him when you saw that he was the retrieved diver?

18 A. I had an opportunity, yes, but the opportunity could have made
19 itself available to others also.

20 **Examination By Mr. Chairman:**

21 Q. If I may say so, I don't think it unreasonable for you to have
22 taken that view, given that there were people on shore who
23 might have gone with him?

24 A. Yeah, well—

25 Q. And you are entitled to assume that somebody would go with
26 him.

27 A. Yeah.

1 Q. It didn't need you?

2 A. No, it didn't.

3 Q. Did you ascertain whether anyone did actually go with him?

4 A. No. But later on Collin did call me to let me know what Mr.
5 Boodram said, right. He called me and he told me that he spoke
6 to Mr. Boodram.

7 Q. Sadly, that was about five hours after he'd come out of the pipe.
8 A little bit late, don't you think?

9 A. Yes.

10 **Mr. Maharaj SC:** May I proceed, Mr. Chairman?

11 **Mr. Chairman:** I'm sorry; and I really ought to let you do
12 your job.

13 **Mr. Maharaj SC:** No. I just wanted to know if you wanted to
14 ask her any more—

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. Ms. Balkissoon, while you were there at around 7.30 p.m. you
17 saw LMCS placing diving equipment on the barge?

18 A. Yes.

19 Q. And you would have known that that was to be used to assist
20 them in dives to rescue the men?

21 A. Well, yes.

22 Q. And you are familiar with the evidence given by Lieutenant
23 Hargreaves in this matter?

24 A. No.

25 Q. At paragraph 7 of his witness statement at WSB3010,
26 supplemental witness bundle, at paragraph 7?

27 **Mr. Chairman:** 3010.

1 **Ms. Balkissoon:** 3010?

2 **Mr. Chairman:** It's not in your bundle.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. It's the supplemental bundle. It's on the screen.

5 A. Okay, sorry. Yeah.

6 Q. And you see in the last paragraph of his statement at that
7 paragraph referring to you. He said:

8 "She also identified other persons who possessed first-
9 hand information about the incident, including Mr.
10 Michael Kurban, the son of one of the missing divers."

11 A. Yes.

12 Q. So you recognized that Kurban had first-hand information of
13 what was in the pipe?

14 A. Well, he has first-hand information of the incident, right,
15 including Mr. Kurban. Yes.

16 Q. At paragraph 72 of Mr. Piper's witness statement, page 1359.

17 **Mr. Chairman:** That is in your bundle.

18 **Ms. Balkissoon:** Okay. What page, sorry?

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. 1359, paragraph 72. It said "Catherine", that is you:

21 "...and Visham Harrichan operated as the eyes and ears
22 of the ICT on the scene as described above. I liaised
23 regularly with Visham, particularly during the hours
24 following the incident on the Friday and I used them both
25 to pass requests and instructions to LMCS and
26 information to the TTCG and others. Catherine also
27 performed a critical technical role in the assessment of

1 the pipeline conditions and the execution of the recovery
2 efforts.”

3 So according to him, you performed a critical role in the
4 assessment of the pipeline conditions on that day, and you
5 could have got those conditions from both Boodram when you
6 saw him coming while you were going and you could have got
7 it from Michael Kurban. Can you tell us why you did not do
8 that?

9 A. No, I can't, but I could also say that the same paragraph says
10 that he's also liaising with Visham.

11 **Mr. Chairman:** Sorry?

12 **Ms. Balkissoon:** Not to say he might not have had the
13 information, because Visham operated as the eyes and ears also.

14 **Continued Examination By Mr. Maharaj SC:**

15 Q. If you look at the last sentence.

16 “Catherine also performed a critical technical role in the
17 assessment of the pipeline conditions and the execution
18 of the recovery efforts.”

19 What he was saying, as I understand it, they were relying upon
20 you. You were playing an important role to assist them in
21 getting the pipeline conditions so that they can assess and you
22 can make recommendations or assess recovery efforts?

23 A. Yes. However, however, right, I can't say if Collin never got it
24 or not. I'm not making excuses. I know I didn't tell him,
25 except for later on around seven o'clock when I walked away
26 and I asked him. I didn't tell him anything that says I spoke to
27 Mr. Kurban or anything like that. And it's what I've answered

1 before, to the best of my knowledge.

2 **Examination By Mr. Chairman:**

3 Q. Did you understand your role to be that which Mr. Maharaj has
4 identified from Mr. Piper's statement? Did you understand that
5 to be the case? He's saying you performed a critical technical
6 role in assessing the pipeline conditions so that a recovery
7 could be effected.

8 A. Yes.

9 Q. You understood that to be your role?

10 A. I understood, yes.

11 **Mr. Chairman:** Thank you.

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. Also, Ms. Balkissoon, at paragraph 35 of Mr. Piper's statement
14 at page 1353, his last sentence—he said:

15 "I relied on Catherine and Visham, in particular, to
16 provide me with regular real-time information on all
17 observations and developments at the scene of the
18 incident offshore and to communicate requests and,
19 where applicable, instructions to LMCS, to Trinidad and
20 Tobago Coast Guard, and other personnel on the scene."

21 So he relied on you and Visham in particular to provide him
22 with information on all observations and developments at the
23 scene?

24 A. Yes.

25 Q. Was that correct? Is that an accurate statement of Mr. Piper?

26 A. Yes, he relied, yes, for on-scene information, yes.

27 Q. Did you discharge that duty?

1 A. Yes.

2 Q. You think you discharged that duty?

3 A. Yes.

4 Q. Okay. Now, did you consider—well, whilst you were there,
5 you were seeing the equipment which were being brought on by
6 LMCS—the diving equipment. Correct?

7 A. Scuba.

8 Q. Scuba. Didn't you also see later on commercial equipment?

9 A. I saw the commercial vessels, the Waterworld and, um, the—

10 Q. And you knew they had commercial equipment?

11 A. Yes.

12 Q. Yes. And that commercial equipment were available for divers
13 to attempt a rescue if they were permitted?

14 A. That the diving equipment was available, yes.

15 Q. Yes, because the vessel remained there all night?

16 A. Yes.

17 Q. Yes.

18 **Examination By Mr. Chairman:**

19 Q. This is from around seven o'clock onwards?

20 A. I think one came around seven and one came about an hour
21 later.

22 Q. So from around seven there was commercial [*Inaudible*] with
23 the divers at the scene?

24 A. Yes.

25 **Mr. Chairman:** Thank you.

26 **Continued Examination By Mr. Maharaj SC:**

27 Q. And whilst you were there, you knew that the coast guard had

1 taken the position that they were not going to dive in the
2 pipeline, because they were not trained for that and they didn't
3 have the equipment to do that?

4 A. Yes. I spoke to Mr. Hargreaves.

5 Q. And while you were there on that afternoon, you knew that
6 LMCS had divers who were experienced commercial divers
7 available with commercial equipment prepared to do a rescue?

8 A. Yes. But I won't have intimate knowledge of their experience
9 and competencies.

10 Q. I know, I know, I know. The fact is that—I'm not blaming you
11 for that at all. What I'm—I'm trying to get the information.
12 They were there and they were prepared to do a rescue if called
13 upon to do a rescue?

14 A. Sure.

15 **Examination By Mr. Chairman:**

16 Q. But this coincided—this first arrival of commercial divers and
17 equipment, coincided, did it not, if not exactly but pretty
18 closely, with the instructions that you were receiving from Mr.
19 Piper that nobody should dive?

20 A. Well, exactly so.

21 Q. Yes. Did you tell Mr. Piper, look, whatever you might think of
22 LMCS, we've got some commercial people here now, who
23 really know what—appear to know what they're doing.
24 They've come in with a—I think one of the boats is called
25 Spearfish?

26 A. No. The Spearfish had a—

27 Q. Waterworld. Thank you. Waterworld, I think, was one of those

1 that arrived. Is that right?

2 A. Yes.

3 Q. And they had, as you told Mr. Maharaj, commercial diving
4 equipment and commercial divers, or at least they were
5 asserting as such?

6 A. Um-hmm.

7 Q. Did you tell Mr. Piper that?

8 A. Yes.

9 Q. Can you remember when?

10 A. No. As it—in real time.

11 Q. As it happened?

12 A. As it happened, yeah.

13 Q. So he would have been aware. As far as you're concerned, he
14 would have been aware in and around seven o'clock that there
15 were commercial divers and commercial equipment available
16 onsite?

17 A. Yes.

18 Q. Thank you.

19 A. It would have been—they came—not around—well, I didn't—
20 I'm not sure about the seven, because around seven is when he
21 told me stop diving, right. So it wasn't in that same
22 conversation.

23 Q. No, no. I didn't mean to imply that. It was in and around the
24 same time he told you no divers, and then shortly after that,
25 these commercial divers arrived?

26 A. Correct.

27 Q. Right. And you would have told him in real time that that's the

1 position?

2 A. Yeah, correct.

3 Q. Did he change the instruction to you about permitting diving?

4 A. No.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. Apart from Michael Kurban who was one of LMCS—well,
7 who was a diver there too, did you speak to Ronald Ramoutar?

8 A. No, I don't remember speaking with him.

9 Q. Did you see him there? Do you know whether a person by the
10 name of Ronald Ramoutar was there?

11 A. No. I only really spoke to Andrew Farah.

12 Q. Did you see a man called Conan Beddoe?

13 A. No, I don't—

14 Q. Corey Crawford?

15 A. I'm not going to say they weren't there because they had a
16 group of people there.

17 Q. But you don't know them by name?

18 A. Yes.

19 Q. So LMCS had a group of people there who stated they were
20 divers, but you don't know their names?

21 A. No, and the interaction wasn't between the group of divers, and
22 so on. Andrew Farah would have had his crew of divers there,
23 well, for want of a better word.

24 Q. Andrew Farah had what?

25 A. I would say a crew.

26 Q. A crew of divers?

27 A. If that's the word for it?

1 **Mr. Chairman:** That's the collective noun, apparently, for
2 divers. Well, it is now anyway.

3 **Ms. Balkissoon:** I do apologize. Math is a little bit easier for
4 me, you know. This is very intimidating.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. Were you there when—according to Andrew Farah, but I want
7 to put it to you. Were you there when Paria and Kenson
8 officials was telling Andrew Farah that they cannot dive?

9 A. I didn't see anybody telling Andrew Farah he can't dive, eh. I
10 don't know—

11 Q. Well, you may not have been there at that time, in fairness to
12 you.

13 A. Well, I was there on the barge that entire night, and during that
14 night I didn't—

15 Q. Because you were there on the barge after Christopher
16 Boodram was rescued. Correct?

17 A. Yes.

18 Q. And that would have been at a later time. Did Andrew Farah
19 talk to you about a rescue plan that they had devised to go into
20 the pipeline?

21 A. Andrew told me—Andrew Farah told me that he had divers,
22 and they had commercial equipment, and they're willing to go
23 in to do a dive, and they want to do a rescue. That's the
24 conversation.

25 Q. And you told him you were not in charge and you kept telling
26 him that you would communicate their request to your
27 superiors?

1 A. Well, I spoke to Collin about it, Collin Piper about it, but—

2 Q. And what happened when you spoke to him? What was the
3 response?

4 A. He said to stand down. He told me to stand down. Well, the
5 decision won't have been changed [*Inaudible*], if that's a better
6 way to put it.

7 Q. And according to my instructions, they made several requests
8 of that and they were told to stand down several times?

9 A. At the very start around seven, right, they asked to dive; that
10 would have been around seven. And then sometime after, and
11 that would have been after they got the—when I saw the people
12 with the air commercial people came, he asked. Andrew Farah
13 asked. Right? And I told him stand down; I not in charge. Let
14 me talk to Collin Piper about it. So definition of several—it's
15 not like—it was like, um, you know that “Are We There Yet”
16 movie? It was, like, “Are you there yet? Are you there yet?”—
17 that every minute asking; he wasn't asking me like that, if that's
18 what you mean by several. I don't know. He did ask me more
19 than once.

20 Q. He did ask you more than once?

21 A. Yeah.

22 Q. And the answers was the same; you had to contact your
23 superiors?

24 A. The answer would have been the same. Now, I did call Collin
25 Piper and asked him too. But I wouldn't have called Collin
26 after that first one. And I think Andrew probably asked me
27 once again sometime later, and that was it.

1 Q. And you're aware that when he couldn't get through with you
2 he tried to talk to the coast guard also? You're aware of that?

3 A. No.

4 Q. I just want to refer you to paragraph 46 of Mr. Farah's
5 statement to put it to you what he said. That would be at page
6 449 onwards. I'll read from paragraph 43 what he said. You
7 will see it there on the board.

8 A. Okay.

9 Q.
10 "I kept going back to Catherine and she kept saying that
11 we don't have permission, just stand down. She said that
12 they themselves had additional equipment coming down.
13 She said that a camera was going to come in. It was back
14 and forth back, back and forth with the Paria persons.
15 Their position was to stand down."

16 Is that an accurate statement of Mr. Farah?

17 A. Well, I don't know what he meant by back and forth, back and
18 forth. So I can't comment on his statement. I'm just saying—
19 all I'm saying is that the time I said that, sometime after when
20 we had the commercial diving equipment there, he did ask me,
21 right, and I told him to stand down. Well, he said the same
22 thing.

23 Q. You really do not know what he means by back and forth?

24 A. Well, this implies that he's coming up to me all the time asking
25 me the same question, which didn't happen.

26 Q. And it could mean a few times too?

27 A. And it could mean a few times. It could also mean as he is

1 coming to talk to me and I'm talking to him about—because I
2 said that we have additional thing. He could have also been
3 coming—I don't want to comment on his thing. But there were
4 numerous conversations about I giving him status updates, and
5 so on. So I don't want to say what he meant by that.
6 [Inaudible] should ask him that. All I could say is that he asked
7 me after, which is probably this time, because the additional
8 equipment would have been after the commercial equipment
9 would have been here. Right. That would have been camera, I
10 think, right. And I did tell him stand down.

11 **Examination By Mr. Chairman:**

12 Q. Was it your understanding that Mr. Piper's position at that stage
13 was that nothing should happen until the camera arrived?

14 A. Well, yes, because you wanted to see.

15 Q. I mean, did he tell you that?

16 A. He did not say nothing to happen until the camera arrived. He
17 said he wanted to assess the conditions of the pipe inside.
18 Yeah, so—

19 Q. [Inaudible] he said stand down?

20 A. Yeah.

21 Q. He meant by that and had issued an instruction at seven o'clock
22 that no one—there should be no diving?

23 A. Correct. But this is after, eh.

24 Q. I'm sorry?

25 A. This is after in the 43 when I told Mr. Farah to stand down.
26 This is after that seven o'clock.

27 Q. Yeah, no, no. The position hadn't changed is—what I was

1 going to say is that his position was it was too dangerous to
2 dive and, therefore, it should not happen. And that was an
3 instruction issued to you to issue to everybody else which you
4 dutifully did?

5 A. Yes.

6 Q. The point I think we're after here is the extent to which you
7 conveyed to him that there were now commercial divers and
8 equipment onsite?

9 A. Yes.

10 Q. And as Mr. Maharaj has suggested, that Mr. Farah is saying he
11 tried to speak to you or did speak to you back and forth a
12 number of times about effecting some sort of permission to
13 dive. You say you don't recall that being the position; it's not
14 the case?

15 A. I'm saying, right, and Mr. Farah is saying the same thing, I'm
16 saying that at the point in time when I spoke to Mr. Farah about
17 stand down, I apparently said to Mr. Farah that there have
18 additional equipment coming which is a camera.

19 Q. Yes. So you told him that?

20 A. Yes.

21 Q. Yes.

22 A. So why would he come—I don't want to comment on his—

23 Q. No, all right. I understand your reticence and I won't press it.
24 What I'm interested in knowing is this: You had a basic
25 instruction, "No diving". You conveyed that to everybody.
26 You were being told in effect that a camera was due to arrive?

27 A. Correct.

1 Q. And that is why there should be no diving until the cameras had
2 a look in the pipe so you'd know the conditions?

3 A. Correct.

4 Q. Right. So that was the position that you understood it to be and
5 that's what you passed on to Andrew Farah?

6 A. Yes.

7 Q. Right. Did you have any notion as to when the camera would
8 arrive?

9 A. Um, it would have been—no, I wouldn't have known at that
10 time how long it would take. But, I mean, I don't remember
11 asking them if it's a 30 minutes, an hour, or so. But I was
12 under the impression it's coming soon.

13 Q. You were under the impression it was coming soon?

14 A. Yes.

15 Q. That's when you were told?

16 A. Yes.

17 Q. Can you remember when Mr. Piper told you about this camera?

18 A. That would have been early because, you see, that would have
19 been after the first set of cameras, the first set that didn't work
20 that came onsite.

21 Q. The borescope?

22 A. Yes. So this would have been the second one and that would
23 have been sometime around midnight, or half 11, or something
24 like that it came. So he would have told me that—well, the
25 time has to be somewhere between nine o'clock or whenever
26 those and—good thing, I remembered.

27 Q. That's all right.

1 A. Right. So around nine o'clock is when I was told to install
2 the—to go ahead. And I spoke with—he put me on a three-way
3 call with Mr. Ali, Kazim Ali, and I joined that call. And then in
4 that call, right, we were saying, well, okay, Catherine, go ahead,
5 LMCS wants to install a riser. Right.

6 Q. We're moving away from what I want to know. I think we're
7 going to get to that in due course. But can I just understand?
8 You were told stand down?

9 A. Yeah.

10 Q. You were told a camera is on its way, a borescope, right?
11 Correct?

12 A. Correct.

13 Q. Can you remember when Mr. Piper told you that?

14 A. That would have been around the same time, around nine
15 o'clock, or so.

16 Q. Around nine o'clock you understood a camera was on its way?

17 A. Yeah.

18 Q. I think it must have been a little before that, but never mind.

19 A. Yeah.

20 Q. If you look at your statement, do you see at paragraph 19.

21 "At circa 7.35 I received a call from the vessel Spearfish
22 saying that they have an ROV"—an underwater robotic
23 vehicle, I think, connected to a ship.

24 "I went to the LMCS supervisor, Mr. Farah, and asked
25 him to communicate directly with the vessel."

26 Yes?

27 A. Yes.

1 Q. The ROV was too big to fit into the pipe and will not work.

2 A. Yes.

3 Q. Then paragraph 20:

4 "Around the same time representatives and Professional
5 Inspection Services Limited arrived on the barge with a
6 borescope."

7 A. Yes.

8 Q. Right. So this is around 7.35. Yes?

9 A. Well, yeah, around there.

10 Q. Sadly, nobody bothered to tell them that their borescope was
11 going to be too big for the pipe?

12 A. Well, the issue was the light also. The light intensity wasn't
13 enough.

14 Q. So there was no light on it and it didn't fit?

15 A. Well, the tether line was only 100 feet. Yeah?

16 Q. The ROV didn't fit, right?

17 A. Yeah.

18 Q. In any event, you were talking about cameras at about 7.30?

19 A. We were talking about the first camera, yes.

20 Q. Yeah. When did you first get the camera into the pipe?

21 A. The first time?

22 Q. Um-hmm.

23 A. That would have been around midnight.

24 Q. Right. What are we talking about?

25 A. That's paragraph 28.

26 Q. Six or seven hours after Mr. Boodram has come out of the pipe?

27 A. Yeah. That's paragraph 28, yeah.

1 Q. And in that time, that is the time between Mr. Boodram coming
2 out of the pipe, your being onsite around sevenish, through to
3 this time when the camera finally did get into the pipe, the basic
4 order was no diving?

5 A. From around seven o'clock. I can't speak to whatever
6 happened before, right.

7 Q. No, of course not.

8 A. From around seven o'clock I passed the instruction. They were
9 still diving. I can't really say what time LMCS stopped diving,
10 right. But from around—because in that time I remember
11 Andrew Farah asking me about tanks and stuff too. Right? So
12 sometime after seven, they were continuing to dive. Right. So
13 that's the sequence.

14 Q. You mean, they were continuing to dive in spite of the fact that
15 the instructions was not to?

16 A. I saw them in the water, yes.

17 Q. Yes. Well, they were in the water; slightly different. But
18 anyway, the instruction, which is my question, was no diving
19 between seven and when this camera finally arrived?

20 A. Yes.

21 Q. That was Paria's position, of the IMT?

22 A. That was the instructions, yes.

23 Q. Yes. Did you agree with that?

24 A. So as mentioned before—

25 Q. Did you agree with it?

26 A. Not to dive?

27 Q. Yes, that there should be no diving for a period of five hours in

1 the immediate aftermath of Mr. Boodram coming out of the
2 pipe?

3 A. Yes.

4 Q. You agreed with that position?

5 A. Yes.

6 Q. You did. All right. Thank you.

7 **Continued Examination By Mr. Maharaj SC:**

8 Q. As a member of IMT, you knew they wanted the camera to see
9 the condition inside the pipe?

10 A. We wanted the camera—

11 Q. They wanted a camera to go into the pipeline to see the
12 condition within the pipe?

13 A. And to ascertain the risk, yes.

14 Q. Yes. As a member of the IMT, did you tell Mr. Piper that we
15 could see the condition in the pipe through Mr. Boodram and
16 Mr. Kurban?

17 A. I not—it's the same question as before. I did not tell Collin
18 Piper anything, first-hand knowledge or so, about the
19 conditions in the pipe as reported by Mr. Boodram or Mr.
20 Kurban. Right.

21 Q. Ms. Balkissoon—

22 A. Yes.

23 Q. Your role as a member of the IMT, would you not agree with
24 me—was not merely as a conduit pipe to give messages to and
25 from. You had a role to make assessments and, if necessary,
26 make recommendations. Not so?

27 A. I had a role also, because you pointed it out to me what Collin

1 said, to also make critical assessment. Yes.

2 Q. Yes, to make assessments?

3 A. Yes, yes.

4 Q. Where you were that day, did you consider if these men in the
5 pipe, their lives had to be saved, quick and urgent action had to
6 be taken to rescue them?

7 A. Yes.

8 Q. Did you consider that you all took quick and urgent action?

9 A. We took quick and urgent—hold on, because—quick and
10 urgent action to try to derisk going inside a pipeline that had oil,
11 right. And also, we did not know what was the cause of the
12 incident, right. So if it is I could turn it around and say I also
13 took—Paria also took action by telling LMCS not to dive.
14 Paria also took action to say, listen, hold up, are you sure you
15 want to dive in there because these are the risk too, eh.
16 Someone lives could be lost, eh. It's a balancing act, right.

17 **Examination By Mr. Chairman:**

18 Q. It might be a different balancing act if it was your father that
19 was in the pipe or your son. I think we'll take a break there.

20 A. No. That's not fair, though.

21 **Mr. Chairman:** No, no. Is there an objection to that?

22 **Mr. Peterson SC:** Yes, Mr. Chairman. That's, that's—I don't
23 think the witness should be subjected—I don't think it's fair,
24 with the greatest of deference, to do that to the witness. We on
25 this side representing Paria, have been respectful and sensitive
26 to Mr. Ali, and all of that. It's only fair, it's only fair that we
27 extend the same respect and deference to Paria's witnesses who

1 would have been on the—obvious. It's not her family, yes, but
2 she's a human being as Mr. Ramadhar would say.

3 **Mr. Chairman:** All right. You've made your point.

4 **Ms. Balkissoon:** Do you know my—*[Ms. Balkissoon cries]*

5 **Mr. Chairman:** Of course, it's not my intention—I'll say
6 straight away. It is not my intention to upset anybody, and I
7 have been meticulous in trying to avoid doing that, and, of
8 course, I'm very sorry that you are upset by this, Ms.
9 Balkissoon. But part of the risk analysis must include the
10 person being willing to go into a pipe and take a greater risk. I
11 cannot divorce myself from the fact that if it were my son I
12 would take a risk that I might not if it were not my son, and that
13 is a perfectly reasonable—

14 **Ms. Balkissoon:** My—

15 **Mr. Chairman:** Just a moment, Ms. Balkissoon. It is a
16 perfectly reasonable factor to take into account. And I'm
17 simply asking the question whether or not there were willing
18 people prepared to enter the pipe and that risk, whether that was
19 factored into deciding whether to prevent people from going
20 into the pipe. That is all I am interested in ascertaining. It's
21 certainly not designed—and I regret deeply that Ms. Balkissoon
22 is upset by it.

23 But it does seem to me that it is a relevant factor because
24 everybody who has a child or a father would wish to make a
25 different decision to the professional who may not be prepared
26 to enter a pipe. You might be prepared to risk your life far
27 quicker if it were your son or your father than you would if it

1 was a stranger. That is a factor. And to prevent somebody
2 from being able to do that even if they're putting their own life
3 at risk, considerable risk, is a big step. And that is the only
4 purpose for which I ask that question. And I'm sure Ms.
5 Balkissoon—

6 Ms. Balkissoon, I'm sorry. I apologize to you personally.
7 I don't want to upset you, but it is a factor and something which
8 I'm interested to know whether it was calculated as part of the
9 overall assessment. That's all I'm asking. All right? It must
10 have been difficult for you, of course, it was.

11 All right. We're going to take a break now. We'll come
12 back. If you go with the usher he'll make sure you get some
13 fresh coffee. All right. Please, go with the usher, with this
14 gentleman here. All right. Yes, thank you. We'll take 15
15 minutes' break.

16 **11.06 a.m.:** *Enquiry suspended.*

17 **11.12 a.m.:** *Enquiry resumed.*

18 **Mr. Chairman:** You're all right? Did you get some fresh
19 coffee?

20 **Ms. Balkissoon:** It's okay.

21 **Mr. Chairman:** You're all right? You sure?

22 **Ms. Balkissoon:** Yeah, I'm fine. I just—

23 **Mr. Chairman:** Good.

24 **Ms. Balkissoon:**—want it over with.

25 **Mr. Chairman:** All right. Mr. Maharaj is going to ask you a
26 few more questions.

27 **Ms. Balkissoon:** Sure.

1 **Mr. Maharaj SC:** I just have a few more questions for you.

2 Yes, I just have a few more questions for you, Ms. Balkissoon.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. In your role as providing technical assistance to Mr. Piper and
5 to the IMT, did you consider it as your role to tell Mr. Piper that
6 there was—there were available experienced and competent, or
7 there were available commercial divers? They had commercial
8 equipment and that he should reconsider his decision and
9 permit a dive into the pipeline?

10 A. Um, yes.

11 **Examination By Mr. Chairman:**

12 Q. Yes, what? Sorry, I don't understand. You're agreeing with
13 Mr. Maharaj that's what you should have done?

14 A. No, I'm saying I did talk to Collin about the decision made not
15 to dive and that would have been very early, in truth, around
16 7.00, right, about, um—

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. And you told him to reconsider his decision and permit the
19 dive?

20 A. Yes, but, but then, you see, your instinct of course is always to
21 have, right, but, when you think about it and you say, but hold
22 up, do we really know what's going on in there? Right? And
23 also, um—

24 Q. All right.

25 A. —do you really, yeah, do you really know what's going to
26 happen to someone if someone goes in there? Will they be able
27 to come back out? And it's not only about saving those in

1 danger but also preventing someone from putting, well, their
2 lives at undue, at undue risk too, huh. You don't want to—if
3 it—it's—so if I look back at my, um, days in the refinery, right,
4 but, so, it's, it's almost tantamount to saying, well, okay, um,
5 we have a release of H₂O₂ or something like that, a gas release,
6 right, and someone that's in there, the first instinct of course is
7 to go try and help. But do you—you go, but wait a minute,
8 hold on, rescuers' lives also matter and you don't want to have
9 a situation where—and there are instances, right? If you look at
10 any sort of—well, okay, part of my other technical duties would
11 have been, um, safety management too. And if you look, there
12 are a number of cases where rescuers themselves have, you
13 know, passed, in a rescue attempt.

14 **Examination By Mr. Chairman:**

15 Q. Yes. I mean that, that there is an intent—an attendant risk for
16 anybody to effect a rescue, isn't there?

17 A. Yeah, but sometimes the risk is too high to do so.

18 Q. You said that very softly. You said sometimes the risk is too
19 high. Did you make that assessment?

20 A. No. That wouldn't have been my decision to make.

21 Q. Not your decision to make?

22 A. No. But remember where I was, right, I would not have had the
23 benefit of having those specialist diving companies and so on
24 feeding back in to the IMT, the ICP, or their knowledge, right?

25 Q. Well they were there, on your berth?

26 A. They were—they visited and then they left. The, the, the, the
27 specialist diving companies?

1 Q. Yes, for a period of some hours from seven o'clock or so, they
2 were there, weren't they?

3 A. The vessels were there but the people that would have been
4 taking part and liaising with the ICP would have just visited and
5 then reported back in to, um, the ICP.

6 Q. I'm not sure I'm following you. I thought you told us that
7 they—from seven o'clock onwards there was at least one and
8 then shortly afterwards another—

9 A. Uh-huh.

10 Q. —expert dive boat—

11 A. Yes.

12 Q. —that had arrived—

13 A. Of course.

14 Q. —with divers and equipment?

15 A. Yes, but the Waterworks was there and the Gulf Stream was
16 there.

17 Q. Right.

18 A. Right? The Waterworld, um, people, right, um, they were
19 liaising through Andrew Farah, right, and I know that they
20 would have had equipment.

21 Q. Sorry, I don't want to interrupt you. You didn't speak to them.
22 I think you told Mr. Maharaj that earlier. He identified a
23 number of people to you by name. You didn't speak to any of
24 those people, did you?

25 A. No.

26 Q. Mr. Beddoe—

27 A. No.

1 Q. —and, um, Ramoutar?

2 A. So all I know I was speaking to Mr. Farah right?

3 Q. Right.

4 A. So that would have been that. The only other time I would
5 have spoken to, um—actually, no, that was—that would have
6 been my extent of conversation with divers on that night
7 because the, um, specialist diving people that would have come
8 on behalf of Paria, who one of them owned that Gulf Stream
9 vessel, right, they just visited, looked at the, um, er, camera
10 footage and they went back in to report to Collin Piper.

11 Q. Okay.

12 A. So it's not that I was liaising with the Mitchells divers or the
13 OTSL divers or anybody like that.

14 Q. It didn't occur to you to say to those that were there, once you
15 had them, "Look, gather round, folks. This is the position here.
16 What can you tell me about the prospects of effecting a
17 rescue?" Did you, did you enquire with them, um, at all, being
18 the person on site? You were the most senior on site—

19 A. Yes.

20 Q. —from Paria, weren't you?

21 A. Yes.

22 Q. So did you say to those people, "Look, gather round. I need to
23 be persuaded by you that this is a sensible plan that you have in
24 mind to effect a rescue so that I can say to Mr. Collin Piper,
25 look, your order not to go in the water ought to be rescinded
26 because I think that these people could carry out such a
27 rescue?? You didn't do anything like that.

1 A. No because that's not how the—

2 Q. Did you—

3 A. —IMT works.

4 Q. Right. You didn't regard that as your responsibility?

5 A. Yeah. How the—that's not how the IMT works.

6 Q. Right.

7 A. We execute at that site and so on, right, and the planning and
8 the logistics, all those arms feed back into the Incident
9 Commander. So—and I, I do know they would have had
10 discussions between Mr. Piper and those specialist diving
11 companies. Right? So that's what my understanding was.

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. So I just want to get it clear.

14 A. Sure.

15 Q. So are you telling us that, as a member of the IMT, you could
16 not have an independent view to make a recommendation to
17 Mr. Piper?

18 A. Mr. Piper is always open to recommendations, yes.

19 Q. So on this eve—on that evening you considered yourself that
20 you had a role that you could have had an independent view to
21 make an assessment and make a recommendation to Mr. Piper?

22 A. No, that that's not, that's not how it works. At, um—there's a
23 reason why there's a chain of command in the IMT. Right?
24 Mr. Piper would have appreciated any recommendations but
25 what I'm saying is that I would not have had or it would have
26 been an assumption of me to say—it would be assuming of me
27 to say that I have—would have had all the information that

1 would have had all the plans that put together and then
2 presented. That doesn't occur there. It occurs at a different
3 level where all other information is fed back into—you
4 understand?

5 Q. Okay. So based on the information you had during the time
6 you were there, did you consider that you had sufficient
7 information to recommend to Mr. Piper, instead of spending
8 time getting cameras, that here it is you have willing divers,
9 they have the equipment and they want to go into the pipeline
10 to make the rescue?

11 A. No, no, no.

12 Q. You didn't consider—

13 A. No.

14 Q. —that was it?

15 A. Because—no.

16 Q. Because what?

17 A. Because, at that time, right, I don't know if that plug would
18 have slipped.

19 Q. Oh, so—okay.

20 A. I don't, I don't know that.

21 Q. All right, so, so let's take it. One, you did not know whether
22 the plug would have slipped. What is the other reason?

23 A. So when the plug slips, right, I don't know if it would have
24 caused anything—further harm to anybody inside that pipe,
25 right?

26 Q. So that's the second reason. Right.

27 A. Right?

1 Q. What's the third reason?

2 A. And you have to forgive me, right, because I'm not a diver and
3 I would not have the benefit of those other experts.

4 Q. Okay, okay.

5 A. But from my perspective right, fuel oil is not something you
6 could see in, right? This is not light mauby dark mauby, right?
7 This is something opaque and I know when oil—what happens
8 when oil gets on stuff, right?

9 Q. Okay. Any other reason?

10 A. If someone goes inside there, how you're going to get them
11 back out safely if they have an emergency? Can someone
12 breathe there in that environment? You know—do you know
13 that fuel oil also may have H₂S and so on in it and VOCs? This
14 is, this is the benefit of my experience where I worked before
15 and those would have been the reasons where I'm thinking,
16 well, hold up, after that first instinct of, well, let's try to help,
17 hold up. We don't know what caused it. We, we just don't
18 know what's going on inside a there, right? How you're going
19 to pull somebody out? It's—

20 Q. Are you aware that in these proceedings in the In-Corr-Tech
21 report it stated that no Delta P could have occurred after the
22 pressure stabilized?

23 A. I read the In-Corr-Tech report, right? And there are a number
24 of issues with that report.

25 Q. What, so you're challenging some of the opinions given there?

26 A. I'm, I'm, I'm saying—

27 Q. You're disagreeing with some of the opinions in that report?

1 A. I'm disagreeing with some of the assumptions made.

2 Q. Do you know whether Paria got any expert to review that
3 report?

4 A. No.

5 Q. No.

6 A. However, it's very basic what I'm—what the question I'm
7 saying. If you look at the—I don't know if I'm allowed to.

8 Q. But are you aware—are you aware in that report—

9 **Mr. Chairman:** She's allowed. She's asked me if she's
10 allowed and to she's allowed to.

11 **Mr. Maharaj SC:** I'm sorry, I'm sorry.

12 **Mr. Chairman:** It's all right.

13 **Examination By Mr. Chairman:**

14 Q. You have a view about it, you were asked your view about it—

15 A. Well, the—yeah.

16 Q. —so you're allowed to tell me what your view about it is. All
17 right?

18 A. Well, it's you that, um, from one of the schematics, right, it was
19 almost look, at least in the picture that he had, that the liquid
20 level was the same on both sides, right? But I know it wasn't.
21 It was more like this [*Demonstrating by placing one hand*
22 *above the other*]. Sorry, berth 5, berth 6; berth 6, berth 5, so if
23 it's more like this, right, versus this, then if something is like
24 this something is pushing down and if you have something
25 stuck here, I don't know if that, you know, might have moved.
26 That's the—

27 Q. That was a factor which you regarded as important to take into

1 account in assessing risk?

2 A. Yes.

3 Q. It's not a factor to prevent any rescue at, though, is it, or isn't?

4 A. Well, if something moves, right, in that line, right, I don't know
5 the impact it would have had on a diver and on whatever he's
6 attached to, because, remember at that time, right, something
7 violent would have happened to cause 5 able-bodied people to
8 go inside.

9 Q. Yes.

10 A. And these were—these are people, eh.

11 Q. And all their equipment?

12 A. Well, true, and all their equipment, right, something violent
13 would have happened, right?

14 Q. Yes.

15 A. And then here it is, I don't know where that plug is and I don't
16 know if this is going to slip.

17 Q. What I'm asking—I follow all of that and I'm—I respect the
18 point you're making that this is an unknown factor.

19 A. Correct.

20 Q. What I'm asking you is whether or not it is a factor such that it
21 would prevent you from effecting any rescue at all.

22 A. I would want to say that certainly I would have preferred if the
23 plug could not move because—

24 Q. *[Laughter]*

25 A. No, no, no. Hear why, right? I could—let me give you a
26 simple example, right? I could, um, fall down the steps and I
27 might be fine but I could also fall down the step and break my

1 neck and unconscious divers don't breathe well. I don't know
2 how well it works. IN—

3 Q. Well, how did you know they were unconscious?

4 A. Well if something happens in that pipe with a rescuer that
5 causes him to hit his head or causes him to get in contact with
6 equipment or whatever—

7 Q. Uh-huh.

8 A. —right, this is just me as a lay person, I'm not a—

9 Q. No, no. Well I, I, no, I don't need your speculation as a lay
10 person. I need your, I need your opinion as someone who
11 understands the dangers involved in, in the oil industry.

12 A. Well, well, well, oil, well it's slightly different to what
13 pressures you expect to get when something like that plug
14 moves. Right? So if that plug moves, right—

15 Q. There's a potential for danger?

16 A. —there's a potential for danger.

17 Q. Yes.

18 A. Because there's a potential for something slipping and having a
19 rush of liquid, taking with it the diver or having something hit
20 him.

21 Q. Yeah.

22 A. That's what—that is my opinion.

23 Q. So I'll come back to my question please. Is it in your mind
24 such that it is an impediment to any rescue at all?

25 A. Yes.

26 Q. Right. So, irrespective, then, of anything that might have been
27 obtained by way of expert divers and equipment and all of that,

1 your view, your independent view, and I appreciate it is your
2 independent view—

3 A. Yeah, not, not, not Paria's.

4 Q. —your independent view is that that plug of itself was
5 sufficient to justify no rescue?

6 A. At that time, because if you recall, right—

7 Q. I thought that's what you just said.

8 A. Yes. No, but there's a way to deal with the plug, eh.

9 Q. Right.

10 A. And so if you—I don't know if I'm jumping ahead.

11 Q. No, no, no. You said there's a way to deal with the plug and
12 still effect a rescue?

13 A. And, and still—

14 Q. As opposed to recovery?

15 A. —and still lower the risk associated with the plug, all right?

16 Q. Okay, what is that?

17 A. So, if you recall, we would have looked at trying to find out
18 where the plug is and we took off the flange at berth 5.

19 Q. Yes.

20 A. Right? So we wanted to see where that plug was, right? It's to
21 determine whether or not you will move or not, and, later on,
22 right, later on we were thinking well okay, can we just do the
23 In-Corr-Tech report, which is to see if it couldn't have been
24 equalized or so.

25 Q. Right.

26 A. The both sides.

27 Q. I'm struggling a little, Ms. Balkissoon, with this. If no one had

1 ever been in that pipe, I could understand what you're saying,
2 in the sense that, "Look, we have no idea whether they're alive
3 or dead. We have no idea of the circumstances in which they
4 came to be sucked into that pipe", in the violent way that you
5 described.

6 A. Uh-huh.

7 Q. But we know and what you knew, and Mr. Piper knew, LMCS,
8 was that a man had been in that pipe for nearly three hours and
9 had managed to get himself out of it.

10 A. Yes.

11 Q. That is more information than you would ever normally expect
12 in such a situation. It was his—through his own heroics that he
13 managed to get himself out of that pipe. So it gave you
14 information that, first of all, they were alive, secondly, that they
15 were alive because there were air pockets inside that pipe, and
16 thirdly, that they'd all tried to escape. Did you know any of
17 that?

18 A. At that time?

19 Q. Yes.

20 A. At that time, when I first arrived, I did not know about any air
21 pockets. It's only later—

22 Q. Later when?

23 A. Um, when Collin told me that, um, he spoke to Mr. Boodram
24 about air pockets.

25 Q. Right.

26 A. That was, the—

27 Q. And you didn't know that until ten o'clock that night?

1 A. Yes, but, um, yeah, I don't remember where it is I—

2 Q. Doesn't matter. You certainly mentioned it.

3 A. Yeah.

4 Q. So, so that I'm clear, the position at the moment is this, is that,
5 um, you independently take the view that the plug was the
6 crucial issue and, that, in the absence of knowing where that
7 plug was, you would not have permitted anyone to effect a
8 rescue?

9 A. Well, not the crucial, there were other considerations, right?

10 Q. No, no, I appreciate that, but I thought you were saying that of
11 it itself was sufficient, that the fact that there was that issue
12 would have prevented you from saying, um, anybody should
13 enter that pipe?

14 A. Among other things, yes.

15 **Mr. Chairman:** All right. Thank you.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. So, your concern about the plug was that you were concerned
18 about if there could have been another Delta P to push the plug?

19 A. Yes.

20 Q. Yes. I want to read to you—

21 A. Um—go ahead.

22 Q. I want to read to you what the In-Corr-Tech report stated at
23 the—it's dated addendum 6th of December, 2022 and it's at
24 page—it starts at page 1533 and it's at 1534 at paragraph 4.5.
25 It's on the screen.

26 A. Oh, sorry.

27 Q. “Prior to Mr. Christopher Boodram's rescue, the entire

1 system stabilized and equalized itself at both ends of
2 SL36 and thus allowed Mr. Boodram to negotiate the
3 pipe without any disruptions, as the system was static.
4 This condition was the best opportunity to attempt a
5 rescue as removing the blank at berth 5 or shutting down
6 the compressor would have released the stored potential
7 energy from the compressed air and thus disturb the
8 equilibrium and thereby imperil any divers in air
9 pockets.”

10 So, number one, do you understand that to say that Delta P was
11 no longer a threat?

12 A. Well, I understand that the In-Corr-Tech person said that the
13 entire system stabilized and equalized itself at both ends.

14 Q. And it also said that the best time for a rescue—

15 A. Uh-huh.

16 Q. —was shortly after Boodram came out of the pipe.

17 A. Because he's basing it on that the system was static, yes.

18 Q. Yes.

19 A. But how would he have known that?

20 Q. Okay, okay.

21 **Examination By Mr. Chairman:**

22 Q. Because Boodram came out the pipe.

23 A. No, that's not—no, that's not technically correct.

24 Q. That's not technically correct, why?

25 A. Well, because, because, just because you have—his report
26 earlier would have been like this, [*Demonstrating with hands*
27 *level with each other*] right? So Mr. Boodram came out the

1 pipe when it was like this [*Demonstrating with one hand higher*
2 *than the other*]. Right. That does not mean that the plug
3 itself—that's not any guarantee that that plug itself is never
4 going to move. That could move under somebody hit it, it
5 deflated more, all sorts of things

6 Q. Any moment in time?

7 A. Yes.

8 Q. It could have moved at any moment in time?

9 A. Yes, correct. And if you go on to read what he says, right,
10 right:

11 "This condition was the best opportunity to attempt a
12 rescue as removing the plug or shutting down the
13 compressor would have released the stored potential
14 energy and thus disturb the equilibrium and imperilled
15 any divers in air pockets. If the plug moved then"—the
16 sentence continues—"this means that...and thus disturb
17 the equilibrium and imperil any divers in air pockets."

18 Just like if the plug moved, the equilibrium would be disturbed
19 and imperil divers also. Right? I'm not—

20 Q. I understand exactly what you're saying.

21 A. Yeah?

22 Q. I get it, yeah. If that plug moved, it could have caused a
23 problem, for example, if it went further into the pipe it would
24 have presumably sucked more water and fuel in that direction?

25 A. Yeah. Maybe I'm not ex—yeah, because it seems—

26 Q. That's what you mean, isn't it?

27 A. Yeah, yeah.

1 Q. And the point that Mr. Maharaj is asking, actually, though, is,
2 whatever the position is with the fluids in this pipe—

3 A. Uh-huh.

4 Q. —at that particular moment in time it was kept in equilibrium
5 partly because the flange was on at this end so it was lower
6 here. When that plug moved in, it compressed the air between
7 the flood and at the top of the flange, the bottom of the flange,
8 such that it created an equilibrium between the plug—I see you
9 shaking your head. Allow me to finish in a moment, please?
10 When the plug was sucked into the pipe it stopped at a point for
11 one of two reasons.

12 A. Uh-huh.

13 Q. Either because it got jammed in the pipe—

14 A. Uh-huh.

15 Q. —a little kink or something like that, it could have got jammed
16 on a weld or any of those sort of things, or equilibrium was
17 reached—

18 A. Oh.

19 Q. —whatever it was. One of those two. Do you agree with that
20 first of all?

21 A. It's not one of two.

22 Q. One of those two.

23 A. It's not one only of one of those two.

24 Q. You mean there are other possibilities?

25 A. Well, if you think about it a little bit, right, I just trying to be—
26 the plug could have just slowed down and stopped. I
27 wouldn't—at that time, we would not have known what is up,

1 down, we would not have known that.

2 Q. No, the plug would slow down and stop because equilibrium
3 was reached.

4 A. Because there was no more force pushing it.

5 Q. Exactly. So equilibrium is reached.

6 A. So, so, therefore, on one side it may not be just because the air
7 was compressed, right, and therefore pushing that way. It could
8 be also when you're moving the plug along this way, it
9 naturally comes to a stop.

10 Q. Why would it naturally come to a stop? It's only moving
11 because there's a force on it.

12 A. Because of the friction. Because of the friction and the forces.
13 By that time—

14 Q. Yes.

15 A. —right, from what I understand also, um, it could be that the
16 compressor would have been able to blow around the chamber.
17 And therefore—

18 Q. That's the point isn't it? At one end you had the force of the
19 compressor pushing down. At the other end you had the flange,
20 all right? In between the two is this plug—

21 A. Yes.

22 Q. —that has now moved from where it was originally, right?

23 A. Yes.

24 Q. And it's come to a stop. I'm suggesting to you, tell me if I've
25 got this wrong, that it's only one of two reasons why it could
26 have come to a stop, either because the pressure on either side
27 is equal, or because it's hit some sort of kink or weld or

1 something in the pipe and it's jammed it in place.

2 A. Or, or—

3 Q. Or?

4 A. —the force behind it would have slowed it down such that it
5 naturally came to a stop. When you say stuck, right, it means
6 jammed and there's no way for fluid or air or anything to pass
7 through, right? But it could have also stopped here, naturally
8 slowing it down. If you, if you take a ball and you, you, you
9 roll it on the ground, it just, you know, and you roll it on the
10 ground, right, it could stop because it bounces on something. It
11 could stop naturally of its own accord. You understand?

12 Q. Forgive me, I don't because I don't see that as being a proper
13 comparison at all.

14 A. Okay, well—

15 Q. You're in a tube which is sealed at either end, either because
16 you've got a force or pressure on one end or a flange on the
17 other, it's closed, and anything that moves along it is only going
18 to move because there's a force greater on one side or the other.
19 I recognize that there is every prospect that the plug might have
20 stopped because of some rupture in the pipe, some sort of either
21 kink or a part of a weld or something stopped it moving along.
22 That would pose a greater risk because obviously there is now
23 still a differential between the two sides. If it stopped of its
24 own accord, merely because the pressure on that side was the
25 same as the pressure on that side, doing anything to affect that
26 was more likely to cause a problem, surely?

27 A. Yes, doing anything to affect the equilibrium would have, yes.

1 Q. If it was—so, right, and that is the reason why I think for a
2 period of 6 or—four or 6 hours you did—you—Mr. Piper
3 refused to remove the flange at number 5.

4 A. Yes.

5 Q. Because there was the prospect that the pressure that had built
6 up between the fluid and the top of the underside of that flange
7 was such that it was holding everything in place.

8 A. Yes.

9 Q. The minute you opened it, psssssh. So it would go—

10 A. Yes.

11 Q. —across, wouldn't it?

12 A. Yes.

13 Q. And that was a good reason not to do it?

14 A. Yes.

15 Q. Right. So that was one reason. Forces are equal that's why it's
16 stable.

17 A. Uh-huh.

18 Q. That is why—it may be the reason why Mr. Boodram was able
19 to come out the pipe and Mr. Kurban was able to go in it. And
20 that may be the reason, it may be that that is not the reason. It
21 may be that the plug has just got jammed in there and there's a
22 problem, the kind of problem you anticipate. I don't see any
23 other alternative, apart from your ball rolling across the floor
24 and coming to a halt, which I don't understand.

25 A. No but there's friction force—but there's friction of whatever's
26 behind too pushing it.

27 Q. There's what?

1 A. There's friction of whatever is behind it also.

2 Q. Well there—friction is another force, I understand that, as is
3 gravity. All of these things are coming together to create an
4 equilibrium one side or the other.

5 A. Okay.

6 Q. Isn't it?

7 A. So—

8 Q. So, I, I, I don't understand the point you're making. I—as I
9 understand it, your concern, so not without some merit if I may
10 say so, is that you did not know where this plug was or why it
11 stopped, and it seems to me, from what we've heard so far and
12 what we've read, is there are only two possibilities, equalized
13 pressure on either side of that plug or it's jammed.

14 A. Well, there—

15 Q. You're saying that's not right? There may be other
16 possibilities?

17 A. Yes.

18 Q. Right, okay. We'll no doubt discover them from somewhere
19 else because I don't follow yours, I'm afraid. But I understand
20 you're rejecting what I've suggested to you.

21 A. I'm saying there may be other reasons why the plug stopped.

22 **Mr. Chairman:** Right. Thank you very much.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. In respect of the opinion you have given us today about that
25 plug, did you communicate that opinion to the IMT?

26 A. I don't understand the question.

27 Q. The opinions that you have given how the plug that—your

1 concerns about the plug—

2 A. That it could move?

3 Q. Yes.

4 A. Yes.

5 Q. —did you communicate that to the IMT?

6 A. I spoke to Collin, yes.

7 Q. Yes.

8 A. Piper.

9 Q. Do you know whether—do you know whether Paria or the IMT
10 in Paria got an expert opinion in respect of your views?

11 A. Yes.

12 Q. From who?

13 A. I believe he contacted someone from Heritage.

14 Q. From Heritage?

15 A. Yes.

16 Q. And you don't know who that person is?

17 A. No.

18 Q. Was it a written opinion?

19 A. You have to ask Collin that.

20 Q. Oh, I have to ask Collin that.

21 A. Right?

22 Q. Well, can I tell you I've—so far in the proceedings I've not
23 seen any such opinion.

24 A. Um, I, can't agree with that.

25 Q. Okay, okay.

26 **Mr. Maharaj SC:** No further questions.

27 **Mr. Chairman:** Thank you, Ms. Maharaj. Ms. Balkissoon,

1 you're all right?

2 **Ms. Balkissoon:** Yeah, I'm fine. I just want to, you know, get
3 it over with.

4 **Mr. Chairman:** You want over with. I understand that
5 entirely. We're going to do our best. All right, I'm going to
6 ask who would like to ask questions. I'll see a show of hands
7 first of all. So we'll hear, first of all, from Ms. Alfonso. She
8 represents the union. She's the lady sitting at the back. She
9 will introduce herself.

10 **Ms. Alfonso:** Thank you very much, Mr. Chairman.

11 **Cross-Examination By Ms. Alfonso:**

12 Q. My name is Nyree Alfonso and I represent the interest of the
13 SWWTU as the Chairman has said. Ms. Balkissoon, I'm
14 struggling with a few issues so I hope that you could assist me.
15 You said you've been working with I gather was the
16 predecessor to Paria since 1998, yes?

17 A. Yes.

18 Q. And I did hear also, but, very sotto voce, that you worked
19 somewhere else before? You were saying something where
20 you worked before you had certain experience. Where is that
21 place?

22 A. No, well I said I worked Petrotrin.

23 Q. Okay.

24 A. And I would have worked at Paria.

25 Q. Or, okay. So when you said somewhere else, you meant
26 Petrotrin?

27 A. Well Petrotrin and Paria are two different.

1 Q. Okay. Right, so since 1998. And if I understand your evidence
2 earlier today, Mrs. Balkissoon, there is—the Paria and—

3 A. Uh-huh.

4 Q. —presumably, presumably Petrotrin did not have any
5 emergency—part of their emergency response plan that dealt
6 with the possibility of a Delta P. That is correct?

7 A. Paria didn't have an emergency response plan, no.

8 Q. Could you say if Petrotrin did?

9 A. No, I can't say that.

10 Q. You can't say that. Okay. Ms. Balkissoon, and you would
11 have said that the way to avoid the risk attendant with a Delta P
12 would be to engineer that out of the works, I suppose?

13 A. Yes.

14 Q. Out of any plan or any works or any scope of works as the case
15 may be?

16 A. Yes.

17 Q. Okay. Ms. Balkissoon, are you aware that in or about, and
18 these are my instructions, between 2001 and 2002, there was an
19 incident involving Delta P at the Point Fortin facilities of
20 Petrotrin? Are you aware of that?

21 A. No.

22 Q. Okay. Are you aware that the diver, I'll have to say
23 diver/welder from my instructions, was working in a habitat,
24 there was an explosion, he was sucked into the—into a pipeline
25 on the Point Fortin jetty and that he was rescued successfully by
26 a diver, one diver, with scuba and a rope? Well I can't say he's
27 alive now but he did not die of his injuries.

1 A. Okay.

2 Q. Okay. So, if an incident happened like that having regard to
3 your long tenure in Paria and Petrotrin, wouldn't that form part,
4 well a institutional memory, wouldn't you try to, as you say,
5 engineer your way around a reoccurrence or something of that
6 nature? Because it's something that's already happened in a
7 pipeline—

8 A. It, it really depends on the circumstances by which it, um, that
9 accident and incident occurred, right? Um, I mean, we're
10 always open in safety to learn from incidents of the past.
11 Right? And if that, um, accident report was on paper or
12 something accessible to me, surely I would have [*Inaudible*]

13 **Mr. Chairman:** Can I ask please, Ms. Alfonso, is there a
14 report of this incident? I'm assuming there would be one.

15 **Ms. Alfonso:** Well, my—I must say I have been trying my
16 damndest to get access to some written format and so we were
17 obliged to go to, I should say, the former union, not the
18 SWWTU, in order to get some institutional memory of this
19 incident and the actual gentleman who was rescued is now
20 deceased.

21 **Mr. Chairman:** All right, well I, I think—

22 **Ms. Alfonso:** So you need to get some health and safety
23 persons—

24 **Mr. Chairman:** I would be interested obviously to know, no
25 doubt with others, of such an existence. There's nothing in the
26 papers that we have—of the many tens of thousands of pages
27 that we have, there's nothing to suggest that this had happened

1 then. If it did, could we, can I ask you please to find in your
2 hardest, rather than damndest, to discover such information as
3 you're able to provide to us, please? We will do the same but it
4 seems to me if this lady knows nothing about it we can't really
5 ask her any more about it.

6 **Ms. Alfonso:** And certainly, Mr. Chairman, I said I only
7 recently found out this information—

8 **Mr. Chairman:** All right.

9 **Ms. Alfonso:**—and we have been really trying to see if we can
10 get some documents that would assist, however, of course,
11 because that entity is no longer alive, commercial entity—

12 **Mr. Chairman:** Of course, yes.

13 **Ms. Alfonso:**—um, I, and I think that is—that's part of the
14 difficulty but it seems to me that it, you know—I asked myself
15 the question, could this be the first time that something like this
16 happened ever in the world? And it does not appear that is the
17 case.

18 **Mr. Chairman:** Well, one has only got to go on to Google to
19 find out that that isn't. But leaving that aside, obviously if it's
20 something that has happened at the predecessors to Paria, with
21 many of the same employees still engaged there, there's
22 nothing wrong with you asking them about it, but once the
23 witness has said she knows nothing about it, it's not, it's not
24 fair to her, as it were, trying to elicit it through her or anything
25 more, so leave that subject please? We will do our
26 investigations, you'll do the same.

27 **Ms. Alfonso:** I—

1 **Mr. Chairman:** And I won't stop you asking any other Paria
2 people who might have been there at that time if they know
3 about it. If they do they can no doubt tell you, but, I think
4 that's as far as we can take it with this lady.

5 **Ms. Alfonso:** Thank you very much, Mr. Chairman. Okay, but
6 Ms.—

7 **Mr. Chairman:** I'm sorry, Mr. Ramadhar, is your hand up for
8 a reason to intervene because of some legal position or—

9 **Mr. Ramadhar:** No, um—

10 **Mr. Chairman:** You're just anxious to get on your feet, are
11 you?

12 **Mr. Ramadhar:** [*Inaudible*] Thank you, Sir.

13 **Mr. Chairman:** All right. Hold your horses, Mr. Ramadhar.
14 You'll get the chance.

15 **Ms. Alfonso:** Thank you, Mr. Chairman, and thank you, Mr.
16 Ramadhar.

17 **Continued Cross-Examination By Ms. Alfonso:**

18 Q. Ms. Balkissoon, um, and I am leaving that issue aside but I'm
19 sure I heard you say something in your evidence this morning
20 about your experience in, in, in, I don't know, recovery/rescue,
21 in pipeline. Did I hear it incorrectly?

22 A. Um, yes you did.

23 Q. Okay. Right? Okay. My junior tells me that, you know, he
24 heard the same thing, that you had some experience with rescue
25 operations. I don't know. Maybe I misheard it.

26 A. No, no. So, um, not rescue operations, right, but remember,
27 um, in the refinery world and in the hydrocarbon industry we

1 would have a department called operations, right? And as part
2 of operations you would be part of other IMTs and so on. So
3 it's not operations in the sense that operations of rescue in a
4 pipeline, no.

5 Q. Well are there other kinds of rescues that you're aware of from
6 your involvement in the operations department?

7 A. Yes, well, for example—

8 Q. Uh-huh.

9 A. —right, if someone is feeling unwell on top of his tank that's a
10 form of rescue also.

11 Q. Okay.

12 A. Right? So it's not specific to something that, well, diving and
13 guys in a pipeline. Anybody who has worked in the industry
14 would have, in my field as well as in operations, would have
15 had some level of experience in operations and, yeah, IMT.

16 Q. Okay, and would you be able to tell us, Ms. Balkissoon, from
17 your experience in the operations department or division as the
18 case may be, Petrotrin/Paria would have some emergency
19 protocols, meaning, I'm just using your example—

20 A. Sure.

21 Q. —somebody feels unwell at the top of a storage tank or you
22 know of that nature—

23 A. Sure.

24 Q. —you would have emergency protocols to bring that person
25 safely down?

26 A. Yes.

27 Q. To the, well, to the ground I assume and whisk them away to

1 hospital or give them some emergency care on site, something
2 of that nature, yes?

3 A. Yeah, we'll bring them down, stabilize and so on and send them
4 to the emergency care, yes.

5 Q. So this scenario that we are before the Commission, well, for
6 the last few weeks for, this was also an emergency, yes?

7 A. Yes.

8 Q. And wouldn't quick response be absolutely necessary in this
9 emergency as well involving four different people, not just one
10 person on the top of a tank?

11 A. Yes. Yes.

12 Q. In your view, Ms. Balkissoon, the response of Paria insofar as
13 you were involved, did you find that urgent? Did you find that
14 response urgent in relation to the scenario that was known to
15 you before you came on the scene, which is that four persons
16 were missing and presumably in the pipe, not presumably by
17 that by that time, known to be in the pipe?

18 A. You're asking me if—I just make sure I understand the
19 question.

20 Q. Sure, please.

21 A. You're asking me if I thought—

22 Q. Uh-huh.

23 A. —that the response prior to my arrival on site was urgent?

24 Q. No, no.

25 A. Okay.

26 Q. No. Did you find the response of Paria, of which you were part
27 of it, yes—you're part of the ICT, you're part of the process—

1 did you find that response to be urgent?

2 A. Yes.

3 Q. You found all the actions of Paria to be urgent?

4 A. I found the response to be urgent, yes.

5 Q. Okay. So let's look at that. When I—and I want to be fair to
6 you. I understand your position to be is Paria, including
7 yourself, did not know the conditions in the pipe.

8 A. Correct.

9 Q. Right? And you, I wouldn't carry you over, you know, what
10 you thought were the conditions in the pipe and you didn't
11 know what they were and you wanted to ascertain what they
12 were.

13 A. Correct.

14 Q. Okay. Did you, Ms. Balkissoon, at any point in time think
15 that—okay, so let's be fair to you again. You knew there were
16 divers there with commercial equipment, yes?

17 A. Yes.

18 Q. Okay. Did you—that commercial equipment would have
19 involved surface supplied air, tethering, communication,
20 lighting, to which—all of which the diver who would be, well, I
21 want to say attached to or have access to.

22 A. Yes.

23 Q. Did you see any of that equipment, did you in your own—for
24 your own self did you see any of that equipment able to
25 counteract the risk that you felt existed in the pipeline?

26 A. No—not, not—there's a, there's a, there's a difference.

27 Q. Okay.

1 A. There's a difference, right, to having all the equipment there,
2 right, so, for example, right, communications would have been
3 important, lighting would have been important too.

4 Q. Uh-huh.

5 A. However, to what extent? Because you're in a oil environment
6 and so on, so there's a difference to how much equipment you
7 have, the best equipment you have, and being able to
8 adequately use that equipment in a—to perform a safe rescue.
9 There's a little bit of difference.

10 Q. Ms. Balkissoon, you've said earlier that you are not a diver
11 yourself.

12 A. Yes. But you asked me my opinion.

13 Q. Okay. So you did not feel that having all of these things I just
14 described would be able to counteract the risk that you thought
15 existed in the pipe? So let's take your risk. The plug could
16 move.

17 A. Yes.

18 Q. Yes, and may perhaps cause some other secondary vortex?

19 A. Yes.

20 Q. Although the technical report says differently and my
21 instructions say differently too.

22 A. Okay.

23 Q. But I'm taking you at what you appreciate are the risks.

24 A. Sure.

25 Q. The fact that a diver would be tended and tended means
26 somebody is holding the lighting, the air and so on that is I
27 being supplied to the diver from topside on a vessel, so that if

1 this was created, this person is being held in place, meaning, he
2 can't be sucked further into the pipe because he is being tended
3 topside?

4 A. Yes.

5 Q. Did you not find that, in your mind, I know you said you're not
6 a diver but if that equipment was there, would that not
7 counteract the risk that you believed existed?

8 A. If an event occurred where something is causing a suction and
9 someone is tethered to something then it does this, it's jerked,
10 right, [*Demonstrating a tugging motion with hand*] and the
11 person who's attached means he can't move in the same force
12 that everything else surrounding him is moving, so he would
13 have been jerked and so on. He remaining in place and having
14 other objects past him and so on could mean that things hit him.
15 So—maybe I'm not understanding the question.

16 Q. Okay. So, let me—so one of the things that a diver of that
17 nature would be wearing, Ms. Balkissoon, would be a helmet.

18 A. Okay.

19 Q. So let's assume, again I can't say that I'm an expert in Delta P,
20 if that person really was in that environment you described, he's
21 wearing a helmet, he's being held, he's being tethered—

22 A. Okay.

23 Q. —he can be withdrawn, he can be held in place, he's wearing a
24 helmet so if a tank hit him, an empty or full, for that matter,
25 diving tank hit him, he'd be wearing a helmet which we have
26 heard in previous—from previous witnesses might weigh as
27 much as 28 pounds.

1 A. Okay.

2 Q. All right? Do you not think that that will counteract the risk
3 that you felt—

4 A. No.

5 Q. —was existing? No. Not that either?

6 A. No.

7 Q. So the position is, no matter what equipment came, First World,
8 Second World, best divers in Trinidad, saturation divers,
9 commercial divers, no amount of equipment or personnel would
10 be sufficient to attempt the rescue?

11 A. I could only go and tell you what I saw there. Right? And on
12 that night with that equipment, right, that we had, and based on
13 the experts and the specialist diving companies that were
14 present also, right, all of them said it was too risky and they
15 themselves would have had an understanding, because it's their
16 equipment, of how the equipment works, how it is tethered and
17 the—and they also would have been in the best position to
18 know risk and so on. That, that is what I'm saying.

19 Q. Which specialist said that, Ms. Balkissoon, or which diver said
20 that? Because I just want to be clear. We know from—

21 A. You need to—

22 Q. —we know from Waterworks—is it Waterworks or
23 Waterworld—Waterworld's divers that they were willing to let
24 other certified divers use their equipment because their time to
25 dive had passed, meaning they had been in the water for some
26 time before they came on location to assist. So, they couldn't
27 send their divers because their divers like how I think airline

1 pilots are, they have X amount of hours that they can, can
2 operate in but they were willing to let other people use their
3 equipment to effect the rescue. So could you tell us which
4 divers?

5 A. No, but—

6 Q. Which divers or which experts, to your knowledge, said it was
7 too risky to go down into the pipeline?

8 A. Those, those, those conversations would have been taking place
9 at the ICP level.

10 Q. Okay.

11 A. Inside that—well not level I should say, in that off—not on the
12 barge.

13 Q. So how do you know, Ms. Balkissoon?

14 A. Because Mr. Piper told me.

15 Q. Mr. Piper told you?

16 A. Yes.

17 Q. Okay, Mr. Piper is coming after you. We will ask Mr. Piper.
18 So you do not know, nobody told you Ms. Balkissoon it's too
19 ris—and I want to be fair to you. Lt. Hargreaves would have
20 told you from the coast guard, "We are not trained. We don't
21 have the equipment to undertake this rescue."

22 A. Yes.

23 Q. Not that it's too risky, "We are not trained and we do not have
24 the equipment."

25 A. No, he, he also said it was too risky.

26 Q. Did he not—

27 A. Well that was their first crew, eh.

1 Q. Do you know why he said it was too risky, Ms. Balkissoon? I
2 was trying to be fair to you. Not because he wasn't trained and
3 his men were not trained and they didn't have the equipment?

4 A. Remember he had only scuba. His men, when I showed him
5 the cut riser, he also said it was too risky. Didn't I say that?

6 Q. Did he not also tell you that his men were not trained?

7 A. Yes, he did say he didn't have the commercial equipment.

8 Q. And he didn't have the equipment?

9 A. Correct, correct.

10 Q. So that I put it to you, Ms. Balkissoon, that is why he did not
11 undertake or he and his men to be fair, it's not one person, did
12 not undertake the rescue. They did not have the training. They
13 were not saturation divers. They're not confined spaces divers.
14 They're not being—

15 **Mr. Chairman:** All right, all right, all right, all right, please?
16 Put this—

17 **Ms. Alfonso:** Sorry. I'm sorry I'm sorry.

18 **Mr. Chairman:** Just a moment. Just a moment. Just a
19 moment. You don't need to answer that question. We have the
20 evidence already. The position is clear. As far as I'm aware,
21 the evidence is that the, er—the coast guard were not prepared
22 and regarded it as too risky for themselves because they didn't
23 have either the equipment or the training for their divers to
24 effect the rescue. That is quite a separate matter from
25 commercial divers who arrived on the scene also. So we've
26 already got that evidence. We don't need to pursue it any
27 further and I don't need your view about it, with the greatest

1 respect to you, all right? It's not your fault, Ms. Balkissoon.
2 It's not necessary to put each and every particular divergence of
3 fact to each and every witness. This is not a court of law, all
4 right? We're seeking to establish facts and we'll decide what
5 those facts are in due course. All right, thank you very much.
6 Next matter, please?

7 **Ms. Alfonso:** Thank you, Mr. Chairman.

8 **Continued Cross-Examination By Ms. Alfonso:**

9 Q. Mr. Balkissoon, one of the issues you've raised this morning as
10 well is the presence of oil in the pipeline and the difficulty—I
11 guess you're trying to say difficulty in swimming in it or
12 manoeuvring in it or seeing in it as the case may be, yes?

13 A. Yes.

14 Q. Okay. So if I go towards the end of your witness statement
15 submitted to the Commission, when what is—the water
16 displacement process was being undertaken—

17 A. Um—

18 Q. —I note—

19 A. —which article or—

20 Q. Sorry, the water displacement? We would go to Monday and
21 thereon, if there's the—a system of pumps was being used to
22 pump the pipes from Monday onwards, yes?

23 A. Um—

24 Q. Monday the 28th, I think?

25 A. —during the recovery exercise?

26 Q. Yes, during the recovery exercise, yes, to be fair.

27 A. Okay.

1 Q. I notice what you—this is your narrative, I noticed what you
2 have described as coming out of the pump during the water
3 displacement exercise, is water. For the first day in particular
4 it's water coming out. Yes, am I right?

5 A. Yes.

6 Q. Okay. So that means—and tell me if I'm wrong because I'm
7 likely to be wrong at all times, that means that the contents of
8 the pipeline, a large amount of the contents of the pipeline was,
9 in fact, water?

10 A. Yes.

11 Q. Okay. So that we know—so that when you say that one of the
12 factors which influenced your, um—you, that it was unsafe to
13 go down in the pipeline because it's a lot of oil in the pipeline,
14 isn't it the pipeline you could see when it was pumped was
15 largely filled with water? Seawater I presume? You do say
16 later—again to be fair to you, you do say later that you
17 estimated some oil came out, perhaps mainly on the last day.
18 When you were looking for the fourth remaining diver. And
19 you estimated the amount of oil or hydrocarbon that was still in
20 the line as I think about 200 or 250 barrels, something around
21 there.

22 A. Yes.

23 Q. So, so okay, so that would mean largely what was contained in
24 this particular pipeline running between berth 5 and 6 was
25 water.

26 A. Yes.

27 Q. And therefore, a diver could have—do you think, to be fair to

1 you, do you think a diver would have been able to manoeuvre
2 in a largely water environment?

3 A. Yes. However—yes.

4 Q. Yes. Okay, thank you for that. Okay, so that one of the factors
5 that could—you know, influenced your decision that it was too
6 dangerous to conduct the rescue, that is not so then? Because
7 when you pumped the line, when the line was pumped, it was
8 largely water?

9 A. Yes.

10 Q. Okay, thank you for that, Ms. Balkissoon. Ms. Balkissoon,
11 when, um—there was a report of knocking on the pipe and this
12 would be, this would be—there were two reports to be fair to
13 you, but in your time on the berth or the barge, there was a
14 report that knocking was heard by LMCS' personnel towards
15 berth 5.

16 A. HSE told me, yes.

17 Q. Okay. Oh, well, okay. Your HSE people told you that they
18 heard knocking, that they heard knocking or there was a report
19 of knocking?

20 A. I don't remember.

21 Q. Okay. So didn't you—

22 A. All I knew is that—

23 Q. —you know something was knocking?

24 A. Yeah. All I remember is that they came to me and they said,
25 um, LMCS people saying that they're hearing knocking on the
26 pipe but—and then I asked, I asked the, um, HSE guy, I don't
27 remember his name, um, well who is it so I could talk to them,

1 and, if it was a pattern, you know what I mean, is it, or if it's a
2 random and, um, they said no, they're not—they can't tell me
3 who or anything like that so—

4 Q. Okay.

5 A. —it's—yeah. That's just how it was.

6 Q. So, to be fair again—

7 A. But—yeah.

8 Q. —or, sorry, to be fair to you again, Ms. Balkissoon, in the, um,
9 what the Chairman has described as the document dump that
10 we received on Monday, we have an S. Ramkissoon reported
11 hearing divers knocking. This is the, this is the—this is Paria's
12 records that were supplied from the ICT.

13 A. Okay, um—

14 Q. Right, is that somebody you know, S. Ramkissoon?

15 A. Um, I know—

16 Q. Because this is Paria's, this is Paria's—

17 A. —he's an HSE person.

18 Q. Yeah?

19 A. He's an HSE person.

20 Q. Okay And that is—

21 **Mr. Peterson SC:** Could my friend allow the witness to
22 answer the question when she poses it?

23 **Ms. Alfonso:** Sorry.

24 **Mr. Chairman:** Yes, I think also, I'd quite like to see the
25 document you're referring to. Can you give us a page number
26 please?

27 **Ms. Alfonso:** Fifteen seventy-two, Sir.

1 **Mr. Chairman:** Of the corrected bundle?

2 **Ms. Alfonso:** Unfortunately no, um—

3 **Mr. Chairman:** Fifteen?

4 **Ms. Alfonso:** Fifteen seventy—that's the correct page, yes.

5 **Mr. Chairman:** Right, thank you.

6 **Ms. Alfonso:** Sixteen forty-eight hours.

7 **Continued Cross-Examination By Ms. Alfonso:**

8 A. Um, this is, um, this is, this is where you're referring to?

9 Q. Yes. Sixteen—you're seeing 1648 there highlighted?

10 A. Yes, "S. Ramkissoon reported heard the divers knocking", yes.

11 Q. Okay. So this is before—well this is before Mr. Boodram was
12 rescued?

13 A. Yes.

14 Q. Okay. And I want you to go to the next page which I hope is
15 1573, to 1900—I hate these versions—1959 hours.

16 A. Right.

17 Q. Right? "Faint knocking being heard ever so often, reported via
18 radio personnel", yes?

19 A. Yes.

20 Q. Okay. This would be at berth 5?

21 A. I wouldn't know that. I don't know what information was
22 passed to the ICT.

23 Q. Okay. Sure. So did anybody report to you, Ms. Balkissoon,
24 while you were on or around berth 6, that knocking was being
25 heard?

26 A. Yes. The HSE persons did tell me that the LMCS people—I
27 don't know where. Hold on, I could find it back what time that

1 was.

2 **Mr. Chairman:** It's in your statement at paragraph 21.

3 **Ms. Balkissoon:** Oh, right. Twenty-one has it.

4 **Continued Cross-Examination By Ms. Alfonso:**

5 Q. Did you relay that to the Incident Commander or anybody else
6 in the ICT?

7 **Mr. Chairman:** She says so in the paragraph.

8 **Ms. Alfonso:** Yeah, okay.

9 **Continued Cross-Examination By Ms. Alfonso:**

10 Q. And when you heard this information, when you heard this
11 information about the knocking, Ms. Balkissoon, did that
12 influence your position at all with respect to the rescue?

13 A. Well, well, when, when you mean influence, because this was
14 around eight o'clock, right? I didn't hear any noises or
15 anything like that, right? I believe at that time Visham was still
16 there, right? And I think I might have asked him to go and
17 check.

18 Q. Check?

19 A. Either—

20 Q. Check?

21 A. Check by berth—so on the barge, right, if it is you're on the
22 barge and someone who is an HSE person came and said
23 there's knocking, LMC saying there's knocking, right, I didn't
24 hear it, right, and I've tried to find out, well, who said it, so on,
25 so the next place of information was to go to the berth 5 and I
26 think might have asked Visham to check.

27 Q. Okay. So you yourself did not go—

1 A. No.

2 Q. —to berth 5?

3 A. No, I didn't take the boat to go over, no.

4 Q. So the question was Ms. Balkissoon, the fact that at this time at
5 about eight o'clock—

6 A. Uh-huh.

7 Q. —that there's reports of knocking—

8 A. Uh-huh.

9 Q. —at berth 5—

10 A. Uh-huh.

11 Q. —did that influence your position with respect to the rescue
12 that it should, you know, that it, you know, we should really
13 rescue because by this time diving is stopped. Mr. Piper has
14 told you diving is to stop?

15 A. Yeah, by this time, yes.

16 Q. Right? And there are divers and equipment on site, and now I
17 would use Mr. Ramadhar's formulation from Monday, this
18 might have been proof of life? Knocking inside the pipe might
19 have been proof that other divers, aside from Mr. Boodram,
20 were alive?

21 A. If they were, true, yes.

22 Q. If it were true—

23 A. Yeah.

24 Q. —it might mean that there were people in the pipeline—

25 A. True, yes.

26 Q. —trying to signal—

27 A. Yes.

1 Q. —that they were alive?

2 A. Yes.

3 Q. Did you relay that to the ICT—

4 A. Yes.

5 Q. —commander or chief or anybody else in the ICT?

6 A. Yes. And maybe that's why they have this note or something, I
7 don't know, on the ICT log.

8 Q. Well I'm not sure how it was compiled. I have to confess.

9 A. No well, how it works is that everything, um, that's normally
10 reported in real time, that log is updated by a scribe. That's
11 how it is.

12 Q. So bringing you back to the environment that you felt would
13 not sustain life, we know now that it's largely water from what
14 was pumped from the line on Monday and Tuesday and
15 Wednesday and so on, after the incident, and we also know that
16 up to eight o'clock there are people potentially alive in that
17 environment?

18 A. Yes.

19 Q. And, well, I have your answer already, that did not influence
20 your position with respect to facilitating any, um, any rescue
21 operation so I wouldn't ask. I see you mention a couple things
22 here. There's one you mentioned a GoPro device was
23 discovered at some point in time fairly early because it's around
24 the 6.00 p.m. time which is when you arrived?

25 A. Yes.

26 Q. Okay. And you requested your health and safety personnel to
27 recover it?

1 A. Because I was interested to see what was on it to help to see
2 what caused the event.

3 Q. Okay. And what did you do with the GoPro when it was
4 retrieved?

5 A. I wasn't able to access it.

6 Q. You could help me out a little bit by what that means?
7 Somebody placed the GoPro in your hand and you were not
8 able to access the footage on it?

9 A. I was unable to put my hand on the GoPro.

10 Q. Okay. Okay. Do you know what happened to the GoPro? You
11 asked somebody to retrieve it for you, it wasn't retrieved, do
12 you know what happened to it?

13 A. It wasn't retrieved. It wasn't handed over to Paria.

14 Q. It wasn't handed over, okay. Thank you very much for that.
15 The footage that was received from what went down first is the
16 borescope, yes?

17 A. Yes.

18 Q. Okay. Did you share—I think—I'm sure in your witness
19 statement you said you viewed the footage that was obtained
20 from the borescope firstly, yes?

21 A. Not at that—not on that night, no.

22 Q. Okay. Did—

23 A. And not, and not in real time.

24 Q. Not in real time. Okay. Did anybody, to your knowledge,
25 share the information or the footage obtained by the borescope
26 with anybody from LMCS or any of their rescue divers?

27 A. I can't say that if that was shared at a different level than

1 myself.

2 Q. Sorry, say that again?

3 A. I can't say if it was shared at a different level to myself.

4 Q. Okay, but you yourself don't know?

5 A. No.

6 Q. Okay. And you didn't view it in real time as you said?

7 A. No.

8 Q. And what about the footage from the crawler?

9 A. The footage from the crawler?

10 Q. Uh-huh.

11 A. The footage from the crawler, um, to my knowledge because I
12 looked at it in real time, um, wasn't shared with LMCS, no.

13 Q. No.

14 A. But I don't know and I can't confirm it was shared any time
15 else—

16 Q. Okay.

17 A. —with LMCS.

18 Q. But to your knowledge it wasn't shared with LMCS or any of
19 their rescue divers?

20 A. On that night, no.

21 Q. Well—

22 A. Yeah.

23 Q. —it's an emergency, so you—

24 A. Yeah.

25 Q. Okay. The purpose of the borescope and the crawler, Ms.
26 Balkissoon, was to ascertain what the conditions were in the
27 pipeline, yes?

1 A. Yes.

2 Q. Because you felt that the conditions in the pipeline could not
3 sustain life and might be dangerous for another person to go
4 down into it, yes?

5 A. It would be dangerous for someone to go on, yes.

6 Q. Okay. So would it not have been important, Ms. Balkissoon,
7 for the rescue volunteer divers, I see all sorts of names, but let's
8 say the volunteer rescue divers, would it be important for them
9 to view that so they can, you know, plan, they could plan, you
10 know, a dive or a rescue or put together a plan as the case may
11 be, because they will have information?

12 A. The information would have been shared with our specialist
13 diving companies.

14 Q. Okay. Could you identify who those "our", meaning Paria I
15 presume—

16 A. Yes.

17 Q. —specialist diving companies were?

18 A. OTSL and Mitchell.

19 Q. And Mitchell. Okay. Thank you.

20 **Ms. Alfonso:** Thank you, Ms. Balkissoon.

21 **Mr. Chairman:** Thank you.

22 **Ms. Alfonso:** Thank you very much. Well I'm saying thank
23 you very much. Mr. Ramadhar has his hands up.

24 **Mr. Chairman:** Mr. Ramadhar.

25 **Cross-Examination By Mr. Ramadhar:**

26 Q. Good afternoon, Ms. Balkissoon. You of course wish to
27 expedite your position out of that seat, don't you?

1 A. Yes.

2 Q. Yes. My name is Prakash Ramadhar. I represent Aliyah and,
3 um—[*Crosstalk*]—yeah, of course, Aliyah Henry and the
4 family of Kurban, okay?

5 A. Okay.

6 Q. You appreciate that you would have been in that box a little
7 short, or a little bit beyond two and a half hours?

8 A. My impression of time is somewhat much more than that, but
9 okay.

10 Q. Yeah, okay. Yeah. Seems pretty long, doesn't it?

11 A. Yes it does.

12 Q. Yeah. At least the time that Christopher would have been in
13 that pipe before, by the grace of God, he was rescued, yes?

14 A. Yes.

15 Q. Yeah? Pretty long time, yeah?

16 A. Yes.

17 Q. Yeah. You're a scientist. You told us you believe in English
18 and in maths, correct?

19 A. I'm an engineer.

20 Q. Science.

21 A. Engineer.

22 Q. Engineer. Yes. And you appreciate then engineers deal with,
23 first of all, possibilities, with scientific basis, correct?

24 A. Yes.

25 Q. And then probabilities?

26 A. Yes.

27 Q. Explain to us commoners the distinction between possibilities

1 and probabilities?

2 A. I—

3 Q. Let me help you. It is possible—

4 A. Yes.

5 Q. —that I could win the lotto, right? But it is not probable if I
6 didn't buy a ticket, you agree?

7 A. It is possible for you to win the lotto.

8 Q. Yes.

9 A. And it's probable because you didn't buy a ticket?

10 Q. Yeah.

11 A. Well it's impossible—

12 Q. Thank you so much.

13 A. —if you didn't buy—

14 Q. So that if you took no action to rescue, no rescue was possible.
15 You agree?

16 A. No, I don't agree.

17 Q. If you took no action to rescue, no, zero action to rescue, no
18 rescue was possible.

19 A. No, I don't agree.

20 Q. Well, explain.

21 A. Because if I took no action—

22 Q. When I say you, let me—I put that in Paria and the resources of
23 the state. If no action was taken to rescue then no rescue was
24 possible?

25 A. There were other people there, though.

26 Q. All right. And you have told us Paria took a decision that no
27 diving, right?

1 A. Yes.

2 Q. So that, let's—we don't have much time, eh. I mean,
3 unfortunately. If no action by anyone is taken to rescue there
4 will be no possibility of a rescue. You agree with that, don't
5 you?

6 A. Yes.

7 Q. Thank you so much. Now, we've been hearing about this Delta
8 P business, right? The function basically in a pipeline laden
9 industry is basically Delta P. You pump and you push. Isn't it?

10 A. Yes.

11 Q. Yes. And therefore, one of the highest forms of your expertise
12 will be about pumping, vacuum creation and pushing and
13 creating Delta Ps, isn't it?

14 A. No.

15 Q. No?

16 A. No.

17 Q. Isn't it one of the largest parts of oil production or oil
18 movement, pumping?

19 A. Yes.

20 Q. Thank you.

21 A. But—

22 Q. Now, I want to, and I want to, I want to ask one big favour of
23 you, please? Because the gentlest of—

24 **Mr. Chairman:** If Ms. Balkissoon, as she's done with
25 everyone, including me, wants to give an answer which she
26 does, and to be commended for it but then adds a but, she must
27 be allowed to say what the but is, all right?

1 **Mr. Ramadhar:** Oh, oh sorry, sorry, sorry. Of course.

2 **Mr. Chairman:** She has the commendable aspect of
3 answering questions with a yes or no and then adding her but,
4 which I would encourage everyone to do. And so if there is a
5 but—

6 **Mr. Ramadhar:** Yeah.

7 **Mr. Chairman:**—but, um, so, can I, um—

8 **Mr. Ramadhar:** Of course.

9 **Mr. Chairman:**—she did but and then you cut in, so allow her
10 to say what she has to say.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 A. Well, well, I mean, oil movement, yes, but you asked me about
13 my experience. I'm not only experienced in oil movement and
14 so on, eh. I would have worked on reaction type plans, et
15 cetera, so—

16 Q. In fact, you have a wider experience and knowledge than just
17 that simple issue of Delta P, correct?

18 A. I wouldn't say simple, but yes.

19 Q. Yes. But you know full well that a large part of the business
20 involves Delta P as a matter of the daily exercise of your
21 functions of that institution of Paria, isn't it?

22 A. Yes.

23 Q. Thank you. Now, I was asking a favour please, because the
24 gentlest of gentlemen brought you to tears and I do not intend
25 to do that. Okay?

26 A. Well I do appreciate that.

27 Q. Thank you. It is nothing personal. You, of course, appreciate

1 that immediately upon the accident being reported to you with
2 your wide experience, '98, you were there, 1998, Nyree?
3 Yeah—that accidents do occur from time to time on the plant,
4 in the industry, yes?

5 A. Yes.

6 Q. Yes. And you have told all of us that one of your grave
7 concerns, which you shared with your team, was the issue of
8 the further movement of this plug, correct?

9 A. Yes.

10 Q. Which may have created a catastrophic movement to endanger
11 the lives that are already imperilled within the pipe, correct?

12 A. Yes.

13 Q. And possibly those who may wish to put their lives literally on
14 a line, we heard about tether, to save them. Their too—their
15 lives too could have been imperilled, yes?

16 A. Yes.

17 Q. Now, we're dealing with fluids, air in the pipe, air? Did you
18 have a view that there would have been air in the pipe at any
19 stage?

20 A. If you look at my statement—

21 Q. No, no, I'm not interested in your statement. I'm interested in
22 your evidence as you have sworn here today, sitting as you are
23 with the widest of experience. Did you consider that there may
24 have been air in the pipe at any stage?

25 A. I thought it if it had air—

26 Q. Uh-huh.

27 A. —it would not be called air. It would be called a vapour space.

- 1 That's one. Two, it's very unlikely with a very high—
- 2 Q. Uh-huh—
- 3 A. —level on one side—
- 4 Q. Right.
- 5 A. —right—
- 6 Q. Of what, unlikely what? Finish you with a but or whatever, uh-
- 7 huh.
- 8 A. Well if you allow me, right?
- 9 Q. I am.
- 10 A. So there's unlikely on one side—
- 11 Q. Yes.
- 12 A. —you have a liquid level, right?
- 13 Q. Yes.
- 14 A. And then you have a plug—
- 15 Q. Yes.
- 16 A. —which stuck.
- 17 Q. Uh-huh.
- 18 A. You have a force of liquid—
- 19 Q. Uh-huh.
- 20 A. —pushing down that you're going to have any significant
- 21 vapour space—
- 22 Q. Yeah.
- 23 A. —in that line.
- 24 Q. Right. So whether we call it air, we call it vapour space we call
- 25 it water, we call it oil, fluids, right, in that confined, yes?
- 26 A. Yes.
- 27 Q. And that this plug that you were mortally afraid of moving as

1 you have—help us, isn't it that one of the causes that in your
2 surmise is that it had been deflated somewhat and that caused
3 the movement into the pipe?

4 A. Yes.

5 Q. Right. So it is not a full plug at that stage, because it would
6 have been in, at some level, deflated, correct?

7 A. Correct.

8 Q. Right. So the likelihood, as a scientist or whatever you want to
9 be, common sense person, that that was unlikely to create a
10 restrictive, vacuum-proof barrier, wouldn't it?

11 A. I don't understand the question.

12 Q. I, I, I expected you not to. Did you expect it to reinflate itself,
13 to reinflate itself—

14 **Mr. Peterson SC:** *[Inaudible]*

15 A. I am not, I am not—

16 Q. You know if you want to go into the witness box I am so
17 delighted to take you after hours, but I am dealing with this
18 witness here and—

19 **Mr. Chairman:** I know, but it was quite not a question.

20 **Mr. Ramadhar:** Yeah. Of course—

21 **Mr. Chairman:** Please, please ask the question again—

22 **Mr. Ramadhar:** Of course. Yeah.

23 **Mr. Chairman:**—and it's about the question—

24 **Mr. Ramadhar:** Thank you.

25 **Mr. Chairman:**—because I didn't follow it.

26 **Mr. Ramadhar:** Of course.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. This plug, did it reinflate itself to become a plug again?

2 A. The plug was stuck in the pipe.

3 Q. Well yeah. Well when you mean stuck, to the point that
4 nothing moved beyond it?

5 A. To the point that when we opened it—

6 Q. Opened what it?

7 A. The flange—

8 Q. Uh-huh.

9 A. —at berth 5—

10 Q. Uh-huh.

11 A. —there was a difference in level between 5 and 6—

12 Q. Yes.

13 A. —days later—

14 Q. Right.

15 A. —right?

16 Q. Thank you.

17 A. Okay.

18 Q. Right? Okay. So, tell all of us, with your science, that if you
19 wanted to prevent the furtherance of a, of a Delta P to cause
20 catastrophic movement, what is the simplest answer to that?
21 How do you do that, not to plug off or put a flange at 5, to
22 prevent the movement of air or fluid out of it, yes or no?

23 A. No, no.

24 Q. No?

25 A. No.

26 Q. Is that what you ultimately did, though, to mitigate the danger
27 of a Delta P recurring?

1 A. No.

2 Q. You all never plugged off one end?

3 A. We, we, we removed the, the blind flange from 5.

4 Q. You removed?

5 A. Yes.

6 Q. You removed—let me have you quite clear, you removed what
7 from 5?

8 A. The, the, the, the blind flange—

9 Q. Uh-huh.

10 A. —from on top of 5—

11 Q. Right.

12 A. —we took it off.

13 Q. And, and that—what was the purpose it was put there?

14 A. Because when they finished the CARBER testing on 5—

15 Q. Uh-huh.

16 A. —and they checked it was good, as part of their works is that
17 you don't leave an open pipeline, you, you, you close it—

18 Q. Right.

19 A. —with, with a blind flange.

20 Q. Yeah. So, when you removed—

21 **Mr. Chairman:** Put a lid on it.

22 **Mr. Ramadhar:** I beg your pardon, Sir?

23 **Mr. Chairman:** That's what she means you put a lid on it.

24 **Mr. Ramadhar:** Yeah.

25 **Mr. Chairman:** Right.

26 **Mr. Ramadhar:** Yeah.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. So having put a lid on it—

2 **Mr. Peterson SC:** [*Inaudible*]

3 **Mr. Ramadhar:** My friend knows everything.

4 **Continued Cross-Examination By Mr. Ramadhar:**

5 Q. When you removed the lid, would there not have been a danger
6 of movement of the Delta P, yes or no?

7 A. There's no, there's no danger of movement of Delta P, you
8 mean movement of the plug?

9 Q. Yes.

10 A. Yes, yes.

11 Q. Thank you.

12 A. Yes.

13 Q. But the differential moves, right? There are different areas for
14 different differentials? You agree with that?

15 A. One side of the plug—

16 Q. Uh-huh.

17 A. —would have had a higher pressure—

18 Q. Right.

19 A. —than the other side.

20 Q. Yes.

21 A. So that would cause the plug to move.

22 Q. Good.

23 A. Right?

24 Q. There we go. We understand each other now. So having
25 removed that flange, was there not a danger in causing a
26 differential P to cause movement of the plug?

27 A. Yes.

1 Q. What time was that flange removed?

2 A. I can't remember, maybe about in the three o'clock or—

3 Q. There you go.

4 A. —four o'clock in the morning or something around there.

5 Q. Now—so by which time—

6 **Mr. Chairman:** Five o'clock in the morning, half past 4.00.

7 **Continued Cross-Examination By Mr. Ramadhar:**

8 Q. Five o'clock in the morning.

9 A. Right.

10 Q. So by which time we take it then that you were no longer afraid
11 of the movement of this plug and the differential P causing a
12 catastrophic vortex?

13 A. At that time, right, we would have already knew that we can't
14 really enter and see anything else from berth 6.

15 Q. Wow.

16 A. So we moved—

17 Q. Hold on. I'm sorry, if I'm, you dropped your voice a little bit.

18 **Mr. Chairman:** She's saying, she's saying something.

19 **Mr. Ramadhar:** Yes.

20 **Mr. Chairman:** Let her finish.

21 **Mr. Ramadhar:** Yes.

22 **Continued Cross-Examination By Mr. Ramadhar:**

23 A. So by that time when we moved the plug, the blind flange from
24 5—

25 Q. Uh-huh—

26 A. —it was because we would have already installed the riser on 6,
27 we would have been—we would have sent a crawler in and we

1 couldn't go any further and we couldn't see any further, so
2 then, you, you—it's a pipe, you could only go from either one
3 side or the other, right, so we went to the other side and took off
4 the lid, right, and we sent the crawler in from that end.

5 Q. Beautiful.

6 **Examination By Mr. Chairman:**

7 Q. Can I understand that, please? Given that there was a plug in
8 the pipe which you guarded as a really rather important issue—

9 A. Yes.

10 Q. —what was the point of sending a crawler in on the other side
11 of that plug? There couldn't have been, could there, anything
12 other than fluid on the other side of it?

13 A. I—at that time, I would not have known what size that plug
14 could have been deflated to. Right? I, I would—

15 Q. You mean it could have been made so small that a person could
16 have gone past it?

17 A. I won't, I won't, I wouldn't have known that. I wouldn't have
18 known if it's—what's possible or what's not, if there was none.

19 Q. Well undeflated—that's not a right word.

20 A. Deflated.

21 Q. Uninflated. Uninflated or deflated, either of those would work,
22 so, um uninflated, how big is the pipe anyway, the plug
23 anyway, did you know?

24 A. At that time, no.

25 Q. I mean it's quite important to know that, isn't it? I mean, if you
26 take pressure out of the plug and it's still quite big it's like a car
27 tyre, isn't it, in a way?

1 A. Yes, yes.

2 Q. Whereas how we've been likening it to that, obviously with the
3 weight of the car on the tyre it makes it flat so that you can see
4 that you've got a flat tyre when it's not inflated, yes?

5 A. Yes.

6 Q. If you take the wheel off the car, it doesn't look uninflated,
7 does it?

8 A. No.

9 Q. Deflated. It doesn't look deflated because it's, it's just a big
10 thing, a big, round thing, isn't it?

11 A. Yes.

12 Q. I'm assuming the plug is the same.

13 A. Well, from my understanding, and reading a little bit after—

14 Q. Yes.

15 A. —you know, Google, the plug is a certain size inflated and a
16 certain—when you deflate it, it becomes smaller.

17 Q. Well obviously it's—

18 A. But, but, but, no, but, um a little—

19 Q. But are you saying that you, you, you—deflated it was small
20 enough for persons to have passed by it?

21 A. I, I can't remember now but it's—to me it was about I don't
22 know, 18 inches or something, I can't remember exactly, I'll be
23 guessing.

24 Q. To you it was what?

25 A. I think it's about 18 inches or something like that.

26 Q. Eighteen inches?

27 A. Yeah, it's on the, um—I allowed to say where I got the

1 information from?

2 Q. Well we've got a document which deals with the plug
3 somewhere.

4 A. Or.

5 Q. We'll find it and have a look.

6 A. Okay, because it's a, it's, um, it's from the—

7 Q. We've got the manufacturer's—

8 A. Yeah.

9 Q. —specifications as well.

10 A. Yeah. Okay?

11 Q. But I, I, I'll—all I'm interested in, and I think Mr. Ramadhar is
12 interested in is, if it is deflated, is it so small that it is now
13 possible for a person or, say, an air tank to go past it, or is it just
14 slightly smaller so that it's not—

15 A. Well—

16 Q. —clinging to the sides?

17 A. Well, I mean, if you're taking into account also that people
18 were saying they were hearing knocking, but from 5—

19 Q. Uh-huh.

20 A. —then, I mean, it—you couldn't see anything from 6, so, you
21 want to check and open and see if you could see anything from
22 5 side.

23 Q. From 5, yeah.

24 A. Yeah, you know—

25 Q. But that rather presupposes, doesn't it, that it was capable of
26 being small enough—

27 A. Yes.

1 Q. —for someone to get past it in a 30-inch pipe?

2 A. Yes.

3 Q. Did you understand at the time—

4 A. No.

5 Q. —before opening the flange—

6 A. No.

7 Q. —at number 5, whether that was possible?

8 A. No, I didn't know.

9 Q. No. Did you seek to anybody about that?

10 A. No.

11 Q. No, all right, thank you.

12 **Mr. Chairman:** I'm sorry, Mr. Ramadhar.

13 **Mr. Ramadhar:** I'm very grateful to you, Sir.

14 **Continued Cross-Examination By Mr. Ramadhar:**

15 Q. So, we're sending in the camera from one end, yes? You
16 believed, of course, science tells us that the plug would have
17 gone in first from 6, berth 6, into the pipe and then the men?
18 You agree with that?

19 A. Yes.

20 Q. Yeah. Now, when you arrived on the scene, your function was
21 the point person for the Incident Command Team or incident
22 management team, is that accurate?

23 A. Yes.

24 Q. Your function was to provide as best information to the team so
25 that proper and intelligent decisions could be made. Is that
26 accurate?

27 A. Yes.

1 Q. Yes. And of course, you appreciate in a moment of anxiety and
2 a moment of catastrophe that your function is not one of being
3 sitting in an office, as an example, but you have to go out and
4 get information, yes?

5 A. And receive, yes.

6 Q. And receive, of course, multiple sources, isn't it?

7 A. Yes.

8 Q. Yeah? To that end you wouldn't rely only on speaking with
9 one person?

10 A. No.

11 Q. No. To that end you will listen to different points of view and
12 different information and then pass that on? You were not the
13 decision-maker. Let me get that clear. You were not the
14 decision-maker on that scene that day at that time?

15 A. Oh, sorry, no I wasn't.

16 Q. No. So, you understood, if I may say not just your sole, but
17 your most crucial function, was the, what shall I, the ears and
18 the eyes of Paria on that scene, yeah?

19 A. Yes.

20 Q. Right. Seeing that you'd been in the system for so many years
21 before, you know that oil floats, correct? In water, I beg your
22 pardon. Oil floats in water.

23 A. Yes.

24 Q. Yes. You heard and you had seen indeed this boat returning to
25 shore whilst you were going, and you learned at some stage that
26 Christopher, a survivor, had been in that boat, yes?

27 A. Yes.

1 Q. And you took time to tell us that he was covered in oil, yeah?

2 A. Yes.

3 Q. That was a crucial part, in your mind, of the information you
4 required? Yes or no?

5 A. It was a crucial part of information, yes.

6 Q. Yes. You appreciate that air pockets could happen in a, in
7 aquarium at your home or in any water environment?

8 A. You meaning when air is bubbled through the aquarium?

9 Q. Yes.

10 A. Yes.

11 Q. Right? Or pockets in a pipe?

12 A. Yes.

13 Q. Right, including Paria pipe will have air pockets from time to
14 time?

15 A. Yes.

16 Q. Right. And with a Delta P, you would expect to have air
17 bubbles because that is a suction issue with a vortex, water and
18 oil coming in, isn't it?

19 A. It's a two-phased flow, yes.

20 Q. Yes. And you appreciate that Paria's pipes are not pristine in
21 terms nobody went in with a scrubbing brush and, and, and
22 detergent and cleaned it out so that there'll be no remnant oil in
23 a pipe? You agree with that, yes?

24 A. Not this time, yes.

25 Q. Eh?

26 A. Not this time, yes.

27 Q. Right. So that you appreciate that a diver will seek to find

1 wherever there's a supply of air, air pocket or so, yes?

2 A. Vapour space, yes.

3 Q. Vapour space. You like this thing vapour space. Right? I'll
4 call it air pocket, you keep with your vapour space.

5 A. Sure.

6 Q. Right. And above the water, if there is such a thing as a vapour
7 space or air will be water first, as you told us, air above, and in
8 between that where oil floats on water there'll be oil, correct?

9 A. Yes.

10 Q. Right. You would imagine, would you not, it'd be very
11 probable that a diver will be trying to obtain whatever vapour
12 space he could get and therefore have to pass his face through
13 that film, if I may put it like that, of oil, yes?

14 A. Yes.

15 Q. Yes. But you were of the view, without knowing much more,
16 that there may have been a far larger quantity of oil in that pipe
17 to the point that visibility would have been impossible, isn't it?

18 A. I'm saying that I wouldn't have known—

19 Q. Of course.

20 A. —how—okay.

21 Q. But without knowing, you formed the view, because you told us
22 this, that visibility is impossible in oil. We agree with that,
23 maybe?

24 A. Yes.

25 Q. Yes. So, you took out the ability to see within the pipe without,
26 without information, isn't that correct?

27 A. No.

1 Q. That was your assessment. Did you convey that assessment
2 that visibility would have been removed because of oil in the
3 pipe?

4 A. I'm saying visibility would have been impaired because of oil
5 in the pipe.

6 Q. Yes.

7 A. Yes.

8 Q. Impaired to the point, and I don't want to go back into what you
9 said this morning, I still remember it, that impaired to the point
10 of being non-existent?

11 A. If you, if you recall—

12 Q. Help me, I'm, I'm not infallible.

13 A. —right, if you recall, I said that you can't see in oil.

14 Q. Yes.

15 A. I never—

16 Q. That's the point.

17 A. —that's what, that's what I said.

18 Q. Yeah.

19 A. Right? Now you're speaking about because it's a pipe, right?

20 Q. Uh-huh.

21 A. I don't know if you all hearing me, right? It's a pipe, right, and
22 you're saying the oil, there's water and then there's oil and then
23 there's a vapour space. How do you know, how do you know it
24 was not water, oil and vapour space? Additionally—

25 Q. Hold—no hold, hold, hold, hold—

26 A. No, no, wait.

27 Q. —but you asked a question.

1 A. No, but, you see—

2 Q. So I want, I want to be clear—

3 **Mr. Peterson SC:** Will you allow the witness to answer the
4 question?

5 **Ms. Balkissoon:** I'm trying really, really hard to—

6 **Mr. Ramadhar:** He probably doesn't like the answer.

7 **Mr. Ramadhar:** I like all the answers, Mr. Peterson, all of
8 them.

9 **Mr. Chairman:** Just a minute. You've got to let her—

10 **Mr. Ramadhar:** Yes.

11 **Mr. Chairman:**—give her own explanation, all right?

12 **Mr. Ramadhar:** Yes. How do I know?

13 **Continued Cross-Examination By Mr. Ramadhar:**

14 A. Right? And, and remember, right, so if you have oil and water
15 and you mix it up, it's not just going to be instantly, right, water
16 and then instantly it settles into oil. Right? When you whip or
17 you have some turbulence—

18 Q. Yeah.

19 A. —right, you're going to have a oil and mixture with water and
20 so on and it takes a little time for that to occur to settle. I
21 cannot say the—well I can't say the impact of how long it will
22 take in salt water because it all depends on impurities and so on
23 for how long something takes to settle. Right. That's all I was
24 trying to say.

25 Q. Yeah, I heard you. So you think it would take at least two
26 hours for water to rise or the oil to rise? Which is it?

27 A. Well, I don't know. I haven't performed that particular

1 scientific experiment.

2 Q. You're still working at Paria?

3 A. Well for this—for the time being, yes.

4 Q. Oh, well, are you still part of the incident management team,
5 Madam?

6 A. The Incident Command Team is stood down now.

7 Q. Stood down?

8 A. Yes. It's only activated when you have an emergency.

9 Q. Are you still part of the team?

10 A. No.

11 Q. No. Are you part of a structure?

12 A. Yes.

13 Q. Well let me finish because I don't want no buts after this one,
14 right? Are you still part of any structure for planning for
15 emergencies?

16 A. Yes.

17 Q. Wow. So, we do know that Christopher came out of that pipe?

18 A. Yes.

19 Q. And as you, as you appreciated, he was a live witness, correct?

20 A. Yes.

21 Q. So that you of course we appreciate that you believed that there
22 were others who may have obtained information and, and, and
23 as you say multiple sources coming to you and you would make
24 inquiries of others. When you got there, knowing that there
25 was a live survivor and your function was to go and get the best
26 evidence, best information as Mr. Maharaj always reminds us,
27 from whom did you obtain information in relation to

1 Christopher Boodram?

2 A. As when I arrived on the, um, barge—

3 Q. Yes.

4 A. —right, I would have spoken to, um, the Paria people who were
5 on site.

6 Q. The Paria people mean what? Whom? Names?

7 A. I believe—

8 Q. Or you know nobody there? Or people below your rank they
9 don't even bother to speak with and you only dealing with a
10 certain rank of people? Isn't that it? You're too big to talk to
11 small people to get information, isn't that—

12 **Mr. Peterson SC:** Mr. Chairman, Mr. Chairman, Mr.
13 Chairman.

14 **Mr. Ramadhar:** I am putting that to him.

15 **Mr. Chairman:** Enough.

16 **Mr. Peterson SC:** Yeah.

17 **Mr. Chairman:** Yes, now, that's going too far. All right?

18 **Mr. Ramadhar:** Withdrawn. Thank you so much.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Now, let me know from whom did you—whom did you speak
21 with from Paria to get information?

22 **Mr. Chairman:** She's already told us she's spoken to Andrew
23 Farah.

24 **Mr. Ramadhar:** Not from—that is LMCS. I'm talking about
25 Paria.

26 **Mr. Chairman:** Yes, yes, sorry.

27 **Mr. Ramadhar:** Yes.

1 **Mr. Chairman:** She's already told us she spoke to Andrew
2 Farah from LMCS—

3 **Mr. Ramadhar:** Yes.

4 **Mr. Chairman:**—when she was there. She regarded him as
5 the lead or supervising diver.

6 **Mr. Ramadhar:** Right.

7 **Mr. Chairman:** That's the person she liaised when she was
8 there.

9 **Mr. Ramadhar:** Yeah.

10 **Mr. Chairman:** Hence you're asking about Paria now?

11 **Mr. Ramadhar:** Yeah.

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. Paria has a structure, correct?

14 A. When I arrived on site—

15 Q. Uh-huh.

16 A. —right, I can't remember whether it would have been Visham
17 or Jason Beckles, right, or anyone of HSE guys who told me
18 about it, but there—you will have to understand, right, there
19 were a number of people on that day on the barge, all present.
20 Right? And I can't remember who told me, but as soon as I
21 reached someone did tell me, because, I mean I would have
22 seen him, we passed like this, [*Indicating by moving hands one*
23 *past the other*] right, and as soon as I reached—

24 **Mr. Chairman:** We've covered this ground—

25 **Mr. Ramadhar:** Sir, you see, because I don't want—

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. Forgive me. When I try to interject is not to stop you from

1 saying what, but it's that matters that we have already dealt
2 with so we could save some time. You remember you told us
3 you went there as the eyes and the ears of Paria to make
4 decisions back to your commanding officer, Mr. Piper, correct?

5 A. Yes.

6 Q. Yes. Did you ascertain from anyone with specifics as to the
7 condition of divers who were still in the pipe upon your arrival?
8 Did you do that?

9 A. When I arrived I was informed of Mr. Boodram's condition and
10 how it was reported that, um, he said his father right behind.
11 That's the information I had. I also asked, well, anybody else?
12 And they said no.

13 Q. Hold, hold, hold, hold, wait, so let me get this.

14 A. So, that is—no, but that is the information, as soon as I
15 arrived—

16 Q. Yeah.

17 A. —on site—

18 Q. Right.

19 A. —an incident site or an accident site, right, you, you—you're,
20 you're busy trying to find out, as you come, you go like, "Okay,
21 so what's going on?" I saw someone being this way,
22 transported back to shore, and I came, I said, "Okay, so I just
23 saw somebody", that, that sort of information. Right?

24 Q. No, no, no, well—

25 A. If, if—I didn't write down every single thing.

26 Q. We appreciate that, but you went there with—on a mission.
27 You went there and let's see if we could have a listing here, to

1 ascertain whether men were alive or dead. Let's put it as
2 bluntly as that, correct?

3 A. No, I wouldn't put it like that.

4 Q. Okay, you wouldn't put it like that. So you went there to
5 ascertain whether men could have been saved? Yes or no?

6 A. I went there to assess the scene.

7 Q. For what purpose, to put a report?

8 A. No.

9 Q. No.

10 A. To render—

11 Q. To render. Yeah. There being a live person having just come
12 out, all you learned was that, and what you just said, "His father
13 is right behind." Is that it?

14 A. Yes.

15 Q. Thank you. You never then enquired of the father, now we
16 ain't talk—we're talking about Christopher Boodram here,
17 having said that to someone who reported that to you, you
18 never enquired about the other—how many, how many did you
19 believe other divers were involved at that time?

20 A. Four.

21 Q. Four. Could you give me their names?

22 A. Sir, listen, eh, this is—[*Ms. Balkissoon crying*]

23 **Mr. Chairman:** Take a moment. Let's take a moment. I
24 don't—do we need her to recite the names of the people who
25 died? Is that really necessary?

26 **Mr. Ramadhar:** Well I would hope so. But if it is—

27 **Mr. Peterson:** [*Inaudible*]

1 **Mr. Ramadhar:** You know, we keep hearing these mutterings
2 about drama.

3 **Mr. Chairman:** No, no, no, well, just a minute. We're not
4 going to press that question.

5 **Mr. Ramadhar:** No, I will withdraw it.

6 **Mr. Chairman:** Yes.

7 **Mr. Ramadhar:** I ask you please, don't cry for me. And I
8 apologize.

9 **Mr. Chairman:** Just, just, just take a moment. Look, we're
10 both guilty of this.

11 **Mr. Ramadhar:** No, you are not, Sir, I am. I beg your pardon.

12 **Mr. Chairman:** We're guilty of this. We must recognize that
13 on any view and whatever we may conclude at the end of this,
14 four people have died and this lady was part of the team, er,
15 um—

16 **Mr. Ramadhar:** Responsible.

17 **Mr. Chairman:**—res—

18 **Mr. Ramadhar:** Yes

19 **Mr. Chairman:**—responsible for the activities that night.

20 **Mr. Ramadhar:** Yes.

21 **Mr. Chairman:** And as a human she's bound to be affected by
22 the fact that people died, in a sense, on her watch.

23 **Mr. Ramadhar:** Yes, Sir.

24 **Mr. Chairman:** So we can't, we can't ignore that fact. I
25 appreciate that then there are questions that need to be asked
26 where they need to be asked, but asking her to name the four
27 people who died is not a question that needs to be asked, all

1 right?

2 **Mr. Ramadhar:** I appreciate that.

3 **Mr. Chairman:** So—

4 **Mr. Ramadhar:**—but there's a reason—

5 **Mr. Chairman:**—could we—

6 **Mr. Ramadhar:**—and I will withdraw.

7 **Mr. Chairman:**—bearing in mind, bearing in mind the time
8 now, I was hoping that this lady might conclude her evidence
9 before lunch so that she doesn't have to have it stewing over
10 lung and have to come back afterwards, so, let's see how we go,
11 please, but can I ask you to move along a little?

12 **Mr. Ramadhar:** I thought I was doing so and, and, and, and
13 that is why I sometimes, you know, get ahead of myself in not
14 asking or allowing the witness to repeat that which was pretty
15 obvious.

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. So, tell me something, in an accident is there a presumption of
18 death or a presumption of life that you take?

19 A. Depends on the accident I suppose.

20 Q. Yes. In this one, what was the presumption you went there
21 with, upon your arrival?

22 A. Life.

23 Q. Life? And therefore, you appreciated action needed to be taken
24 in a matter of minutes because we're dealing with air, vapour
25 space, isn't it?

26 A. When I arrived at six o'clock, yes.

27 Q. Right. And what time the accident occurred?

1 A. Two forty-five.

2 Q. How much? Two forty-five? So two plus hours having passed,
3 what was your view, it being in your mind that this place, that
4 flooded pipe was with water and oil and vapour, what was your
5 view as to the likelihood of life within that pipeline? Slim,
6 wasn't it?

7 A. Okay.

8 Q. Yeah. Not okay; that you were the decision-maker in terms of
9 the information you had to relay, isn't it? With your leave,
10 Your Worship, I mean My Lord, um, Commissioner, may I—
11 this dump that was cast upon us lately, was there a white board
12 at the command centre before you left?

13 A. I went—I didn't go upstairs. I won't know that.

14 Q. So you didn't go to find out up there what had happened
15 already, what they knew already before you went there?

16 A. The incident meeting took place downstairs. When I came—

17 Q. Yes.

18 A. —it was downstairs.

19 Q. Okay.

20 A. Right?

21 Q. Okay, we're not in a upstairs downstairs situation. Was there a
22 white board in the downstairs meeting area, a white board with
23 all the issues, what they know, what they didn't know, huh?

24 A. Yes.

25 Q. Good. Was there not on that board 1548 p.m., that is 3.48 p.m.,
26 correct, that a decision had been taken or at least a view
27 formed—

1 A. I'm not seeing where you're—

2 Q. I'm not asking you to look at anything and we will show you it
3 in a moment.

4 **Mr. Chairman:** But I need to know where you're going.

5 **Mr. Ramadhar:** Of course. I beg your pardon then and we
6 will go by the time. What page number? Fifteen seventy-two.
7 Could we move to the time frame of 15, 15—

8 **Mr. Chairman:** Which day?

9 **Mr. Ramadhar:** This would be on the 25th. Sixteen? Fifteen.
10 [*Crosstalk*]. Yeah, 1548.

11 **Mr. Chairman:** Yes: "1548, HSE personnel reported chances
12 of survival are slim."

13 **Mr. Ramadhar:** Thank you so much.

14 **Mr. Chairman:** Yes.

15 **Continued Cross-Examination By Mr. Ramadhar:**

16 Q. And you went with that view—

17 **Mr. Chairman:** Just a minute. Just a minute.

18 **Mr. Ramadhar:** I beg your pardon, Sir.

19 **Mr. Chairman:** Do you see that Ms. Balkissoon?

20 **Ms. Balkissoon:** You mean the, um, ICT log?

21 **Mr. Chairman:** Yes, in the log, do you see it says there 1648?

22 **Ms. Balkissoon:** Yes, I see that, yes.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. Yes. So that those who had been gathered in this meeting you
25 had downstairs had that information?

26 A. Okay. You'll have to ask them that, but okay.

27 Q. Well, you had—you didn't know this?

1 A. I didn't see that, "Chances of survival are slim".

2 Q. Why did you not enquire, when you got there, people living,
3 people dead, what is the likelihood?

4 A. When I got there I went downstairs, right?

5 **Mr. Chairman:** Now, now you don't need to answer that
6 question. What we know is this, that that's at 1548. This is
7 pre-Boodram's rescue. When she arrived, Boodram had been
8 rescued.

9 **Mr. Ramadhar:** That's the point.

10 **Mr. Chairman:** The position had somewhat changed.

11 **Mr. Ramadhar:** And that's the point.

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. So between the time of that notation and the time that you
14 arrived and knew that Boodram was alive, there was a view
15 held by Paria that the likelihood of survival was slim at best,
16 isn't it?

17 A. I cannot comment on what is written there because I didn't see
18 that.

19 **Mr. Chairman:** I think that's better directed to Mr. Piper,
20 don't you?

21 **Mr. Ramadhar:** All right. We look forward to him. So—

22 **Mr. Chairman:** Well the sooner we [*Inaudible*]—

23 **Mr. Ramadhar:** Sir, with all due respect—

24 **Mr. Chairman:**—the quicker we're going to have Mr. Piper.

25 **Mr. Ramadhar:** I don't want the burden on my shoulders that
26 I'm keeping back this thing. I have a job to do and I'll do it as
27 quickly as I can and because—you're highly favoured, Sir, and

1 I appreciate that and, um, I will do what I can to speed it along.

2 **Continued Cross-Examination By Mr. Ramadhar:**

3 Q. Now—so you went there on site with a presumption of life,
4 yes?

5 A. And a hope in my heart, yes.

6 Q. “And a hope in my heart.”

7 A. Yes.

8 Q. Acting upon that hope, when Mr. Piper gave you an instruction
9 around 7.00 p.m. that there should be no further dive, did you
10 make an inquiry of him, because—as to what is the next step in
11 saving these lives knowing time was of a—the most critical
12 nature?

13 A. Yes.

14 Q. Yes. Did you ascertain from him what that plan was, to get a
15 camera to go in?

16 A. Yes.

17 Q. Right. Camera does save lives or they help only in making
18 decisions?

19 A. Cameras provide information that can—

20 Q. Uh-huh.

21 A. —save a rescuer’s life, yes.

22 Q. Thank you. When was the decision made, having received all
23 that you could have, that, let us do the rescue?

24 A. I didn’t understand the question so—

25 Q. Right. I’ll repeat it.

26 A. Or break it down.

27 Q. When—I will not wreck it down. I will help—I will simplify it.

1 A. Okay.

2 Q. Right. When was the decision made by Paria to execute a
3 rescue to save the lives of these men?

4 A. It was not made to have a rescue.

5 Q. Thank you. Let me hear you, eh. Paria did not make a decision
6 to rescue the men. That is that. Thank you. Now, Madam, Mr.
7 Piper, when did you first see him on the site?

8 A. When I arrived?

9 Q. Uh-huh. And at the site of the accident?

10 A. I, I—he—if you're asking me if he was there that night, is that
11 the question?

12 Q. I'm asking you when did you first see him on the site of the
13 accident?

14 A. I would have left the site of the accident at 6.00 in the—that
15 morning, so it is that but—

16 Q. Right. So you saw him at 6.00?

17 A. No, I didn't.

18 Q. So during that period Piper never came on, on site?

19 A. No.

20 Q. Did you see Mr. Wei?

21 **Mr. Chairman:** That really isn't his job. The IMT specifies
22 he's not—he's meant to be at the IMT.

23 **Mr. Ramadhar:** Absolutely.

24 **Mr. Chairman:** Unless you want to attack the whole premise
25 of the IMT, which you're at liberty to do.

26 **Mr. Ramadhar:** Which is what I think, if—

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. Well let me put it to you like this.

2 A. Uh-huh.

3 Q. In all the procedure and all the plans and everything that you
4 had, four men died. Do you think that you and your procedure
5 and your, and your plans and everything was adequate?

6 A. If you—you're asking me if I think the IMT plan was adequate?

7 Q. All of it.

8 A. You're asking me if the IMT plan is adequate?

9 Q. All of it.

10 A. All of what?

11 Q. All of Paria's plans, resources, IMT plans, do you think it's
12 adequate?

13 A. I think we—what we did, I think we did the best we could have
14 done.

15 Q. So—

16 A. At—well—

17 **Mr. Chairman:** No, let her finish please?

18 **Mr. Ramadhar:** Yes, yes, yes, yes.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 A. Right? I think we did the best that we could have done.

21 Q. Yes.

22 A. Right? That is what I think.

23 Q. The best?

24 A. I, I—let me finish, right, and let me say, right—

25 Q. I getting bouff here now, boy?

26 A. —I've been thinking about it for quite some time every day, is
27 there something else, right—

1 Q. Look, we appreciate that, you know. You're a human being as
2 Mr. Peterson reminded me.

3 **Mr. Peterson SC:** You didn't know that before I said it?

4 **Mr. Chairman:** So, what you're saying is that ever since you
5 have been searching your own mind to see whether there was
6 something more you could have done?

7 **Ms. Balkissoon:** [*Nodding*]

8 **Mr. Chairman:** Have I got that right?

9 **Ms. Balkissoon:** Uh-huh.

10 **Mr. Chairman:** Yes, can we move on, then?

11 **Mr. Ramadhar:** Thank you, of course.

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. How would you rate the per—the, um—rate yourselves on that
14 day.

15 A. Against which yardstick? Against saving a rescuer's life? I
16 think I did well.

17 Q. Of course.

18 A. Right?

19 Q. You saved the world and allowed four to pass—to perish. That
20 is the equation, isn't it? You knew, did you not, that the man's
21 son was willing to go and, like risks for all first responders,
22 took that upon himself and said, "I am willing to go". You
23 knew that?

24 **Mr. Chairman:** We have already asked that, well I have, a
25 asked that question already.

26 **Ms. Balkissoon:** I just.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. Well, with all due respect, right, you knew, not just he but
2 several others were willing to—

3 **Ms. Balkissoon:** Mr. Chairman—*[Ms. Balkissoon sobbing]*

4 **Mr. Chairman:** We, we—yes. You want a break?

5 **Ms. Balkissoon:** *[No audible response]*

6 **Mr. Chairman:** Yes, right, well, first of all can I say—well,
7 you can have your break. Please, allow—take the lady out.
8 We're going to adjourn for lunch now. You'll have your lunch
9 hour now, right? So go with this gentleman here.

10 *[Ms. Balkissoon leaves Enquiry room]*

11 **Mr. Chairman:** Mr. Ramadhar, I asked that question. It
12 generated the same responses we've just obtained. It is not
13 necessary for you to ask the question again. We know that
14 there is a different equation between those who are related to
15 those inside the pipe might have taken a rather different view
16 about risking their own lives. I asked her if she took that into
17 account. She got upset. We don't need to press it any further.

18 **Mr. Ramadhar:** With all due respect, I have no intention of
19 pressing that issue of whether it was her own son, no. I'm on a
20 different level because this is a structure and no structure is
21 anything other than the people who are within it. And the—

22 **Mr. Chairman:** We've already—

23 **Mr. Ramadhar:**—have to ascertain how we could prevent this.

24 **Mr. Chairman:** I know, but Mr. Ramadhar, we've already
25 elicited the fact that at no time did the IMT recommend a
26 rescue. That—we've established that and that, that—we will
27 consider in due course whether that was an appropriate action

1 or not. But the position as it stands at the moment was that they
2 never made that recommendation irrespective of the fact that
3 there were those who were both prepared and potentially
4 willing and able to perform a rescue were permitted to do so.
5 They were not, according to Paria. All right? So that's where
6 we are. What more do you have after lunch?

7 **Mr. Ramadhar:** Sir, I have a few short areas so I will address
8 that then.

9 **Mr. Chairman:** What sort of time are we talking about?

10 **Mr. Ramadhar:** Maybe 15 or less minutes.

11 **Mr. Chairman:** Can we keep it to 15, please? All right?

12 **Mr. Ramadhar:** I will try to make it even less.

13 **Mr. Chairman:** Do your best to keep it to 15.

14 **Mr. Ramadhar:** Of course.

15 **Mr. Chairman:** Thank you.

16 **Mr. Ramadhar:** As I say, you're highly favoured, yes, and
17 your words do mean a lot. We appreciate that.

18 **Mr. Chairman:** Complimenting me isn't going to get you any
19 longer [*Inaudible*]

20 **Mr. Ramadhar:** I know, It never has, so—

21 **Mr. Chairman:** It's a nice try but it's not going to work.

22 **Mr. Chairman:** Mr. Pegus, do you have any questions?

23 **Mr. Peterson SC:** I have two—oh, sorry.

24 **Mr. Chairman:** Just a moment. Mr. Pegus, do you have any
25 questions?

26 **Mr. Pegus:** No, Mr. Chairman, no questions for this witness.

27 **Mr. Chairman:** No, right. Mr. Peterson, I imagine you will

1 have some—

2 **Mr. Peterson SC:** Sir, I have two questions.

3 **Mr. Chairman:** Two questions. And what about you, Ms.
4 Persaud Maraj?

5 **Mrs. Persaud Maraj:** I have just one area. It's—

6 **Mr. Chairman:** Well it is a pity that we couldn't have—

7 **Mrs. Persaud Maraj:** Yeah, I, I don't propose to take any
8 length of time.

9 **Mr. Chairman:**—concluded this and allowed this lady to have
10 gone off before lunch. Anyway, there it is, we've not been able
11 to do that. We will resume at two o'clock sharp. I expect her
12 to have concluded by 2.30, all right, and then we will have Mr.
13 Piper. Thank you very much. We're adjourned till after lunch.

14 **1.02 p.m.:** *Enquiry suspended.*

15 **2.00 p.m.:** *Enquiry resumed.*

16 **Mr. Chairman:** Good afternoon.

17 [*Ms. Balkissoon re-enters Enquiry room and sits at witness*
18 *table*]

19 **Mr. Chairman:** All right, Ms. Balkissoon, you all right?

20 **Ms. Balkissoon:** Yes, thank you.

21 **Mr. Chairman:** Yes? I'm hoping we'll be able to dispose of
22 your evidence within the next half an hour or so, all right?

23 **Ms. Balkissoon:** Sure. Yes.

24 **Mr. Chairman:** We'll do our best. Yes, Mr. Ramadhar.

25 **Mr. Ramadhar:** Thank you very much, Chairman.

26 **Cross-Examination By Mr. Ramadhar:**

27 Q. Good afternoon, Ms. Balkissoon.

1 A. Afternoon.

2 Q. Could I just take you back to an equally important issue, at least
3 it appears to be? A GoPro is what, a camera, yes?

4 A. Yes.

5 Q. And you all had delayed that, I mean you all, Paria, had delayed
6 any effort until you had cameras going in to ascertain the status
7 within the pipe, yes?

8 A. Yes.

9 Q. Yes. You appreciate the camera was found within the pipe, the
10 GoPro, sorry?

11 A. Yes.

12 Q. Yes? And therefore, crucially important in your mind would be
13 the contents of what it had recorded?

14 A. Yes.

15 Q. Yes. And you being the senior Paria person on site, did not
16 view what was recorded on that GoPro?

17 A. No, I did not.

18 Q. No. And common sense would indicate, wouldn't it, that if the
19 GoPro was within the pipe, there would be recordings of
20 material within the pipe?

21 A. Well, to go to the extent of wherever it was found.

22 Q. There you go.

23 A. Yes.

24 Q. And you made efforts, of course, as the most senior Paria
25 personality there, to view it?

26 A. Yes.

27 Q. And someone or something prevented you from so doing?

1 A. I was unable to get ahold of it, yes.

2 Q. What does that mean? It slip out your hand? It was too oily?

3 A. That means that the person that had it did not share it.

4 Q. I see. And who was that person?

5 A. Well, I can't say who—exactly who it was but it was people
6 from LMCS huddled around looking at something.

7 Q. Thank you. Did you make a request of the lead person at
8 LMCS to view the contents of the GoPro?

9 A. I spoke to Collin.

10 Q. I didn't ask you whether you spoke to Collin I asked you if you
11 made a request of the lead person LMCS to view the contents
12 of his—of the GoPro?

13 A. No, I didn't ask Kazim—

14 Q. No.

15 A. —Ali.

16 Q. Okay. You didn't ask Kazim. You asked Andrew Farah?

17 A. No, I didn't ask Andrew Farah.

18 Q. No. Thank you very much. Now, what time did you observe
19 the coast guard being present?

20 A. Around half 8.00.

21 Q. Around half 8.00?

22 A. Well, which, which coast guard? Because there were two sets,
23 right?

24 Q. Wow, well, you seem to know more. The first set of coast
25 guard that you saw, when did you first see them?

26 A. When I arrived.

27 Q. They were already there?

1 A. Yes.

2 Q. And what time, remind us, you arrived at?

3 A. Around 6.00.

4 Q. Around 6.00.

5 A. Yeah.

6 Q. And of course you observed coast guard's personnel with
7 machine guns?

8 A. They had—well, I don't know the difference but they had guns,
9 yes.

10 Q. Not handguns, longer guns.

11 A. Long guns, yes.

12 Q. Yes. Paria has its own private security, does it not?

13 A. Paria has security, yes.

14 Q. Yes. You observed Paria security present?

15 A. No.

16 Q. When, if at all, did you observe any Paria security personnel on
17 the scene of the accident?

18 A. When I went across to berth 5—

19 Q. Yes.

20 A. —I saw Paria security there. I can't remember seeing any Paria
21 security on the barge.

22 Q. Around what time did you first see Paria security personnel?

23 A. On the barge, on the—

24 Q. Wherever, on the scene area, meaning 5 or 6, barge or
25 wherever?

26 A. That would have been when I went across with the, um, the
27 crawler, so that would have been maybe around fiveish.

1 Q. Yeah. Around fiveish?

2 A. I don't remember the exact time, maybe about five o'clock, um,
3 Saturday morning.

4 **Examination By Mr. Chairman:**

5 Q. And this is berth 5 not 6?

6 A. Yes.

7 Q. Yes. There was no one at 6?

8 A. No, I—remember I was on the barge and I didn't see any
9 security on the barge or so on.

10 **Mr. Ramadhar:** Excellent.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 Q. And the coastguardsmen that you had first seen, when you first
13 saw them, where were they?

14 A. They were in their vessel.

15 Q. Vessel meaning what, a big, boat or a little, um, what you
16 described us to?

17 A. No, no, it was, um, it was small because when I came I had to
18 kind a go over on their boat too—

19 Q. Right.

20 A. —to go on to the, um, space.

21 Q. Excellent. And of course you as the senior Paria personnel on
22 site at that moment saw and spoke with the senior
23 coastguardsperson on site at that moment?

24 A. No.

25 Q. No? When did you first see and/or speak with a
26 coastguardsperson in authority there?

27 A. Mr. Hargreaves.

1 Q. Thank you very much. By which time of course, as you have
2 indicated, there would have been—a second batch of
3 coastguardsmen had come?

4 A. Mr. Hargreaves, from my understanding, would have been the
5 people, the diving part—

6 Q. Right. But a—

7 A. —of [*Inaudible*]

8 Q. —second crew, if I may call it that, of coast guards?

9 A. Yes, they were, um—

10 Q. Yes.

11 A. Mr. Hargreaves came on to the barge, yes.

12 Q. Yes. Now after the conversation with Mr. Hargreaves and he
13 had indicated clearly to you that they were in no capacity to do
14 any rescue, he remained on site together with other
15 coastguardspersons, isn't it?

16 A. He was with his—he was with his—the rest of his dive crew.

17 Q. Yes.

18 A. Yes.

19 Q. And other coast guard persons with guns?

20 A. Not on the barge.

21 Q. No, no, in the vicinity of where the accident occurred.

22 A. The coast guard would have been in their vessel, well, that part,
23 that particular people of the coast guard were in their vessel
24 which was adjacent to, um, the barge, yes—well, yeah.

25 Q. Within the close vicinity of where the accident occurred?

26 A. Yes.

27 Q. Where the diving was taking place?

1 A. Yes.

2 Q. Yes. There were two authorities on site then, that is you,
3 representing Paria, correct?

4 A. Yes.

5 Q. And the coast guard, they were an authority there also?

6 A. Yes.

7 Q. Yes. You saw and spoke regularly with members of the coast
8 guard there or only Mr. Hargreaves?

9 A. With Mr. Hargreaves.

10 Q. Yes.

11 A. And, um, a Maharaj, sometime, well, by phone.

12 Q. Oh, I see. And tell us now, please, that when the order came
13 for there to be no diving after seven o'clock or thereabouts from
14 Mr. Piper, you conveyed that information to whom first?

15 A. Well—

16 Q. Forget that you put it on speakerphone, right? Forget the phone
17 part. Who was that information conveyed to?

18 A. LMCS.

19 Q. And who else?

20 A. LMCS.

21 Q. And the coastguardsmen were right close by, were they not?

22 A. No.

23 Q. Where were they at that time?

24 A. I don't know where they were.

25 Q. Yes.

26 A. But they weren't in my vicinity at all.

27 Q. Well, vicinity means what?

1 A. They weren't on the barge.

2 Q. What was the closest distance—

3 A. No, it's—

4 Q. Let's not waste too much time. How far away might they have
5 been?

6 A. Well I don't know. I, I don't remember seeing any coast guard
7 at that time. Mr. Hargreaves came around half past 8.00 or so
8 with his crew.

9 Q. Right the first crew?

10 A. Right?

11 Q. Yes.

12 A. The other person, they were in their boat, I mean, I didn't pay
13 attention if he was there when I was saying it or not, I don't
14 know, because, to me they were moving around too, huh.

15 Q. Thank you.

16 A. I don't remember seeing—

17 Q. They were not static, they were moving around?

18 A. Yeah.

19 Q. Is that accurate? Correct?

20 A. I don't remember seeing any coast guard there.

21 Q. Yeah. So tell us now, please, there came a time when you saw
22 no further diving taking place, isn't that accurate?

23 A. Yes.

24 Q. What time was that?

25 A. I don't remember.

26 Q. Help us a little bit.

27 A. Well, I trying to help the best. I don't remember. I can't put a

1 exact time, right? They were diving and then they stopped
2 diving and I know it was sometime before nine o'clock they
3 stopped.

4 Q. Yes. While the coast guard were present?

5 A. It might be around the same time. I don't know.

6 Q. Thank you very much. Tell us now, you said something very
7 interesting as you told us when you started you believe in
8 English and in maths—

9 A. Well I—

10 Q. —that Mr. Hargreaves—

11 A. —I didn't say that, I didn't say that but go ahead.

12 Q. No, I don't want to misquote you. I'm the fairest person you'll
13 meet you know.

14 A. Really?

15 Q. Yes.

16 **Mr. Peterson SC:** [*Inaudible*]

17 **Continued Cross-Examination By Mr. Ramadhar:**

18 A. I said—

19 Q. Even Mr. Peterson agrees. Yeah, yeah.

20 A. No, no, go ahead ask the question.

21 Q. Yeah.

22 A. I want to go home.

23 Q. You said, you said that Mr. Hargreaves, speaking to you,
24 requested to be stood down. Remember having said that?

25 A. That, that would have been sometime early in the morning—

26 Q. Yes.

27 A. —Hargreaves asked, um, if they would be needed again in the

1 night and if they could be stood down.

2 Q. Thank you much, meaning that they could be relieved from
3 duty, isn't it?

4 A. Well, be moved from the site, yes.

5 Q. Yes. And they spoke to you—

6 A. Yes.

7 Q. —asking to be stood down?

8 A. Yes.

9 Q. And you of course gave your authority and consent to that?

10 A. I said I will—I'll talk to Collin Piper, the commander.

11 Q. Thank you.

12 A. And I did.

13 Q. Yeah.

14 A. And then I relayed the information.

15 Q. And then they left?

16 A. After—yes.

17 Q. Thank you so much.

18 **Mr. Ramadhar:** Mr. Chairman if you'd just give me one
19 moment to—

20 **Mr. Chairman:** Of course.

21 **Mr. Ramadhar:**—I think I'm within my 15 minutes,
22 admonished as I have been, I have learned.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. Michael Kurban, you said had been—well you saw him and
25 you knew who he was at some stage?

26 A. Yes.

27 Q. Yes. And he was clearly in an upset state of mind from what

1 you observed?

2 A. Yes.

3 Q. Yes. Emotional?

4 A. Yes.

5 Q. Do you know why?

6 A. Yes.

7 Q. Why?

8 **Mr. Chairman:** Well, really?

9 **Mr. Ramadhar:** Well it may be obvious to some but there's a
10 record that's to be made.

11 **Mr. Chairman:** Well that is obvious to everybody?

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. And for the record, did you know why.

14 A. Well maybe you should ask Mr. Kurban why—

15 Q. Yeah, well, he—

16 A. —he was emotional.

17 Q. Yes. He was prevented from saving his father. You knew that?

18 A. Okay.

19 **Mr. Chairman:** All right.

20 **Mr. Ramadhar:** Thank you. Thank will be all.

21 **Mr. Chairman:** Great, thank you. Yes, Ms. Persaud Maraj,
22 would you like to ask some questions? Yes.

23 **Mrs. Persaud Maraj:** Thank you, Mr. Chairman.

24 **Cross-Examination By Mrs. Persaud Maraj:**

25 Q. My name is Kamini Persaud Maraj and I'm attorney-at-law for
26 LMCS.

27 A. Yes.

1 Q. Ms. Balkissoon, I'd like to take you to Saturday the 26th—

2 A. Saturday? Sure.

3 Q. —of February. In your statement at paragraph 36 you said
4 there was a meeting between Kazim Ali Sr., Mr. Wei, Mr.
5 Collin and yourself.

6 A. Um—

7 Q. Paragraph 36. It would be page one three three four.

8 A. Yes.

9 Q. Right. Would it be fair to say that the—

10 **Mr. Chairman:** We have that on the screen, please?

11 **Continued Cross-Examination By Mrs. Persaud Maraj:**

12 Q. The two constant persons in that meeting was actually you and
13 Mr. Kazim Ali Sr.?

14 A. There was a point in time that it was just Kazim and myself,
15 yes.

16 Q. Right. So, Mr. Wei and Mr. Piper wasn't always in that
17 meeting with you and Mr.—

18 A. That's true.

19 Q. Right. Good. And that meeting lasted for about two, two and a
20 half hours?

21 A. No, no.

22 Q. Up to lunchtime?

23 A. No, I don't recall it being so long, no.

24 Q. You don't recall it being so long?

25 A. No.

26 Q. All right. My instructions are that that meeting lasted up to
27 about lunchtime—

1 A. Okay.

2 Q. —with you—

3 A. Okay.

4 Q. —and Mr. Ali.

5 A. Okay.

6 Q. So, in that meeting, Mr. Ali came to the ICT or he came to the
7 terminal building?

8 A. Yes.

9 Q. And he came to speak to the persons there, which included
10 yourself in part—in full, and in part Mr. Piper and Mr. Wei,
11 about rescue plans?

12 A. I can't say what his intent was but I know he came.

13 Q. And he was discussing rescue plans?

14 A. All he said, he came to tell me—well, at that meeting, right, he
15 told me about a bar that had to be removed which was news to
16 me, right? There's a, there's a bar across the riser, right, and he
17 told me that he thinks the plug was intact, right? He told—
18 yeah, right, told me he mentioned something about, I don't
19 know, some pumps he had saw by the, um, gate or something
20 like that.

21 Q. And that was all that he discussed with you?

22 A. Yes.

23 Q. So, by your estimation that meeting would have lasted for about
24 10 minutes, 15 minutes?

25 A. No, it was longer.

26 Q. Pardon?

27 A. It was longer because that's was—that was the work part of it.

1 Q. Right.

2 A. But then after, um, he went on to—

3 Q. To discuss rescue?

4 A. No, to discuss the fact that he think he lost his son and the
5 reason he was thinking of—well—

6 Q. I'm sorry?

7 A. —some personal stuff he discussed about his family.

8 Q. All right. I'm going to take you to paragraph—well, can the
9 witness be shown the witness statement of Mr. Kazim Ali at
10 page 486 of the witness bundle? Witness statement bundle,
11 well, paragraph 40. According to Mr. Ali's evidence that he
12 has given, which is already before this Commission, he says at
13 this paragraph:

14 "I had just finished saying"—well, let me take you to the
15 last sentence of that paragraph there. "We then discussed
16 further my plan for dive rescue which involved, one, a
17 surface supplied rescue diver outfitted with escape
18 bottle."

19 Sorry.

20 A. Okay. [*Ms. Balkissoon is assisted by Enquiry staff*]

21 Q. Yeah.

22 A. Yes, I have it.

23 Q. Yes, you're with me now?

24 A. Yes, I have it.

25 Q. Right. So it's the second sentence there.

26 "We then discussed further my plan for dive rescue
27 which involved a surface supply rescue diver outfitted

1 with escape bottle, spare airline and communication to
2 surface entering the pipe feet first, the rescue diver
3 reversing into the pipe until reaching one of the trapped
4 persons, the rescue diver getting a rope around the person
5 he finds to act as a lifeline, the rescue diver giving the
6 person being retrieved a regulator via spare airline, the
7 crews diver escorting the person back topside while the
8 surface crew takes up slack on the rope. When the pair
9 gets to the top of the riser the surface crew would assist
10 the rescue out of the chamber and the procedure would
11 be repeated for the remaining men. While the rescue was
12 being executed, spare dive sets would be left in the
13 pocket to sustain remaining people.”

14 According to Mr. Ali’s statement and evidence that is currently
15 before this Commission, this is what he said he discussed with
16 you as the plan on Saturday the 26th of February, 2022.

17 A. Okay, if that’s what he said.

18 Q. Are you saying that this never happened?

19 A. I’m saying this was not discussed with me, what—from
20 items—actually the whole of number 40, because, by that time I
21 didn’t have to get any call about anybody willing to go in the
22 pipe or anything. That just didn’t happen.

23 Q. Okay. So, it was—so you’re talking about you never had to get
24 any call. And that is in direct reference to a plan that he was
25 explaining that you laid out to him that Paria had. So the first
26 question that I would have there, was there not a plan that Paria
27 had to empty the line and have a confined space expert enter for

1 the purposes of commissioning a rescue?

2 A. Yes, but—

3 Q. Yes.

4 A. But that was not Saturday morning. That was Saturday
5 sometime in the evening they were discussing it and also, right,
6 that plan was in place since actually—

7 Q. Ms. Balkissoon, I'm asking you about the discussion with Mr.
8 Ali. I'm not asking you when Paria would have come up with
9 the plan.

10 A. Sure.

11 Q. I'm not asking you—

12 A. Item 40, that didn't happen with me.

13 Q. Item 40 didn't happen with you?

14 A. That, that, what's on that screen, that discussion did not take
15 place.

16 Q. All right.

17 A. Which other one?

18 Q. And you're saying that there was never a con—and, in your
19 answer to me you said there was never any call that you
20 received?

21 A. Correct.

22 Q. Correct. Right. Now I'm taking you back to a plan that Paria
23 had, which, my instructions are you communicated to Mr. Ali
24 on that morning and that's the plan that I just explained about a
25 confined space expert entering a dry pipeline.

26 A. And I'm saying I didn't tell Mr. Ali about that.

27 Q. You didn't tell Mr. Ali about that plan?

1 A. Yes.

2 Q. Okay. I'm going to put you to that, at that meeting on
3 Saturday, you did explain that plan to him and he told you that
4 you would not be able to find someone who would be willing to
5 go into a dry pipeline to commission a rescue. You can answer
6 that.

7 A. I'm saying I didn't have that conversation at all with Mr. Ali.

8 Q. All right. And I'm also saying that whilst you were in this
9 meeting and discussion with Mr. Ali, you would have received
10 a call that had—the contents of which was that there was no
11 one willing to be able to go into the pipeline according to the
12 plans that you—that I had just explained.

13 A. That's what I'm saying. That discussion that Mr. Ali—

14 Q. Conjuring?

15 A. I didn't say conjuring. I'm saying that item 40, as well as any
16 discussion about a confined space and he's telling me that I
17 won't get anybody and then subsequently I'm getting a call,
18 that didn't happen.

19 Q. Nothing of that sort happened?

20 A. No.

21 Q. So he simply went there on Saturday to bare his personal issues
22 to you?

23 A. No. I believe he went there to inform me that there was a bar
24 across the riser and that we would need to do that because it
25 would hamper any other efforts.

26 Q. And that was the only purpose for him being there?

27 A. Well I can't speak to what Mr. Ali was going there else for.

1 Q. Okay.

2 A. But I can only tell you what he told me—

3 Q. All right.

4 A. —on that day.

5 Q. Okay.

6 A. Which was the riser, oh, and about the plug.

7 Q. So I'm going to put to you that you are being untruthful, that
8 Mr. Ali came on Saturday and he had for two and a half hours
9 sat with you, and, from time to time in the presence of Mr. Wei
10 and Mr. Piper, discussing rescue plans.

11 A. No, I'm not being untruthful.

12 Q. And I'm also going to say to you, that, as part of those
13 discussions he mentioned to you some divers, some—13
14 persons who were rescued in Thailand—

15 A. He did not—

16 Q. —from a confined space.

17 A. He didn't mention that either. If you look also, because I
18 wasn't allowed, I flipped the page to the one before, and he
19 says, he says something about he met with Paul Yearwood and
20 myself and Michael Wei.

21 Q. No, I'm not asking you about, about—

22 A. I'm sorry, I shouldn't do that but, I read before.

23 Q. I'm asking you about the meeting on Saturday the 26th, that
24 commenced about 9.45, around 10.00 a.m..

25 A. I'm, I'm saying again, no such discussion took place—

26 **Mr. Chairman:** Right.

27 A. —with myself.

1 **Examination By Mr. Chairman:**

2 Q. Can I, can I be clear? Um, just so that we do understand it, you
3 met with him for a fair amount of time that morning, whether it
4 was all morning or part of the morning—

5 A. Yes.

6 Q. —whether it was up to lunchtime—

7 A. Yes.

8 Q. —I'm not particularly concerned about.

9 A. Yes.

10 Q. But you met with him not for 5 or 10 minutes but for more than
11 that, a considerable amount of time?

12 A. Yeah, maybe—no, it won't have—maybe, maybe it was close
13 to like an hour or so—

14 Q. Right, all right.

15 A. —if so much.

16 Q. Let's pro—let's proceed on the basis for an hour or so.

17 A. Yeah.

18 Q. This is Saturday morning, yes?

19 A. This is Saturday morning.

20 Q. It's at the IMT?

21 A. It's in a separate room which would have been adjacent to my
22 previous office, yes

23 Q. Right. And there's you there, him there, who else?

24 A. Michael Wei was there for a while as well as Collin Piper was
25 there.

26 Q. Michael Wei?

27 A. Michael, yes, as well as Collin Piper.

1 Q. And Mr. Piper. Anyone else?

2 A. Um, I think Rajiv or, um, somebody came in for a permit or
3 something like that.

4 Q. Right, right, but those were the four that were present that time
5 that morning?

6 A. Yeah, but Rajiv only came in and out.

7 Q. Whether somebody came in or out—

8 A. Yeah.

9 Q. —doesn't particularly concern me.

10 A. That's—

11 Q. The four of you were having this meeting. During the course of
12 that meeting, is it your evidence that there was no discussion of
13 rescue?

14 A. No, there was no discussion of rescue.

15 Q. Right. So whatever the position is, whatever else you might
16 have discussed, rescue did not feature?

17 A. No.

18 Q. Right, thank you. And you understand that that's been put to
19 you that that's not true and you've denied that? You said
20 that—

21 A. Yeah, I—

22 Q. —that was the position?

23 A. I mean, I have my own memory.

24 **Continued Cross-Examination By Mrs. Persaud Maraj:**

25 Q. All right, Sunday morning, you received a call from Mr. Ali?

26 A. Sunday mor—yes, that would have been early.

27 Q. Right. And he asked you to arrange for a meeting with the

1 IMT?

2 A. He said he was coming on site with a diver.

3 Q. Right. And did he not explain to you that he was coming on
4 site with a diver to discuss his plans for rescue?

5 A. He said he was coming on site with a diver and that's it.

6 Q. That's it?

7 A. Yeah.

8 Q. That was the extent of it and you made the arrangement—

9 A. Yes.

10 Q. —for that meeting?

11 A. Yes, yes. Now, hold on, right, I would have been, um, under
12 the impression that it might have been for a rescue, eh. I'm just
13 saying—putting it out there. It's not like I asked him
14 specifically or anything. Right?

15 Q. All right. And this was on Sunday, so Sunday you were of the
16 impression that he wanted to discuss with the IMT the
17 possibilities and the—

18 A. That was my impression.

19 Q. That was your impression?

20 A. That was my impression.

21 Q. But on the Saturday when he met with you, he made no such
22 discussion with you?

23 A. No.

24 Q. All right.

25 **Mrs. Persaud Maraj:** That is all for this witness, please.

26 **Mr. Chairman:** Mr. Peterson.

27 **Examination By Mr. Peterson SC:**

1 Q. Two questions, Sir. Ms. Balkissoon, I just want to take you
2 quickly to the point, I didn't quite get the full explanation when
3 you were talking about the friction with the movement of the
4 plug in the horizontal. Could you just explain the friction part
5 of it?

6 A. Well, what I was just trying to say is that something could be
7 stuck, something could be stuck and therefore it couldn't be
8 moved, right? Something like, um, what, what Mr. Chairman is
9 saying, it could be compressed so that you have a compressed
10 air and the force of the liquid. Right? So meaning that it is a
11 compressed movement. What I was trying to explain, really,
12 just like if you have the plug moving along, it could have
13 stopped a little bit on its own because, I know—I trying not to
14 use, um—it loses its momentum, all right? And that could be
15 because you have something on the other side slowing it down,
16 right, so it may not necessarily be something that compresses
17 the liquid so much so that you have compressed air on one side.
18 That, that, that's all I was trying to say.

19 Q. Okay. And—

20 A. I mean, it doesn't make any real, not real material difference.

21 **Mr. Chairman:** I didn't hear that.

22 **Ms. Balkissoon:** I didn't want to say, um, it makes any real
23 material difference really because, I mean, it's beyond me to
24 figure out where that plug stopped, eh. I'm just saying
25 mathematically.

26 **Continued Examination By Mr. Peterson SC:**

27 Q. Okay. And, lastly, at some point, um, Mitchells and OTSL—

1 A. Yes.

2 Q. —those are commercial diving outfits?

3 A. Those are, um, the specialists, specialty diving people.

4 Q. They came on site at the behest of Paria?

5 A. Yeah, I think it was maybe around—it was somewhere just
6 around we did the, um, the crawler video.

7 Q. Yes.

8 A. So that would have been somewhere midnight, one o'clock,
9 somewhere around that time.

10 Q. And notwithstanding they being commercial divers summoned
11 there by Paria, did they attempt to dive after assessment?

12 A. No, they didn't.

13 Q. Okay.

14 **Mr. Peterson SC:** Thank you, Mr. Chairman, that's all.

15 **Mr. Chairman:** Yes, um, two things, please. First of all, as I
16 understand it, Mr. Maharaj, we—the plug that was actually
17 removed from the pipe is available? It's at In-Corr-Tech's
18 office, is that right?

19 **Mr. Maharaj SC:** Yes.

20 **Mr. Chairman:** Is there any reason why we can't have it here,
21 not today obviously, but at some point?

22 **Mr. Maharaj SC:** It's possible. It's possible.

23 **Mr. Chairman:** Right.

24 **Mr. Maharaj SC:** I saw it there. We saw it there.

25 **Mr. Chairman:** Okay. Well, in the light of that I'm not going
26 to ask these questions about plugs and so on. Seems to me we
27 might as well have the plug and make have a look at it.

1 **Mr. Maharaj SC:** Yes.

2 **Mr. Chairman:** And then we can make up our own mind
3 about its diameter and whether it'll pass—if somebody could
4 pass—

5 **Mr. Maharaj SC:** That's right.

6 **Mr. Chairman:** All right, so that—if that could be arranged
7 I'd be grateful.

8 **Mr. Maharaj SC:** Yes. It—

9 **Mr. Chairman:** The second thing is this.

10 **Examination By Mr. Chairman:**

11 Q. And you may or may not be able to help me, Ms. Balkissoon,
12 but—

13 A. Sure.

14 Q. —it struck me that it was potentially possible to calculate the
15 amount of air a man would need to survive for a—per hour?

16 A. Yes.

17 Q. And that that is simply a mathematical exercise with a plus or
18 minus depending on how he breathes. I mean, I know, I go
19 diving, I tend to last—a tank lasts me maybe 45 or 50 minutes.
20 Some people seem to make it last double that, but, be that as it
21 may, it seems to me that some sort of average could be arrived
22 at as to the volume of air, or, as I think you prefer to call vapour
23 space that might be available—

24 A. The volume.

25 Q. —for someone to breathe.

26 A. Volume of air available—

27 Q. Yes.

1 A. —for them to breathe. Well, you could do a mathematical
2 calculation if you simulate the event itself. Right?

3 Q. If you?

4 A. You could do a simulation.

5 Q. Yes.

6 A. Right? So like in the past, right, um, when I was an engineer on
7 another plant, right, we would have done—we would have
8 engaged somebody to do a complex mathematical calculation
9 with a simulation to work out the drag force as well as the, um,
10 friction losses and the movement of the plug. It's up to you.
11 You can have someone do that.

12 Q. Yes. That's a different, a slightly different question from what
13 I'm asking. If I create a sealed box—

14 A. Yes.

15 Q. —into which I put a person—

16 A. Yes.

17 Q. —all right, they will only have so much time before the air in
18 that sealed box runs out?

19 A. Correct.

20 Q. Right. So it's possible, isn't it, to work out how long or how
21 much by way of volume there would need to be per hour for a
22 man to breathe?

23 A. Yes.

24 Q. With a plus or minus I accept.

25 A. Sure.

26 Q. Do you know if that exercise was ever entertained in the IMT?

27 A. No.

1 Q. Because it would give you—

2 A. Because—

3 Q. Sorry, carry on.

4 A. Yeah, no, because, to figure out the size of the box per se—

5 Q. Uh-huh.

6 A. —right, you would have to understand where the plug ended up
7 and, and the whole liquid dynamics associated with how much
8 water, um, the amount, so it really depends on how you, how—
9 it's very simplistic, right—how you're going to find out the size
10 of the box, right?

11 Q. Well, I follow that. Well, I was, I suppose, approaching it from
12 a slightly different view. Supposing this room, which is a
13 substantial room, represented the entirety of the air by way of a
14 pocket inside the pipe? Right?

15 A. Yeah, you could work it out.

16 Q. We have no idea what size these air pockets were.

17 A. Yeah.

18 Q. Right?

19 A. Uh-huh.

20 Q. But, you could work out, couldn't you, if there was one person
21 in this room—

22 A. Yes.

23 Q. Which was sealed—

24 A. Yes you can.

25 Q. —how long they would last if there was, well—

26 A. Yeah.

27 Q. —hopefully a hundred people in here, 50 people in here—

1 A. —that's fine.

2 Q. —how long it would last? You could work that out, couldn't
3 you?

4 A. Correct.

5 Q. So it works equally the other way. If you had four men—

6 A. Yes.

7 Q. —breathing air in an air pocket, what size of volume of an air
8 pocket would there have to be per hour for them to be
9 surviving? Do you follow what—do you follow the question
10 I'm asking?

11 A. Yes, I'm understanding, yeah.

12 Q. I think everybody else does because I'm—

13 A. Yeah, yeah, no, I get—I get you now.

14 Q. I [*Inaudible*] I could do it myself.

15 A. You taking it from another angle.

16 Q. Yes, and so, you could say, right, we now know—we know
17 what the capacity of the pipe is, we know how much oil we
18 thought we'd pumped out of it, how much volume would there
19 have to be inside this pipe per hour—

20 A. I—

21 Q. —for one or four men to be breathing it?

22 A. I, I—well, I don't know about anybody else but I didn't know
23 how much oil was in that pumped out.

24 Q. No, I think the evidence is nobody could, but, leaving that to
25 one side it would still tell you, wouldn't it, how much of an air
26 bubble you would need to sustain life per hour—

27 A. Yes, per hour.

1 Q. —for one to four men?

2 A. Yes.

3 Q. And then you could make it an estimate, based on reason, as to
4 whether after one hour it was X number of feet in this pipe.

5 A. Yes.

6 Q. After two hours—

7 A. But—

8 Q. —Y number of feet in this pipe, after three hours—

9 A. Certainly.

10 Q. —and so on, you know?

11 A. Yeah.

12 Q. So that you could make an estimate, well, after a few hours
13 they're realistic, unless the pipe was empty, there was no
14 chance for them being alive. Do you follow what I mean?

15 A. Yeah, I understand that.

16 Q. So you could work it out, did—was that exercise ever
17 entertained, as far as you're aware, by the IMT?

18 A. No, but, it's not—

19 Q. Because such an exercise might have informed the speed with
20 which you needed to operate, mightn't it?

21 A. Yes. Now, also, right, um—

22 Q. Am I, am I right about that or am I barking up the wrong tree?

23 A. No, you're right to the extent that it's very difficult to figure out
24 the size of the box, but you could make a number of
25 assumptions, I get.

26 Q. Of course.

27 A. Also, um, not to be taken lightly, right, there is, I'm just going

1 to say it, vapour space is different, a little bit different.

2 Q. Yes. You mean—

3 A. Right?

4 Q. —it's not, not as much breathable air as ordinary air in the
5 atmosphere?

6 A. Yeah.

7 Q. Right. So you would have to reduce it by a percentage?

8 A. Yeah, and that's a guesstimate.

9 Q. So that—it would be a guesstimate, I accept.

10 A. Yeah.

11 Q. But you—but—

12 A. I understand.

13 Q. —it would give you some idea, wouldn't it—

14 A. Yes.

15 Q. —of where you were at in terms of progress to be made and the
16 time span to be made, for it to be made in, do you follow?

17 A. Yes.

18 Q. See, for example, if you knew that it was not going to be a
19 camera available for three hours, let's say, and you weren't
20 prepared to do anything for a period until you had the camera,
21 that might have informed you, well, on any view, they will not
22 be alive in three hours, in which case you'd say, what's plan B
23 because the camera's not going to work? There's no point in
24 waiting for a camera for three hours because, on any view,
25 they're going to be dead or there's a high likelihood they're
26 going to be dead. So what's plan B? What do we do without a
27 camera?

1 A. Yeah, and—

2 Q. Was that exercise ever entertained?

3 A. Not, er, me, no.

4 **Mr. Chairman:** Does anybody wish to ask any questions
5 arising from that? No. All right. Thank you very much. Well,
6 er, you'll be happy to know—unless Mr. Maharaj, you have any
7 questions—

8 **Mr. Maharaj SC:** No.

9 **Ms. Balkissoon:** Or, it's—

10 **Mr. Chairman:**—perhaps Mr. Wilson?

11 **Commissioner Wilson:** No, Chair.

12 **Mr. Chairman:** Right. Then I can tell you that that is your
13 evidence. Thank you very much for coming. I know it was
14 distressing but I'm afraid the whole matter's distressing, so, and
15 it is for everybody, so, thank you so very much indeed for
16 coming. Appreciate it, all right?

17 **Ms. Balkissoon:** Thank you.

18 **Mr. Chairman:** You're free to go or you can stay as you
19 choose, all right? Now, you can stay or go. You've probably
20 been told you ought not to be watching the evidence, but you
21 can now, all right?

22 **Ms. Balkissoon:** I just want to take a walk.

23 **Mr. Chairman:** Yes, so while you—off you go, then.

24 **Ms. Balkissoon:** Thank you.

25 **Mr. Chairman:** All right. We'll have Mr. Piper, I think, next
26 then please?

27 [*Ms. Catherine Balkissoon leaves enquiry room*]

1 [Mr. Collin Piper enters enquiry room and is sworn]

2 **Mr. Piper:** I, Collin Piper, solemnly swear that the evidence I
3 shall give to the Commission in this case shall be the truth, the
4 whole truth and nothing but the truth.

5 **Examination By Mr. Chairman:**

6 Q. Please do sit down, Mr. Piper.

7 A. Thank you, Sir.

8 Q. If you move that whole microphone apparatus towards you then
9 you won't have to awkwardly lean forward each time to answer
10 questions, all right?

11 A. Thank you.

12 Q. Good. So, what's going to happen, so that you know, Mr.
13 Bissessar, who sits at the end the front row here, is going to
14 summarize your evidence, the statement that you've provided to
15 us.

16 A. Thank you.

17 Q. All right? That hopefully will mean it can be taken in a shorter
18 compass. There's a quite a lot of it so I imagine it'll take a little
19 while. Once he's done that, if you listen carefully, please, and
20 tell us at the end if you agree with that summary? If you don't
21 then obviously you'll point that out, all right?

22 A. Thank you.

23 Q. Thereafter, Mr. Maharaj who sits next to him, will have a
24 number of question for you. I imagine that's probably as far as
25 we're going to get today—

26 A. Okay.

27 Q. —if we get that far, I hope so, and we'll see, all right? So I'm

1 afraid you're going to have to come back tomorrow, all right?
2 And that can't be helped, I'm afraid. You'll appreciate how
3 important your evidence is—

4 A. Understood, Sir.

5 Q. —and it's likely to take a little while, all right?

6 A. Okay.

7 Q. Once he's concluded, there will be a number of other lawyers
8 who are sitting here who no doubt wish to ask you questions.

9 A. Of course.

10 Q. And that's what's going to happen, all right? One way or the
11 other, you will be concluded tomorrow for sure? All right? I
12 can assure you of that, even if it means sitting very late, so
13 perhaps those who've got questions for you will bear that in
14 mind when they consider how many questions they have for
15 you.

16 A. All right.

17 **Mr. Chairman:** All right, good, so, Mr. Piper, please listen to
18 Mr. Bissessar.

19 **Mr. Bissessar:** Thank you, Chairman.

20 Mr. Collin Piper was Paria's Manager Technical Operations
21 and was also its Incident Commander leading the Incident
22 Command Team, the ICT, activated by Paria on 25th February,
23 2022. He reported to Paria's General Manager, Mr. Mushtaq
24 Mohammed. Mr. Piper gave a witness statement dated 1st
25 September, 2022 and a supplemental witness statement dated
26 13th December, 2022 to the Commission. These are at witness
27 bundles 1343 and supplemental witness bundle 3141

1 respectively. Mr. Piper declined to be interviewed by the legal
2 team to the Commission.

3 Mr. Piper holds a Master of Science degree in operational
4 Maritime management awarded in 2018 by the University of
5 Trinidad and Tobago and has occupied the post of Manager
6 Technical Operations since 1st December, 2018. Previously, he
7 worked for Petrotrin for 27 years from 1991 holding several
8 positions including Manager of Port and Marine from February
9 2016 to November 2018. Mr. Piper says that from the time he
10 joined the maritime industry age 17, part of his education and
11 training was how to respond to an emergency. At Petrotrin he
12 also received training in incident command systems.

13 Mr. Piper's role as Terminal Operations Manager meant that he
14 identified Sealine 36 pipeline at berths 5 and 6 as being in need
15 of repair and he was a member of the management tenders
16 committee that approved the award of the contract for repairs to
17 the Sealine 36 pipeline to LMCS.

18 Mr. Piper was first notified of the accident on Friday, 25th
19 February, 2022 at 3.10 p.m. when he was telephoned by
20 Visham Harrichan. Upon notification, Mr. Piper assumed the
21 position of Incident Commander and then requested Visham
22 Harrichan and Catherine Balkissoon to be his eyes and ears at
23 berth 6. Mr. Piper describes the incident command system, the
24 ICS, and says that Paria had developed an emergency response
25 plan for major emergencies like this one.

26 As Incident Commander he says his duty, first and foremost,
27 was to safeguard lives and under the incident command system

1 the primary designated incident command post, ICP, was the
2 conference room on the ground floor of Paria's shipping
3 building. Mr. Piper later explained that he moved the incident
4 command post upstairs to his office.

5 He says that after the incident, he was desperate to speak to
6 Kazim Ali Sr. and spoke to him at 3.23 p.m. and the latter
7 confirmed to him that 5 LMCS divers were missing including
8 his son, Kazim Ali Jr. Kazim Ali Sr. told Mr. Piper that the
9 divers had taken out one plug and were attempting to take out
10 the second when the incident happened. Mr. Piper had further
11 discussions with Kazim Ali Sr. that day and continuing.

12 Mr. Piper says that as the Incident Commander, he was required
13 to be stationed onshore at the incident command post and
14 remained there throughout except when his physical attendance
15 at an offsite meeting was requested. Mr. Piper described the
16 composition of the Incident Command Team comprising seven
17 Paria officials but he also involved Mr. Rolph Seales who was a
18 Heritage dive expert, Mr. Osei Fleming-Holder and Mr. Rawle
19 Arneaud both of HSE Heritage as liaison between Paria and
20 Heritage.

21 Mr. Piper explains that Paria did not have the required
22 knowledge of or access to competent, experienced divers,
23 diving contractors and/or confined space entry specialists so
24 that the Incident Command Team relied on the expertise of
25 Heritage personnel which made contact with several diving
26 companies to assist the Incident Command Team, namely
27 Mitchells Professional Diving Services Company Limited,

1 Eastern Divers Company Limited, Offshore Technologies
2 Solutions Limited, Humming Bird Helicopter Services Limited
3 and Hull Support Services Limited and these experts were all
4 on site by 2.00 a.m. on Saturday morning.

5 He says that the Incident Command Team also received
6 assistance from external persons and agencies including the
7 Trinidad and Tobago Coast Guard, Mr. Krishna Fuentes who he
8 says is a dive expert, Professional Inspection Services Limited
9 and Atlantic LNG, the latter two providing a borescope and
10 crawler respectively. Mr. Piper explains that the coast guard
11 arrived at 4.40 p.m. on Friday and conducted searches for the
12 divers and took control of the incident scene. Further, that Mr.
13 Randolph Archbald was the designated planning chief and his
14 role was to assess the probable cause of events and to prepare
15 action plans pursuant to the Incident Command Team's
16 emergency response plan.

17 He said that Mr. Randolph Archbald collected information from
18 the coast guard and Eastern Divers Company Limited with
19 respect to the feasibility of entering the pipeline to attempt to
20 rescue the divers. Mr. Piper says that around the time that
21 Christopher Boodram was rescued, Randolph Archbald advised
22 him that it was unsafe to—for divers to enter the pipeline
23 without firstly developing a rescue plan, diving plan, secondly,
24 having a reliable air supply, thirdly, having reliable
25 communications and, fourthly, an extraction plan.

26 He said that Randolph Archbald assisted the Incident Command
27 Team to obtain access to Christopher Boodram while the latter

1 was at the San Fernando General Hospital. Mr. Piper says that
2 Michael Wei's role as logistics chief was to assemble
3 personnel, resources and equipment to respond to the incident
4 and Michael Wei and Catherine Balkissoon provided the bulk
5 of the technical expertise relied on by the Incident Command
6 Team.

7 He says that he also asked Catherine to report to the Incident
8 Command Team on her observations and information she
9 gathered, further, that she played a critical and technical role in
10 the assessment of the pipeline conditions and the execution of
11 the recovery efforts. He also identified Nerissa Feveck who
12 worked closely with Mushtaq Mohammed in coordinating and
13 organizing Paria's communication with the divers' families.

14 Other than LMCS' objection to the prohibition on diving in the
15 pipeline at about 5.00 p.m. on Friday, Mr. Piper maintains that
16 at no point did Kazim Ali Sr., Dexter Guerra or any LMCS
17 representative complain to him or objected in relation to Paria
18 or the Incident Command Team's conduct in the aftermath of
19 the incident up and until the recovery of the last diver, nor was
20 any request made to him for an LMCS representative to join the
21 Incident Command Team.

22 Mr. Piper explains that it was always his intention, as Incident
23 Commander, to work closely with LMCS in order to make an
24 informed, collaborative, efficient response to the emergency. It
25 was reported to Mr. Piper that the coast guard did not have
26 many details of the incident nor did they have the appropriate
27 equipment on site to enter the water or the habitat but that a

1 dive crew was on its way. Mr. Piper says that at about 5.00
2 p.m. on Friday, he received information that LMCS' employees
3 heard knocking and shouting from the habitat and at 5.36 p.m.
4 he received information that one of the divers had been rescued.
5 Mr. Piper says that based on the circumstances surrounding
6 Boodram's rescue, it was now evident that there was a real
7 possibility that the missing divers were all trapped within the
8 pipeline but that Mr. Rolph Seales advised that it was too risky
9 to dive into the pipeline having regard to the unknown
10 conditions of the pipeline. He says that the coast guard also
11 said that they were unwilling to do a rescue in the pipeline
12 because of the unknown conditions inside, the poor lighting and
13 changing tide conditions.

14 He said that he received advice from Mr. Randolph Archbald
15 that it was unsafe for rescue divers to dive into the pipeline
16 without a regular and emergency supply of air and a proper
17 means of communication and extraction, particularly since no
18 rescue plan was presented to the Incident Command Team.
19 Based on this advice and the relevant factors, Mr. Piper says he
20 gave instructions that diving into the pipeline was not allowed
21 because it was too dangerous and he told Catherine Balkissoon
22 to pass these instructions to LMCS.

23 Mr. Piper also explained that he received reports of tension and
24 hostility at berth 6, and, after discussing the volatility with Mr.
25 Mushtaq Mohammed, both of them agreed that the coast guard
26 should take control of the site. He said that Mushtaq made this
27 request to the coast guard in his, meaning Mr. Pipers, presence.

1 Later, at about 10.00 p.m., the Incident Command Team spoke
2 to Christopher Boodram who was at the San Fernando General
3 Hospital who said in effect that “he did not think them fellas
4 make it.” Mr. Piper said that he relayed the information that
5 Mr. Boodram provided to the Incident Command Team to
6 Catherine Balkissoon and instructed her to give this information
7 to the coast guard and to enquire of them with this new
8 information whether the coast guard would be willing to enter
9 the pipeline to perform a rescue operation inside the pipeline.

10 Mr. Piper also spoke to Kazim Ali Sr. who said that conditions
11 on either side of the inflatable plug appeared to have stabilized
12 after the occurrence of the event which caused the divers to be
13 drawn inside the pipeline. Mr. Piper explains that at about
14 11.39 p.m. on Friday, Hull Support Services Limited informed
15 the Incident Command Team that they would not be performing
16 any rescue attempts in the pipeline because it was too risky.
17 And at 11.50 p.m., that Lieutenant Hargreaves said that the
18 coast guard will not dive into the line.

19 At about midnight, a borescope was inserted inside the pipeline
20 up to a certain point horizontally before coming upon a dive
21 tank and could proceed no further. Mr. Piper says, that, based
22 on his reports, the line appeared filled with clear water and no
23 air pockets or divers were seen. Mr. Piper says it was reported
24 to him By Mr. Rolph Seales that the dive supervisors at OTSL
25 and Mitchells diving, having reviewed the footage, both agreed
26 that it was too risky to send their divers into the pipeline. Mr.
27 Seales also said he reviewed the footage and agreed with the

1 dive supervisors.

2 Between 3.00 a.m. and 4.00 a.m. on Saturday morning, having
3 regard to the positions taken by the dive experts that it was too
4 risky to enter the pipe, and since the ALNG borescope and the
5 HHSL crawler could not get past the scuba tank, Mr. Piper took
6 the decision to permit the removal of the flange at berth 5 so
7 that the crawler could be inserted from that berth. Mr. Piper
8 says he then left for home and returned three hours later and
9 was told that Eastern Divers now considered the exercise to be
10 a recovery.

11 He said that it was reported to the Incident Command Team that
12 IOCL and Laing were mobilizing pumps to pump the water out
13 of berths 5 and 6 but that the Incident Command Team had not
14 yet given up on the possibility of a rescue attempt in a dry line.
15 Mr. Piper briefed Minister Young between 9.00 a.m. and 9.30
16 a.m. on Saturday. Later on Saturday at about 4.00 p.m., Mr.
17 Piper met with Paria and Heritage personnel to discuss the
18 transition from rescue to recovery.

19 On Sunday at about 3.40 p.m., Mr. Piper was informed that the
20 habitat had fallen to the bottom of the sea while being lifted by
21 LMCS, and, later that morning Mr. Kazim Ali Sr., Mr. Imtiaz
22 Ali, Mr. Andrew Farah and Mr. Conan Beddoe came to the
23 shipping building and Kazim Ali Sr. said that he accepted that
24 his son was now gone and he was now considering recovery.

25 According to Mr. Piper, the LMCS team was told By Mr.
26 Mushtaq Mohammed to provide a method statement, risk
27 assessment and diver certification for any exercise that LMCS

1 wanted to do. Mr. Piper said that the documents presented by
2 LMCS were reviewed by the coast guard, Mr. Krishna Fuentes
3 and Mr. Rolph Seales and the dive was deemed too risky.

4 Mr. Piper said that on Monday, 28th February, 2022 at about
5 5.45 p.m., three bodies were retrieved together with three scuba
6 tanks and other diving equipment and on Thursday, 3rd March,
7 2022 at 12.28 a.m., the fourth body was retrieved.

8 Mr. Piper, do you agree that what I have presented is a true and
9 accurate summary of your evidence?

10 **Mr. Piper:** Yes, Sir, um, the—I was never technical manager,
11 always terminal manager. I believe you said—you read that,
12 um, the coast guard took charge of the site. That is not
13 accurate. I believe you said Hull Support Services said they
14 didn't dive. Let me correct that. That should have been HHSL.
15 Those are I think are the corrections.

16 **Mr. Bissessar:** I see. Thank you, Mr. Chairman.

17 **Mr. Peterson SC:** Mr. Chairman, before, there were just two
18 errors that the witness had intimated to us two times that may
19 have been wrong in the statement that he wished to revisit.
20 Could I take the two paragraphs?

21 **Mr. Chairman:** [*Inaudible*] Yes, thank you.

22 **Mr. Peterson SC:** Paragraphs 79 and paragraph 92.

23 **Mr. Chairman:** Two areas you wanted to ask about?

24 **Mr. Peterson SC:** No, the witness had indicated before to us
25 that he had seen two areas that he—

26 **Mr. Chairman:** That he was concerned about?

27 **Mr. Piper:** There were errors, in the times, in the times, Sir.

1 **Mr. Chairman:** Errors in the description given or errors that
2 are on the face of the document?

3 **Mr. Piper:** Errors on the face of the document, errors that I
4 [*Inaudible*].

5 **Mr. Chairman:** Right, so your errors that you want to correct?

6 **Mr. Piper:** Yes, Sir.

7 **Mr. Chairman:** Of course you should do that.

8 **Mr. Piper:** Yes.

9 **Mr. Chairman:** Yes, by all means. So, which were the
10 paragraphs?

11 **Mr. Peterson SC:** Paragraph 79 first, Sir.

12 **Mr. Chairman:** Seventy-nine.

13 **Mr. Peterson SC:** If it could be brought up?

14 **Mr. Chairman:** Can we have 79? Can we have—

15 **Mr. Peterson SC:** Yes, it's up.

16 **Mr. Piper:** Yes.

17 **Mr. Peterson SC:** One three six one.

18 **Mr. Chairman:** Yes, 1361. Mr. Piper, you're going to be
19 given a copy of your statement.

20 **Mr. Piper:** Okay, thank you. [*Document handed to Mr. Piper*]

21 **Examination By Mr. Chairman:**

22 Q. So, have a look at that. Paragraph 79 you say there's an error
23 on the face of it?

24 A. Yes. Yes, Sir, um—

25 Q. Which is what?

26 A. This should read, um, when I passed instruction to LMCS,
27 about 1900 which would be seven o'clock, 7.00 p.m.—

1 Q. And not 1700 hours?

2 A. Not 1700.

3 Q. Right.

4 A. Right.

5 Q. Well, I'm glad you've make that correction because I have a
6 note next to that.

7 A. With whom I'd been a regular—

8 Q. So it's, um—it should be 1900 hours?

9 A. Yes. Right, and the complaint would have been after, 1825, all
10 right? So—because the 1900 hours comes after 1825 so they
11 could not made the—they could have not made the claim—the
12 complaint before. Okay? So this is actually reading incorrectly
13 here.

14 Q. “The complaint reached my attention at about 1825.”

15 A. Yeah. Right? I made—it was about 1825—

16 Q. Yes.

17 A. —when I actually passed the instruction and it would have been
18 about 1900 when they actually made the complaint, so that is a
19 lil reverse there.

20 Q. All right.

21 A. Okay? I apologize for that.

22 Q. That's all right.

23 **Mr. Peterson SC:** And.

24 **Mr. Chairman:** And, and the other—

25 **Mr. Peterson SC:**—paragraph 92.

26 **Mr. Chairman:**—correction you wanted to make?

27 **Mr. Piper:** Yes.

1 **Mr. Peterson SC:**—92, paragraph 92.

2 **Mr. Piper:** Yes, yes, that time is incorrect. Mr. Rolph Seales
3 actually arrived around 2000, between 2000, 2030.

4 **Mr. Chairman:** Right, so we should delete 1800 hours,
5 paragraph 92, and put 2000 hours?

6 **Mr. Peterson SC:** Yes.

7 **Mr. Piper:** Yeah, 20—between 2000 and 2030, Sir.

8 **Examination By Mr. Chairman:**

9 Q. Right. So about 2000 hours, that's eight o'clock at night?

10 A. That's correct.

11 Q. To 2030 hours, half past 8.00 at night—

12 A. Yes.

13 Q. —Mr. Rolph Seales arrived?

14 A. Yes, yes Sir, that is correct.

15 Q. Well, what about the next one, "At about 1810 Mitchell made
16 arrangements to access a borescope—

17 A. Yes, that is

18 Q. —has that also been—

19 A. Yeah, no, that's as far as I'm aware should be okay.

20 Q. That's all right, is it?

21 A. Yes, that should be okay, yes, Sir. Thanks, Sir.

22 Q. So chronologically you've got this wrong way round?

23 A. Yes.

24 Q. Ninety-two should be quite some time later on in—

25 A. Yes, yeah.

26 Q. —in this document?

27 A. Yes, and there, there, there—it's not fully chronological may I

1 add the whole—

2 Q. No, no, no. That's just become clear to me reading it.

3 A. Yes.

4 Q. But, um, can I ask you this, since we're dealing with the
5 chronology, did you, when you made this statement which is an
6 extensive statement, it runs to, um, 245—

7 **Mr. Peterson SC:** Two hundred and fif—

8 **Examination By Mr. Chairman:**

9 Q. —245 paragraphs, but, when you made that statement did you
10 have with you documents that you were able to refer to?

11 A. Yes, Sir, I did refer some to the timelines.

12 Q. Right.

13 A. Yes, Sir.

14 Q. And can you remember what documents you were referring to?

15 A. Well, mainly the timeline, maybe the timeline.

16 Q. Paria's own timeline on this?

17 A. Yes, Sir. Yes, Sir.

18 Q. Is that a contemporaneous document that you—

19 A. Yes, Sir.

20 Q. —in the IMT?

21 A. Yes, Sir.

22 Q. As matters were unfolding?

23 A. Yes, Sir.

24 Q. All right. Thank you. So you used that to help you with timing
25 and events?

26 A. Yes, Sir.

27 Q. All right. Thank you very much. And you say you're the

1 terminal manager?

2 A. Terminal operations.

3 Q. Terminal Operations Manager?

4 A. Yes, Sir.

5 Q. And are you still?

6 A. Yes, Sir, I am.

7 **Mr. Chairman:** All right, thank you. Mr. Maharaj.

8 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

9 **Examination By Mr. Maharaj SC:**

10 Q. Mr. Piper, I want to start my questioning of you by asking you
11 of some of your role and duties as Terminal Operations
12 Manager?

13 A. Uh-huh.

14 Q. At paragraph 11 of your witness statement, which is at 1346,
15 starts at 1345, and particularly at page 1346, at 11,
16 subparagraph 11, you stated that one of your duties at Paria was
17 to develop marine emergency response strategy and respond as
18 necessary.

19 A. That's correct, Sir.

20 Q. Is that correct?

21 A. Yes, Sir.

22 Q. And if you look at 12, subparagraph 12:

23 "Oversee operating and supply contracts with external
24 service providers to ensure business needs are met and
25 adherence to standards, regulations and operating
26 practices."

27 A. Correct.

1 Q. Correct? And at subparagraph 16, you said that one of your
2 duties also include implementing health, safety, environment
3 and quality standards?

4 A. Correct.

5 Q. Correct?

6 A. Correct, Sir.

7 Q. All right. Now, would you agree with me that the scope of
8 works for this project was developed by Paria?

9 A. Yes, Sir.

10 Q. And the scope of works was accepted by LMCS?

11 A. Sir, um, the scope of works in this case is developed by our
12 technical and maintenance department. Right? They developed
13 the scopes of works. They handled the scopes of works. The
14 operations department does not get involved in those
15 preparations and deliberations on the scope of works.

16 Q. But from your knowledge of this contract—

17 A. Yes.

18 Q. —would you agree that the scope of works was accepted by
19 LMCS?

20 A. Well, I would have to assume yes they were accepted by
21 LMCS.

22 Q. Yes. Right. And as from your knowledge of this contract, you
23 would know that in respect of this contract, LMCS did a risk
24 assessment and that was reviewed by Paria and accepted by
25 Paria?

26 A. It would have been reviewed by Paria, um, and I suppose, yes,
27 accepted by Paria.

1 Q. And would you agree that LMCS also did an emergency
2 response plan in respect of this contract and it was reviewed by
3 Paria and accepted by Paria?

4 A. Yes, so, if I may, right, so, there—LMCS is—in their risk
5 assessments and their emergency response plans have to
6 include all credible scenarios, right, all credible risk, all
7 credible scenarios. So LMCS, in their risk assessment, would
8 have in their minds, right, being the experts, right, in this job,
9 because we hire them to do this job, so they would have, right,
10 identified, as they should have done, they should have
11 identified all credible risk. Paria, in reviewing those—well,
12 they should have identified all credible risk, that was their duty,
13 and plan emergency responses for those risks and also plan
14 mitigation strategies.

15 Paria, not being the expert in diving or in this particular job, Paria in
16 reviewing those risk assessments and those emergency response
17 plans which go with those risk assessments, Paria will look for
18 what are the obvious operational type risk, right, but they will
19 not be able to identify the specialized risk, right, so it is in that
20 vein that Paria would have reviewed those risk assessments and
21 emergency response plans.

22 Q. But this contract could not have been given to LMCS unless
23 Paria had accepted the risk assessment?

24 A. That is correct. Once the—that is correct, once LMCS
25 identified as the specialist contractor. Once they identified the
26 credible risk which Paria is not in a position to do necessarily,
27 Paria will again, as I said, look at the operational risks, identify

1 them, ensure that they're identified that we are aware of the
2 obvious risks.

3 Q. So—

4 A. Once that is done, then we will be in a position to say, okay,
5 this seems okay to us.

6 Q. So you depended on LMCS to identify the risks?

7 A. We depended on LMCS to identify all credible risk, yes, Sir.
8 That is what would have been done.

9 Q. But during the discussions with LMCS, do you have any
10 documents, I haven't seen any, that you made that clear to
11 LMCS?

12 A. So, as I said, Sir, this, this contract was done under the
13 technical and maintenance department. I was not involved in
14 that contract preparation.

15 Q. But you are a member of the management tenders committee
16 that approved the award of this contract?

17 A. Yes, Sir, that is correct.

18 Q. As a matter of fact, you have said that at paragraph 12
19 subparagraph two of your witness statement at page 1348?

20 A. Yes, Sir, that is correct.

21 Q. So you are—you represented to your company that this contract
22 was okay, you were happy with the risk assessment, you were
23 happy with the emergency response plan?

24 A. Right. In, in—when, when, when contracts are presented to the
25 management tenders committee, right, those contracts, they
26 will, they will not go through risk assessments. The presenters,
27 which in this case will be technical and maintenance

1 department, they will not go through those risk assessments
2 what—to the management tenders committee. They will not
3 present that. What they will present is that they have gone
4 through the evaluation criteria, they would have assessed and
5 they would have identified that the contractor has met the
6 scores, he has been successful in the particular areas. That is
7 what they will present. The management tenders committee
8 will not dig down into those details of the contract. And, of
9 course, we will also look at the value of the contract.

10 Q. Would you agree with me that Paria represented that it had the
11 experience to review and determine the method statements in
12 the case, in this contract?

13 A. Paria is not an expert diving contractor or an expert—does not
14 have the expertise in this job. Paria therefore hired a contractor.

15 Q. Who was that contractor?

16 A. They expected—LMCS—with the expectation that the
17 contractor provides that expert knowledge and the execution of
18 that contract.

19 Q. Okay. I'm asking you a question, would you answer me? Did
20 Paria represent that it had the experience to review and
21 determine, to accept the method statements in this contract?

22 A. Insofar as the obvious risks are.

23 Q. Did it qualify its acceptance and say insofar as the obvious
24 risks? Is there any document you know of?

25 A. Sir, that would be technical and maintenance will have to—

26 Q. Okay.

27 A. —answer that.

1 Q. All right.

2 A. I cannot answer that.

3 Q. Well, well, Paria has produced all the documents to us about
4 this contract, and would you accept it that you have not seen
5 any such document of qualification.

6 A. Sir, I did not review the documents.

7 Q. Okay. Would you agree that Paria represented that it had the
8 experience and knowledge to accept the risk assessment of the
9 works of this contract?

10 A. Sir, I will repeat, the contractor was obligated to provide all
11 credible risk. If it's not provided, Paria will not be able to
12 identify those risks—

13 Q. Okay.

14 A. —and we deal with the obvious risks that we would know—

15 Q. Okay.

16 A. —in the industry.

17 Q. We have the documents in this matter, Mr. Piper. Since you
18 were on the management tenders committee, was anywhere in
19 the invitation to bid or any—in any of the pre-award documents
20 and discussions did Paria represent that it did not have the
21 requisite expertise to vet and approve all aspects of this
22 contract?

23 A. Not to my knowledge, Sir.

24 Q. Not to your knowledge. If Paria, as you are saying, considered
25 it did not have such expertise to vet this contract, the risk
26 assessment, the method of work, the emergency response plan,
27 could it not have retained experts to assist it to vet it on their

1 behalf, on its behalf?

2 A. That is, that is a possibility. However, this contractor had
3 performed works like this in the past and successfully, so this—
4 it was considered that this contractor knew exactly—knew what
5 he was doing. So, we didn't see that as necessary. This
6 contractor is an experienced contractor in the marine industry—

7 Q. Okay.

8 A. —and indeed in the port.

9 Q. So you're telling us that because this contractor did work for
10 you in the past, you did not think it was necessary to retain
11 experts to assist Paria in vetting the contract?

12 A. Yes, Sir, I did not think it was necessary because the contractor
13 came with a wealth of experience in these types of works.

14 Q. Would you not agree with me also that Paria could have even
15 had an expert client representative on its behalf to oversee the
16 pre-contract stage, the contract stage and the execution of the
17 contract?

18 A. Again, this—if we thought that was necessary, because a
19 contractor did not have the experience, we would have so done.
20 In this case, this contractor had a wealth of experience. This
21 was not the first time this contractor was doing a job of this
22 type. This is not the second nor the third time. This contractor
23 had a wealth of experience so we did not see that as necessary.

24 Q. On hindsight, would you agree that that is what Paria should
25 have done, have experts, retain experts, to advise it in the
26 vetting of the contract in overseeing the works, since they did
27 not have—since you are saying here today that Paria did not

1 have the competence and the expertise—

2 A. But the contractor did, Sir.

3 Q. —to vet it?

4 A. The contractor had the expertise and the competence.

5 Q. So you still maintain that, the contractor had the expertise.

6 A. The contractor was very experienced in this type of work.

7 Q. Are you maintaining that the contractor had the expertise to vet
8 this contract and to monitor the contract?

9 A. Yes, Sir.

10 Q. Okay. And also to monitor the risk assessment?

11 A. The contractor was supposed to provide all credible risk. This
12 is an experienced contractor in this field, and he had done
13 several jobs of this nature before.

14 Q. Now, you are the head man, the chairman or the, the, the—the
15 head person in the IMT, not so?

16 A. The Incident Commander in this case, yes, Sir.

17 Q. Yes. And, um, would you agree that the first priority of the
18 IMT, and you as head of the IMT, in, in, in, um, in dealing
19 with, um, managing the incident command system, is to
20 safeguard human lives?

21 A. Yes, Sir.

22 Q. Yes. And would you agree with me that on that date with this
23 accident—

24 A. Uh-huh.

25 Q. —when it occurred and when you knew that it was occurred—
26 when you knew it occurred, and when you found out that Mr.
27 Boodram emerged from the pipeline, that it was very important

1 for you and the IMT to take urgent steps to see whether you
2 could have saved human lives?

3 A. Yes, Sir.

4 Q. Right. Now you would agree with me that you found out—
5 well, around what time you found out about Mr. Boodram's
6 emergence?

7 A. When Mr. Boodram emerged from the pipe I found out around
8 1736, that is 5.36 in the evening.

9 Q. And, um, you knew, you knew that during that afternoon or
10 during that afternoon going into the evening—

11 A. Uh-huh.

12 Q. —that LMCS had divers who were prepared to go into the
13 pipeline to do a rescue?

14 A. Yes, Sir.

15 Q. And around what time you first knew that?

16 A. I was—I, when I, when I first spoke to Mr. Kazim Ali, which
17 was around, just around between 1520 to 1530, around there,
18 maybe 1525, he—when I first spoke to him, he told me—I
19 asked him which divers he had on site. He told me he had
20 Andrew Farah, the dive supervisor, so I know he had a
21 supervisor on site at that time. Right? He also told me when I
22 asked him, he said he had divers on the way, divers who are on
23 the way, right.

24 Q. So—sorry.

25 A. Go ahead?

26 Q. Sorry.

27 A. Right. So he told me he had divers on the way. When I arrived

1 at the ICT, right, I also, because we were not getting
2 information, and I suppose we'll deal with it after, I asked Mr.
3 Farah to come and see me, at which case they said they had
4 knocking on the pipe. I instructed for Mr. Farah to return and I
5 understood at that time they had some additional divers arrive
6 on site. Yes, Sir.

7 Q. Okay, I'll come back to this but I want to ask you one question
8 before I go on to another topic, all right?

9 A. Go ahead.

10 Q. At some time during that evening—

11 A. Yes, Sir.

12 Q. —you knew that LMCS had equipment, commercial air supply
13 equipment, had experienced divers and had divers willing to go
14 into the pipe, and you took the position, and the IMT took the
15 position that it was not safe for them to go into the pipe?

16 A. Yes, Sir.

17 Q. When did you decide, after Mr. Boodram's emergence from the
18 pipe, when did you decide that it was not safe for them to go
19 into the pipe?

20 A. All right. Sure, if I may, if I may?

21 Q. I'm asking around what time.

22 A. Or, around what time?

23 Q. Yes.

24 A. This would have been around 1825.

25 Q. That is around 6.00 p.m.?

26 A. Around 6.25 when I understood that I was advised, I believe by
27 Mr. Visham Harrichan, that a diver had entered into the

1 pipeline. I believe—I don't know if at that point in time he said
2 it was his father, but a diver had entered into the pipeline. At
3 that point in time, Sir, I told Mr. Harrichan, listen, we don't
4 know the conditions in the pipeline, the coast guard had also
5 indicated we don't know the conditions in the pipeline.

6 Clearly, at that time, we did not know what had caused the accident.

7 We did not know at that time what the condition in the pipeline
8 was. We did know that there was oil in the pipeline. Right?
9 We did understand at that time there were men in the pipeline.
10 So we didn't know where the men were in the pipeline, we
11 didn't know how much oil was in the pipeline so there were
12 several unknowns to us in that pipeline.

13 This, this is a confined space. This is not an ordinary space, Sir. This
14 is a confined space of quite a magnitude. All right? So this is a
15 30-inch pipeline which is a quarter of a mile long. That is an
16 oil pipeline, a few oil pipeline. That is not a simple space for
17 someone to go in for any reason. So, I took the decision at that
18 point in time to pause. What I was—had to pause because
19 we—

20 Q. To pause?

21 A. —we needed to assess.

22 Q. You needed to assess?

23 A. And—

24 Q. What you wanted, um—

25 A. If I may, if I may finish?

26 Q. What you wanted, a method statement?

27 A. No, Sir. If I may finish?

1 **Mr. Chairman:** No, you, let, let him, let him finish what he
2 has to say.

3 **Mr. Maharaj SC:** Okay.

4 **Mr. Chairman:** You were saying you paused.

5 **Mr. Piper:** Yes, Sir.

6 **Mr. Chairman:** Right, take it from there, please?

7 **Mr. Piper:** Sir, in an emergency response, the worst thing you
8 can do in an emergency response is to act, is to act instinctively
9 and to act emotionally. That is the worst, that is the, that is the
10 absolute way you should not respond in an emergency, and
11 definitely in this case. You don't respond like that in an
12 emergency, and therefore, I had no choice but to say stop. We
13 NI need to assess. We need to understand what is going on. So
14 I took that decision, as difficult as that decision was. Don't
15 believe for one minute that was a simple decision.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. And you—

18 A. That was a—that was an extremely difficult decision, but at that
19 point it was the decision that had to be taken.

20 Q. So you took that decision at 6 what, at 6,25?

21 A. At 6.25, Sir.

22 Q. Six twenty-five a.m. You knew then that—sorry, p.m., so
23 sorry. You knew then that Christopher Boodram had come out
24 of the pipeline about an hour before?

25 A. Yes, Sir.

26 Q. You said you wanted to know the condition in the pipeline?

27 A. Yes, Sir.

1 Q. Did you make urgent efforts to get that condition from Mr.
2 Boodram?

3 A. When Mr. Boodram came ashore, right, he was brought out and
4 he was covered in oil. Right? Mr. Boodram was placed on our
5 LMC—on our launch, Paria's launch, and he was taken ashore.
6 He was rushed ashore, right? During that time they were
7 trying, we had one of our safety guys talking to Mr. Boodram.
8 The information coming to me, right, from, from on the scene
9 was that he said the men are there. The men in the pipeline,
10 right, and go get them.

11 When Mr. Boodram was brought ashore on the launch, you will
12 understand Mr. Boodram was in that pipeline for some two and
13 a half hours, right? Mr. Boodram, therefore, would have been
14 in a traumatic condition. When he was brought ashore, we had
15 our safety person there, Mr. Yearwood, to receive him ashore.
16 Mr. Yearwood tried speaking to Mr. Boodram and Mr.
17 Boodram just kept repeating, "They're in the pipeline. They're
18 in the pipeline. Go get them." Right?

19 The GMRTT ambulance, right, he was moved very quickly from the
20 launch, of the launch control, um, and I know Commissioner
21 you had visited so you may be able to envisage what I'm
22 saying. From the launch, they took him off the launch and
23 rushed him into the ambulance, and within a minute or so Mr.
24 Boodram was out of there. Mr. Yearwood did request to the
25 GMRTT EMTs for somebody to accompany Mr. Boodram and
26 he was denied. He did try, in that little moment, speaking to
27 Mr. Boodram and all he got from Mr. Boodram was they're in

1 the pipeline, in the pipeline. Right?

2 He did not believe Mr. Boodram was—he, he—well, he, he, he was
3 not—Mr. Boodram was not clear of time, of time and place, so
4 he, you know, he was still trau—he was in a traumatized state,
5 right? And you would appreciate that the primary concern for
6 Mr. Boodram at that time was his wellbeing by the GMRTT
7 attendants. That was their primary concern for Mr. Boodram,
8 Sir.

9 Q. But according to you, it was important to get information about
10 the condition of the pipeline—

11 A. Yes, Sir.

12 Q. —in order for you to make a determination or whether you
13 would send rescue divers into the pipeline, and you wanted to
14 know the condition of the pipeline, correct?

15 A. Yes, Sir.

16 Q. But, am I correct that you did not have anyone from the IMT or
17 anyone from Paria talk to Mr. Boodram on the way to the
18 hospital?

19 A. Sir, I just said that we were not—we requested that someone
20 accompany Mr. Boodram in the ambulance to the hospital. Mr.
21 Year would made that request and that request was denied.

22 Q. Well I looked at the records that Paria submitted to us in this
23 Enquiry and I haven't seen any documents to that effect. Did
24 you all make a note, a contemporaneous note, that that request
25 was made?

26 A. No, I did not make a note.

27 Q. Because I've also checked the IMT records that Paria has

1 disclosed and I see nothing of that effect. Do you know
2 whether any written record was made that Paria or you or the
3 IMT requested just to send someone to accompany Mr.
4 Boodram to find out important matters to save people lives?
5 Do you know whether—

6 A. No, Sir, I cannot say I came across that record.

7 Q. You didn't come across that record? Did you—

8 **Mr. Chairman:** Just before you move on, please?

9 **Mr. Maharaj SC:** Sorry.

10 **Examination By Mr. Chairman:**

11 Q. Can I just ask you, and to be clear about this, did Mr. Yearwood
12 tell you that he had asked to accompany Mr. Boodram in the
13 ambulance so that he could speak to him, or did you instruct
14 Mr. Yearwood to ask to go in the ambulance?

15 A. Mr. Yearwood—

16 Q. [*Inaudible*]

17 A. Mr. Yearwood advised me.

18 Q. So—

19 A. Yes.

20 Q. —let's be—so that I am clear, because Mr. Yearwood is yet to
21 give evidence, I want to be clear, it was of his own initiative
22 that he sought to go with Mr. Boodram in the ambulance to the
23 hospital?

24 A. It's either he sought to go or I believe he sought to send one of
25 his EMTs into the ambulance.

26 Q. Right, either by himself or one of his own people?

27 A. Yes, Sir.

1 Q. And was it your understanding the purpose of that was to try, at
2 least en route, to gain as much information as you could from
3 Mr. Boodram about the condition of the pipe?

4 A. Of course, yes, to get information, yes.

5 Q. So what's clear is this, that whether it was your initiative or Mr.
6 Yearwood's, you were being thwarted in that purpose because
7 the ambulance people said no?

8 A. Yes, Sir.

9 Q. And just to follow up from that, once that was—well, did Mr.
10 Yearwood tell you that straight away?

11 A. I know he came to, he came to see me, right, immediately after
12 he came to see me and he probably would have told me then.

13 Q. Straight away, right. I mean, that doesn't—unfortunately in
14 your 250 odd paragraphs of your statement, none of that
15 features in there, does it?

16 A. Yes, yes, I'm sorry, Sir.

17 Q. No, no, all right. So it's an omission?

18 A. Yeah.

19 Q. Because, clearly, you would have regarded it as crucial,
20 notwithstanding his disorientation, to seek to obtain as much
21 information as you possibly could from Mr. Boodram?

22 A. Of course.

23 Q. Yes. Because uniquely you had someone who'd been in that
24 pipeline for several hours to have been able to inform you as
25 much as he possibly could about the conditions and the other
26 men that were in there?

27 A. Yes, um, yes, Sir, yes, Sir. Right? Um, yes.

1 Q. All right? I understand what you're saying.

2 **Mr. Chairman:** Thank you very much.

3 **Mr. Maharaj SC:** Much obliged.

4 **Examination By Mr. Chairman:**

5 A. I did make several calls to the on scene people, I made some
6 calls to the on scene people to find out if any—what
7 information they would have garnered from Mr. Boodram.

8 Q. On scene people, what do you mean?

9 A. Sorry, on the site. On the site I made a—

10 Q. Berth 6?

11 A. Yes, at berth 6—

12 Q. Right, okay.

13 A. —right, who had seen him coming up.

14 **Continued Examination BY Mr. Maharaj SC:**

15 Q. But you were the head of the IMT?

16 A. Yes, Sir.

17 Q. Right. According to you, he was not permitted, someone was
18 not permitted to be in the ambulance with him? He was in—

19 A. That is what I was advised, yes, Sir.

20 Q. Yeah, he was in the hospital?

21 A. Yes, Sir.

22 Q. Did you make effort for someone to visit him in the hospital in
23 order to get information?

24 A. Yes, Sir.

25 Q. As to the condition in the pipeline?

26 A. Yes, Sir, we sent someone to the hospital.

27 Q. To get information on the condition of the pipeline?

1 A. We sent someone to the hospital so that we can—we wanted to
2 speak to Mr. Boodram correctly.

3 **Examination By Chairman:**

4 Q. Time, time when?

5 A. I cannot recall what time exactly that I would have sent
6 somebody, asked somebody.

7 Q. Let me be clear again, please?

8 A. Yes.

9 Q. This was upon your instruction, someone should go to the
10 hospital to take as information as they can from Mr. Boodram?

11 A. No. I needed—we needed to speak to Mr. Boodram.

12 Q. Yes.

13 A. Yes.

14 Q. To get—it's not no point in talking at him. You wanted him to
15 respond?

16 A. Yes, yes, yeah.

17 Q. Well, so you wanted answers from him if he was able to give
18 them?

19 A. Correct.

20 Q. Right. So, um, we've had some evidence, you see, that Mr.
21 Boodram, whilst a little disoriented, obviously upset, was lucid,
22 conscious and not overly injured. Did you understand that?

23 A. Yeah. I understood, I understood that he was not overly
24 injured, he seemed to be okay, his skin was burning, his eyes
25 and mouth and so on, so, um—

26 Q. He was not in a good way?

27 A. Yes.

1 Q. I think we all—

2 A. No, no, no.

3 Q. I think we [*Inaudible*] that.

4 A. He just—and he just kept repeating, repeating himself.

5 Q. Yeah, well, all right.

6 A. Yes.

7 Q. But you, so that I'm clear, you, you wanted someone to go to
8 the hospital and dispatched someone to go to the hospital for
9 that purpose?

10 A. Yes, Sir.

11 Q. Right. Can you recall when that was?

12 A. I cannot recall the time but I must say it was not immediately.

13 Q. Right, not immediately?

14 A. Yes.

15 Q. Is this something that ought to have appeared in your log?

16 A. I—it should have but I don't—I remember I think—I don't
17 know if it is in the log—

18 Q. I do.

19 A. —the time. Yes.

20 Q. It isn't.

21 A. I can't tell you that. Okay, but I did request somebody go to
22 speak to him.

23 [*Crosstalk*]

24 Q. If it is, then I'm happy to be corrected. Anyway you said you
25 should—you sent someone to go to the hospital to—

26 A. Yes.

27 Q. —obtain information from him?

1 A. Yes, Sir.

2 Q. And that you can't recall when that was but it was not
3 immediately?

4 A. That's correct.

5 Q. We know that I think somebody did speak to him around ten
6 o'clock that night?

7 A. I did speak to him in the presence of, um, some of the IMT
8 members.

9 Q. Right. Was that then shortly before that time that you sent
10 someone to the hospital?

11 A. No, it was maybe a couple hours before then.

12 Q. Before that?

13 A. Yes.

14 Q. Thank you. All right, so just so that I have a timeline. So, um,
15 about four hours passed between him coming out of the pipe
16 and you speaking to him a bit more than that but roughly four
17 hours?

18 A. Yes.

19 Q. So about halfway through that time you would have dispatched
20 someone to the hospital?

21 A. It is possible about halfway, Sir.

22 Q. All right, thank you.

23 **Mr. Chairman:** All right, well, um, counsel, Mr. Peterson, I
24 think if you or Mr. Mootoo are able to point me in the right
25 direction of this then I'll be happy to be corrected.

26 **Mr. Peterson SC:** It's somewhere in my mind, yes.

27 [*Inaudible*]

1 **Mr. Chairman:** All right, thank you.

2 **Mr. Peterson SC:** [*Inaudible*]

3 **Mr. Chairman:** Yeah, what concerns me is that you probably
4 have more stuff than I do.

5 **Mr. Peterson SC:** No, Sir. You have everything there.

6 **Mr. Chairman:** All right.

7 **Mr. Peterson SC:** Now you have everything there.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Okay, according to Mr. Yearwood, in his witness statement at
10 paragraph 33, at page 1307, you said:

11 “At about 9.53 p.m., on the 25th of February, I received a
12 call from Shan Balkissoon, HSE technician Kenson on
13 my cell phone. At the time he indicated he was in the
14 San Fernando General Hospital with Christopher
15 Boodram. A person who identified himself as
16 Christopher Boodram was put on the line and spoke to
17 me. Mushtaq Mohammed, Collin Piper and Nerissa
18 Feveck were in the room at the time of this call which
19 was on speaker and audible to all parties.”

20 So this was at 9.53 p.m., correct?

21 A. Yes, Sir.

22 Q. About—

23 A. Well, er, it was about that time, around ten o'clock, yeah.

24 Q. So that's about three hours after?

25 A. Yes, Sir.

26 Q. Yeah. Now, in the timeline that Paria has given us at core
27 bundle Volume II at page 1091, for the 25th of February, at

1 16—at 8.10 hours, 1810 hours, that is 6.10—

2 A. Uh-huh.

3 Q. —that is almost three columns to the end of the page:

4 “C. Boodram tended to by EMTs at”—I suppose is the
5 hospital—“government ambulance. Treated for muscular
6 injury. Patient was alert and conscious. Complained on
7 pain on right shoulder.”

8 So would that indicate that he was—at 6.10 he was conscious,
9 he was alert, he, he was—in effect you could have got
10 information from him?

11 A. My information is, Sir, when the EMT, when our EMT went
12 into the hospital to try to speak with Mr. Boodram, he made
13 several attempts and he was unable to speak to Mr. Boodram
14 for quite a while, while they were attending to him.

15 Q. Who was that person?

16 A. Um, I believe it was Shan Balkissoon. I’ll have to confirm. Or,
17 or, Shan or Shane Ramkissoon. I have to confirm, Sir.

18 Q. Well would you have considered that very important for the
19 IMT to be able to inform this Commission that attempts were
20 made to speak to Mr. Boodram very early?

21 A. Yes, yes, Sir, I—it’s an omission in—yeah.

22 Q. And therefore, would you not—would have wanted to get a
23 statement from this gentleman so that we will be able to
24 interview him and be able to assess his evidence?

25 A. I don’t know if he provided a statement, Sir.

26 Q. He did not.

27 A. Okay.

1 Q. And Paria did not provide any statement of him.

2 A. Yes, he's a Kenson employee, Sir, yes.

3 Q. Kenson but it's Kenson slash Paria?

4 A. Yes, Sir, yes, I was not in—

5 Q. Kenson employee—

6 A. Yes, Sir. Yes, Sir.

7 Q. —employed at Paria?

8 A. Yes, Sir. I was not involved—

9 Q. And take instruction from Paria?

10 A. Yes, Sir.

11 Q. All right. But apart from Boodram, you—based on your
12 evidence you have given us, you knew that another diver had
13 gone into the pipeline?

14 A. Yes, Sir.

15 Q. Shortly after Boodram came out?

16 A. Yes, Sir, I believe Mr. Michael Kurban.

17 Q. Kurban. And he had reached some distance in the horizontal
18 section of the pipeline?

19 A. I believe it's about 10 to 15 feet, Sir, yes, Sir.

20 Q. And based on the information you had, he was prepared to go
21 back in and get longer umbilical?

22 A. Yes, Sir.

23 Q. But you stopped the diving in the pipeline?

24 A. Yes. I told them to stop diving. It was dangerous.

25 Q. Did you make any attempt to talk to Mr. Boodram to find out
26 the condition in the pipeline—according to Kurban—

27 A. Mr. Kurban—Mr. Kurban, Sir.

1 Q. Mr. Kurban, sorry.

2 A. Yeah. Right. So, Sir, this pipeline is quarter of a mile long.
3 Right?

4 Q. I know the length, Mr.—

5 A. Yes, Sir. Sure.

6 Q. I'm asking you a different question.

7 A. Sure, yes. No, I did not speak to Mr. Kurban, Sir, right? I
8 knew, I knew he went down the vertical and about 10 feet along
9 the horizontal. I was told he found a—I was told he found a,
10 um, face shield and a tank and he came back out. Right?

11 Q. But from the information you got—

12 A. Yes.

13 Q. —he was not injured in the pipeline?

14 A. No, Sir.

15 Q. He was okay?

16 A. Yes, Sir.

17 Q. He wanted to go back in again?

18 A. I understand.

19 Q. Yeah.

20 A. But Sir—

21 Q. And—but you made a decision—

22 A. Yes, Sir.

23 Q. —for him not to go back without finding out from him whether
24 inside the pipeline was safe for a diver to go back in?

25 A. Right. Sir, going down that vertical and going 10 feet along
26 that horizontal, there is no way Mr. Kurban could, from that,
27 tell me if that pipeline is safe. That is not possible. But the

1 length of that pipeline he just saw, he just saw the very end of
2 that pipeline. He could not assess inside that pipeline, Sir.

3 Q. Mr. Piper, but you had known that afternoon that Mr. Boodram
4 had reached some distance in the pipeline?

5 A. Yes, Sir.

6 Q. And he came back alone—well he came back without any
7 rescue in the pipeline.

8 A. Yes.

9 Q. And he found no obstacles.

10 A. I don't know that, Sir.

11 Q. No, but based on what you got information, did he find any
12 obstacles to prevent him from coming out of the pipeline?

13 A. He did not, he did not indicate that, Sir.

14 Q. He did not indicate that to you?

15 **Examination By Mr. Chairman:**

16 Q. Well, as a matter of logic, he obviously didn't have an obstacle
17 from prevented him from coming out.

18 A. Exactly.

19 Q. Because he came out.

20 A. Exactly.

21 Q. Right, so, you could make certain deductions of—

22 A. Of course, Sir, yes.

23 Q. Yes, thank you.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. Are you a diver?

26 A. No, Sir.

27 Q. So you have no experience in diving?

1 A. I did a lil PADI course one time, um, I've never had to dive
2 since, so, I am not a diver.

3 Q. So, so you—that decision you made when Mr. Kurban wanted
4 to go back in the pipeline, that was made around what time?

5 A. As I said, um, it was around 1825, 6.25 p.m.—

6 Q. Around 6.25?

7 A. —when I was advised that people were going in.

8 Q. And you were advised. Who were you advised by?

9 A. Mr. Visham Harrichan told me people, yes he understood men
10 were diving into the pipeline.

11 Q. No, what I'm asking you, who—you made the decision to stop
12 the diving?

13 A. Yes, Sir.

14 Q. And stop Mr. Michael Kurban going back into the pipeline?

15 A. Yes, Sir.

16 Q. On what basis you made that decision? On the same basis that
17 the, that the pipeline might be dangerous, inside the pipeline
18 might be dangerous?

19 A. Sir, I've been in this industry for 45 years. Right? And I think
20 we need to understand what we are dealing with. I've served
21 on tankers, right, for eight years and I've been in this petroleum
22 industry for 45 years. All my life in this industry, confined
23 space entry has taken lives. Confined space entry is not
24 something you take lightly. And in this industry lives are lost
25 regularly with people entering into confined spaces out of
26 emotion and out of instinct, not understanding the dangers in
27 confined spaces.

1 So, based on that, I am not a diver but this was a confined space inside
2 a 30-inch pipeline, the conditions of which we did not know but
3 we knew it had oil in the pipeline, right, we knew the plug—we
4 assumed the plug went in the pipeline. We did not know if that
5 pipeline was stable, right? It is based on that that Paria could
6 not sanction somebody going into that pipeline so that is—that
7 was a dangerous, extremely dangerous space.

8 Q. I just want to get it clear from you. You did not get any expert
9 advice at that time to make the decision for Mr. Michael
10 Kurban not to go back into the pipeline?

11 A. Sir, I did not, and I will repeat, Sir, I did not get any expert
12 diving advice but this was a confined space—

13 Q. So Mr. Piper—

14 A. —and I've been in this industry for 45 years.

15 Q. Mr. Piper, would you not agree with me, there are many rescues
16 made from people, divers, in confined spaces? I have read. I
17 am not a diver.

18 A. Yes, Sir.

19 Q. But I have read—

20 A. Yes, Sir.

21 Q. —and there are many rescues from people who were in trouble
22 in confined spaces.

23 A. Yes, Sir and—

24 Q. So you are telling us that, yes, it can be dangerous; yes, people
25 can get into difficulties but would you not agree that there have
26 been rescues effected from persons who ended up in difficulties
27 in confined spaces?

1 A. And I will also agree, I will also agree that more rescuers die in
2 confined spaces in the maritime industry than people who are
3 saved.

4 Q. But I want to ask you this.

5 A. That's the victims.

6 Q. I want to ask you this.

7 **Mr. Peterson SC:** Mr. Chairman the document, sorry to
8 interrupt, the document you had asked us to try to locate, it's at
9 page 1573 of the ICT bundle, before my learned friend moves
10 on to another area. ICT bundle at page 1573, before my learned
11 friend moves on to another area, so I thought we'd bring it to
12 your attention. It shows 2035 hours. Yeah, that's—I think
13 that's what you are looking for, Sir.

14 **Mr. Chairman:** For what time, what time?

15 **Mr. Peterson SC:** Twenty thirty-five, 203.

16 **Mr. Chairman:** Thank you very much. I'm much obliged to
17 you. That—so that's at 2035, just, so that we go back on it
18 because I'd misrepresented the position, all right?

19 **Examination By Mr. Chairman:**

20 Q. Mr. Balkissoon, that's Shan Balkissoon, he's a health and
21 safety officer isn't he?

22 A. Yes.

23 Q. Does he work—

24 A. Yes, Sir, He's an EMT—

25 Q. All right.

26 A. Kenson with Paria.

27 Q. Right, he works for Paria and he was asked or he did proceed

1 then to the hospital to interview Mr. Boodram?

2 A. Okay.

3 Q. Thank you very much.

4 **Mr. Chairman:** Let me just make a note of that. Thank you,
5 Mr. Peterson.

6 **Mr. Peterson SC:** You're welcome, Mr. Chairman.

7 **Mr. Chairman:** Thank you. I'm sorry Mr.—

8 **Mr. Maharaj SC:** I think you were going to ask the witness a
9 question about the accidents in maritime—I don't know
10 whether you still want to pursue that.

11 **Mr. Chairman:** Well, no, no. I was just a little surprised by
12 the assertion made that more people have died than have
13 been—that have died trying to carry out a rescue than were
14 actually rescued.

15 **Examination By Mr. Chairman:**

16 Q. Is that, is that correct?

17 A. Sir, um—

18 Q. Where did you get that from?

19 A. It would be, I think it's OSH or NIOSH, right, NIOSH did a
20 report in 1986. Right? Some of the stats in that report they
21 looked at, they looked at accidents.

22 Q. OSHA?

23 A. It wasn't—this is, this is not the maritime industry. I'm just
24 giving a reference and I'll come back. They did a report,
25 NIOSH, National Institute Occupational Health and Safety,
26 Safety and Health in the US, in 1986 they did a report spanning
27 for the last up I think to 1983, there were eight incidents in

1 enclosed spaces, 16 deaths, and of those 16 deaths 10 would be
2 rescuers. All right? In the maritime industry, I will give you
3 two cases, that happened recently, right?

4 Master of a vessel there, one seaman went into a tank, right? He was
5 overcome. The master of the vessel rushed into the tank,
6 despite, despite warnings that he should not, and they had to lift
7 both of them out. Both of them died. Right? There's was a
8 recent case in 2018 where a seaman was trapped, not trapped,
9 he was overcome in a chain locker, right, which is a small,
10 relatively small compartment on a vessel. Two men rushed in.
11 One raised the alarm and rushed in. He was also overcome and
12 died, and then the guy who came to save him he was also
13 overcome and died. Right? So these are regular occurrences in
14 the maritime industry.

15 Indeed, Sir, deaths in confined spaces are one of the major causes of
16 deaths in the maritime industry. And a number of those deaths
17 are rescuers. So warnings continually go out against the people
18 acting on emotion and instinct rather than knowledge and
19 experience and training. That—it is a regular cry in the
20 Maritime industry.

21 Q. Well that's very helpful. Obviously there's a distinction
22 between the untrained rescuer and the trained rescuer.

23 A. Yes, Sir.

24 Q. So that—

25 A. Yes.

26 Q. We all might feel compelled to rush into a burning house if we
27 hear a baby crying. We might be overcome whereas the, the

1 fireman—

2 A. Yes.

3 Q. —might not be. Yes, all right, thank you.

4 A. Right? In fact, Sir, if I may add, um, the marine accident
5 investigation branch in the UK in—they recently in their
6 international forum, they started researching and between 1991
7 and 2007, they asked different flag states seafaring
8 administrations, they wanted to get an idea of confined space
9 deaths and 18 states at the time of writing the report had
10 submitted, and there are many more states. and of the 18 states
11 they identified 120 deaths in confined spaces with 123 injuries.
12 It is a very serious issue in the maritime industry.

13 Q. Are you saying that this is something that—confined space
14 deaths are such now that they're so prevalent it should be
15 addressed in your own reports, your own, um, risk assessments
16 and, er—

17 A. Well, yeah, right, to enter any confined space in Paria we also,
18 we also take great precautions for entry into confined spaces.

19 Q. Yes. I mean, I'm just looking at—you've given us some
20 helpful information about historical position of deaths in
21 confined spaces and what must have been prevalent in your
22 own mind about whether to proceed or not with a rescue, but,
23 none of that seems to be contained in any of the documentation
24 that you have as part of the, um, of the, er, way in which that
25 Paria operates and how people should operate with Paria. Is
26 there any specific addressing confined spaces?

27 A. Right. So, the HSE will be able to provide that documentation

1 but I—but when we enter confined spaces in tanks and so on,
2 because we're doing tank cleaning, right, we have particular
3 procedures we follow for entry into confined spaces for rescue
4 into confined spaces and so on.

5 Q. Yeah. That was never addressed? Confined space rescue was
6 never addressed in this matter, though, was it?

7 A. If you'll explain Sir, what you mean?

8 Q. Well, leave aside the pipe for a minute.

9 A. Or yeah.

10 Q. There was a habitat which is a confined space, isn't there?

11 A. Correct.

12 Q. Yes.

13 A. Yes.

14 Q. And was that addressed as a potential issue?

15 A. Right, so, yes, there was continuous, continuous monitoring—

16 Q. Monitoring?

17 A. —of the confined space, Sir, yes; monitoring of the air quality.

18 Q. I imagine, yes. Well, air quality is one thing but yes.

19 **Mr. Chairman:** Thank you.

20 **Mr. Maharaj SC:** Much obliged.

21 **Continued Examination By Mr. Maharaj SC:**

22 Q. But I don't want to—remember the last question I asked you
23 was, and you said that you did not get expert advice to stop
24 Michael Kurban from diving into the pipeline and then you told
25 us about all the incidents of maritime. So am I correct in saying
26 that you didn't get expert advice and you relied on your own
27 tuition and what you knew about maritime accidents in

1 confined spaces?

2 A. Sir, I did not get any diving expert advice, right, I did not rely
3 on my own intuition. I relied on my knowledge and experience
4 of 45 years in the maritime industry.

5 Q. But you knew you were making a decision which impacted
6 whether persons live or die?

7 A. Yes, Sir.

8 Q. And you were prepared, in making that decision, to rely on
9 what you have just told us?

10 A. It is a real problem in the industry, Sir.

11 Q. I see.

12 A. It is a real issue. Also, if I may, you put it that I made a
13 decision and someone would live or die. I would like to—I
14 would like us to understand that that decision also applies to the
15 responder.

16 Q. To the?

17 A. To the responder, the rescuer. That decision also applies to the
18 rescuer, Sir.

19 Q. What you mean by that?

20 **Mr. Chairman:** Whether he lives or dies.

21 **Mr. Maharaj SC:** Whether—you mean whether—

22 **Mr. Chairman:** The rescuer himself.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. —the rescuer lives or die?

25 A. Yes, Sir. That is what I'm saying. Rescuers die very often.

26 Q. So what—

27 A. And, and it is—there's always—they are always clear. Would-

1 be rescuers, right, they go in there on instinct and emotion and
2 they perish because they don't—not going in on knowledge and
3 training, so that decision was made with the rescuer as well in
4 mind.

5 Q. Okay. Let's go to—I'll come back to some of that—

6 A. Sure.

7 Q. —but I want to get, get some—let's deal with some of the
8 duties. Would you agree that Paria had a control work system
9 in respect of this contract?

10 A. Yes, Sir.

11 Q. And that Paria supervised the works? I talked to you about
12 entering the contract but Paria supervised the works?

13 A. Yes. Paria will have a supervisor to supervise the works and
14 coordinate the works, yes, Sir.

15 Q. Right. And it performs a supervisory role and you would have
16 known about the permit to work procedures?

17 A. Of course.

18 Q. Right. And, in this matter, in respect of these particular works,
19 I want to point out to you to paragraphs 22 and 23 of Mr.
20 Michael Wei's witness statement.

21 A. Page, please?

22 Q. Page 1276. And would you read it and then I'll ask you
23 whether you agree with what I'm—

24 **Mr. Chairman:** Which paragraphs are we dealing with?

25 A. Which paragraph?

26 Q. Paragraphs 22 and 23.

27 **Mr. Chairman:** Right.

1 **Mr. Maharaj:** At 1276.

2 **Continued Examination By Mr. Maharaj SC:**

3 Q. Okay?

4 A. Okay Sir.

5 Q. Would it be correct to say that Mr. Michael Wei has said in that
6 witness statement that the maintenance lead and planner,
7 Mohan Balkaran, and Terrence Rampersadsingh, were assigned
8 by him to further develop the scope of works and to oversee, in
9 quote, “to oversee the execution of the project by the
10 contractor”?

11 A. Yes, Sir, that’s correct.

12 Q. That’s correct. And at paragraph 67 of Michael Wei’s
13 statement at page 1283, paragraph 67—

14 A. I’m reading.

15 Q. —1283.

16 A. Yes, Sir.

17 Q. He said that the terminal and maintenance department under
18 Michael Wei on the ground level monitored and reported on
19 ongoing works through Mr. Terrence Rampersadsingh, Rajiv
20 Mangalee and Houston Majardsingh on the instructions of
21 Terrence Rampersadsingh who were on the site at berths 5 and
22 6 and also offshore.

23 A. I, I didn’t see the terminal—it just, it just started here on the
24 ground level.

25 Q. If you increase it a bit so he could see?

26 A. Yeah, on the ground level.

27 Q. On the ground level?

1 A. Yes, I thought you had said the terminal.

2 Q. On the ground level.

3 A. Yes, Sir.

4 Q. Yeah. And that would be on the site between berth 5 and berth
5 6 also?

6 A. Yes, and also offshore services that you mentioned, yes.

7 Q. And also at berth 6. Now, would you agree with me, you had—
8 you have read the In-Corr-Tech report and on the cause of this
9 accident, correct?

10 A. Yes, Sir.

11 Q. And would you agree that the volume of liquid content in the
12 line, both topside and underwater, are very important
13 considerations into this matter?

14 A. Yes, Sir.

15 Q. Right. So I want to take your mind to some of that, right? At
16 the core bundle, page 564—

17 **Mr. Chairman:** Would it be convenient to take a 5-minute
18 break?

19 **Mr. Maharaj SC:** Yes, yes.

20 **Mr. Chairman:** I think you've got a little way to go.

21 **Mr. Maharaj SC:** Yes.

22 **Mr. Chairman:** We've been going since two o'clock.

23 **Mr. Maharaj SC:** Yes.

24 **Mr. Chairman:** Shall we just take 5 minutes?

25 **Mr. Maharaj SC:** Yes, Sir.

26 **Mr. Chairman:** Let's do that, thank you. Please feel free.
27 Don't stand on ceremony. I'm going to grab my papers so,

1 we'll adjourn for 5 minutes. I'm going to grab my papers.

2 **3.55 p.m.:** *Enquiry suspended.*

3 **4.01 p.m.:** *Enquiry resumed.*

4 **Mr. Chairman:** Thank you. I hope everyone's a little more
5 comfortable. There's just one thing that's been nagging me a
6 little if you'd help me please, Mr. Piper.

7 **Examination By Mr. Chairman:**

8 Q. I was asking you about confined space and you were good
9 enough to give me all your—the benefit of your knowledge on
10 past experiences in the industry of confined space deaths and
11 the like and this is all new to me. None of this in is in your
12 statement. I'm not criticizing you, but I mean, you didn't come
13 for an interview so we couldn't have asked you about it. But
14 I—be that as it may, you're telling us now, and I'm grateful for
15 that, there is, um, or I've not seen any particular document
16 that's been provided to us about a strategy to deal with confined
17 space problems of the kind you're talking about within Paria,
18 and you tell me that I should find out there may be something,
19 but what I do want to ask you about, is, would you turn please
20 to page 1074? You'll see it come up on the screen. It's in our
21 bundle Volume III, a document we're all very familiar with
22 which is the work permit, and I'm sure you're very familiar
23 with it but do you see, if you go down to section 3—

24 A. Uh-huh.

25 Q. —there is there reference to a number of certificates that should
26 accompany this—

27 A. Yes.

1 Q. —work permit—

2 A. Uh-huh.

3 Q. —isn't there?

4 A. Yes.

5 Q. And one of them, um, that is marked, um, second down—

6 A. Uh-huh.

7 Q. —after hot work certificate, it says “Confined Space
8 Certificate”.

9 A. Yes.

10 Q. And that would apply, do I understand it, in any situation where
11 there is work to be done—

12 A. Yes.

13 Q. —which might involve some kind of confined space issue—

14 A. Uh-huh.

15 Q. —of the kind that you'd been describing—

16 A. Right, yes.

17 Q. —and confined space is not limited, is it, to a 30-inch pipe, it's
18 any space where it's difficult to manoeuvre?

19 A. Yes.

20 Q. Or, or it's tight in one way or another, correct?

21 A. Correct.

22 Q. Would you agree with me then that the habitat, that was being
23 used by LMCS—

24 A. Yes.

25 Q. —was a confined space?

26 A. Yes.

27 Q. Can you tell me why, do you know, you may not know, why

1 there was no certificate available for that?

2 A. Sure. Right, so, um, so Paria is, Paria is a young company and
3 we have been of course, in our development, developing our
4 HSE permit to work system was one of the first things we had
5 to do. We would do a lot of hot work and so on so we
6 developed a certificate for that. We're, um, doing things like
7 process isolation certificates and so on. We are still in the
8 developmental stages of a confined space entry certificate, but,
9 notwithstanding we carry out the, we carry out the tests and so
10 on for confined space entry. So when he says there certificate
11 of—no certificate available, we do not have a certificate per se
12 but we carry out the duties that would be on such a certificate.

13 Q. All right, let me see if I have understood that then. First of all,
14 how long has Paria existed?

15 A. Well, over four years now, Sir.

16 Q. Four years? Right.

17 A. Yes, Sir.

18 Q. So for four years no document that could be described as a
19 permit for confined space—

20 A. Certificate.

21 Q. Yeah, no document that could be a certificate, not permit, a
22 certificate, to deal with confined space has yet been developed?

23 A. That is correct.

24 Q. Is that still the position?

25 A. That is still the position.

26 Q. Right. All right?

27 A. However—

1 Q. No, no I'll come to the however.

2 A. All right.

3 Q. I'll give you a chance to have your however in a moment. I
4 always allow buts and however, but, in answer to my question,
5 that's the position, it still remains the position? All right?

6 A. Yes, Sir.

7 Q. There is a procedure behind the certificate which you say exists
8 as part of Paria's ordinary operating methodology?

9 A. Correct, Sir.

10 Q. Yes. And that procedure is written down somewhere, is it?

11 A. Well, we—in the HSE will have, that but what we do, we
12 monitor the spaces, we do all the tests, so any time somebody's
13 going into a confined space there are standard ops that we do
14 with the HSE group, yes, Sir.

15 Q. Well, we know it was—the air was monitored and there were
16 various cameras and things. What I'm interested to know is, is
17 it written down somewhere what the procedure is to deal with
18 confined spaces, a Paria document—

19 A. Yeah.

20 Q. —that says this is the procedure you need to follow, for if we
21 had a certificate that you would have to follow in order to get
22 the certificate?

23 A. Yeah.

24 Q. Is there such a document?

25 A. I will have to double-check, Sir.

26 Q. You don't know?

27 A. Yeah, yeah, I'll have to double-check—

1 Q. Well—

2 A. —but—because, because I really deal with—when we're going
3 in, I deal with—ensure that the technicians, they do the checks
4 when I'm going in the confined spaces.

5 Q. Right. You recognize, and this document which you
6 presumably had put together—

7 A. Uh-huh.

8 Q. —as the work permit for Paria—

9 A. Correct.

10 Q. —recognizes that it's sensible to have such a certificate?

11 A. Yes, Sir.

12 Q. Right. And you're going to get round to it, no doubt, in due
13 course, but, can I just be clear about this? The procedure,
14 unwritten but understood, was followed as far as you're aware?

15 A. Correct.

16 Q. Yeah?

17 A. Yes, Sir.

18 Q. Is there a concomitant emergency procedure to deal with
19 situations where it goes wrong in your confined space?

20 A. Right, so if we are doing, say, entry into a tank, right, if you're
21 doing tank entries, for instance—

22 Q. Right.

23 A. —we, in our, in our process—

24 Q. When you say a tank, do you mean those great big round things
25 that I see when I came down to your—

26 A. Yes, Sir.

27 Q. —I mean—

1 A. Yes, if we're doing tank repairs or tank cleaning for any repairs,
2 right, so, part of that you'll appreciate we have to enter the tank,
3 right? So there are—we do gas-free those and we wash them,
4 we do gas free the tanks and with contracts and so on, gas free
5 the tanks, then when some—before somebody enters those
6 tanks we air blow tanks, et cetera. And we do—

7 Q. So you have a procedure again?

8 A. Yeah, and you do constant quality, air quality testing.

9 Q. I, I, I don't need to know the—

10 A. Yeah.

11 Q. —procedure specifically for tanks. So you have a procedure for
12 tanks?

13 A. For confined spaces.

14 Q. Yes.

15 A. Yes, mainly to—which will be mainly tanks.

16 Q. [*Inaudible*] the inside of a tank, I imagine—

17 A. Yes.

18 Q. —would be larger than this room?

19 A. Yes.

20 Q. Yes, which, er, so it's not the same sort of confined space
21 issues.

22 A. Correct.

23 Q. So I'm interested to know if, in fact, that there is any
24 emergency plan or anything written down about what to do in a,
25 if I might put it this way, a genuinely small, confined space,
26 what you would do, what—is there anything, any kind of
27 procedure that you would have?

1 A. Yes. So I—so we will have, we will have our, um, we'll have
2 our EMTs there, we will be monitoring people's blood pressure
3 so on.

4 Q. Right.

5 A. Make sure they're okay, um, well before they enter the tank, we
6 will have—they will stand by, we'll have somebody—

7 Q. Is this written down?

8 A. I'll have to confirm, Sir.

9 Q. Right, you're going to let me know?

10 A. Right? But I know every time I go in—every time I have to
11 enter a tank, unseen tank entry, this is the procedure and then
12 we will have somebody stationed there with self-contained
13 breathing apparatus and so on to enter the tank, if there's any
14 rescue. So we always have people standing by.

15 Q. Right. When you depart today—

16 A. Yes.

17 Q. —could you make an inquiry, please of—

18 A. Of course.

19 Q. —someone in your firm as to whether there is anything written
20 down as part of a procedure—

21 A. Right, okay Sir.

22 Q. —for dealing with confined spaces? I accept that there's no—
23 you told me frankly there's no certificate and there's—but if
24 there's anything written down, and, as I say concomitant to that
25 whether or not there is any emergency procedure that is
26 associated with that.

27 A. Right, okay, Sir.

1 **Mr. Chairman:** All right, thank you a thank you, Mr.
2 Maharaj.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. Yes, Mr. Piper, I want to go, as I told you, right, to the line
5 clearing issue—

6 A. Yes, Sir.

7 Q. —in this case—

8 A. Uh-huh.

9 Q. —and before I point out at 564 that I was going to do—

10 A. Okay.

11 Q. —I did ask you whether you read the In-Corr-Tech report and
12 you said yes.

13 A. Yes, I read it.

14 Q. And I just want to, because it has a bearing in line clearing—

15 A. Uh-huh.

16 Q. —so I want to refer you to one of the paragraphs.

17 A. Uh-huh.

18 Q. —and that is at the supplemental core bundle page 1394
19 paragraph 2.3.

20 A. Thirteen ninety-four you said, Sir?

21 Q. Yes, 1394.

22 A. I have a blank. Drew a blank.

23 Q. Oh, I see. I'm sorry. It's on the screen.

24 A. Or, it's on the screen? Or, okay, that's fine, thank you.

25 Q. Paragraph 2.3. I'll read it with you.

26 “The removal of fuel oil from line and the installation of
27 a migration barrier as stipulated in Paria's scope of

1 works, section 2.1 and 3.12 respectively created a large
2 gaseous void in Sealine 36. This void served as a
3 prerequisite for the latent differential pressure hazard that
4 was created when the habitat was installed and
5 pressurized to facilitate work within the said habitat. The
6 hazards associated with this void were overlooked by
7 both Paria and LMCS.”

8 Right?

9 A. Uh-huh.

10 Q. Would you agree with that?

11 A. Yes, Sir.

12 Q. Yes. So, you would agree that the quantity of oil which was
13 removed from Sealine 36 is critical and relevant in this matter?

14 A. Yes, Sir.

15 Q. Right. So if you look at page 564 of the core bundle Volume
16 II—

17 A. [*Document handed to Mr. Piper*] Thank you.

18 Q. —and this was scope of works document, section 3.0, scope of
19 work—

20 A. Uh-huh.

21 Q. —and you see what section A is described as, and then you go
22 down there are some—there’s the isolation list, and then it says
23 estimated volume of product—[*Crosstalk*]—sorry, estimated
24 volume of product between isolation points 2000 barrels. And
25 if I point you out to: “The contractors shall execute the
26 following”—and then you have 3.1.5 on that same page.
27 You’re seeing it?

1 A. Yes, Sir.

2 Q. Yes.

3 “Properly coordinate the works with Paria operations,
4 maintenance and HSE personnel to perform the following
5 activities including but not limited to
6 isolation/deisolation, depressurization/pressurization and
7 draining/filling product from SL36 at berth 6 and 5.”

8 Right? So what I want to get from you, you are the operation
9 manager?

10 A. Correct.

11 Q. The estimated value that would be here, would that be got from
12 records at Paria?

13 A. I, I don't know where they got that estimate to follow.

14 Q. Okay. Do you know whether that is an estimation of the, of the
15 topside—

16 A. I don't know, Sir.

17 Q. —the underwater part or both, do you know? Could you help
18 us?

19 A. Well, it says between isolation points, Sir.

20 Q. So what that means?

21 A. Isolation points between 5 and 6.

22 Q. Between 5 and 6?

23 A. Six.

24 Q. So we are referring to the underwater piping, then?

25 A. Yes, Sir.

26 Q. Right. So, um, look at, um, at—how do you interpret paragraph
27 3.1.5 that I just read to you? From the scope of works Paria

1 was asking for the line to be drained?

2 A. No, Sir.

3 Q. What, what Paria was asking for?

4 A. Paria was asking for the line to be prepared so, so that the
5 contractor could effect his works.

6 Q. But it doesn't say so. It says draining and filling product from
7 Sealine 36 at berth 6 and 5. But I'll take your explanation,
8 okay?

9 A. Okay.

10 Q. Then I want you to look at the addendum at CB 598.

11 **Mr. Chairman:** CB?

12 **Mr. Maharaj SC:** Five nine eight.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. And that is Addendum 1 and you see that there is a query?

15 A. Uh-huh.

16 Q. And then you have a response. Right?

17 A. Uh-huh, yes, Sir.

18 Q. And the query is: "Who is responsible for pumping back from
19 the berths to clear the lines with water?"

20 A. Uh-huh.

21 Q. "Response: The contractor is responsible for the safe
22 removal of hydrocarbon contents from the line and to
23 ensure that the line is clear and dry."

24 A. Yeah, go on.

25 Q. That's correct?

26 A. Yes, Sir, that's what I see.

27 Q. So Paria is telling the contractor that is what has to be done?

1 A. Yes, Sir, so clear, clear and dry, right? In all my discussions,
2 right, clear and dry would be clear to the point at which the
3 contractor needs to insert his plug. Right? So it's clear down
4 to that point? Right? That was the understanding.

5 Q. Clear down to that point?

6 A. Where the contractor need to insert his—to clear, to clear the
7 section so he could install his plug.

8 **Examination By Mr. Chairman:**

9 Q. Can I understand, please? Would you agree that that is at least
10 ambiguous?

11 A. It is.

12 Q. Bearing in mind that this is a query being raised by the
13 contractor?

14 A. Yes, Sir.

15 Q. And he is saying, “Well who’s responsible for pumping back
16 from the berths to clear the lines with water? Who’s
17 responsible?” And the response from Paria is that the
18 contractor is going to be responsible for the safe removal of all
19 the hydrocarbon content.

20 A. Uh-huh.

21 Q. And to ensure, ensure that the line is clear and dry, not to
22 ensure that the line is clear and dry to the point at which the
23 plug is put in.

24 A. Yeah. Correct, Sir.

25 Q. I mean, it is at best ambiguous. Do you agree?

26 A. I agree.

27 **Mr. Chairman:** Thank you.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. Look at 659, page 659. That's LMCS' original method
3 statement. "Removal of line content between berths 5 and 6."

4 And then you see the bullet point at one, two, three, four, five:

5 "Using air driven pump, pump out approximately 300
6 barrels of line content to be pumped in Paria Fuel
7 Trading Company's slop barge and ferried to lube oil
8 jetty where it—the line content will be removed by Paria
9 Fuel Trading Company Limited."

10 A. Uh-huh.

11 Q. So, based on your answer, that is between berth 5 and 6?

12 A. Yes, Sir.

13 Q. And then if you look down below:

14 "Once level in the riser has dropped to 35 feet below sea
15 level—

16 A. Uh-huh.

17 Q. —a line plug will be installed."

18 A. Right.

19 Q. So it is saying to drain 300 barrels of oil between berth 5 and 6
20 and install the plug?

21 A. Right. Right. So, all right, so, the contractor is—the contractor
22 uses estimations, right, but the dip on the line, which is the 35
23 feet, is the measurement that he's going to.

24 Q. But it doesn't say so.

25 A. Well it says once level in the riser has dropped to 35 feet.

26 Q. But it also says pump approximately 300 barrels.

27 A. Right. But once it reaches to 35 feet. So he, he, he's, he's

1 dipping the line to monitor the level.

2 Q. But it says pump 300 barrels and it also says once level in the
3 riser is 35 feet the line plug will be installed?

4 A. So once it gets, once it gets there, right, everything else is an
5 estimation but once it gets to that point, he installs the plug.

6 Q. But Paria approved this method statement?

7 A. I will assume the technical department would have read it's
8 there.

9 Q. And therefore the works are being conducted in accordance
10 with the method statement?

11 A. I—you're correct, Sir, to get to the 35 feet.

12 Q. And Paria was monitoring the works in accordance with the
13 permit to work rules?

14 A. Para was monitoring the works in accordance with the permit to
15 work rules, but the contractor is the—the contractor is to dip the
16 line, not Paria.

17 Q. But Paria has to monitor the works in accordance with the
18 permit to work rules which requires the work to be safely done?

19 A. Down to the 35 feet, Sir, yes, Sir.

20 Q. All right. I want to show you another document, CB 1033.
21 [*Crosstalk*] Okay. I couldn't find it in my volume but I found
22 it, 1033. You have it on the screen.

23 A. Right.

24 Q. You see, "Clearing of Sealine 36 between berths 5 and 6"?

25 A. Yes, Sir.

26 Q. And you see the responsibilities?

27 A. Uh-huh.

1 Q. Terminal Operations Manager, that's you, not so?

2 A. Correct.

3 Q. "...has the overall responsibility for ensuring that this
4 procedure is established by reviewing and approving this
5 work instruction and, two, ensuring the offshore team
6 lead understand the requirements of this work
7 instruction."

8 A. Correct.

9 Q. Correct? And you see the offshore team lead, that was Mr.
10 Jason Beckles?

11 A. Correct.

12 Q. He had direct responsibility to ensure compliance with the
13 procedure by reviewing and approving this work instruction,
14 ensuring offshore operations team supervisor, et cetera, et
15 cetera. Okay? Now, this was signed authorized by you?

16 A. That's correct.

17 Q. I see your signature there.

18 A. That's correct.

19 Q. Authorized, approved by Jason Beckles,?

20 A. Correct.

21 Q. Also signed by Harrichan?

22 A. Yes, Visham Harrichan, yes.

23 Q. Yes. I notice there is no date of your signature. There are dates
24 on the other signature. Is there any reason for that?

25 A. No, Sir, there's no reason for that. An oversight.

26 Q. It's an oversight. But would you say that you signed it around
27 the same date or on the same date?

1 A. Yes, Sir.

2 Q. As the others?

3 A. Yes, yes.

4 Q. Now, the line instructions, I have looked through it—

5 A. Uh-huh.

6 Q. —and I have not seen anything about Delta P. It's very detailed
7 from 10.35 to 10.36 to 10.38. Would it be correct to say that at
8 that time you all did not identify Delta P as a hazard in this
9 operation?

10 A. That's correct, Sir.

11 Q. That's correct. And that is why you would say also that it is not
12 in the scope of works, the method statement or in the risk
13 assessment, because Paria did not identify a Delta P hazard?

14 A. Yes, Sir. And I would say that the—we depended on the
15 contractor.

16 Q. I know you did.

17 A. —to identify the special, specialized risks, yes.

18 Q. Now, if Paria had identified that hazard, would you agree that
19 they would have—they would not have approved the works as
20 it was without a plan to minimize that risk or to deal with a
21 mitigation of the risk?

22 A. If, if Paria had identified that and—they would certainly have
23 gone to the contractor.

24 Q. And, for what purpose?

25 A. Right. They would certainly have gone to the contractor to
26 ensure that he, that he mitigates against that risk.

27 Q. Right.

1 A. So, right.

2 Q. And if Paria had retained specialists and experts to assist it in
3 reviewing the risk assessment, and in monitoring the works,
4 would you agree with me that that risk would likely have been
5 identified?

6 A. May have been identified. But again, we had a specialist
7 contractor who was well versed in these types of works and
8 who was supposed to identify all credible risk.

9 Q. I looked at the documents and I'm not seeing that the contract
10 was with a specialist contractor. You could probably assist me
11 with that.

12 A. Well, this contractor, this contractor did a number of these
13 particular types of jobs, Sir, in the past.

14 Q. Can I ask you a question?

15 A. Of course.

16 Q. If, if Paria had no role to play in ensuring these works were
17 done safely, how would you account for the permit to work
18 rules of Paria to put that obligation on Paria to ensure that the
19 works were suitably done and done safely?

20 A. Can you, can you ask that question again, please?

21 Q. All right. Let me take you to the—let me take you to the permit
22 to work rules. Well I won't take you to all but I just want to
23 take you to some, all right?

24 A. Volume I?

25 Q. Volume I, page 28. [*Document handed to Mr. Piper*]

26 A. Right.

27 Q. Now the applicant under the permit to work rules is Paria,

1 correct?

2 A. Yes, Sir, in this case, that's the applicant.

3 Q. Look at page 28, paragraph 5.1.

4 A. Uh-huh.

5 Q. "The applicant is the person who initiates the job activity
6 by completing section A of the work permit. The
7 applicant must have the necessary competence to execute
8 the job or to supervise the execution of the job."

9 So that is putting an obligation on Paria to be competent to
10 execute the job and to supervise the execution of the job?

11 A. Uh-huh, yeah. Right. So the permit to work, in the permit to
12 work, the applicant can also be the contractor. Right? Now—
13 so this applies in this case with this—with the permit to work
14 system, right, we have the applicant could be the contractor, the
15 applicant could be a Paria employee. Right? So the applicant
16 in this case, we have a specialist contractor. In this case the
17 applicant was really just coordinating the works, right, but the
18 contractor had that responsibility to actually execute the works.

19 **Examination By Chairman:**

20 Q. Just a minute. That might be what you thought the position
21 was—

22 A. Yes.

23 Q. —but that's not what the documents show.

24 **Mr. Maharaj SC:** The permit to work.

25 **Examination By Mr. Chairman:**

26 Q. If you go back to the document I was showing you earlier at
27 1074, the work permit—

1 A. Right Sir.

2 Q. —there the document is?

3 **Mr. Maharaj SC:** At 1074.

4 **Examination By Chairman:**

5 Q. Yes 1074 we can see. Have you got it?

6 A. Yes, Sir, I'm seeing it on the screen.

7 Q. Yes. All right. Well you can see there it says, doesn't it,
8 "Applicant" under section A?

9 A. Uh-huh.

10 Q. Applicant.

11 A. Yes, Sir.

12 Q. Right. The applicant is Houston Majardsingh?

13 A. Correct.

14 Q. Who is Houston Majardsingh?

15 A. Well, he is the Kenson employee working for Paria.

16 Q. Right.

17 A. Yes.

18 Q. So, the applicant there—if it was your intention that the
19 applicant in those circumstances should be the contractor, why
20 isn't it signed by the contractor?

21 A. No, right, so let me rephrase what I said.

22 Q. Please?

23 A. Right, I'm saying the applicant is—the way the permit to work
24 system is written, the applicant is not necessarily the
25 Kenson/Paria employee. The applicant can also be the
26 contractor.

27 Q. Where does it say that?

1 A. Right? No, that is how we—that is—it doesn't say that here but
2 that is how we use the permit to work system.

3 Q. Yeah. But where does it say that in your, in—

4 A. No, it does not say that here, Sir, but that's how we use this
5 system.

6 Q. Right. So—and you're saying something that doesn't exist in
7 any document?

8 A. That is correct, we, we—but that is how we use it. That's how
9 we use this system.

10 Q. No, I'm not doubting that that's what you said—that you're
11 saying that is how you use it, but it's not actually written down
12 anywhere, is it?

13 A. That's correct.

14 Q. Right. And to the observer, not just the casual observer but the
15 one who is—any observer who has looked at this document—

16 A. Yeah.

17 Q. —would come to the view, not wrongly, that the applicant was
18 a Kenson employee?

19 A. That is correct.

20 Q. And that that Kenson employee was employed by you?

21 A. That is correct.

22 Q. Right. And then if they looked, as I have, at the permit to work
23 procedure—

24 A. Uh-huh.

25 Q. —that you, your firm, not you personally, I don't know whether
26 you had a hand in it, but whether your firm would have drafted
27 this procedure and sets out who the applicant is because it tells

1 you who the applicant is, doesn't it?

2 A. Correct.

3 Q. It doesn't give any kind of option for it to be—

4 A. Correct.

5 Q. —somebody else. All right?

6 **Mr. Chairman:** Yes, thank you Mr.

7 **Mr. Maharaj SC:** Much obliged.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. I just want to show you that on the form itself it has a separate
10 place for the contractor—

11 A. Yes.

12 Q. —at the [*Inaudible*] form.

13 A. Yes.

14 Q. So the work permit, the applicant is Paria and the contractor is
15 referred as to the contractor?

16 A. Yes, Sir.

17 Q. Not the applicant?

18 A. Right. But, um, at times what we do, right, we have the
19 contractor actually signing as the applicant as well, Sir. We do
20 use the system like that.

21 **Examination By Mr. Chairman:**

22 Q. I appreciate, but you didn't do that in this case?

23 A. No, no. We did not, no, we did not do that.

24 Q. Whether you might do in other cases—

25 A. Yes.

26 Q. —in this case what you did was to have a Kenson employee—

27 A. Yes.

1 Q. —as the applicant?

2 A. Correct.

3 Q. Who worked for you?

4 A. Right.

5 Q. Right. So the question that Mr. Maharaj is asking is, when he
6 reads this, the applicant is the person who initiates the job
7 activity by completing section A of the work permit, the
8 applicant must have the necessary competence to execute the
9 job or to supervise the execution of the job. What he's saying
10 there, what I—how I read that is, is that either you must be able
11 to do the job yourself—

12 A. Uh-huh.

13 Q. —and if you can't, you must at least be able to supervise the
14 job?

15 A. Correct, which is what he was doing.

16 Q. So that Kenson employee needs to be someone who actually
17 understands what's going on?

18 A. Yes, correct.

19 Q. Did you take it that Mr. Majardsingh understood what was
20 going on?

21 A. Yes, Sir. In supervising the job not executing.

22 Q. And he—

23 A. Yes, yes.

24 Q. —was in the role of supervisor?

25 A. Yes coordinating all the works, coordinating the works—

26 Q. Well—

27 A. —ensuring that the works were being done.

1 Q. And how do you supervise a job, how?

2 A. Right, so, with the con—with the—how the system works—

3 Q. No, no, no just answer my question. How do you supervise
4 something?

5 A. Right.

6 Q. If I'm going to supervise my team of lawyers, what do I have to
7 do to supervise them?

8 A. Right, so, to know the work that is to be done—

9 Q. Uh-huh.

10 A. —right, he cor—he would in this case coordinate the permits
11 with the, with the operations, get those permits signed, make—
12 get—make sure the permit, the supervi—the contractor gets on
13 site, make sure—um, the contractor would then do his toolbox
14 talks, make sure the contractor understands the work to be
15 done—

16 Q. Uh-huh.

17 A. —right, and of course he's coordinating those works to be done
18 with the contractor who really in this case executes.

19 Q. Right.

20 A. So he is coordinating the whole process, yes.

21 Q. I follow that. I follow all of that. That's good. And then
22 presumably wants to make sure that what they're—whatever it
23 is they're doing they're doing properly?

24 A. Correct.

25 Q. Yeah. And if they're doing something that they're not allowed
26 to do, under the work permit, to stop the work?

27 A. Yes, Sir, correct.

1 Q. He can only do that by keeping an eye on them?

2 A. Yes, Sir, he could, yes, but he's not, he's not required to be
3 there all the time. He's not required to be there continuously,
4 Sir.

5 Q. So he could, he could, he can slip away for a little bit, have
6 some lunch somewhere and just hope that all goes well?

7 A. Well, we have the contractor supervisor who has to be on site at
8 all times, right? So, in this case, the applicant in this case is
9 supervising the job. Part of that supervision will be to ensure
10 that the contractor supervisor is on site, understands, knows that
11 the contractor supervisor is familiar with the job, they're there
12 on the job and he, he has other, he has other tasks to do during
13 the course of the day, so he will visit the job because he has
14 other jobs going on, so he will visit the job.

15 Q. So that—

16 A. He's not there, he's not there fixed. He's not fixed there
17 necessarily.

18 Q. So that I understand what you're saying, the applicant in this
19 case, never mind about generally, but in this case—

20 A. Correct.

21 Q. —would have had other tasks to perform by—for Paria on their
22 behalf?

23 A. Yes. I know he was working at berth 5 as well. In this case on
24 this day I understand he was working at berth 5. They were
25 doing the, um—they were doing the CAARBER test as well,
26 right? What other task he has, I can't say.

27 Q. As far as you're aware that he was only involved, though, in

1 this job, that is to say berth 5 and 6?

2 A. Yeah, I'm not quite sure. I'm not sure. I know he was involved
3 in 5 and 6.

4 Q. All right thank you.

5 **Mr. Chairman:** Thank you Mr.—

6 **Mr. Maharaj SC:** Much obliged.

7 **Continued Examination By Mr. Maharaj SC:**

8 Q. Mr. Piper, your answers are not consistent with the rules. Look
9 at rule 5.1. “The applicant must have the necessary competence
10 to execute the job.”

11 A. Uh-huh.

12 Q. In this work permit, Paria was the applicant?

13 A. Uh-huh.

14 Q. So Paria represented to have the necessary competence to
15 execute the job or to supervise the execution of the job, and it
16 goes on.

17 “He shall be knowledgeable of the hazard associated with
18 the job and the necessary controls for these hazards. He
19 shall be responsible for the job and for the safety of the
20 people who work on the job.”

21 A. Right.

22 Q. So if Paria was the applicant in this work permit, ent that will
23 be the responsibility of Paria, according to this rule?

24 A. Right, Sir, so if I may?

25 Q. Is it—would it be the responsible of Paria—

26 A. Yeah.

27 Q. —according to this rule?

1 A. In this case he was, in this case he was supervising. He did not
2 have that competence to execute as far as I'm aware but he was
3 supervising, yeah.

4 Q. So he was not acting in accordance with this rule?

5 A. Sir, it says he must have the necessary competence to execute
6 the job or to supervise.

7 Q. And it also said he shall be knowledgeable of the hazards
8 associated with the job and the necessary controls for these
9 hazards.

10 A. Right. So—

11 Q. He shall be responsible for the job and the safety of the people
12 who work on the job.

13 A. Right, so, in this case, once again, he would—he would be—he
14 would understand the obvious risk, the risks that we, that we
15 experienced. In this case he will not know the specialized risks.
16 That's why we hire the contractor.

17 Q. So he won't be competent? He won't be competent to
18 supervise?

19 A. He will be competent to supervise but he has—he'll be
20 competent to supervise based on the normal risks, the obvious
21 risks. He does not have the competence that the contractor has
22 in this case, that's correct.

23 **Examination By Mr. Chairman:**

24 Q. Right, so I get that. I understand what you're saying. He's a
25 supervisor, and he could only know the risks that he knows.

26 A. Correct.

27 Q. You told us before, when I was asking you questions about this,

1 that sometimes the applicant is the contractor.

2 A. Yes, Sir.

3 Q. Because it makes sense in certain circumstances for the
4 applicant—

5 A. That's correct

6 Q. —to be the contractor.

7 A. Uh-huh.

8 Q. Can you conceive of a situation more important than this one
9 where the contractor should have been the applicant?

10 A. I would say yes, Sir, the contractor should have been the
11 applicant.

12 Q. On any view?

13 A. Yes.

14 Q. Although it doesn't state this anywhere—

15 A. Uh-huh.

16 Q. —but you told us that it is a practice adopted by Paria from
17 time to time that the applicant in the—

18 A. Uh-huh.

19 Q. —work permit form could and should be the contractor
20 himself?

21 A. Uh-huh.

22 Q. And given your reliance, as you tell us—

23 A. Uh-huh.

24 Q. —on the contractor for his expertise, in this case he should have
25 been the applicant? That's what you're saying?

26 A. Right, so, in this case, the, the, the person who was the
27 applicant in this case, Mr. Majardsingh, right, he was

1 coordinating these works to be done.

2 Q. No, no, no, er, forgive me, forgive me, please.

3 A. All right.

4 Q. It's been a long day for us, all right? Just help me understand.

5 A. Yes.

6 Q. If you were doing this over—

7 A. Yeah.

8 Q. —we're starting today with this, and you had this work permit
9 in front of you, you're in charge of it, all right—

10 A. Yes.

11 Q. —you've got this in front of you, who were you going to make
12 the applicant?

13 A. I would make the contractor the applicant.

14 Q. LMCS?

15 A. Yes, Sir.

16 Q. Right. So whatever we might think of this, this is what, it
17 shouldn't have been? It shouldn't have been Majardsingh?

18 A. I would say it should have been the contractor.

19 **Mr. Chairman:** All right, thank you.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. Look at page 29, what the applicant has to do. Four points from
22 the top of the page.

23 "Continually monitor the job to ensure that it is
24 performed in a safe manner and within the conditions
25 prescribed in the work permit certificates and JHA/risk
26 assessment."

27 You see that?

1 A. Yes, Sir. Yes, Sir.

2 Q. According to this form, according to this form, that was the job
3 of Paria?

4 A. In this case being the applicant, yes, Sir.

5 Q. Yes. And then goes the next one.

6 “Stop the work if there are changes in site conditions that
7 increase the risk, or if new hazards are identified, and
8 promptly notify the site authority of these changes.”

9 In this case, it was Paria?

10 A. Right. So one—right, and as I said—

11 Q. And Paria could have stopped the work?

12 A. And as I said, if the applicant, the applicant, right, we have the
13 contractor supervisor who’s on site at all times, right? The
14 applicant was moving between at least I know 5 and 6, right?
15 He’s not required to be on the site all the time. Right? But
16 once he’s on the site and he sees, he identifies something, he
17 stops the job.

18 Q. Yes. And if it’s Paria is the applicant, must act in accordance
19 with these rules?

20 A. Once he’s on the site, Sir, yes, he will act in accordance.

21 Q. He is the applicant Mr. Piper.

22 A. Yes, Sir.

23 Q. Yes. And look at the next rule, 5.3, site authority. Who was
24 the site authority, not Paria?

25 A. Yes, Sir.

26 Q. And look at what the site authority is responsible for.

27 “The site authority is appointed by the senior area

1 authority, Terminal Operations Manager...”

2 Who is that?

3 A. That is me, Sir.

4 Q. “...or technical and maintenance manager, and is
5 responsible for ensuring that the conditions required for
6 the safe conduct of the job are maintained or that the
7 permitted activities are promptly stopped if there are any
8 changes or violation of any prescribed conditions.”

9 So if LMCS was supposed to be the applicant in this, and you
10 were aware of it, you would have stopped, you would have
11 stopped it in order to change it to LMCS?

12 A. Sir, can you just ask that again, please?

13 Q. You want me to explain it?

14 A. Yes please?

15 Q. From what you saw, the applicant was Paria, Mr. Majardsingh
16 on behalf of Paria?

17 A. Correct.

18 Q. Correct. You have told the, this Enquiry, a short while ago—

19 A. Uh-huh.

20 Q. —that you believe that LMCS should have been the applicant?

21 A. Uh-huh. Right. So—

22 Q. Did you say that?

23 A. Yes, I said that, right? Let me explain if I may, if I may please?
24 All right? In this case, right, the applicant, Mr. Majardsingh,
25 right, Paria, did not have the competence to actually execute the
26 work but he was supervising the work, right?

27 **Mr. Chairman:** We’ve got that. I do understand that, um, I

1 don't want to cut you off.

2 **Mr. Piper:** Okay, Sir.

3 **Mr. Chairman:** But you have made that petty clear to us?

4 **Mr. Piper:** Right, okay.

5 **Mr. Chairman:** And I have that pretty much in mind, all
6 right?

7 **Mr. Piper:** Good.

8 **Continued Examination By Mr. Maharaj SC:**

9 A. All right, so, so it's something that Paria will maybe have to
10 look at closely. I don't know.

11 Q. All right. Now you said the site authority was Paria?

12 A. Yes, Sir.

13 Q. Correct?

14 A. Yes.

15 Q. Now look at page 30 what the site authority shall do: "Ensure
16 that a suitable and sufficient JHA", that is a—

17 A. Job hazard.

18 Q. —job hazard analysis—

19 A. Uh-huh.

20 Q. —has been prepared for the job." You see that?

21 A. Yes, Sir.

22 Q. Right.

23 "Ensure that all necessary supporting safety certificates,
24 job hazard analyses and drawings are completed and
25 attached to the permit."

26 That's the site authority job. And then you go down, we go
27 down in the page:

1 “Ensure, ensure by face-to-face discussions and/or site
2 visit that the person in charge of the activities at the job
3 site knows the exact location, all the hazards that may be
4 peasant, all the precautions to be taken during the work,
5 this includes discussion of the JHA with the person
6 receiving the work permit.”

7 In this matter, Johnathan Ramadan, you remember I was asking
8 you about the line clearing?

9 A. Yes, Sir.

10 Q. Yes, and the quantity of the oil that was supposed to be
11 removed?

12 A. Yes, Sir.

13 Q. Johnathan Ramadan, who is an employee of Paria, he at—at his
14 wit—in his witness statement at paragraph eight at page 1470,
15 paragraph eight, he said that:

16 “Part of the pre-work LMCS undertook to drain the
17 product from the pipeline at berths 5 and 6 in accordance
18 with a Paria work instruction effective the 5th of January,
19 2022 which was developed by the offshore section of the
20 terminal operations department.”

21 So, Mr. Ramadan was saying that LMCS did this line draining
22 pursuant to these instructions which were signed by you on
23 behalf of Paria.

24 A. Right. So, this, this, um—sorry, this line clearing instruction,
25 right—

26 Q. This is a Paria document?

27 A. Yes, Sir, right.

1 Q. And you are the man responsible—

2 A. Right, yes.

3 Q. —for the overall responsibility for ensuring that this procedure
4 is established by reviewing and ensuring, et cetera, et cetera.

5 A. Right.

6 Q. So you had a role in this?

7 A. So let me explain this document if I may, right?

8 Q. Well it says what it is, so you want to explain it?

9 A. Sir I think we, I think I should explain the document.

10 Q. All right, okay, go ahead.

11 A. Okay, thank you. This document was—this document is, is a
12 work instruction that directed to our offshore, our offshore
13 operators. Right? So, our offshore operators, he comes on and
14 the contractor who would have his line clearing procedure,
15 right, separate and apart, the contractor comes and he has to do
16 his line clearing procedure. Our, our operations team and our
17 operators need to understand what is taking place because they
18 have to line up the system. Right? So this document, this
19 document, consists of tasks and events as a guide for our
20 operator to follow. This is not a document for LMCS.

21 Q. So it is a—so it's instructions for Paria to follow?

22 A. It is instructions for—it is instructions and it is—and they are
23 guides in here, so let me, if I may explain, right?

24 Q. No, well let me hear it. These are instructions and guides that
25 Paria imposed?

26 A. These are instructions, right, and a list of instructions which
27 consists tasks and events that the operator should be aware of.

1 If I may explain, right? S so if we look at 6.1 in this document,
2 right, preparation for installation of the slip blank at berth 5.

3 **Mr. Chairman:** Where are we?

4 **Mr. Piper:** I'm looking at the work instructions, Sir.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. At paragraph what?

7 A. Six point one, item 6.1.

8 Q. That's at page 1034?

9 A. Ten thirty-four.

10 Q. Right, you're looking at 6.

11 **Mr. Chairman:** Yes.

12 A. Right. So this is written to our offshore—this is written for the
13 person who finally receives. This is our offshore operator. Let
14 me explain this operator's job. This operator is on the berth.
15 He basically, er, he basically helps with the mooring unmooring
16 of vessels and he helps with lining up the systems for cargo
17 transfers, loading and discharging of cargo of ships. That is his,
18 that is his function.

19 This now, this is a, this is an unusual line-up for him to do. So
20 therefore we produced this work instruction for the operator.
21 Right. So there are some things in this work instruction that the
22 operator is required to do and there are some things in this
23 instruction he's required to know, that is to be done, that is
24 done, so that he could coordinate with the contractor with for
25 the line clear. For example, in 6.1 item one, "Install
26 containment booms around 36 Sealine riser." The operator
27 does not do that, Sir. "Mobilize air compressor on the main

1 deck”, that is a, that is a contractor’s responsibility but the
2 operator, when he goes on his berth, will understand that the
3 contractor has now mobilized that, that compressor. When he
4 goes on his berth he sees a compressor, he understands that—he
5 knows, okay, this was part of the job to be done. “Connect air
6 hose”, that is a contractor’s function. Right? Well close—

7 Q. Mr. Piper, Mr. Piper—

8 A. Yes, Sir.

9 Q. —it doesn’t say that on the document.

10 A. No, Sir, this is understood. The operator understands clearly
11 what is required of him.

12 Q. I take that. But would you agree with me that what you are
13 saying here as to what the contractor has to do and what he
14 should know is not stated on this document?

15 A. It doesn’t need to be stated, Sir. The operator understands
16 clearly what his tasks are.

17 Q. But you signed this document as authorizing this to be done?

18 A. Yes, Sir.

19 **Examination By Mr. Chairman:**

20 Q. Is this an internal document?

21 A. This is an internal document to our offshore operators.

22 Q. It would never find its way into the contractor’s hands?

23 A. It should never—it should not find its way into the contractor’s
24 hands.

25 Q. But this is—this is instruction internally between one
26 department and another?

27 A. Correct.

1 Q. Right.

2 A. This is to our offshore operator.

3 Q. All right.

4 A. So he needs to understand what he will see on his berth.

5 **Mr. Chairman:** I absolutely understand what you're saying.

6 **Mr. Piper:** Right.

7 **Continued Examination By Mr. Maharaj SC:**

8 Q. But at paragraph eight, Mr. Ramadan says:

9 "As part of the pre-work LMCS undertook to drain the
10 product from the pipeline at berths number 5 and 6 in
11 accordance with a Paria work instruction effective the 5th
12 of January, 2022."

13 So Mr. Ramadan of Paria is saying that LMCS had to act and
14 drain this in accordance with that work instruction?

15 A. This document does not go to LMCS, Sir. This document—

16 Q. So, so—

17 A. —is a, is a operations document. I don't know what he meant
18 there but this does not go to LMCS. This was to our offshore
19 operator.

20 Q. So do—you're not agreeing with Mr. Ramadan then?

21 A. I am not agreeing that the contractor clears the line according to
22 this document. What I'm stating is this document is only for
23 our operators.

24 Q. Okay. Well, assuming that, right, would you agree with me that
25 nowhere in this document it says how much oil is to be
26 drained?

27 A. I agree, Sir.

1 Q. Right. And wouldn't that be something important to put in this
2 document?

3 A. Right. The operator, right, the operator would not need to
4 know. He is not dealing with the volumes in this case. He is
5 simply dealing with the line-up. You need to understand the
6 audience. Your audience is the operator who is simply opening
7 and closing valves. He opens and closes his valves. Once the
8 contractor finishes his air blowing, he checks his line and so on.
9 He says, "Listen, I'm finished" and the operator opens and
10 close his valves.

11 Q. Okay. We take what you say. I want you to look at the Daily
12 Work Reports of Paria at Volume II CB 994 to 1006.

13 **Mr. Chairman:** Mr. Maharaj when you've dealt with this
14 topic I think we're going to call it a day, all right? So we'll
15 deal with this topic and then I think we've had enough.

16 **Mr. Maharaj SC:** Okay, Sir.

17 **Mr. Chairman:** Well I have, anyway. I think Mr. Peterson
18 might want to stay but—

19 **Mr. Maharaj SC:** I doubt very much, My Lord. Page 994 in
20 Volume II of the core bundle.

21 **Continued Examination By Mr. Maharaj SC:**

22 Q. I want you to just look at page 994 to 1006. This is the Daily
23 Work Report of how the oil was drained, right?

24 A. Uh-huh.

25 Q. You would recognize these documents and then I'll put
26 something to you. I'll put some figures to you. Okay?

27 **Mr. Chairman:** I think although it's more laborious I do think

1 you should take him through the particular passages.

2 **Mr. Maharaj SC:** Oh, okay, okay.

3 **Mr. Chairman:** Otherwise, you know, he's just reading
4 through the whole of it and it's not necessary to do that. Just
5 take him to each part of the page—

6 **Mr. Maharaj SC:** Right.

7 **Mr. Chairman:**—994 at page 3.

8 **Mr. Maharaj SC:** Okay.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. At page 994 you would see at number 3:

11 “Ongoing: air blowing started at 12.22 p.m., due to
12 operations setting up to drain to tank 111, and air blowed
13 until 1800 hours. A total of 798 pa barrels of oil were
14 drained to tank.”

15 You see that?

16 A. Yes, Sir.

17 Q. And you would agree that this is a record of Paria on a daily
18 basis how much oil was being drained?

19 A. Yes, Sir.

20 Q. Yes. If you go to 997, you see at number 3:

21 “Air blowing contents of SL Sealine 36 from berths 5 so
22 6.”

23 A. Uh-huh.

24 Q. “Air blowing started at 11.00 a.m., due to installation of
25 slip blank and air blowed until 5.30 p.m.. A total of 118
26 barrels of oil was drained.”

27 A. Yes, Sir.

1 Q. Then at page 1002, you see at the top, the top column, number
2 1:

3 "Job status completed. Installed two lengths of 6 feet 30-
4 inch hose together with one length of 6-inch 40-inch
5 pipe"

6 And it gives the description of the hose and the riser to assist
7 with Phase II air blowing.

8 A. Uh-huh.

9 Q. So, the line content was removed in two phases?

10 A. Right, yes, Sir.

11 Q. Phase I and Phase II?

12 A. Yes, Sir.

13 Q. Phase I was topside?

14 A. Uh-huh.

15 Q. And Phase II was underwater?

16 A. Yes. As I said, yes.

17 Q. Right. Then you go to number four on that page, 1002:

18 "Completed. Level was checked and pipe estimated to
19 be three-quarter full with oil content."

20 You see that?

21 A. Yes, Sir.

22 Q. Right?

23 **Mr. Chairman:** Is this above or below the water?

24 **Mr. Maharaj SC:** This would be below the water.

25 **Mr. Chairman:** Right. So the last part dealing with above the
26 water level is one where it says completed—

27 **Mr. Maharaj SC:** Yes.

1 **Mr. Chairman:**—installed two lengths of pipe, so that’s the
2 top part—

3 **Mr. Maharaj SC:** Top part.

4 **Mr. Chairman:**—of berth 5 drained? Right. So Phase II now
5 starts at number four, is it?

6 **Mr. Maharaj SC:** Number four.

7 **Mr. Chairman:** Right. “Level was checked, the pipe was
8 estimated to be three-quarters full with oil content.” Yes?

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. And then we go to 1003 at number 1:

11 “Phase II air blowing from Sealine 36 to Sealine 66.
12 Ongoing, air blowing was conducted between 11.00 a.m.
13 and 3.00 p.m. Onshore noted that they received 276
14 barrels of oil. Note: started air blowing 11.00 a.m. due to
15 lining up of tanks and waiting for pressure to build up.”

16 Then if you, then if you go to number four, is it number?

17 **Mr. Chairman:** Five. Four?

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. Yes, number four:

20 “Level was checked after draining at PB80 and pipe
21 estimated to be one-quarter full with oil contents to
22 continue draining tomorrow.”

23 Then you go to number 5:

24 “Draining contents of Sealine 36 into slops barge.
25 Connect hose on to two-inch valve and placed end into
26 slops tank, open valve and drain. Ongoing: Two slops
27 barge was filled approximately a hundred barrels of oil.”

1 A. Uh-huh.

2 Q. And all of this is underwater?

3 **Examination By Mr. Chairman:**

4 Q. This is now underwater, yes.

5 A. They're different sections.

6 Q. Sorry?

7 A. They're different sections of line, right?

8 Q. Different sections of what?

9 A. So if you look, if you look at, if you look at, if you look at
10 number four—

11 Q. Yes.

12 A. —right, you will see in red:

13 "Ongoing. Level checked after draining at pile bent 80."

14 So pile bent, the con—berth number, I have berth number 6.

15 Q. Uh-huh.

16 A. I have the line going to berth 6.

17 Q. Five.

18 A. Going to 5—

19 Q. Yes.

20 A. —from 6, the line comes up at 5.

21 Q. Uh-huh.

22 A. And then it goes submarine again down at 5 opposite the side,
23 and it goes across the harbour to berths—to pile bent 80—

24 Q. Right.

25 A. —right, where we manifold it. So, they were actually draining
26 on this section as well where you see a quarter full. So it is on
27 that side of berth 5 not between 5 and 6.

1 Q. So this is from 5 toward the shoreline?

2 A. Towards the shoreline pile bent 80.

3 Q. Right.

4 A. It's a different section of number 36—

5 Q. I'm with you. So, now, when we look at number 5 then—

6 A. Number 5.

7 Q. —it said two slops barges were filled with approximately a
8 hundred barrels of oil. Is that from that issue that [*Inaudible*]
9 ashore?

10 A. If you look in the blue highlight you'll see pile bent 80.

11 Q. Yeah.

12 A. Right.

13 Q. I got you.

14 A. It's there again, yes.

15 Q. So what we're talking about here then is a hundred barrels of
16 oil taken from—

17 A. Five to pile bent 80.

18 Q. —5 through towards the shoreline?

19 A. Yes.

20 Q. And not between 5 and 6?

21 A. That is correct.

22 Q. Right. So that—so it's actually three different sections this is
23 being drained, three phases?

24 A. Yes, yes.

25 Q. So that I got this right, so level was being checked, it was a
26 quarter full and then two slops barges were used—

27 A. Uh-huh.

1 Q. —which took out a hundred barrels?

2 A. Correct.

3 Q. What's the bit above? You see at number 1 it says, "Air
4 blowing" and was conducted between certain times?

5 A. Right, so that is—

6 Q. Then it says 276 barrels of oil were taken.

7 A. Yes.

8 Q. But that's between 5 and 6?

9 A. That's correct.

10 Q. All right, so this is the bit we're concerned with.

11 A. Yes.

12 Q. That's the U pipe. So it's 276 barrels from that part and 100
13 barrels from a different part altogether?

14 A. Correct.

15 Q. So I could ignore that hundred barrels as being any—

16 A. And the quarter full.

17 Q. —anything to do with this?

18 A. And the quarter full, yes.

19 Q. Right, I got you.

20 **Mr. Chairman:** Thank you very much for that. Next, are
21 we—

22 **Continued Examination By Mr. Maharaj SC:**

23 Q. And if you go—if you, um—if you go down to number four,
24 "Check oil levels on Sealine 36 riser, remove blank", et cetera,
25 "Ongoing level was checked after draining of PB80 and pipe
26 estimated to be one quarter full with oil pumps to continue
27 draining tomorrow", and I talked about the slops barge?

1 **Mr. Chairman:** Yes so that deals with the slops barge. That's
2 the other part of the—

3 **Mr. Maharaj SC:** Yes.

4 **Mr. Chairman:**—draining that we needn't be concerned with.
5 So we go to the next one which is 1004.

6 **Mr. Maharaj SC:** Four.

7 **Mr. Chairman:** Yes.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. And you go to number 1:

10 "Air blowing Phase II air blowing. Air blowing was
11 conducted between 1300 hours to 1500 hours. Onshore
12 noted that they received 55 barrels of oil. Note: Started
13 air blowing 1300 hours due to waiting on onshore to give
14 clearance to start."

15 Then we go to number four, "Check oil levels on Sealine 36
16 riser", et cetera.

17 "Completed. Level was checked after draining at PB80
18 and oil content was approximately 8 inches [*sic*] below
19 tee on riser."

20 **Mr. Chairman:** Again, this is the part that we needn't be
21 concerned with.

22 **Mr. Piper:** Correct.

23 **Mr. Maharaj SC:** Okay.

24 **Mr. Chairman:** I'm going to cross that out.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. Then we go to number 5:

27 "Draining contents of SL36 into slops barge. Connect

1 hose”—et cetera. “Two slops barge was filled
2 approximately 100 barrels of oil.”

3 **Mr. Chairman:** And that’s, that’s PB80 again?

4 **Mr. Piper:** Correct.

5 **Mr. Maharaj SC:** Yes.

6 **Mr. Chairman:** So again we can ignore that part. Thank you.

7 **Mr. Maharaj SC:** Okay.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Then we go to page 1005 number 1:

10 “Phase II air blowing from Sealine 36. Air blowing was
11 conducted between 10.30 a.m. to 1430 hours.”

12 And then we go to the next—

13 **Mr. Chairman:** Pause, pause there please?

14 **Examination By Mr. Chairman:**

15 Q. It doesn’t give a quantity of oil removed there, does it?

16 A. No it does not.

17 Q. They were pumping or blowing, rather, for four hours?

18 A. Yeah.

19 Q. So one assumes that they were blowing it for something?

20 A. I, I can’t answer, Sir. I can’t say.

21 Q. You can’t say?

22 A. I can’t say, yes.

23 Q. But, I mean, there wouldn’t have been any point in air blowing
24 for four hours if there was just air coming out the other end of
25 that?

26 A. Agreed.

27 Q. Right. So an unknown quantity of oil or fluid must have been

1 removed?

2 A. I—one could only assume, Sir.

3 Q. Sorry?

4 A. One could only assume so, yes.

5 Q. What other possible explanation is there?

6 A. Yeah, yeah.

7 Q. Right. Okay. So an unknown quantity. Thank you.

8 **Mr. Maharaj SC:** I think that's it.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. Even on that calculation that—with the, with the qualification
11 you stated, my team has told me that the barrels of oil removed
12 from underwater was way in excess of 300 barrels.

13 A. Uh-huh, yeah.

14 Q. And that is in excess of the amount stated in the method
15 statement?

16 A. Uh-huh, yes.

17 **Examination By Mr. Chairman:**

18 Q. Well, just so that we're fair about this, I calculate it to be 331
19 barrels plus the unknown quantity that was being air blown for
20 four hours.

21 A. Yeah.

22 Q. Whatever that is.

23 A. I can't say.

24 Q. No, obviously not. Where was it going, do you know?

25 A. Right, so, um, if I may—in—right, so if I may, in the procedure
26 that I, that I had authorized—

27 Q. Yes.

- 1 A. —there's some line work, right?
- 2 Q. So what page are you on?
- 3 A. Ten thirty-nine—one zero three nine.
- 4 Q. One zero three nine?
- 5 A. Yes, Sir.
- 6 Q. Okay. Go ahead.
- 7 A. Okay, so, we have the U-piece between berths number 5 and 6,
8 right, and we also have it's coming up to the left of the page
9 here, right, 36 Sealine.
- 10 Q. Yep.
- 11 A. Right? And you will see it goes into—it goes up where you see
12 birth 6, it says "36 Sealine double valves at manifold".
- 13 Q. Yep.
- 14 A. Right. And then from the—
- 15 Q. Your microphone's gone.
- 16 A. I'm sorry. It goes into 33 Sealine and then you'll see it goes
17 into number 66 Sealine.
- 18 Q. Right.
- 19 A. Right. And then number 66 Sealine goes to tank 111.
- 20 Q. [*Inaudible*]
- 21 A. Yeah, right.
- 22 Q. And then goes to tank?
- 23 A. It goes to a tank, tank to shore, right. Now—
- 24 Q. And is there a method by which you measure the amount that
25 goes into the tank?
- 26 A. Yes. We can take a dip on the tank, yes, Sir.
- 27 Q. So the fact that on this document that we've been looking at,

1 the Daily Work Report, shows no amount were four hours of air
2 blowing—

3 A. Yeah.

4 Q. —if it was going into Sealine 66—

5 A. Sixty-six, yeah.

6 Q. —66—

7 A. Yeah.

8 Q. —and ended up in tank 111—

9 A. Yes.

10 Q. —it should have been telling us how much went into that tank?

11 A. Correct, Sir, yes.

12 Q. So there's something missing there, isn't there?

13 A. Yes, Sir.

14 Q. So it could be one barrel, if it took them four hours to move one
15 barrel, or it could be hundreds? We just don't know?

16 A. I just don't know, Sir.

17 Q. And neither would anybody else who was doing the job at the
18 time?

19 A. Yesh. I don't know if they dip—I cannot say what they did—

20 Q. Right, so—

21 A. I cannot say what they did on the day, Sir.

22 Q. But, you see, it makes a difference?

23 A. Of course.

24 Q. Once you open both ends—

25 A. Yes.

26 Q. —you got this U-bend, right? You put your dip stick in—

27 A. Correct.

1 Q. —on either side, you see where the level is—

2 A. Uh-huh.

3 Q. —okay? And as you told us earlier, what you would want is to
4 make sure that the level is 36 feet, I think—

5 A. Uh-huh.

6 Q. —you said down so they can put the plugs in?

7 A. Correct.

8 Q. And assume it was 36 down that side and 36 down this side?

9 A. Correct.

10 Q. Right?

11 A. Uh-huh.

12 Q. If the pipe, when you opened it up, was full, you would know
13 exactly what you'd need to take out in order to get to 36 feet,
14 wouldn't you? It's just a mathematical exercise?

15 A. Correct.

16 Q. You know, it's volume, isn't it?

17 A. Yes.

18 Q. It's like if [*Inaudible*] achieved, you could measure the volume
19 you'd need to take out, it's X number of barrels and then we
20 had a guesstimate given to us of about one barrel per foot.

21 A. Correct.

22 Q. It's a, it's a rough guesstimate.

23 A. For that size of pipe, yes.

24 Q. Yes, but that sort of thing?

25 A. That diameter.

26 Q. Right. One barrel per foot. So you were—if it was full, 36
27 feet—

1 A. Yeah.

2 Q. —both sides—

3 A. Uh-huh.

4 Q. —72 barrels?

5 A. Right.

6 Q. That's all you'd need to take out, if it was full?

7 A. Right.

8 Q. It couldn't be fuller than full, could it?

9 A. Correct, right.

10 Q. It's either full or it isn't?

11 A. Right, yeah.

12 Q. If it's less than full it's going to be less than 72 barrels?

13 A. Of course.

14 Q. Right. Somebody said 300 barrels needed to be taken out of
15 this pipe.

16 A. Right.

17 Q. That doesn't seem, if I may say so, correct.

18 A. Correct.

19 Q. Only—in addition to that, more was taken out—

20 A. Correct.

21 Q. —than the 300 barrels.

22 A. Uh-huh.

23 Q. Whatever the amount was, it was more than 300 barrels?

24 A. Right.

25 Q. Right. So if, let's say, for a conservative estimate, 400 barrels
26 were removed—

27 A. Uh-huh.

1 Q. —from this pipeline, that is way in excess of what should have
2 been removed—

3 A. Right.

4 Q. —if it were full.

5 A. If 400 barrels were removed from that section, sure. So—

6 Q. Your records.

7 A. Right, so—right. So let me, if I may, let me finish explain,
8 right? Now, when this—this line goes into number 66 Sealine,
9 right. This is a 50-inch diameter line, 50-inch, 40-inch, 48 in
10 some places, right? So this is a huge line. It's a crude line
11 going into this tank. And this line is approximately 2 miles
12 long, right? So we are looking, you, barrel per foot with a line
13 diameter that size is about two barrels, just over two barrels per
14 foot. So I'm looking at about 22,000 barrels in this line for a 2-
15 mile long line. Right?

16 Q. Before it even gets to the tank?

17 A. Correct. So the volumes reaching the tank I don't know how
18 much of that volume would have come out of this 66 Sealine.
19 So the only way to, the only way to determine the height in that
20 pipe is actually to take a dip in that pipe because some will
21 come out of the 36 Sealine there and some will—a lot will
22 come out of the 66 Sealine.

23 Q. Yeah.

24 A. So, so the one method to, to identify the level in that riser is
25 taking a dip, what we call a dip.

26 Q. I'm not sure I quite understand what you're saying.

27 A. Okay, Sir.

1 Q. And I do need to understand.

2 A. Yeah.

3 Q. Let me see if I've got this right, all right?

4 A. Uh-huh.

5 Q. The amount of fuel, of liquid that you're taking out of this
6 line—

7 A. Uh-huh.

8 Q. —is an important factor?

9 A. Correct.

10 Q. Right? The maximum that could possibly be taken out of a full
11 pipeline would be about 76 barrels, let's call it 80 for round
12 figures, all right? That would justify bringing you down to the
13 level you wanted to bring?

14 A. Correct.

15 Q. If you took out more than that, you're going to be below the 36
16 feet, aren't you?

17 A. Uh-huh.

18 Q. You're going to go a lot lower?

19 A. Uh-huh.

20 Q. And perhaps right the way down into the horizontal pipe at the
21 bottom?

22 A. Correct.

23 Q. Your records, on the face of it, show that something around, as
24 a conservative estimate, 400 barrels were taken out, maybe
25 more? Right? I can't understand how it's possible for your
26 records to show that much oil coming out of a, of a pipeline that
27 should have only had about 70 or 80 barrels coming out of the

1 pipeline. I simply don't understand how the record could show
2 that much. I think that's what Mr. Maharaj is really asking you,
3 is, how is it possible—

4 A. Uh-huh.

5 Q. —to take that much out unless your records are wrong?

6 A. Okay, so let me try to explain that.

7 Q. Please?

8 A. The line—

9 Q. There's a board behind you. You can use that if that—if you
10 prefer to use that. There's a microphone that you can take with
11 you so that you can speak at the same time as pointing. Right.

12 *[Microphone handed to Mr. Piper]*

13 **Mr. Chairman:** Can everybody see this? Let's see if we
14 can—

15 **Examination By Mr. Chairman:**

16 A. Okay so I'm going to be air blowing, I'm air blowing from
17 here, okay. I'm going to get into this line.

18 Q. Air blowing starts where?

19 A. From there. From here. Right?

20 Q. Right. There's a little valve there but you won't be able to read
21 this, but there's a valve that's shown at the top of that where
22 your little finger is pointing now, right?

23 A. Right. Correct. It's correct. Right.

24 Q. That's correct isn't it? You attach a hose to that and start
25 blowing?

26 A. Correct.

27 Q. And what that does is to push all the way down there, across the

1 bottom, back up the other end and goes in to show us where

2 it—

3 A. Correct.

4 Q. Yeah.

5 A. So it manifolds on the berth, berth number 6.

6 Q. Uh-huh.

7 A. It goes into a manifolding system.

8 Q. Right.

9 A. Good? From that manifolding system it goes into number 66

10 Sealine.

11 Q. Uh-huh.

12 A. It then goes to, you'll see it says 66 Sealine to shore tank 111.

13 This line is 2 miles long.

14 Q. All right.

15 A. Good?

16 Q. So—

17 A. To get to shore.

18 Q. Yeah.

19 A. So, right, so you appreciate you're blowing here, I can—when

20 this gets to the tank, when the volumes reach the tank—

21 Q. Uh-huh.

22 A. —I cannot determine if the vol—how much came from here

23 and how much came from here. I, I don't know.

24 Q. Well surely you—

25 A. Because volumes—

26 Q. Forgive me—

27 A. —a lot a volumes will come from here.

1 Q. If I pour a pint of—into one end of a tube and there's water
2 already in the tube and I pour a pint in one end, surely a pint
3 comes out the other end?

4 A. Not necessarily if there's slack in the line.

5 Q. If there's slack in the line?

6 A. But I, but I—yeah, not necessarily.

7 Q. All right, so—

8 A. I, I don't know.

9 Q. —if there was air in the line—

10 A. Yes.

11 Q. —less would come out, not more?

12 A. Right. So it, it is the—oh, sorry.

13 Q. I don't want to be sued.

14 A. It is—at the end of, at the end of the process, I simply don't
15 know what left this line. I, I cannot tell what left this line.

16 Q. I am, I am struggling to understand and I'm doing my best to
17 but I simply don't understand how you end up with more at the
18 other end than you should—I could understand you having less,
19 because, by the time it goes through all of that system, it fills up
20 little air pockets and things like that, I can get it, and there may
21 be even, even 50 barrels or something like that, but I—what
22 we're talking about is hundreds of barrels more.

23 A. I'm just trying to [*Inaudible*]

24 Q. No, no you help me because I am genuinely struggling to
25 understand how it's possible to have more at the other end than
26 you actually needed to remove from this pipe. I simply don't
27 get how you can have more. You could have less because it

1 goes through the system and it fills up holes and so on, but how
2 could you have more?

3 A. I'm just trying to think of a simple arithmetic.

4 Q. Right. Well I'll tell you what we're going to do, right? Since
5 we're not going to finish today, you could think about it
6 overnight and explain it to me all again in the morning. All
7 right?

8 **Mr. Chairman:** And I think we'll call it a day, Mr. Maharaj.
9 I'm sorry to—I'm sorry I'm being so dense about it but, I mean,
10 maybe you can explain it to me because I simply don't
11 understand at the moment, all right, how we end up with more
12 at the other end and I want to understand it because it seems to
13 me quite important. So I will thank you for your attendance
14 today. We will see you tomorrow morning. It's going to be
15 nine o'clock I'm afraid and so we're adjourned for the day. I
16 don't need everybody to stand on ceremony. I'm going to
17 collect up my papers, so please, that's it for today. Thank you
18 all very much. Thank you.

19 Can I tell you, you ought not to discuss your evidence
20 with anybody else particularly those who are yet to come, all
21 right? Thank you.

22 **Mr. Piper:** Yes, understood.

23 **5.16 p.m.:** *Enquiry adjourned.*

24

25

26

27

1 **EVIDENTIARY HEARING DAY 10**

2 **9.00 a.m.:** *Enquiry commenced.*

3 **Mr. Chairman:** Good morning, all. First of all, Mr. Peterson,
4 can you thank your instructing lawyer, Ms. Baird, for sending
5 me the documents I asked yesterday from the witness.

6 **Mr. Peterson SC:** Yes, Sir.

7 **Mr. Chairman:** He has sent me something called a Site
8 Specific Emergency Response Plan for Paria as a template and
9 a Standard Operating Procedures Confined Space Rescue
10 document, which sets out a sort of plan.

11 **Mr. Peterson SC:** Yes, Sir.

12 **Mr. Chairman:** I'm grateful for that. Thank you. We post it
13 on the site. Can we have the witness—I'm told that there are
14 some problems with the air-conditioning in here. It may get
15 very warm. If it gets too warm, I shall invite everyone to
16 remove their jackets.

17 Good morning. Yes. Yes, good morning, Mr. Piper.

18 **Mr. Piper:** Good morning.

19 **Mr. Chairman:** I don't require you to take the oath again.
20 You know you're on oath.

21 **Mr. Piper:** Yes, Sir.

22 **Mr. Chairman:** So it will apply. Thank you. Do take a seat.
23 Make yourself comfortable. Bring that microphone a little
24 closer to yourself. That's it. The water is there for your use.
25 And we'll start now.

26 Mr. Maharaj, thank you.

27 **Mr. Maharaj SC:** Much obliged. Much obliged.

1 **Continued Cross-Examination By Mr. Maharaj SC:**

2 Q. Mr. Piper, yesterday afternoon when the adjournment was
3 taken, we were on the line clearance.

4 A. Yes.

5 Q. And I want to refer you back to that document, the instructions
6 at Volume III, page 1033 of the core bundle.

7 A. Yes, Sir.

8 Q. You're seeing it? And you would see that in the pages, as you
9 flip it, you would see on each page the three persons signed,
10 including you.

11 A. Yes, Sir.

12 Q. And you—

13 **Mr. Chairman:** Forgive me, Mr. Maharaj. I need to just catch
14 up with where I am.

15 **Mr. Maharaj SC:** 1033.

16 **Mr. Chairman:** Right. We're in which core bundle?

17 **Mr. Maharaj SC:** Volume III.

18 **Mr. Chairman:** Thank you. And we're on page?

19 **Mr. Maharaj SC:** It's page, yes, 1033.

20 **Mr. Chairman:** Sorry. Which page we're on?

21 **Mr. Maharaj SC:** 1033.

22 **Mr. Chairman:** 1033.

23 **Mr. Maharaj SC:** 1-0-3-3.

24 **Mr. Chairman:** Right, I'm there. Thank you.

25 **Mr. Maharaj SC:** And the question I had asked him, Mr.
26 Chairman, was that on each page there is a signature of the
27 three persons including himself.

1 **Mr. Chairman:** Yes, I got you. Thank you.

2 **Continued Cross-Examination By Mr. Maharaj SC:**

3 Q. And the next question I was going to ask you is that—and
4 would you agree it is a step-by-step process for the line
5 clearing?

6 A. Yes, Sir. It's pretty much sequential.

7 Q. Yes. And could you look at page 1038?

8 A. Yes, Sir.

9 Q. And you would see under "Risks":

10 “(a) All risks associated with this job covered under
11 JSA...”

12 —and it gives the reference. Am I correct in saying all risks
13 associated with this job covered by the risk assessment which
14 was submitted by LMCS and approved by Paria—accepted by
15 Paria?

16 A. Yes, Sir.

17 Q. Yes. And if you look at "Resources":

18 “1. Manpower - Operator to be assigned for monitoring
19 & emergency response, required manpower to conduct
20 works by contractor”

21 A. Uh-huh.

22 Q. So this operation was an operation, well, an instruction being
23 carried out by both the Operator, which was Paria, and the
24 contractor?

25 A. No, Sir. Just to explain again, if I may. We don't write—in our
26 Operations Department, we write work instructions for our
27 Operations Department. We do not write work instructions for

1 any other department nor for any contractor. So this, as I tried
2 to explain yesterday, this is simply a series of tasks. For
3 instance, when the Operator has to open his valves, and so on,
4 this is simply those series of tasks that he understands that he
5 has to perform, because he is simply aligning his system on the
6 Berth. But he also, in writing this, the Operator to be assigned
7 for monitoring and emergency response. That monitoring is the
8 monitoring of his berth and if there—for instance, you would
9 see that we had earlier in the document, to install containment
10 booms. So he is monitoring for any pollution, and so on. That
11 is what his job is, Sir.

12 Q. Well, Mr. Piper, I don't want to spend much time in this, but I
13 referred you yesterday to the witness statement of Mr.
14 Johnathan Ramdhan. And I'll just give you the reference
15 because you would remember what he said.

16 A. Correct.

17 Q. Witness bundle 1417 at paragraph 8 in which he stated that
18 LMCS undertook to drain the pipeline based on that
19 instruction?

20 A. No, Sir. This instruction does not go to LMCS. This
21 instruction is simply and solely an internal instruction for our
22 Operators.

23 Q. Mr. Piper, I have to put to you that what you are telling us is not
24 accurate, because there are documents which showed that it
25 went to LMCS, and I'll refer you to that document. Volume II,
26 witness statement bundle at page 917. It's an email from Mr.
27 Terrence Rampersadsingh, copied to Mr. Manmohan Balkaran,

1 addressed to LMCS, Subject: Draining of 36 SL. Page 917.

2 A. I'm seeing it on the screen.

3 Q. I'll read the email. Right?

4 A. Uh-huh.

5 Q. And Mr. Terrence Rampersadsingh is Paria. Correct?

6 A. Yes, Sir.

7 "Please see attached signed draining procedure, let us
8 meet tomorrow at 10 am to discuss draining schedules. I
9 want to start as early as possible this week, bearing in
10 mind the Crude Ship loading is on the 14th. I will
11 discuss with Ops now to firm up on any other issues."

12 A. Right. So, again, this draining procedure that target audience
13 when we develop this in operations is for our offshore operator.
14 Right? This is not an instruction nor was it intended to be an
15 instruction to the contractor. I cannot write an instruction to the
16 contractor, Sir. I write a work instruction to my operators. Of
17 course, you would appreciate that we would want to coordinate
18 with the contractor. If this document was passed to the
19 contractor, it is passed so he understands that we also are
20 coordinating just as we need to know, my operator needs to
21 know he will have—he will see the booms out there. For
22 instance—let me give you a for instance.

23 Q. Well, I think—

24 A. No, if I may, Sir, if I may, please? I need to explain. Right?
25 So—one second. Right. So if you look at 6.2, "Pre-Blowing
26 And Draining Conditions". Right. Item No. 5—so item No. 4,
27 item No. 5:

1 “4. Remove slip from manifold area connecting #36sl...”

2 So that is just the contractor—he understands that we
3 understand. Item No. 5:

4 “5. Contractor to be on stand-by to address any leaks
5 (flange, valve etc.) on the lower sulphur fuel oil system
6 as identified during the clearing of #36sl...”

7 So that simply is our operator understands that he has to have a
8 contractor on standby. If technical and maintenance shared this
9 document, the contractor also understands he has to have
10 somebody standby. But the audience is our offshore operator.

11 Q. Based on what you said, look at 6.5, No. 8.

12 A. 6.5 No. 8. Yes, Sir.

13 Q. “Periodically monitor the level of product in the riser via
14 the gauging port.”

15 A. Right. So our operator—

16 Q. Who is supposed to do that?

17 A. That is a contractor’s function, Sir.

18 Q. That’s a contractor’s function?

19 A. Yes. Our operator does not do any monitoring like that. This is
20 simply so he understand what is going on and he understand
21 when he needs to open and shut his system.

22 Q. Okay. I am suggesting to you that you are not speaking the
23 truth because Mr. Ramdhan and this email shows that these
24 were instructions given by Paria to carry out the line draining in
25 accordance with those instructions. What you have to say about
26 that?

27 A. And I’m saying to you, Sir, that this was never an instruction to

1 the contractor. I do not write—operations does not write any
2 work instructions to the contractor. I cannot write any work
3 instructions to the contractor.

4 Q. Okay. Assuming you are correct—

5 A. I am correct, Sir.

6 Q. All right. Would you agree that these instructions that you give
7 to your internal department would be instructions as to how the
8 line should be drained?

9 A. It is an instruction to what he has to do with his valving, and so
10 he has an idea what the contractor has to do.

11 Q. Okay. Let's pass on to something else. You would agree with
12 me—

13 **Mr. Chairman:** Just before you pass on to something else.

14 **Examination By Mr. Chairman:**

15 Q. Is it normal for the contractor to have this document or similar
16 document in different works? Is that normal?

17 A. No, Sir. Right. I—

18 Q. If you say that that's not normal, so would you agree then that
19 this is an unusual feature of this, that this particular document
20 was emailed to the contractor?

21 A. It is unusual, but I can understand that the—technical and
22 maintenance—I can understand that the supervision would want
23 the contractor to know, listen, we are ready with our procedure.
24 I want you to—so he understands that we know what to do, and
25 we are working with him to line up. But this is never for the
26 contractor.

27 Q. Well, you say never. I mean, as a matter of fact, it was; because

1 it was sent to him.

2 A. Yes. And it's simply information to the contractor, I would
3 imagine, on this occasion, so he just understands, listen, we are
4 ready.

5 Q. Yeah, I hear what you're saying. But, you see, when you look
6 at the actual email, that's not what it is saying, is it: this is just
7 for your information? What it is saying is:

8 "Please see attached signed draining procedure, let us
9 meet tomorrow at 10 am to discuss draining schedules."

10 Right. So it is intended, isn't it, to indicate the manner and the
11 system of work that is to take place the next day?

12 A. Correct. So I interpret this as, if I may, "Listen, we are ready.
13 Our operations is ready. They have their procedure. I'm just
14 sharing it with you, right, but let us discuss tomorrow." I'm
15 indicating to you that we are ready. Let's—we have our
16 schedules to discuss; let's discuss. That is how I interpret that.

17 Q. Well, I understand how you're interpreting it post the event.
18 Can I ask you, please, would you agree that at best it is
19 ambiguous?

20 A. At this point, Sir, I don't fully agree that it is ambiguous. I
21 understand how it works.

22 Q. No, you understand how it works. I want to try and understand
23 how it works. I'm suggesting the interpretation you're placing
24 on it, which may be a completely accurate one, but that is not
25 actually what it says. It is ambiguous in the way in which it is
26 drafted at best, isn't it?

27 A. Right; correct.

1 Q. So it is not saying, look, I'm just sharing this with you so you
2 understand that we are ready at this end; this is what we are
3 going to be doing. Right? It's not saying that, is it?

4 A. Right. So let's discuss the draining schedules tomorrow. So if
5 I go back to say—this document has gone to operations, right,
6 so I share this with you so you are aware you need to put your
7 compressor; you are aware you need to provide—you need to
8 install the containment booms; you are aware that you need to
9 put your slip blanks; you also are aware that you have a
10 manpower provision to put on the berth during the time that we
11 start this air blowing.

12 So once you could put all of that in place, let's discuss
13 this schedule so that—because you now know what you need—
14 you now—we're confirming, yes, and these are some of the
15 things that we, Paria, need to have from you as, a la, the
16 manpower. So that is how I interpret this.

17 Q. And you think that's what it says to you?

18 A. Well, as I keep repeating, Sir, this document is a work
19 instruction to our offshore operator.

20 Q. No, no. You think that's what the email is?

21 A. I think that is what—that is my interpretation of that. Right. I
22 am saying to you, listen, these are the things I need; let us sit
23 down and discuss when you can provide these things.

24 Q. Can we agree this much, at least, that it could have been better
25 crafted—the email?

26 A. I will agree with that, Sir.

27 Q. Thank you.

1 **Mr. Chairman:** All right. Thank you.

2 **Mr. Maharaj SC:** Much obliged.

3 **Continued Cross-Examination By Mr. Maharaj SC:**

4 Q. I want to go to something else, Mr. Piper. I want to go to the
5 Emergency Response Plan of LMCS, which was accepted by
6 Paria. Okay? That is in Volume II of the core bundle, page
7 877.

8 **Mr. Chairman:** Core bundle 877?

9 **Mr. Maharaj SC:** Yes, Sir.

10 **Continued Cross-Examination By Mr. Maharaj SC:**

11 Q. Okay. And you would see at page 879 just after the first
12 paragraph:

13 “In the event of any Emergency on a Berth,
14 Respond in accordance with Paria Fuel Trading
15 Company Limited’s ‘FIRE EMERGENCY RESPONSE
16 PROCEDURE’...”

17 You see that?

18 A. Yes, Sir.

19 Q. And then you see lower down:

20 “In the event of any Emergency in the Hyperbaric
21 Chamber...”

22 A. Okay.

23 Q. And you would see—do you see it have anything there relating
24 to if men are sucked into a pipe by Delta P or any other reason?

25 A. No, Sir.

26 Q. No. So would you—and you’re familiar with this plan. Not
27 so?

1 A. Well, yes, Sir.

2 Q. Yes. And would you agree with me that in the Emergency
3 Response Plan, this Emergency Response Plan, the Delta P
4 hazard was not identified as a risk or a hazard?

5 A. Yes, Sir.

6 Q. And the plan, when you read it, does not envisage that there can
7 be a situation where divers could be sucked into one of the
8 pipelines of Paria?

9 A. Yes. So that—

10 Q. You agree with me or you don't agree?

11 A. I agree with you, but if I may?

12 Q. Yes.

13 A. Once again, in specialized risk the contractor was supposed to
14 identify all credible scenarios.

15 Q. We get your answer on that, and that would be a matter—

16 A. Right. So if he didn't identify it, it would not be in here. Yes,
17 Sir.

18 Q. Yes. But Paria had to approve it?

19 A. Paria has to review it and accept it and Paria will, again, if I
20 may, Paria will look at those obvious risk to us, not the expert.

21 Q. So Paria in accepting it did not recognize that that was a risk?

22 A. That is correct, Sir.

23 Q. That is correct. Right. Let's go to something else, Mr.—before
24 I pass to that, I want to get, in respect of the line clearing, I
25 forgot to ask you two questions. Was there any reason that you
26 could give us for the issuance of these work instructions from
27 Paria, which is dated the 5th January, 2022, be it financial, or

1 logic—or because of any problems of any other matter in the
2 contract execution when the contract was dated in January
3 2021, if I remember correctly? About June 2021. Could you
4 give us any explanation why these work instructions were on
5 the 5th January, 2022, when the contract was in July 2021?

6 A. So if I may, are you—is the question—if I may rephrase the
7 question so I understand. Is the question why the lengthy
8 period in between the work instruction? Is that what I
9 understand the question is?

10 Q. Well, is there any reason why these instructions or these
11 method or this method of work was not issued by Paria before
12 at the time of the—during the execution of the contract before?
13 And why it was done at this stage?

14 A. Right, so—

15 Q. In effect, a few weeks before?

16 A. Yeah, I understand. Right. So it depends on how they write the
17 contract. So when they write the contract they would not have
18 all necessarily the fine details. Once the contract is awarded,
19 they then come to operations, “Listen, part of the contract, of
20 course, is to do the line preparation.” Operations then looks at
21 it and we write our work instructions. There’s no reason one
22 way or the other, but they just came to us at that period and we
23 wrote our work instruction.

24 Q. Okay. And operations would be Paria?

25 A. Yes, Paria Operations, yes.

26 Q. Right. The other question is that, were there any reason for
27 separating the removal of the line contents in two phases, phase

1 one and phase two?

2 A. Sir, I would prefer to leave that to technical and maintenance
3 for what really was their thinking in that. Right? But I would
4 say it might have been easier—it would have been easier for
5 them to take the ullage, you were—part of phase one would
6 have been to clear the top section, then I had to remove an
7 elbow. So, and once the elbow would have been removed in
8 phase two, now the contractor would have had access to take
9 what was really the determining measurement, which was an
10 ullage. So with the removal of the elbow that would be easier
11 for him.

12 Q. Okay. I want to go to the IMT now; on the issue of the IMT.

13 A. Okay, Sir.

14 Q. Because you were the commander?

15 A. Yes, Sir.

16 Q. You were the commander. Correct?

17 A. Yes, Sir.

18 Q. I want to refer you to paragraph 13 of your witness statement?

19 A. Where is it?

20 Q. That is at 1348.

21 A. [*Document passed to Mr. Piper*]

22 Q. And would you agree with me that based on what you said
23 there, that at 3.10 p.m. that you had information that the divers
24 were conducting works in the habitat. Kirt Scott saw a splash
25 on the monitor and after that the divers were not seen—based
26 on what you said there?

27 A. Yes, Sir.

1 Q. And then if you'll go to paragraph 28—so I'm trying to get
2 from you the timeline in order to assess what the IMT did. So
3 this is the context in which I'm trying to get that.

4 A. Okay.

5 Q. So go to paragraph 28 and that is at page 1351. When you read
6 that—and tell me if I'm correct—that at that time all that Paria
7 was doing—well, what Paria was doing in respect of the rescue,
8 was doing diving in the open water; doing open water searches
9 at that time?

10 A. Yes. Paria has no divers, Sir, so we were not doing any diving.

11 Q. Oh, so you were not doing any diving?

12 A. No, Paria has no divers, so Paria was doing searches with their
13 launches.

14 Q. I see. Okay. Thanks for helping us out. Okay. Then if you go
15 to paragraph 30, you referred to a telephone conversation you
16 had with Mr. Kazim Ali Sr, and that was at 3.23 p.m. at which
17 he informed you that the divers had taken out the first plug
18 when attempting to remove the second plug and the incident
19 happened. Okay?

20 A. Yes, Sir. Yes, Sir.

21 Q. You would have known at that time about Delta P hazard?

22 A. I can't say yes, Sir, that I did know at the time.

23 Q. At that time, did you have any inclination or am I correct to say
24 that you would have thought that apart from the men being in
25 the water, the men could have been sucked into the pipeline?

26 A. I wasn't sure what happened, Sir.

27 Q. You wasn't sure?

1 A. Right. Because I did ask Mr. Kazim Ali what happened and he
2 said, listen, they were attempting to remove it when the incident
3 happened. He also said he didn't know what happened.

4 Q. Now, I notice that Mr. Wei was also a member of the IMT?

5 A. Yes, Sir.

6 Q. And in Mr. Wei's witness statement he said he knew about
7 Delta P. Did Mr. Wei indicate to the IMT that it could have
8 been a Delta P situation and the men could have been sucked
9 into the pipeline?

10 A. My earliest recollection of discussions with Mr. Wei was when
11 we were speaking to someone from OTSL. Right? He was in a
12 conversation from—

13 Q. What time was that, around?

14 A. That would have been some time after eight, I believe, right, in
15 the evening, and we were discussing the Delta P?

16 **Mr. Chairman:** Just a minute. First time, I recall—I'm
17 writing this down to make sure I've got this right.

18 **Mr. Piper:** Yes, Sir.

19 **Examination By Mr. Chairman:**

20 Q. "The first time I recall having a conversation about Delta P was
21 with OTSL"?

22 A. Yes, Sir, right. And that was with Mr. Wei.

23 Q. And Mr. Wei?

24 A. Yes, Sir.

25 Q. "Way" I think he pronounces it. But anyway, Mr. Wei. And
26 that was at approximately eight o'clock that night?

27 A. Correct.

1 Q. That's the first time that you had considered Delta P?

2 A. Right. That's the first discussion I had on the Delta P. Right?

3 Q. So I'm coming back. Did you consider it before that?

4 A. Right. Well, I consid—well, not in the word "Delta P", right,
5 but I did consider—

6 Q. Differential pressure, whatever it was. Yes.

7 A. Yeah. I did consider that the possibility that the men could
8 have been in the pipeline.

9 Q. You did?

10 A. Yes, Sir.

11 Q. When did you consider that possibility, please?

12 A. When Mr. Ali told me about the plug being removed, we
13 weren't—

14 Q. Right. That's at twenty past three in the afternoon?

15 A. Yes, somewhere there. We weren't seeing the men in the
16 chamber, so it did occur to me, listen, these men could possibly
17 be in the pipe.

18 Q. Right. Pause there, please. As in—in the pipe, as in being
19 sucked into the pipe?

20 A. Or washed into the pipe.

21 Q. Or washed into the pipe?

22 A. Yeah.

23 Q. And did you have that conversation with Mr. Ali?

24 A. No, I did not have that conversation with Mr. Ali. When we
25 were speaking he said, listen, I don't know what happened.

26 Q. No, I know, but did you suggest that to him?

27 A. No, well, it didn't flash to me immediately, because this was

1 just new information coming. And the conversation moved
2 to—and he said, listen, Junior is missing, and, you know, I
3 immediately said I know—I knew Junior as a lad, maybe 17,
4 18, years old, working with Kazim Sr. Right?

5 Q. I think you knew him for 30 years or so, is that right?

6 A. Yes, yes.

7 Q. Kazim Sr?

8 A. I knew Mr. Kazim while at Petrotrin for about 30 years. Right?
9 And I knew when Junior—as a lad he had Junior under his
10 wings. And so I knew this young man for quite a long time.
11 When Kazim said that, of course, you know, it was very
12 upsetting, you know. So I just said, Kaz, listen, I'm so sorry,
13 and, you know, and then I said, well, listen, do you have any
14 divers on site, and so on. And he told me Andrew was there
15 and he was sourcing divers. I said so, okay, Kazim. I know
16 this is going to be really difficult for you; so sort of get your
17 divers on site. So, you know, that is how the conversation
18 flowed.

19 Q. All right. But it was in and around that time that you first
20 considered the prospect that these men might have been in the
21 pipe?

22 A. Yes, Sir.

23 **Mr. Chairman:** Thank you. Thank you.

24 **Mr. Maharaj SC:** Much obliged.

25 **Continued Cross-Examination By Mr. Maharaj SC:**

26 Q. And that would have been around 3.23 p.m.?

27 A. The time of the conversation?

1 Q. Yes.

2 A. Yes.

3 Q. So in answer to the Chairman just now, you asked him to get
4 his divers, and, et cetera?

5 A. Yes, Sir.

6 Q. Before Boodram came out of the pipe, and that would have
7 been at around 5.00 to 5.30, right, you knew that there were
8 LMCS divers trying to get a—do a rescue in the waters?

9 A. Right. So if I may, right, as I was—I arrived on site about five
10 minutes to 5.00.

11 Q. You arrived where?

12 A. I arrived on site at the Incident Command in the Port.

13 Q. You mean at the Incident Command Centre?

14 A. I arrived in the Port at the Incident Command Centre at about
15 five minutes to 5.00. Okay? When I arrived at the Port, Mr.
16 Yearwood had, in the conversation—on my way to the Port at
17 the incident, I had several conversations, right, calling people,
18 mobilizing, advising them we had an incident. So I had several
19 conversations of that nature.

20 When I arrived at the Port, one of those conversations
21 was with Mr. Paul Yearwood, our Safety Officer. He had
22 arrived and he called me and he asked if he should convene the
23 Incident Command. I told him yes, go ahead. He said he will
24 assume and when I come over I will take up the role. I said,
25 yes, Paul, go ahead please; just start setting it up. When I
26 arrived at about five to 5.00—sorry, before I arrived my
27 conversations with those at the Port, my conversations were

1 that—and my information was that Mr. Farah had gone into the
2 chamber on more than one occasion—on two occasions I was
3 told—and he did not see anybody. Right? There was no
4 discussion about anybody going into the pipeline.

5 When I arrived at the Port at five minutes to 5, I
6 immediately went into the Incident Command Post which was
7 in the conference room downstairs. I spoke to Mr. Yearwood; I
8 asked him if there was any further information; I asked him if
9 we found any of the divers; he said no; I asked him if there was
10 any further information, he said no. He also indicated to me
11 that they were trying to get information from LMCS and LMCS
12 persons were not responding to them. I also had that
13 information from Mr. Harrichan, right, and Mr. Ramdhan.

14 So at about five o'clock after I took over quickly from
15 Paul, I contacted Mr. Harrichan and I told them I needed to get
16 Mr. Farah who was the LMCS' dive supervisor. I needed to
17 have him at the Incident Command Post immediately so that I
18 could personally speak to him so I can find out what is going
19 on. Up to that time, nobody had given me any indication that
20 anybody was diving into the pipeline.

21 Q. Between 3.23 p.m. on that Friday to the time Boodram emerged
22 from the pipeline which was around five to 5.30 p.m., did you
23 take any steps to ascertain with a Delta P event, if the men were
24 in the pipeline, what rescue could you do? That is about two to
25 three hours.

26 A. Right.

27 Q. What did you do in order to focus on a rescue if the men were

1 in the pipeline?

2 A. Right. So if the men were in the pipeline, what I knew I
3 would—this was something completely—I’ve never had an
4 experience like this before, right. So for me, in the discussions
5 I—at that point in time, right, remember at this time I am
6 mobilizing my team. At this point in time I am calling people, I
7 am advising people; listen, this is what is happening, right. We
8 don’t know what is happening. I even got a call from a Mr.
9 Shyam Dyal from Heritage just as I entered the compound. He
10 said, Collin, what assistance do you need. I said to Mr. Dyal, I
11 said, “Shyam, I don’t know what has happened. I really—I’m
12 not certain. I’m trying to find out. Anything you can mobilize,
13 any equipment you can mobilize, mobilize it for me.” So at
14 that point in time I was just trying to get my thoughts together
15 to get down there and to mobilize people.

16 Q. Thank you. So you were trying to mobilize equipment to try
17 and do a rescue if the men were in the pipeline. Correct?

18 A. I was trying to mobilize any equipment, Sir. It was not specific
19 to if the men were in a pipeline. I had no confirmation; I did
20 not know.

21 Q. No, but you are the Commander of the IMT?

22 A. Yes, Sir.

23 Q. Emergency?

24 A. Correct.

25 Q. You don’t know whether the men in the pipeline?

26 A. Yes, Sir.

27 Q. Or whether the men in the waters?

1 A. Yes, Sir.

2 Q. So you have to plan for both. Not so?

3 A. Correct.

4 Q. Right. So you were trying to mobilize because if the men were
5 in open waters you already had divers?

6 A. Correct.

7 Q. LMCS had divers. Correct?

8 A. Well, they had Mr. Farah. They did not have any other divers.

9 Q. Okay. But they would have had access to divers?

10 A. I was told by Kazim Ali they had divers on the way, yes.

11 Q. Right. So you were trying to mobilize equipment, resources to
12 go into the pipeline if it became necessary?

13 A. No, Sir, not at that point in time because I was still trying to
14 figure out. I was not sure.

15 Q. Not at that point. Okay, all right. So let's take it in stages then.
16 So then at around 5.00 to 5.30 Christopher Boodram came out
17 of the pipeline?

18 A. Correct.

19 Q. When he came out of the pipeline, were you interested to find
20 out—you must have been interested to find out—if the other
21 divers were in the pipeline?

22 A. Yes, I was advised that the other divers were in the pipeline.

23 Q. And, therefore, won't it be immediately—because you said in
24 your affidavit this was a critical and urgent situation?

25 A. Yes, Sir.

26 Q. So the other divers were in the pipeline; Christopher Boodram
27 came out. Right? Were you interested then to get as much

1 information as you could get from Boodram to make a decision
2 whether the resources you were trying to get could go into the
3 pipeline?

4 A. Well, I was interested to get any information I could get from
5 Mr. Boodram. And as I said yesterday, right, Mr. Boodram,
6 when he came out the pipeline he just kept saying “The men in
7 there; go for them, go for them”. We couldn’t get any—

8 Q. Well, let us see what you did—because I’ve looked at the
9 affidavit—I’m sorry. I’ve looked at the witness statement and I
10 want to see what you did. Right?

11 A. Okay.

12 Q. So Boodram came out of the pipeline at around 5.30 p.m. I
13 know that you said the IMT was meeting; they were discussing,
14 and things like that. And then I see at around 8.40 p.m. you
15 contacted Mitchell’s, and that is at paragraphs 4 and 5 of
16 Fitzroy King affidavit at page 3017. I think they arrived at the
17 site at 8.40 p.m. I will let you know when you contacted them
18 just now. At page 3016?

19 A. Page?

20 Q. 3016, Supplemental Witness Statement. This is Fitzroy King of
21 Mitchell’s. And he said at about 4.30 p.m.—at paragraph
22 301—he received a telephone call from Rolph Seales who he
23 knew as a Heritage employer. And then he said he called
24 Ashton Campo mobilized a Mitchell team and left Point Fortin
25 for Paria and arrived at 8.40 p.m. Correct?

26 A. Yes, Sir.

27 Q. And, therefore, Mitchell was on standby. Correct?

1 A. Yes, Sir.

2 Q. Yes. And based on Mr. Mitchell's witness statement, according
3 to him—and his next thing is that on Saturday 26th February—
4 paragraph 6:

5 "Just after 1.00 a.m., I received a call from Rolph Seales
6 who told me to come across to Paria's shipping
7 facility..."

8 So he was on standby at 8.40 p.m. and he received a call from
9 Mr. Seales at one o'clock in the morning, Saturday morning, to
10 stand by. And then at paragraph 7 he was shown a footage,
11 then he returned to Badger Dock and told to stand by. And then
12 at paragraph 9 at about 2.00 a.m. Mitchell was told to return to
13 its compound and prepare the decompression chamber. So as
14 far as I can see from the evidence, that is what Mr. Mitchell
15 did?

16 A. Okay.

17 Q. Right? I'm sorry, that's what Mr. Fitzroy King did. So let's go
18 to Eastern Emergency Responses Services. And I will look at
19 the affidavit of Andy Johnson which is witness bundle, 1526 at
20 paragraph 6.

21 **Mr. Chairman:** Sorry, can I have that page again?

22 **Mr. Maharaj SC:** Page 1526.

23 **Continued Cross-Examination By Mr. Maharaj SC:**

24 Q. At paragraph 6, 25th February, 2022.

25 "At approximately 23:40hrs..."

26 So my maths are not very correct. That would be 11.40?

27 A. Correct.

1 Q. 11.40.

2 "...on Friday 25th February 2022, I received a telephone
3 call from Mrs. Arlene Chow..."

4 In effect, he was contacted at 11.40. And then you would see at
5 paragraph 7 what happened. There was a diagram at 11.43.
6 Ms. Patricia King of Heritage contacted him. And then at
7 paragraph 8 at 11.45 he contacted the scheduler and activated
8 the rescue team. And he arrived at Paria on Saturday morning
9 just after midnight, probably 12.30.

10 At paragraph 9, arrived at Paria after the checkpoint, and,
11 et cetera, and he remained with—look at paragraph 10; he
12 remained with team members. And at approximately 1.25 on
13 Saturday morning, he was briefed by the Incident Commander.
14 And approximately 2.15 a.m., paragraph 12, boarded the vessel;
15 was taken to the scene. And then at paragraph 13, at 2.35 a.m.
16 the team arrived at berth 6 and then they described what
17 happened, that there was a blockage.

18 So I'm trying to work out the timeline. So, you see,
19 that's about 2.35 a.m. Okay?

20 A. Yes, Sir.

21 Q. Then let's go to OTSL. If you look at paragraph 6 and 8 of Mr.
22 Ian Bertrand's witness statement at bundle 2842.

23 **Mr. Chairman:** Page number again, sorry?

24 **Mr. Maharaj SC:** Sorry, 2841, supplemental at paragraph 6
25 and 8 and that would be at page 2842.

26 **Continued Cross-Examination By Mr. Maharaj SC:**

27 Q. Paragraph 5, he spoke to OTSL Executive Director—that's at

1 2841—Mr. Donawa, and asked him to make arrangements, and
2 about 5.30 p.m. or so, gave instructions. But he arrived—he
3 remained in touch with the Gulf Stream Eagle. What happen,
4 the boat is the Gulf Stream Eagle. It arrived at Paria at about
5 8.10 p.m., that's on the Friday. Okay?

6 A. Okay, Sir, yes.

7 Q. And was told to dock at berth 6 and was awaiting instruction
8 from Paria.

9 A. Correct.

10 Q.

11 "At about 8:37 p.m. OTSL received an email from
12 Paria's Legal Counsel and Assistant Corporate
13 Secretary..."

14 They wanted an indemnity if loss, and, et cetera.

15 "OTSL was not called upon by Paria to do anything."
16 —according to this. And then at paragraph 9 at 5.30 a.m.,
17 OTSL was told by Paria that it was no longer required to be on
18 standby. Correct?

19 A. Correct. That's what it says.

20 Q. And I want to—I want to go to Hull, because these are the
21 companies that you said you contacted. Right?

22 A. Uh-huh.

23 Q. I want to go to Hull Support Services. Witness bundle pages
24 2990 and 2991. At 2991 at paragraph 6:

25 "I did call Andy back, at about 5.30 p.m., and told him
26 that most of the fellows had left for the day and others
27 had family arrangements, but I will keep trying. He told

1 me he would call me back to give me more information.”

2 And to put that in context, you would have seen at paragraph 5:

3 “At about 4:30 p.m. while in office he received a call
4 from Andy Fortune who is Heritage Marine Lead.”

5 And then as far as Friday was concerned at paragraph 7:

6 “I later learnt that Rolph Seales (Heritage’s SME) did
7 contact Hull’s Diving Manager, Anthony Nivet and Hull
8 provided a decompression chamber. I was, in fact, part
9 of the crew that operationalized the chamber even though
10 it was not needed by Paria.”

11 And then if you go to paragraph 12:

12 “Andy told me that the Incident Command Team (ICT)
13 did not want anyone to go into the pipeline. Andy did
14 not request assistance from Hull in relation to any
15 rescue.”

16 A. Okay.

17 Q. That’s what it says, yes. The Hummingbird was contacted at
18 10.50 p.m. on Friday. It was contacted by Michael Wei; at
19 paragraph 107, witness bundle page 1290.

20 **Mr. Chairman:** This is the next agency, is it, Hummingbird,
21 yes?

22 **Mr. Maharaj SC:** Yes, Hummingbird.

23 **Mr. Chairman:** Page?

24 **Mr. Maharaj SC:** Page 1290 at paragraph 107.

25 **Continued Cross-Examination By Mr. Maharaj SC:**

26 Q. According to that he was contacted at 10.50 p.m. And
27 Catherine Balkissoon, at paragraph 31 of her witness statement

1 at page 1333 said that the pipeline crawler went in at 3.00 a.m.
2 on Saturday. I'll show you that—at page 1333 paragraph 31.
3 There's where she said at 3.00 a.m. on Saturday the crawler
4 went in. Is that correct?

5 A. That is what it says, Sir.

6 Q. Yeah.

7 **Mr. Maharaj SC:** Have you found it, Mr. Chairman?

8 **Mr. Chairman:** No.

9 **Mr. Maharaj SC:** 1333, Volume IV, at paragraph 31.

10 **Mr. Chairman:** Yup. Got it.

11 **Mr. Maharaj SC:** Yes.

12 **Continued Cross-Examination By Mr. Maharaj SC:**

13 Q. Then I want to refer to what Mr. Michael Wei stated in respect
14 of the pushrod camera, and, et cetera. So if we look at witness
15 bundle 1289 at paragraphs 104 and 105.

16 **Mr. Chairman:** Yup.

17 **Continued Cross-Examination By Mr. Maharaj SC:**

18 Q. You would see there that according to what is stated prior to
19 Hummingbird being contacted.

20 "At around 9.00 pm. a pushrod camera with operating
21 crew arrived from Atlantic LNG..."

22 At 9.00 p.m. But that camera was not inserted until three hours
23 later at midnight.

24 A. Uh-huh. Okay, Sir, that's what it says. I can explain when you
25 are ready.

26 Q. Okay. I will go to your affidavit [*Inaudible*].

27 A. Of course.

1 Q. And in your affidavit, at paragraph 134, page 1369, you said
2 that Atlantic LNG arrived at 11.00 p.m. on the Friday night
3 with the pushrod camera?

4 A. Uh-huh.

5 Q. Now, in your statement you mentioned Krishna Fuentes. So I
6 want to point out to you what the evidence shows of Fuentes.
7 Right?

8 A. Okay.

9 Q. I am suggesting to you that there is no evidence that Krishna
10 Fuentes was on site prior to 4.00 p.m. on Sunday. And I say
11 that because I want to point out in your witness statement at
12 paragraph 208 at page 1381 you said:

13 "I was told by Mushtaq that the documents presented by
14 LMCS were reviewed by the TTCG, Krishna Fuentes and
15 Rolph Seales, all of whom he indicated that LMCS
16 proposal was too risky and advised that we should not
17 proceed with the dive proposed by LMCS."

18 So this would have been on Sunday?

19 A. Correct.

20 Q. Now, we know from the evidence so far and the references,
21 witness bundle 13, paragraph 33, that the Coast Guard came
22 originally to do an open water search for the divers. And based
23 on the intervention of Commander Maharaj, the Coast Guard
24 was redirected to Staubles Bay to pick up a dive crew and
25 equipment. And that dive crew and equipment arrived at Paria,
26 I think, about 8.30 to 9.00 p.m. on the Friday?

27 A. Okay.

1 Q. Now, as the Commander of the IMT—

2 A. Uh-huh.

3 Q —when Christopher Boodram—I would take it from there.
4 When Christopher Boodram came out of the pipeline, did the
5 IMT have a kind of timeline that if they had to do a rescue in
6 the pipeline how many hours they had in order to ensure that
7 the men would survive? You had a timeline? Two hours?
8 Three hours? Four hours? Five hours? Saturday morning?
9 Sunday morning? What timeline you had?

10 A. Right. So when Mr. Boodram came out of the pipeline, right,
11 immediately, we recognize—we did not know the conditions in
12 the pipeline. Right? That was understood. We simply did not
13 know. At the time we weren't sure what had happened in the
14 incident, what caused the incident—

15 **Examination By Mr. Chairman:**

16 Q. Forgive me for interrupting you, but we have heard all of this
17 many times.

18 A. Okay, Sir.

19 Q. I would like you address the question that's being asked. Did
20 you have a timeline?

21 A. We knew if there was any air pocket there would be vapours in
22 it, so we knew it would be a vapour space. We also knew all
23 they will have other than that would be their air bottles, and that
24 would give them maybe a couple hours. So that was the
25 timeline. We understood.

26 **Continued Cross-Examination By Mr. Maharaj SC:**

27 Q. And a couple hours would have been—

1 A. Well, two—three hours at the most.

2 Q. Two to three hours. So he came out at around 5.00 to 5.30?

3 A. Yes, Sir.

4 Q. And the timeline you would have given yourself was about—
5 given the IMT—would have been about two to three hours?

6 A. Yes, that is what we thought, but there was no way to tell
7 definitively.

8 **Examination By Mr. Chairman:**

9 Q. Yeah, I know. Just a minute. He'd already been in the pipeline
10 for nearly three hours?

11 A. Yes, Sir.

12 Q. So, I mean, did you factor that in?

13 A. Yes, Sir.

14 Q. The air that might have been available to them was being used
15 up in that time?

16 A. Yes, Sir.

17 Q. Yes. So I suppose the question really is, did you have, from the
18 moment of the incident—leave aside for a moment Mr.
19 Boodram's heroics, leaving that to one side—the incident you
20 knew had happened at about quarter to three that afternoon?

21 A. Correct.

22 Q. And really, was there a timeline from then? So we start at
23 quarter to three; we know five men have gone missing; we
24 don't know where they are at that stage?

25 A. Correct.

26 Q. So we're searching the ocean. We don't find anything in the
27 ocean at all, which is pretty extraordinary; I would have thought

1 within a half an hour even of doing that, that you would find
2 nothing at all. So you start to think about other alternatives,
3 presumably?

4 A. Yes.

5 Q. So all—I think what Mr. Maharaj is asking you is, did you start
6 to say, well, we've got from then maybe a couple of hours—
7 forget whether they went into the pipe or not—couple of hours
8 to find these guys otherwise they're going to drown and die?

9 A. Yes, Sir.

10 Q. You must have had that in mind?

11 A. Yes, of course.

12 Q. And then, like a moment of salvation, for everybody, Boodram
13 comes out of the pipe. You must have thought, renewed hope.

14 A. Of course, yes, Sir. Yes, Sir.

15 Q. It's at that point you might have been thinking, well, they're all
16 dead anyway. So when he comes out of the pipe you must have
17 truly thought renewed hope.

18 A. Yes, Sir.

19 Q. And what timeline, now that you know beyond per adventure
20 that they are in the pipe, what timeline did you apply to that?

21 A. Right, so—

22 Q. If at all?

23 A. Well, we, again, just to repeat, we knew they would have had
24 their air bottles; they would have been in a vapour space, you
25 know. We would have, maybe, yes, maybe listen maybe three,
26 four hours, five, you know. Of course, everybody was in hope.
27 Mr. Boodram—

1 Q. Three, four, maybe five hours. From when? From when he
2 emerged or from when it happened?

3 A. From when Mr. Boodram came out. We simply didn't know,
4 but we understood we had to work quickly.

5 Q. No, I understand that. I asked Ms. Balkissoon this question,
6 though. I think I did anyway. Was any attempt made to
7 calculate the amount of space that would have been necessary
8 within the pipe to sustain five—four men now—and how much
9 that would be by way of volume in the pipe? Do you follow the
10 question I'm asking you? So one man per hour breathing X
11 amount of vapour space—let's hope as much air as was
12 breathable—but what was the sort of outer limit? Did you try
13 and make any sort of estimate of what the outer limit might
14 have been?

15 A. Umm—

16 Q. I mean, apart from a guess? I mean, presumably, it's something
17 that is calculable?

18 A. Right. At that point in time, we didn't calculate anything. At
19 that point in time, we were just really saying, listen, this is a
20 vapour space. We looked at the air bottles, and so on, you
21 know. If one man had one—one air bottle per man, if even one
22 man had maybe two air bottles. So that was the sort of limits
23 we were giving, three, four, five hours at the most.

24 Q. Right.

25 A. But we did not attempt to calculate it, because we had limited
26 information at the time.

27 Q. No, but you realized by then—well, you knew, not realized,

1 you knew that there were air pockets or vapour pockets within
2 the pipeline, because you've been told that?

3 A. Yes, Sir.

4 Q. Right. So it was simply a question at that stage, wasn't it, well,
5 how much air per man per hour? It's a calculable number, isn't
6 it?

7 A. Of course. And, again—

8 Q. Did you?

9 A. No, we didn't. Well, it was just guess-work at that time. We
10 could only estimate inasmuch information we had, and the only
11 information we would have had would have been the air tanks.
12 We didn't know the vapour space. We simply didn't have that
13 information at the time.

14 Q. No, I follow that. But, you see, you knew how much was in the
15 pipeline by way of oil before it started, and you knew how
16 much you'd pumped out, or you should?

17 A. Well, we didn't know. I did not know at the time.

18 Q. Did you have a look at the records that you were shown
19 yesterday by Mr. Maharaj?

20 A. No, not at that time, Sir, yes.

21 Q. At any time during the IMT, did you look to see, well, how
22 much had been pumped out of this pipe? So what is the best
23 guess that we could make as to the amount of air that could be
24 in it?

25 A. Right. So, no, I did not look at that record. At the time I didn't
26 know we had that record at the time, and I knew—I did not
27 know how much oil was left. I did not know how much water.

1 I did not know how much vapour space. I simply did not know.

2 Q. I appreciate you didn't know. But what you're saying is that
3 you didn't look?

4 A. No, Sir, not on that night. I did not look.

5 Q. You didn't look to see whether there was any records kept by
6 your own company as to the amount of oil that there might have
7 been in the pipeline at any time?

8 A. No, Sir, I did not look.

9 Q. Because it's maths, isn't it? You know the amount of volume
10 that was in that pipe. You could calculate how much oil has
11 been pumped out of it if it were full. That would leave X
12 amount of space potentially for air. That is a certain amount
13 which you could then calculate per man. So here's our best
14 outside limit—six hours let's say. We've got to act within six
15 hours or not at all.

16 A. Yes, Sir, yes, I didn't calculate it.

17 Q. No. You think it would have been a good idea, wouldn't it? It
18 would have informed you as to what needed to be done in the
19 time available?

20 A. Well, we—again, it may have been a guide, but we simply—we
21 understood, listen, this was only a few hours. We understood
22 that; this was a few hours.

23 Q. Are you saying that realistically once five hours had passed, it
24 was too late?

25 A. I could not say that definitively, Sir. We were working here
26 with, you know, we were looking at what is the best—we were
27 hoping for the best.

1 Q. Diminishing returns, though, isn't it? Come on.

2 A. It is diminishing returns, yes, Sir.

3 Q. I mean, realistically, you know, as each minute passes, so the
4 chances or the prospects of saving anybody diminishes, doesn't
5 it?

6 A. Of course.

7 Q. And there is an outer limit?

8 A. Yes.

9 Q. And that outer limit was potentially calculable?

10 A. Yes, Sir.

11 Q. You were working on the premise of what; five hours as a
12 maximum?

13 A. I was working maybe five hours, maybe midnight at the
14 outside. That is what I would have been working with.

15 Q. Midnight at the outside?

16 A. Yeah, I was working with that.

17 Q. But, I mean, realistically, I mean, that would have been, what,
18 nine hours after the event?

19 A. Yeah.

20 Q. I mean—

21 A. Of course, working with hopes.

22 Q. Sorry?

23 A. Well, you're expecting—okay. Realistically in my mind maybe
24 four, five hours, realistically maybe six at the outside, Sir.

25 Q. Six from Boodram emerging from the pipe?

26 A. Well, with Mr. Boodram emerging from the pipe, of course, we
27 would have had a renewed hope. Right?

1 Q. Well, that's what I said. But, I mean, realistically—you see, the
2 only reason why I'm asking it, and it follows on from what Mr.
3 Maharaj was asking about a timeline, is that surely a timeline
4 informs you about how to approach any potential rescue.

5 A. Correct.

6 Q. In the sense that—well, let's assume you say, as I gathered
7 from your evidence, we need to know more about the pipelines
8 so we're going to get a camera?

9 A. Correct.

10 Q. That was a policy decision. Right? We're going to get a
11 camera. If the man tells you who has the camera, "It's going to
12 take me five hours to get the camera in there", that informs
13 whether it's too late to actually do anything by way of a rescue
14 relying on any camera. So you have to think of plan B, don't
15 you?

16 A. Yes, Sir.

17 Q. That I think is where we're at.

18 A. Okay.

19 Q. The timeline as to the realistic prospects of successfully
20 rescuing anyone has to be at the forefront of any decision made
21 about what you're going to do; cameras, equipment, people, et
22 cetera. Yes?

23 A. Right. Yes, Sir.

24 Q. Was it at the forefront?

25 A. Of course, of course, Sir, it has to be. It can't be any other way.
26 But we simply did—we simply did not know how long. We
27 simply did not know at that point in time. We were guessing at

1 that point in time. We could only estimate, as I said.

2 **Continued Cross-Examination By Maharaj SC:**

3 Q. Mr. Piper, I read in your Command System that the first priority
4 is to save human lives.

5 A. Uh-huh.

6 Q. And when I look at the—

7 **Mr. Chairman:** I'm sorry. We're going to have to rise for a
8 couple minutes right now. Thank you.

9 **10.10 a.m.:** *Enquiry suspended.*

10 **10.30 a.m.:** *Enquiry resumed.*

11 **Mr. Chairman:** Thank you very much. I'm sorry for that
12 interruption. I think we've managed to kill two birds with one
13 stone, though, both addressing the air-conditioning in this room
14 and Mr. Wilson's condition, both of which seemed to have
15 improved. So we will be able to press on. Thank you very
16 much. Before we do that, can I just ask everyone how long
17 they think we might need Mr. Piper for today?

18 First of all, do come in, Mr. Piper? Take a seat.

19 **Mr. Maharaj SC:** About an hour and a half.

20 **Mr. Chairman:** Well, that would take us up to midday. Can I
21 have some sets from others how long they're likely to be? Ms.
22 Alfonso, what do you think?

23 **Ms. Alfonso:** Maybe 20, 25 minutes, Sir.

24 **Mr. Chairman:** Half an hour. Mr. Pegus, do you have any?

25 **Mr. Pegus:** I have no questions.

26 **Mr. Chairman:** No questions. All right. Mr. Ramadhar?

27 **Mr. Ramadhar:** Thank you very much. Well, appreciating

1 time is of the essence here, I will try to contain it within half an
2 hour.

3 **Mr. Chairman:** Half an hour; that's midday. Well, that's
4 lunchtime. What do you think, Ms. Persaud-Maraj?

5 **Ms. Persaud-Maraj:** I may be 30 minutes to half an hour.
6 But, of course, the caveat is, from my end, it depends if my
7 questions have been covered already.

8 **Mr. Chairman:** No, no, I appreciate that. And, of course, I
9 understand others may cover, before he gets to you, the
10 questions you might have wanted to ask. What do you think,
11 Mr. Peterson?

12 **Mr. Peterson SC:** So far, Sir, we only have one question and
13 it may be extinguished by the time Mr. Maharaj finishes with
14 90 minutes of—

15 **Mr. Chairman:** All right. So the question realistically is
16 whether if we're finished with Mr. Piper by, say, three o'clock
17 today, whether we start with Mr. Mushtaq Mohammed. Any
18 submissions about that? What I wouldn't want to do is to leave
19 Mr. Mushtaq Mohammed half-heard, as it were, over the
20 Christmas break. It wouldn't be fair on him.

21 **Mr. Peterson SC:** We were suggesting a part-heard, but, yes,
22 that's—

23 **Mr. Chairman:** You were suggesting?

24 **Mr. Peterson SC:** No, we were thinking about maybe doing
25 the summary and probably Counsel to the Commission could
26 do their cross, but then that would leave it part-heard and
27 hanging. So it may seem that we have an early day today, Sir.

1 **Mr. Chairman:** Yes, I think we have a little bit of reading to
2 do. We could use up some of the time with that. My
3 inclination at the moment is to rise once we've dealt with Mr.
4 Piper. He's an important witness. People should be permitted
5 to ask questions, and I know my interruptions are always
6 making it last longer than it would otherwise be. But I think
7 that's what we'll do. In which case, we will release Mr.
8 Mushtaq Mohammed for today.

9 **Mr. Peterson SC:** Yes, Sir, because he will be on his way
10 from—

11 **Mr. Chairman:** Well, that's why I thought we'd venture it
12 now rather than him making his way here only to be told go
13 home again or go back to work, whichever he prefers. But it
14 seems to me that the sensible thing to do would be to release
15 him now, and during the course of this afternoon we'll
16 determine exactly what the order of the remaining witnesses
17 will be. I see you have a hand up? Mr. Pegus.

18 **Mr. Pegus:** Yes, Mr. Chairman. On second thought, I would
19 only question this witness if for the remainder of his evidence
20 he says something that concerns my client.

21 **Mr. Chairman:** Of course.

22 **Mr. Pegus:** But up to this point, I don't have any questions for
23 him. I just wanted to make that clear.

24 **Mr. Chairman:** I'm not holding anybody to this. I understand
25 that it's a little fluid at the moment. So if you have questions
26 then you'll be permitted.

27 **Mr. Pegus:** Thank you very much.

1 **Mr. Chairman:** All right. Then let's do that. We will release
2 Mr. Mushtaq Mohammed. Somebody can tell him, please, that
3 he's released, and we'll notify everybody by, certainly by
4 tomorrow, what the position will be in relation to all the
5 remaining witnesses and the eight days or so that we have left
6 earmarked for this Enquiry's public hearings. All right, we'll
7 do that then.

8 Thank you very much. Back to you, Mr. Piper.

9 **Continued Cross-Examination By Mr. Maharaj SC:**

10 Q. Yes, Mr. Piper. When the adjournment was taken I was telling
11 you that when I looked at the evidence of the timeline, I want to
12 suggest to you, it did not seem as though you and the IMT acted
13 with urgency to save human lives.

14 A. Okay, Sir.

15 Q. No, I'm going to put the timeline to you. So I'm going to,
16 okay?

17 A. Okay.

18 Q. Because according to you, Mitchell—I will read. Mitchell was
19 contacted and they were on standby from 8.40 p.m. We went
20 through that this morning. Right?

21 A. That's not in my statement. I don't think that's in my
22 statement.

23 Q. But I read the evidence to you?

24 A. Yes, you did. Okay, yes.

25 Q. Eastern Emergency Response Services were not contacted until
26 11.40 p.m. on Friday. OTSL was there from 8.00 p.m. and
27 remained on standby until 5.30 a.m.

1 Hull Support Services received a call at 4.30 p.m. and
2 they did not go to the site. Hummingbird was contacted at
3 10.50 p.m. on Friday. And Catherine Balkissoon said that the
4 crawler went in at 3.00 a.m. on the Saturday. Now, if it is as
5 you said that you were acting urgently to save human lives,
6 could you tell us why it is that you could not contact these
7 people to get whatever advice you wanted earlier?

8 A. Right. So I'm sure looking through the evidence you would
9 have seen that we had a camera. We had contacted PISL,
10 Professional Inspection Services Limited. They were on site, I
11 think, by about 7.30, right. So we had them on site very
12 quickly.

13 **Examination By Mr. Chairman:**

14 Q. Sorry, I missed that.

15 A. Yes. Professional Inspection Services Limited, PISL. Right?
16 They were on site. Right? Now, we don't have this equipment
17 on hand, of course, so we have to source this equipment.
18 Right? So we had PISL on site; that would be IMT, the
19 members of the IMT Logistics, and so on; they were trying to
20 source equipment. So they were on site at about 7.30 p.m. on
21 Friday. Right? So we did start actioning very quickly. Once
22 they got on site, unfortunately, there was an issue with the light
23 on the camera and we were not able to use the PISL. We also
24 had on site via OTSL, we had a—

25 Q. Sorry, sorry. I want to keep an accurate note of this. It's quite
26 a long answer to the question you were asked. So I just want to
27 keep it recorded. So you're saying that they had the camera on

1 site at 7.30?

2 A. Yes, Sir.

3 Q. But you couldn't use it because it didn't have a light?

4 A. Yes, there was an issue with the light on the camera. Yes, Sir.

5 Q. You mean it had a light? It didn't work?

6 A. It wasn't bright enough. It wasn't bright enough, or didn't
7 work, yes.

8 Q. Not working or not bright enough?

9 A. Yeah.

10 Q. So it couldn't be used?

11 A. So it could not be used.

12 Q. So you're back to square one?

13 A. Right. Yes, Sir. We also had a remote operated vehicle that
14 came up on site with OTSL.

15 Q. An ROV?

16 A. An ROV, yes, Sir. And that was with when OTSL came up, I
17 believe, and that was about maybe 8.30, 8.40.

18 Q. I think it arrived at 8.37.

19 A. Okay, yes, Sir, somewhere around there.

20 Q. When were they called up, please?

21 A. Right. So OTSL, through Heritage, right—because I did not
22 make those calls, we had contacted Heritage, that is Mr.
23 Mohammed.

24 Q. It doesn't matter how, but—

25 A. So we had contact—they contacted their Dive Supervisor, Mr.
26 Seales, Rolph Seales, and he started putting these things in
27 place. He started mobilizing these people—Mitchell, OTSL,

1 Hull Support, and so on. Right? So they, of course, had to
2 transit from Point Fortin, I believe. So they came up on site.

3 Q. All right. It hasn't answered my question, which is when were
4 they contacted? I don't care who by, but when?

5 A. They would be some time after four, between four and five,
6 right. I don't have the exact time that Mr. Seales contacted
7 them, Sir.

8 Q. Right. And that doesn't appear, does it, in any of your logs?

9 A. No, that wouldn't be in the log. Those contacts would have
10 been made before Mr. Seales arrived. I believe it was Mr.
11 Seales who made those contacts.

12 Q. And Mr. Seales did it at whose behest?

13 A. At Heritage's behest on behalf Paria.

14 Q. On behalf of Paria?

15 A. Yes, Sir, and that was early on. That's to the best of my
16 knowledge.

17 Q. Thank you. So sometime between 4.00 and 5.00?

18 A. Yes.

19 Q. So you mobilized an ROV between 4.00 and 5.00 that
20 afternoon?

21 A. To the best of my knowledge.

22 Q. Before, therefore, before Mr. Boodram came out of the pipe?

23 A. Right. So, again, to the best of my knowledge, I believe that
24 was around the time when Mr. Seales had spoken to OTSL and
25 the diving companies, right, when he was called.

26 Q. But, presumably, you were ordering the ROV to examine the
27 pipe?

1 A. Ordering the R—well, I don't know if they had it on board, but
2 we just wanted as much equipment as we could, because we did
3 not know what was happening at the time.

4 Q. No, no, no. I'm only trying to understand your answer. Is it the
5 case that you understand Mr. Seales contacted OTSL for an
6 ROV sometime between four o'clock and five o'clock that
7 afternoon with a view to using that ROV to go into the pipe?

8 A. Right. I don't know if Mr. Seales specifically asked for an
9 ROV, but I know he would have spoken to those dive
10 companies and OTSL had an ROV when they arrived. I don't
11 know the specifics if he asked. I don't know. But we had an
12 ROV on site which we attempted to use.

13 Q. So it might have been just good fortune that there happen to be
14 one?

15 A. Right. And when—I assumed—this is just an assumption—
16 whatever equipment because at that time we weren't sure.

17 Q. We'll ask Mr. Seales. Anyway, you believe that the assistance
18 was being sought between four and five o'clock?

19 A. When Mr. Seales—to the best of my knowledge.

20 Q. Yes. And OTSL arrived at about 8.37?

21 **Mr. Chairman:** All right. Thank you.

22 **Examination By Commissioner Wilson:**

23 Q. Good day, Mr. Piper. I just have one question here. Yesterday
24 I heard you said that you were part of the Management Tenders
25 Committee?

26 A. Yes, Sir.

27 Q. All right. So, and you've identified diving as a specialist type

1 of scope of work on your facilities or in your assets. Being part
2 of that committee, you would have some idea of the
3 commercial diver capabilities within country. So with that
4 knowledge—well, do you have?

5 A. No, Sir, I'm not very familiar. This was more like construction,
6 and so on. So I can't say I—not very familiar.

7 Q. Well, a dive company or a commercial dive company would be
8 a commercial dive company with the capabilities of which
9 you're expecting. Now, you said the expertise are there. So
10 how many companies in the tender process, just to go back a
11 bit, that you are aware of that you selected LMCS from?

12 A. I can't say offhand, Sir. I don't remember offhand.

13 Q. Okay. Because I was kind of going with Paria's awareness of
14 commercial dive capabilities. Why you would have to depend
15 on another company? It could be a bit time consuming.

16 A. Right. Because we have really used mainly LMCS to do our
17 works. In the past we had Master Services agreement with
18 them. So we have not used OTSL—we did not use OTSL or
19 Hull, but we know that Heritage was using these companies.
20 So we depended on Heritage in this case to assist us.

21 Q. Okay. But I heard you said that it was Heritage recommended
22 it to you. But if you were aware of them, you would be aware
23 that they have commercial diving capability?

24 A. Of course.

25 Q. Yeah, okay.

26 A. Right. But we sought the assistance from Heritage. It will be
27 quicker, we thought.

1 Q. Okay. Thank you.

2 **Mr. Chairman:** Right. Yes, Mr. Maharaj.

3 **Examination By Mr. Chairman:**

4 Q. As I understand, your answer to Mr. Maharaj is that the
5 Professional Inspection Services arrived on site at 7.30, but
6 their light wasn't working, so you couldn't use it. There was an
7 ROV which arrived on site around 8.37 that evening?

8 A. Correct.

9 Q. Was it deployed?

10 A. Right. So we—Catherine did speak with Andrew Farah as Dive
11 Supervisor, about using the ROV, and she advised that Mr.
12 Farah said the ROV couldn't work; it was too big to get into the
13 pipeline. So we were not able to use the ROV.

14 Q. You mean the dimensions of the ROV were too great to fit
15 inside the 30-inch pipe?

16 A. Yes.

17 Q. And the first you knew of that was when it arrived on site?

18 A. Yes, that's when Catherine told me she spoke to Andrew.

19 Q. Right. So that couldn't be used either?

20 A. Yes. So we had to look at options. Right?

21 Q. Well, it's now 8.37. Given the timeline that you told me about
22 before our break, this is some hours after the event, Mr.
23 Boodram having come out of the pipeline about 5.30 or so,
24 we're now three hours on.

25 A. Right.

26 Q. We're coming to the critical time, are we?

27 A. Right.

1 Q. Go on then.

2 A. Right. So our logistics persons, the logistics group, continued
3 trying to source because we still—we needed to—we needed to
4 understand what we were up against. So the logistics continued
5 trying to source with the assistance of Heritage. I was working
6 with Heritage as well. We had Mr. Osei Flemming-Holder
7 there. So I continued to work with him to get in contact to help
8 us as well. Mr. Wei logistics was working to get equipment,
9 and that is when we decide, okay, we were able to get Atlantic
10 LNG equipment and we were able to get HHSL with the
11 borescope. So they were working feverishly to get these people
12 on site so that we can assess the pipeline.

13 Q. Atlantic LMG?

14 A. Atlantic LNG.

15 Q. Yes. What were they doing?

16 A. Say again?

17 Q. What were they going to achieve for you?

18 A. Yes. They came with a pipe crawler—what we call a crawler.

19 Q. Right. Did you speak to—

20 A. Sorry. They came in with a borescope, I think, and HHSL had
21 the pipe crawler. Atlantic LNG came with a borescope.

22 Q. Borescope?

23 A. Yes.

24 Q. That's some other form of camera, is it?

25 A. Yes, Sir.

26 Q. Did you speak to them or somebody else?

27 A. To call them in?

1 Q. Yes.

2 A. No, that was our logistics.

3 Q. Right. So Mr. Wei or Mr. Seales. Is that right?

4 A. Mr. Wei or Mr. Holder; I believe, might have been Mr. Wei.

5 Q. All right. And then we're going to get a borescope?

6 A. Yes, Sir.

7 Q. Did they tell you what the ETA for that borescope was?

8 A. Yes. Mr. Wei would have mentioned to me what the ETA of
9 the borescope was, yes.

10 Q. What was it?

11 A. It would have been some time, I think, around maybe after nine
12 he said the borescope would be there.

13 Q. After nine?

14 A. Yes.

15 Q. That evening?

16 A. Yes, Sir.

17 Q. Yeah?

18 A. Yes, Sir.

19 Q. Did it arrive after nine?

20 A. It would be on the timeline, Sir, when it arrived.

21 **Mr. Maharaj SC:** If I may intervene?

22 **Mr. Chairman:** Please.

23 **Mr. Maharaj SC:** At paragraph 104 of Mr. Michael Wei's
24 statement at page 1289 he said at around 9.00 p.m. a pushed
25 camera with operating crew from Atlantic LNG arrived on site.
26 They were briefed and dispatched to berth 6.

27 **Mr. Chairman:** Thank you very much. That was very helpful.

1 And when did they actually put the borescope in?

2 **Mr. Maharaj SC:** It was put in around—

3 **Mr. Chairman:** About three hours later, yes?

4 **Mr. Maharaj SC:** Yes, from midnight.

5 **Mr. Chairman:** So the borescope arrived at 9.00 and it entered
6 the pipe—

7 **Mr. Maharaj SC:** Around midnight.

8 **Examination By Mr. Chairman:**

9 Q. Do you know why that was?

10 A. Yes, Sir.

11 Q. Can you tell us, please?

12 A. I'll explain. Okay, right.

13 Q. Go ahead.

14 A. So we had, of course—the situation at that time was we had the
15 riser coming up and we had the hyperbaric chamber over the
16 riser, right, in the initial condition at the time of the incident.
17 Mr.—if I may, Mr. Kazim Ali contacted me around nine
18 o'clock. He contacted me and he indicated that he wanted to
19 install the extension piece on the riser which was to be installed
20 that day. His explanation was that he—with the hyperbaric
21 chamber there, if he had any failing with the compressor then
22 the chamber would flood, right, you know, then it would cause
23 more problems for us. So he wanted to—he requested to insert
24 the new riser. He also indicated, well, when the cameras come,
25 the insertion of the new riser would help us because with the
26 hyperbaric chamber in place, pressed down, what we would
27 have to do is to drop the camera, the borescope, into the water

1 from the barge, bring it under the hyperbaric chamber, and then
2 into the pipe. So we would have some difficulty with that.

3 So he asked that we install the riser pipe. We agreed to
4 install the riser pipe. They then—he utilized the guys who were
5 there diving. He utilized them to install the riser pipe. I think
6 they had it completed sometime, maybe a little after 10. Then
7 what they had to do was they needed now to access from the
8 top of the hyperbaric chamber. So we had to install some
9 scaffolding quickly to get the borescope up there, and he also
10 had to take off the top of the hyperbaric chamber—the top
11 cover. So all of that took some time. Right? So that is why the
12 Atlantic LNG camera only went in a little bit later, but it would
13 have made it very simpler for him.

14 Q. Can I ask just in relation to that, why this wasn't done hours
15 before? You knew you wanted a camera in there. Why didn't
16 you do it hours before?

17 A. Right. So while we were pushing for the cameras, I actually
18 didn't think about installing it and bringing it from there. I was
19 working on going through the hyperbaric chamber. It's only
20 when Mr. Ali brought it to our attention we thought, well, okay,
21 let's see what we could do, and to make it easier.

22 Q. Sorry. I'm struggling a little to understand why, given that the
23 idea of a camera was yours, to put a camera in the pipe to see
24 what the conditions of the pipe were, why wasn't this all sorted
25 out in advance of any camera arriving?

26 A. Well, at the time it was just to get the camera down into the
27 pipe the standard way.

1 Q. I understand all about getting the camera into the pipe. If there
2 was going to be a problem in taking the camera down into the
3 water, up into the hyperbaric chamber, then down into the pipe,
4 that must have been apparent to the IMT and you before you
5 even ordered a camera.

6 A. Well, not that it was a problem, it could have been done. We
7 could have done it, right. That was not—it is not that it could
8 not be done, yes.

9 Q. Well, given that time was the essence—forgive me, but given
10 that time was of the essence, why did you wait three hours?
11 You had the camera; it was important. You're now up against
12 your timeline that you described to me earlier today. Right?
13 You've used up three of your five hours that you think you've
14 got; you're now going to take three hours past the timeline that
15 you've got to put a camera in there. Why wouldn't you just
16 say, well, look, we don't have time to do this, Mr. Ali, or
17 whoever else was suggesting it; we just got to get that camera
18 in there now? Why not?

19 A. Well, um—

20 Q. Sorry. I know—I'm trying to give you the opportunity to
21 answer, but I am struggling a little to understand why if you
22 thought—if the IMT at your command thought that it was
23 important before we effect a rescue to put a camera in there,
24 why were not the conditions for putting the camera in there not
25 created before the camera even arrives? You don't have to wait
26 for the camera to arrive before you could start doing those jobs,
27 do you?

1 A. I just—it just wasn't—I suppose it wasn't thought of at the
2 time, right. When Mr. Ali came to me I said, okay, it's going to
3 be easier.

4 Q. Pause for a minute. Pause for a minute. All right. That's your
5 answer: that it hadn't been thought out at the time by you or
6 anyone else in the IMT that this might need to be done before
7 the camera even arrives?

8 A. Right. Because it—that is correct, because Mr. Ali came to us
9 about nine o'clock with the indication that—he called me
10 around nine o'clock.

11 Q. You spoke to Mr. Ali. You spoke to Mr. Ali for three and a
12 half minutes at quarter to eight that evening?

13 A. Right.

14 Q. Why didn't you raise it then?

15 A. No. At that point in time, I was just operating with the
16 hyperbaric chamber. Yes.

17 Q. No, no, I understand that, but you were the one who wanted the
18 camera?

19 A. Yes.

20 Q. Did Mr. Ali want the camera?

21 A. Yes, Sir, of course, to assess.

22 Q. Did he say that as a prerequisite to sending any diver into that
23 pipe, I want a camera in there?

24 A. No, he did not.

25 Q. No. So he would have been prepared to have sent divers in
26 there or divers might have been prepared to go in there without
27 having seen what the conditions inside that you wanted were?

1 I'm not criticizing you for wanting to have observation of what
2 was in the pipe. I just want to understand the timeline, how it
3 works. Do you follow?

4 A. Yeah.

5 Q. And once you know that you had a camera at nine o'clock, and
6 at the earliest it was going to take you three hours to create the
7 environment in which you could insert that camera, you've
8 passed your own deadline.

9 A. No, I did not realize at the time, Sir, it was going to take that
10 time. He told me within about half an hour to an hour he's
11 going to have that riser in. I did not know that at the time,
12 right, from in my discussions with him.

13 Q. All right, okay. All right.

14 A. I did not know.

15 Q. Sorry. Mr. Wilson has a question for you.

16 **Examination By Commissioner Wilson:**

17 Q. Yes. Just taking off from where the Chairman left, but I'm
18 going to try and bring it in as an IC. Once you had your
19 situational awareness, speaking to the same thing as the
20 Chairman. So you had the initial incident response; you had the
21 objective settings. I heard some verbiage around priorities,
22 assumptions, and constraints. But what I'm trying to find out
23 now from an IMT, ISC, and an IC, Incident Commander, what
24 were your operational periods that you set to put a tactical plan
25 in place? So just to bring it more in place if it could help the
26 Chair in terms of bringing timelines into your plan, if there was
27 a plan?

1 A. Right. So at the time of the incident on Friday evening, right, at
2 that time we were pushing hard, really, to see what was
3 available, how quickly we could get it available. And—

4 Q. I understand, and let me interrupt again. What I'm asking is, as
5 an Incident Commander, did you set out operational periods
6 which would speak into your tactical plan? Meaning, we'll go
7 away for 45 minutes and we'll come back with an action plan.
8 Was anything like that established in your IMT?

9 A. No, certainly not on the Friday evening, Sir.

10 Q. Okay. Thank you.

11 A. Yes, yes.

12 **Mr. Chairman:** Thank you. Mr. Maharaj, thank you—

13 **Mr. Maharaj SC:** Much obliged.

14 **Mr. Chairman:**—for directing me in that direction. Thank
15 you.

16 **Continued Cross-Examination By Mr. Maharaj SC:**

17 Q. But you had available during—all this delay was because you
18 wanted cameras to go and see the condition in the pipe?

19 A. I wanted to assess what was in the pipeline.

20 Q. Yes. And that was important for you?

21 A. Yes, Sir.

22 Q. But you had available divers who were prepared to go into the
23 pipeline without cameras—without having a camera?

24 A. Yes, Sir.

25 Q. But during the delay period, did it occur to you that you could
26 consider using the divers if they want to go in? The question is
27 simple, Mr.—did you consider it?

1 A. Yes, Sir, if I may explain?

2 Q. You considered it?

3 A. Yes, Sir, if I may explain?

4 Q. And you decided against it?

5 A. Yes, Sir, because I did not, at the time, have information as to
6 what was happening in that pipeline and I know I have said this
7 before.

8 Q. Yes, you have said that several times?

9 A. Right? Several times, right. So I could not, at that time, just
10 send somebody—sanction—Paria could not sanction at that
11 time just sending somebody into that pipeline.

12 Q. But you knew? Boodram had come out of the pipeline and
13 Kurban had gone in the pipeline and that was not sufficient for
14 you?

15 A. Right. So I knew Mr. Boodram had come out of the pipeline,
16 right. I knew Mr. Kurban had gone in 10 to 15 feet into the
17 horizontal, right, so that didn't give me any information.
18 Right? However, I still didn't understand the conditions. Now,
19 you would appreciate as the Incident Commander, I have a
20 priority; the safety of the responder is a very high priority for
21 me. So before I could send any responder, any rescuer into that
22 line, I had to ensure or be reasonably certain that it was safe for
23 him to do so. I could not just send somebody into that pipeline.

24 Q. Okay. You have said that, and I'll come to what you have said
25 in your witness statement.

26 **Mr. Chairman:** I just want to record that, please.

27 **Examination By Mr. Chairman:**

1 Q. You said the safety of the responder is a very high priority, and
2 I can understand that, and so it should be.

3 A. That is correct. Yes.

4 Q. But you said that before you could send anyone to go in the
5 pipeline—have I got this right—you needed to be either sure or
6 reasonably certain before as to the conditions?

7 A. And of the safety that he could go in and come back out safely.

8 Q. You feel certain of their safety before you could do so?

9 A. Yes, Sir.

10 Q. And is the effect of that, to say that until you had a camera
11 inside that pipe, you were never going to sanction a rescue?

12 A. Until I could have an assessment of that pipe that would have
13 been very difficult.

14 Q. You've made that clear, and I absolutely have your evidence on
15 that. But the effect, the way in which you were going to do that
16 was by having a camera of some kind in that pipeline?

17 A. Correct.

18 Q. So up until that point in time that you've got footage of what
19 was inside pipeline—

20 A. Correct.

21 Q. —you were never going to sanction a rescuer going into the
22 pipeline?

23 A. I could not sanction it, and I would, of course, have to seek
24 expert advice as well to do that, yes.

25 Q. We're looking back at it now, aren't we?

26 A. Yes.

27 Q. I mean, obviously, as things were unfolding at the time

1 different factors played. But looking back on it now and your
2 analysis of what you did in the IMT, your position was “I’m not
3 sending”— “I’m not going to sanction”, I think, to use your
4 word, “I’m not going to sanction anyone going into that pipe to
5 effect any kind of rescue until I knew the conditions of the
6 pipe;” that’s the first thing. And you add to that by saying, “I
7 won’t know the conditions of the pipe until I send a camera in
8 to have a look.”

9 A. Yes. Yes, Sir.

10 Q. So the net result of that is, until a camera went in the pipe there
11 was no prospect of my sanctioning anyone diving into that
12 pipe?

13 A. It would be very difficult for me so to do, Sir.

14 Q. Very difficult? Were there any circumstances in which you
15 would be prepared to sanction it?

16 A. I could not, Sir. I could not sanction it.

17 Q. No, I understand it. I just want to be clear. I really do
18 understand what you’re saying. That was the criteria for you. I
19 needed to know what was the conditions in that pipe and I
20 needed to get a camera in there?

21 A. Yes, Sir.

22 Q. Thank you very much. One matter arising from that. I just
23 want to make a note of that. Were you aware of a GoPro that
24 had been retrieved from the pipe?

25 A. I heard something that they had some GoPro. Catherine was
26 trying to look at it and she suspected it was a GoPro, right, and
27 with LMCS, and they couldn’t—and they were not showing her

1 anything. She wasn't certain it was a GoPro. We were not
2 certain.

3 Q. I think in your statement you referred to it, don't you?
4 Someone direct me to that passage. All right. Anyway, you
5 were unsure it was a GoPro or—

6 A. Yes. Catherine said she saw them looking at something. She
7 wasn't sure what it was, right. It may or may not have been a
8 GoPro.

9 **11.10 a.m.:**

10 Q. And did you make an inquiry of that of Mr. Ali?

11 A. No, no, I did not make an inquiry, no.

12 Q. I mean, quite important isn't it, if it was a GoPro, it might have
13 met your needs?

14 A. Well, any GoPro—nothing came out of the pipe so it would not
15 have been in the pipe.

16 Q. Well, we don't know.

17 A. Yeah.

18 Q. Do you, Mr. um—wasn't it suggested the GoPro was retrieved
19 from the pipe?

20 A. No. All, all Catherine told me it was, they were looking at
21 something she thought maybe a GoPro.

22 Q. But Mr. Kurban hadn't retrieved this from the pipe?

23 A. I can't recall if she said Mr.—she didn't—I don't—I can't
24 recall her telling me that. I recall her telling me she saw them
25 looking at something, when she tried to look at it, when she
26 tried to go across they moved away and they—you were not
27 getting any information from them.

1 Q. Just a minute. All right, well I won't hold up proceedings. I'll
2 have a look to see if I find it.

3 **Mr. Chairman:** Thank you very much.

4 **Mr. Maharaj SC:** Much obliged, Chair.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. Well since you were very anxious to see what is in the pipe,
7 you know at some stage a crawler went in to get a recording of
8 what is in the pipe, a photo, um, a video of what was in the
9 pipe.

10 A. Right, so, Sir, if—

11 Q. Would you just try to answer my question? Do you know
12 whether a crawler went into the pipe to get a video?

13 A. Yes, Sir.

14 Q. Do you know what time it went in?

15 A. It would have went in sometime after midnight, Sir.

16 Q. Would it be correct to say it went in at around 3.00 a.m.? I'm
17 referring to the witness statement of Catherine Balkissoon at
18 paragraph 31, it's 3.00 a.m. at page 1333?

19 A. Right.

20 Q. Would you, would you agree to that?

21 A. Yes, that is what she said, Sir.

22 Q. Yes. At 3.00 a.m., where were you?

23 A. I would have been in the incident command post.

24 Q. Did you go home for three hours?

25 A. Right.

26 Q. At paragraph one five five—

27 A. Uh-huh.

1 Q. —page 1372—

2 A. Right.

3 Q. —while you were the incident commander—

4 A. Uh-huh.

5 Q. —managing an emergency, men in the pipe—

6 A. Uh-huh.

7 Q. —you went home. At what, at what time you went home?

8 A. I'm—sometime maybe after 4.00, Sir.

9 Q. Sometime after 4.00?

10 A. Yeah. Yes, Sir.

11 Q. And you spent three hours?

12 A. Maybe two, maybe three hours I was back.

13 Q. According to your statement at paragraph one five five, after
14 you said what happened at paragraph 153 and 154, you said:

15 “Sometime thereafter I left the ICP for home. I returned
16 to the ICP about three hours later.”

17 A. Yes.

18 Q. And at paragraph one five seven of your witness statement, you
19 said:

20 “Upon my return to the ICP, I was advised by Catherine
21 or another person, I cannot now recall, that the crawler
22 was sent down at berth 5 but there was too much oil so it
23 wasn't able to get too far. I was told that it had to be
24 retracted and the lens cleaned, which was difficult to do.”

25 A. Right. So, if I, if I may back up, if I may back up please and
26 explain?

27 Q. Yes.

1 A. Right, so we got the camera footage, right, what little camera
2 footage we were able to get I believe from, from Atlantic LNG.
3 That would have been around midnight. Right? Once we got
4 that camera footage, I contacted Mr. Rolph Seales. Well, he
5 was in the incident command, right, with Mr. Osei Holder.
6 Good? I spoke to Mr. Seales and I instructed him, listen, we
7 have this video footage, right, this would have been, this is
8 something right around midnight when we first got it. I told
9 Mr. Seales, go on—go to the berth with the dive companies,
10 Mitchell and OTSL, go with them, get their supervisors, have a
11 look at the video footage, let them examine what video footage
12 we had, however little it was, and discuss with them if they
13 would be prepared to enter the pipeline to do a rescue.

14 Q. Rescue?

15 A. Yes, Sir.

16 Q. But on your timeline, at 3.00 a.m. in the morning—

17 A. No, Sir, this was like around midnight.

18 Q. Or, that was around midnight?

19 A. [*Inaudible*] Yes, Sir.

20 Q. Yes.

21 A. All right? So I asked him, speak with them. Mr. Seales
22 returned, Mr. Seales returned about an hour after. He had gone
23 to berth 6 with the divers, with the dive supervisors. He
24 advised me, in the presence of Mr. Osei Flemming-Holder, he
25 advised me that he reviewed the video footage with the two
26 dive supervisors and the dive supervisors both agreed that they
27 will—it was too risky and they will not allow their personnel to

1 go into that pipeline. They simply did not have the information.
2 I subsequently asked Mr. Seales what was his view. I asked
3 Mr. Seales what was his view. Mr. Seales advised me that he
4 simply did not have the information. It was too risky. So he
5 as—so he, he was of like mind. Right. Right.

6 **Examination BY Mr. Chairman:**

7 Q. What time are we talking about when this—when you were
8 being advised of this?

9 A. This, this was shortly after one o'clock. I instructed him to go
10 shortly after midnight to speak with the divers, just as soon as
11 we got the video footage, and then this was about one o'clock.

12 Q. So this is seven and a half hours after Mr. Boodram has
13 emerged from the pipe?

14 A. Yes, Sir, yes.

15 Q. Seven and a half hours?

16 A. Yes, Sir, we were still trying, right?

17 Q. No, no, help me in this way. On your own timeline, what were
18 the prospects of any of them being alive seven and a half hours
19 after Mr. Boodram came out of the pipe?

20 A. The prospects were getting slim, Sir, very slim.

21 Q. But what you told me before I had our break was that probably
22 zero.

23 A. had been very slim, Sir.

24 Q. See, there's a, as I said to you I think before, it's diminishing
25 returns, isn't it? If you are a rescuer and there is a good
26 prospect of saving people who are alive—

27 A. Uh-huh.

1 Q. —you might take a greater risk than if you wait and there is a
2 very, very slim chance of anyone being alive—

3 A. Uh-huh.

4 Q. —to risk you, you or your colleague divers.

5 A. Right.

6 Q. That is an equation which anyone would calculate, isn't it?

7 A. Right, correct.

8 Q. Good sense. The slimmer the chance of anyone being alive, the
9 less likelihood you're going to risk your own and others' lives
10 in trying to rescue them?

11 A. Okay. Sir, if I may, may I explain?

12 Q. You may.

13 A. Right, okay. I am confronted on the night, let's go to the night,
14 right, we are confronted with a situation, I have four men in a
15 pipe, right? I don't—I did not know the conditions in the pipe.
16 I understood it is a confined space. It is a dangerous space. I
17 had a decision to make. Let's look at, say, Ms.—I know Mr.
18 Kurban was prepared to go in the pipe, right? Mr. Kurban is a
19 courageous young man. His, his father was in the pipe. I get
20 that. I get he would want to go—

21 *[Interruption]*

22 **Mr. Chairman:** Carry on.

23 **Mr. Piper:** Yes, Sir.

24 *[Interruption]*

25 **Mr. Chairman:** No, we, we won't have any shouting out from
26 the back of the courtroom, please? You address my question,
27 please?

1 **Examination By Mr. Chairman:**

2 A. Yes, Sir. Right. I have a decision to make, a difficult decision.

3 Q. Yes.

4 A. If I allow somebody, if I—if Paria sanctions somebody who is
5 strongly emotional, emotionally attached, at that time he would
6 be angry.

7 Q. Right.

8 A. And he was angry at that time. I am putting that young man's
9 life in danger. I'm sanctioning something to put that young
10 man's life in danger. I have a responsibility for that young
11 man.

12 Q. Uh-huh.

13 A. Right?

14 Q. Well you had a responsibility for his father as well, didn't you?

15 A. Yes, Sir.

16 Q. Yes.

17 A. Right? So, I had a responsibility to that young man. what
18 happens—I also had to think through what happens if Mr.
19 Kurban gets in difficulty—

20 Q. Yes.

21 A. —in that pipeline? Then, I had another courageous young man,
22 Mr. Conan Beddoe who would want to go in to rescue Mr.—
23 rescue Mr. Michael Kurban. Right? I could have two, I could
24 have two people in difficulty. I'm adding numbers. I
25 understand Mr. Beddoe's brother was there. Mr. Beddoe gets
26 into difficulty or if I send them in first or if he goes in first, he
27 gets into difficulty, what would his brother do? His brother

1 would go in.

2 Q. No, his brother was going to pull him out because he would be
3 attached by a line.

4 A. Well, Sir, it's—would you—pull him out in what condition,
5 Sir? I don't know. I, I, I couldn't tell.

6 Q. Well, he might have been injured.

7 A. I don't know.

8 Q. He might have been.

9 A. He may have been dead, Sir, I don't know.

10 Q. He might have been.

11 A. Right? Do I take that risk to send somebody in there?

12 Q. Uh-huh.

13 A. In that, that, that is—that was not a simple decision, right, I—

14 Q. No one suggests it is, that's why you got that job.

15 A. Yeah, yeah, and, and I believe it was the right decision—

16 Q. Right.

17 A. —at the time. As difficult as it was, it was not a simple
18 decision.

19 Q. All right.

20 A. Okay, Sir? So I'm, I'm, I'm in that position on that night, that
21 situation.

22 Q. The note results, though, is that because you took the stance
23 you had, and, as I say I, I, I can assure you I've not made up my
24 mind one way or the other about any of this yet, I'm hearing the
25 evidence, all right, I have an open mind as to whether what you
26 were doing was right or wrong and I don't think actually
27 anybody can second guess that. What is true is, is that there

1 was no timeline as what you told us today, and, therefore, the
2 decisions that you were making, difficult though they were,
3 were effectively being determined by the fact that you insisted
4 on having details of the inside of that pipeline by virtue of a
5 camera and that that was going to take you outside of your own
6 timeline as to whether they could survive or not. So, the
7 decision was actually made for you once you decided, “I must
8 have that camera footage.”

9 A. I, I—and as I said I have, I had a responsibility—

10 Q. Yes.

11 A. —to the responder, Sir.

12 Q. All right. Did you, um, did you actually discuss the particular
13 plan with Mr. Beddoe or with Mr. Kurban at the time?

14 A. No, Sir. I was liaising with Mr. Ali. I did not discuss with
15 them.

16 Q. Did he discuss it with you?

17 A. No, Sir, he never discussed any plan with me.

18 Q. Did anyone discuss—I mean you, you discovered Mr. Beddoe’s
19 willingness after the event, have you?

20 A. No, I knew he was on site and I knew, um, divers were going
21 in, they were willing, yes, Sir.

22 Q. Yeah, well, you just told us about him being willing to go into
23 the pipe. Did you know that at the time or did you know that
24 only after the event?

25 A. I didn’t know it was Mr. Beddoe himself but I knew at the time
26 people were willing to go in the pipe.

27 Q. Right. And so—and did you—in knowing that, did you obtain

1 from them any plan that might mitigate your concerns about not
2 knowing what the condition of the pipeline was?

3 A. No, Sir. All I knew, all I knew from them that they would—
4 people said they were just going in, into the pipe. They were—
5 they had no plan.

6 Q. Who told you they had no plan?

7 A. Nobody came forward with any plan, Sir.

8 Q. No one came forward.

9 A. Right? No one knew, no one knew the con—we did not know
10 the conditions.

11 Q. No one came forward with any plan, and am I right in saying
12 you didn't ask any of these divers, what, what plan they had?

13 A. I was liaising with Mr. Kazim Ali. I was trying to get in touch
14 with Mr. Kazim Ali and I could not. Right? I spoke to him and
15 then I even—when he eventually called me it was to put on the
16 riser.

17 Q. So Kazim Ali gave you no plan?

18 A. Yes.

19 Q. Did you speak with Ms. Balkissoon who was your onsite
20 liaison?

21 A. Yes, I was in constant contact with Ms. Balkissoon.

22 Q. And did she tell you of any plan that she'd been informed of?

23 A. She did not tell me of any plan that she would have been
24 informed of.

25 Q. Right.

26 A. And—

27 Q. Thank you.

1 A. Okay?

2 Q. Thank you very much.

3 A. And if Ms., if Ms.—if Ms. Balkissoon had been informed of
4 any plan, she would have told me.

5 Q. Well she's spoken for herself.

6 **Continued Examination By Mr. Maharaj SC:**

7 Q. Mr. Piper, there are two aspects of my questioning I want to ask
8 you on further. One is the IMT notes that have been given to us
9 and the first item, the next item I want to talk to you about is
10 the factors which you considered in your statement to refuse to
11 permit diving into the pipeline.

12 A. Uh-huh.

13 Q. So, I will take you to it, right? At paragraph 98—

14 A. Could you tell me what page, please, Sir?

15 Q. Page 1363. It starts at 1363 but it's—the factors start at 1364.
16 Now, these are the factors when you wrote your witness
17 statement that you wanted the Commission to consider as to the
18 basis of your decision—

19 A. Uh-huh.

20 Q. —to prevent diving in the pipeline.

21 A. Uh-huh.

22 Q. So let us go to paragraph 98(1), "The event which caused the
23 divers to be taken into the pipeline was unknown." But you
24 knew that it was a Delta P that caused the accident, a Delta P,
25 an active Delta—an active—a latent Delta P became active that
26 caused the accident. You knew by 3.23 p.m. on the Friday
27 when you spoke to Mr. Kazim Ali you got an account of how

1 the accident occurred?

2 A. Uh-huh.

3 Q. Not so?

4 A. Right.

5 Q. And you told us today that you had thoughts, it could have been
6 where the men were sucked into the pipeline?

7 A. Right.

8 Q. Correct?

9 A. Correct.

10 Q. So that, the event which caused the divers to be taken into the
11 pipeline was known, not unknown?

12 A. No, Sir.

13 Q. It was unknown?

14 A. No, Sir. So at that time, right, all I got from Mr. Ali is that they
15 had removed the first plug and they were removing the second
16 plug. Right? What happened, what I mean here is what
17 happened with the plug, I did not know.

18 Q. You did not know?

19 A. I didn't know if the plug—I did not know if the plug was, was
20 ruptured, I didn't know if the plug was pulled in, that is what I
21 mean. I, I didn't know what actually happened to cause it.

22 Q. But you knew it was—you knew that the event which caused
23 the divers to be taken into the pipeline was a Delta P hazard?

24 A. Right.

25 Q. Did you know that—

26 A. Yes, Sir.

27 Q. —at the time when you—

1 A. Yes, I'm, yes I'm trying to explain.

2 Q. —when you—did you know that at the time when you make
3 your witness statement?

4 A. I was not fully—or at the time I made the witness statement,
5 this is, this is at the time of—this here is at the time of the night.

6 Q. Yes.

7 A. Right? It's at the time of the night I'm writing here.

8 Q. And at the time you made your witness statement this is what
9 you were saying which influenced you in not sending a diver?
10 These are one of—these are the factors that you stated in your
11 witness statement and this is one factor?

12 A. Right. Sir, in my witness statement those are the factors on the
13 night.

14 Q. Yes.

15 A. It's not after the fact.

16 Q. I know, and it's one of the factor what is stated in one—

17 A. Yeah.

18 Q. —98(1), not so?

19 A. Correct.

20 Q. So what I'm asking you—

21 A. Yeah.

22 Q. —on that night—

23 A. Uh-huh.

24 Q. —at that night or that day you knew that it was a Delta P
25 hazard. What are you saying to that, that's not correct?

26 A. Right. I'm saying yes, Sir, I knew at that time the men were
27 drawn into the pipe but I did not know if it—what caused it, if it

1 was they deflated the plug, I didn't know if the plug was
2 ruptured, I did not know—

3 Q. So, in other words—

4 A. —what it resulted.

5 Q. In other words, you didn't know the position of the plug?

6 A. That is correct, Sir.

7 Q. But you knew that the men was—you knew that the men were
8 sucked into the pipe?

9 A. Yes. Mr. Boodram came out and he said the men were—

10 Q. Were in the pipe?

11 A. Yes, Sir.

12 Q. So you knew it was a Delta P hazard—

13 A. Yes.

14 Q. —that caused it?

15 A. But what actually, the actual cause I was uncertain of. Just to
16 repeat—

17 **Examination By Mr. Chairman:**

18 Q. [*Inaudible*] that again, Sir?

19 A. Well, I—yes, Sir.

20 Q. The Delta P was Delta P?

21 A. No. Sir, it mattered, because, if the plug was not ruptured, then
22 I'm not sure if there's going to be a secondary Delta P. I didn't
23 know. If the plug was ruptured, then it would be different. The
24 conditions would be different. Right? So it—I—so I did not
25 know.

26 Q. Ruptured, what do you mean?

27 A. Well, I don't know if the plug had burst. I don't know, right, or

1 if the plug was just drawn in, was just drawn in.

2 **Continued Examination By Mr. Maharaj SC:**

3 Q. All right, but—sorry. Well, if you had fears about another
4 Delta P, you wouldn't a be looking for camera, you woulda be
5 looking for an expert to tell you whether another Delta P could
6 have occurred? But you were looking for cameras. Would
7 that—would cameras show you whether another Delta P would
8 take place?

9 A. Right, and we spoke to—we spoke—Mr. Wei spoke to, spoke
10 to, um, OTSL, right, Antonio, a gentleman by the name of
11 Antonio, we spoke with him, he—during the night. He was
12 explaining us to that it—about the Delta P occurrence and he
13 also indicated that we need to, we need to try to, you know,
14 until that—until we could be sure that there's not a second
15 Delta P, then it would be very dangerous to send those divers
16 in. So that was an uncertainty for us, Sir.

17 Q. But, Mr. Piper—

18 A. Uh-huh.

19 Q. —in San Fernando and other places in Trinidad, you could have
20 contacted an expert to get that opinion, whether another Delta P
21 could have occurred, instead of looking for cameras.

22 A. Yes, but Sir, if I, if I could get a camera in there, right, the
23 camera would be able to tell me if we could pick up the plug.
24 The camera—if the—when the camera goes in, if it could
25 identify the plug, right, we could see if the plug was, in fact,
26 intact—

27 **Examination BY Mr. Chairman:**

1 Q. Well, hang, hang on a minute.

2 A. Yes, Sir.

3 Q. You're going to go past numerous tanks and four bodies—

4 A. Yeah.

5 Q. —before you got to the—before you got to a plug, surely?

6 A. Right. So, so, there are a couple scenarios here. If the plug
7 intact—if the plug was intact, yes, correct, but I did not know if
8 the plug was intact. The plug could have been ruptured inside
9 there, in which case, I might have been able to get to the plug
10 first. I don't know. I sim—that is what I was trying to find out.

11 Q. Pretty remote possibility, wasn't it?

12 A. Sir, I, I, I, I simply didn't know what caused the incident at the
13 time.

14 Q. I understand nobody knew—

15 A. Right?

16 Q. —for sure?

17 A. Yeah.

18 Q. What your—your job presumably was to try and weigh up the
19 odds?

20 A. Yes, correct.

21 Q. What were the realistic prospects—

22 A. Yeah.

23 Q. —of that plug being ruptured in such a way that you would be
24 able to send a camera in, get to the plug before you got to the
25 people?

26 A. Right.

27 Q. What was the realistic prospect? Do it now. Exercise your

1 mind—

2 A. Yeah.

3 Q. —on it now.

4 A. Well, it, it, it's a maybe a low prospect, but what the camera
5 would also tell me, while it wouldn't tell me about the Delta P,
6 right, in that case the camera would also tell me where the
7 bodies are, where are these—where the men are located, where
8 the peel are located, right? I needed to get a distance, I needed
9 to know what I was dealing with, so the camera, the camera
10 footage will also help me with that. This is not just one
11 [*Inaudible*]—

12 Q. Did it ever occur to you that you were seeking perfection, you
13 know, a degree of knowledge that could only come with
14 perfection?

15 A. No, Sir.

16 Q. No.

17 A. I was trying to get what, what the best or realistic assessment I
18 could make so I could get somebody in there.

19 Q. Within the time frame available? That's—

20 A. Yeah.

21 Q. —where you keep missing that out don't you, it's within the
22 time frame available?

23 A. Yes, right. And I—yes, Sir, and I come back to at the decision
24 I had to make—

25 Q. Yes.

26 A. —to send. Right.

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. You see, Mr. Piper, if you had contacted an expert you would
2 have got the answer on that Delta P if it could recur?

3 A. Yes, yes, Sir, I—and I—

4 Q. And, and I referred you, I'm not too sure but I referred you to
5 the expert report of In-Corr-Tech based in San Fernando. In-
6 Corr-Tech is based in San Fernando.

7 A. Uh-huh.

8 Q. And they said—they answered that question.

9 A. Uh-huh.

10 Q. Prior to Mr. Christopher, at page 1534, prior, in the
11 supplemental core bundle, at paragraph four point—four and
12 five.

13 “Prior to Mr. Christopher Boodram’s rescue, the entire
14 system stabilized and equalized itself at both ends of
15 SL36 and thus allowed Mr. Boodram to negotiate the
16 pipe without any disruptions, as the system was static.
17 This condition was the best opportunity to attempt a
18 rescue as removing the blank at berth 5 or shutting down
19 the compressor would have released the stored potential
20 energy from the compressed air and thus disturb the
21 equilibrium and thereby imperil any divers in the air
22 pockets.”

23 If you had contacted an expert and did not look for cameras,
24 you would have been able to know that the pipeline was safe
25 for diving.

26 A. Right, and, Sir, just to repeat, right, I don't know what that is
27 based from. Right? But I don't know what that expert is based

1 on. Right? But just to repeat, we did contact an expert, right,
2 Mr. Michael Wei, and we did speak to him on the night.

3 Q. Who was that expert?

4 A. From OTSL.

5 **Mr. Mootoo:** Sir, it's also—Sir, if I can object, this is also, in
6 my respectful submission, an unfair question. Right? In-Corr-
7 Tech has taken a long time to produce a report. It's unfair to
8 put to the witness that that information could have been
9 obtained at that time. No one has suggested that.

10 **Mr. Chairman:** Well, I mean, I think he's answering the
11 question because he's saying—telling us that he did consult
12 someone locally—

13 **Mr. Piper:** Correct.

14 **Mr. Chairman:**—um, to provide the answer to that question.

15 **Mr. Piper:** Correct, yes, Sir.

16 **Mr. Chairman:** So, why don't we let him tell us that?

17 **Mr. Mootoo:** Very well, Sir. I just wasn't on the question of
18 consultation I was just on the question of how long it would
19 take to develop the advice.

20 **Mr. Chairman:** Well, let's find out if we got the advice.

21 **Examination By Mr. Chairman:**

22 A. Right?

23 Q. Yeah.

24 A. So, we did speak to the expert from OTSL, through Mr. Wei,
25 and he did tell us about the Delta P and he did tell us, you
26 know, you couldn't be certain. That was our information on the
27 night.

1 Q. Couldn't be certain that there was not—

2 A. That was—

3 Q. —the possibility of a second.

4 A. Yes. Correct. And, until such time, you know, we should not
5 send somebody in.

6 Q. Do you know who that was, the person?

7 A. Um, I cannot remember his second name. It was Antonio I
8 think was his first name.

9 Q. Antonio?

10 A. Yes, yes from OTSL.

11 Q. Donawa?

12 A. Donawa, Donawa, thank you..

13 Q. And your recollection of that is that he was telling you in effect
14 that a second Delta P could not be eliminated?

15 A. Correct, Sir.

16 Q. And that therefore there was a risk associated with that?

17 A. Yes, Sir.

18 Q. If any diver went into the pipe?

19 A. Yes, Sir. That was my understanding.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. Did he give you an opinion, a written opinion? Because we
22 haven't got anything in the record that Mr. Donawa gave a
23 written opinion to that effect.

24 A. I believe there is something on the record to that effect, yeah.

25 Q. Well I have a statement from Mr. Donawa, it's in the record, at
26 page two seven eight five and at paragraph 12 in respect of
27 what was said that night, he said later that night Michael Wei

1 telephoned me, he told me that he wanted me to speak to his
2 incident team and I agreed for him to put me on speakerphone.
3 I was introduced to his team but I cannot recall him now. They
4 asked me what could have happened to the divers and I believe
5 what I said was that they encountered a Delta P incident. They
6 did not appear to understand what a Delta P incident was, so I
7 explained it and in fact my explanation I sent a video to
8 Michael Wei showing a crab being sucked into a pipeline
9 because of a Delta P incident and another giving a detailed
10 scientific explanation. Then, “A few days later”, at paragraph
11 17—

12 A. Uh-huh.

13 Q. “A few days later, before the retrieval of the bodies, I
14 was asked by OTSL CEO Mr. Bertrand to join in a
15 telephone conversation he was having with Heritage. I
16 did join although I do not recall the exact date. It was
17 me, Mr. Bertrand and Mr. Osei Fleming, Heritage lead,
18 and several others whose names I do not recall. The
19 purpose of the call was to discuss the possibility of doing
20 a penetration dive into the pipeline to search for
21 survivor’s benefit. I advised of the safety issues as there
22 was no way to confirm that the pipeline was totally
23 equalized and flooded and free of the possibility of a
24 delta event.”

25 So, on the date in question, when Mr. Donawa spoke to you in
26 the night—

27 A. Um.

1 Q. —that opinion was not sought as to whether another Delta P
2 could have based on his statement? A few days later—

3 A. Yes.

4 Q. —then he was asked that.

5 A. Right. I have to say, Sir, I cannot fully recollect, but, that was
6 my view because we were still—we still even after the
7 discussions, I know we still were concerned about the second
8 Delta P, so, there's no evidence.

9 Q. All right. Now the next reason: “It was also unknown what
10 caused that event to subside.” Well, in respect of that, you, you
11 knew that Christopher Boodram and Michael Kurban—
12 Christopher Boodram came at of the pipeline and Michael
13 Kurban went in and you knew that the hyperbaric chamber was
14 flooded—I'm sorry, it was not flooded?

15 A. Uh-huh.

16 Q. Not so?

17 A. Correct.

18 Q. Right. “The conditions inside the pipeline were unknown.”
19 Well, Mr. Piper, I've put this to you already but, um, you could
20 have, you could have known the condition of the pipeline from
21 Mr. Boodram and from Mr. Kurban. Then your next, your next
22 condition, your next factor: “The LMCS divers were diving into
23 the pipeline in an unplanned manner” and then you went on to
24 say you produce—without having a method statement, a risk
25 assessment, a job hazard analysis, et cetera, et cetera. You
26 really expected in order to make that decision you wanted a
27 written risk assessment, job hazard and how long that would

1 have taken?

2 A. Right. Sir, I'm not saying—right. I am not saying written.
3 Right? One needs to at least, right, one needs to at least
4 understand what one is coming up against. One needs to at
5 least sort a try to identify—right, one needs to at least try to
6 identify, one needs to try to risk assess, one needs to try to
7 mitigate how you're going in, how you're coming back out,
8 right, so there are a number of factors you have to deal with
9 before you could say, "Ey, listen, we believe, yes, this can be
10 done." But, it has to, it has to be done, Sir. We cannot just go
11 into the pipeline and say, I'll pull you out with a rope. Right?
12 So I am not saying it had to be written but we need to have
13 some idea of what we're in, right?

14 **Examination By Mr. Chairman:**

15 Q. I know you're saying you had no idea.

16 A. Say again, Sir?

17 Q. Yes. You've identified in your statement, or you've just been
18 asked by Mr. Maharaj as item number four—

19 A. Uh-huh.

20 Q. —of the, um, perhaps we could put it back on the screen, page
21 1364, you've identified that as being one of the reasons why
22 you were concerned about sending any divers into the pipeline?

23 A. Correct.

24 Q. And you say that the LMCS divers were diving into the pipeline
25 in an entirely unplanned manner—

26 A. Correct.

27 Q. —without having produced any kind of method statement, risk

1 assessment or job hazard analysis?

2 A. Uh-huh.

3 Q. And you're saying that didn't need to be in writing, so long as
4 you understood what it was?

5 A. Yes, Sir.

6 Q. Is that what you're saying?

7 A. Yeah.

8 Q. Right, okay. Well what I want to understand from you is this,
9 you see, is that you spoke, did you not, with Mr. Dexter
10 Guerra—

11 A. Yes, Sir.

12 Q. —on more than one occasion?

13 A. Yes.

14 Q. Certainly at 1832 then at 1845?

15 A. Uh-huh.

16 Q. Did you not ask him, "Well why are these people—what's the
17 plan? How is this going to work? What contingencies are you
18 taking?"

19 A. Yes.

20 Q. Did you ask him that?

21 A. We, we spoke—I don't think I asked him in, in so many words.
22 I asked him—he said, listen, "The guys just wanted to go into
23 the pipe", right—and, but, he didn't dis—we didn't discuss any
24 plan. He didn't have any plan because we still did not know
25 what existed.

26 Q. Really? You spoke to him for what, I think a total about 5
27 minutes—

1 A. Yes, Sir.

2 Q. —in those two phone calls and he gave you no idea of what the
3 plan would look like?

4 A. No, Sir, no idea.

5 Q. And you didn't ask him?

6 A. At the time, at the time I spoke with, with Dexter, right, um,
7 there were some hostilities, there were some hostilities on the
8 berth, and I called Dexter to see how—you know, to settle the
9 berth down. No, I didn't speak with him on it.

10 Q. So, is it that the calls to Dexter Guerra were nothing to do with
11 rescuing but to settle down hostilities?

12 A. The first call was to settle down hostilities.

13 Q. Right.

14 A. Right?

15 Q. Why were there hostilities?

16 A. There were hostilities when, when we said halt on the diving,
17 Sir.

18 Q. Right. I don't suppose that surprised you particularly, did it?

19 A. No, Sir. No, Sir.

20 Q. In any event, there were such hostilities, but, given that we're
21 about an hour—

22 A. Uh-huh.

23 Q. —with you having these calls with Dexter Guerra—

24 A. Uh-huh.

25 Q. —about an hour or so after Mr. Boodram has emerged from the
26 pipe, did you not think that, you know, they, they were at least
27 seeing if there were ways in which the rescue might be effected

1 within the time scale that permitted them to be rescued alive?

2 A. Right.

3 Q. Yes? So, what I'm a little concerned to understand from you is,
4 is if you were genuinely concerned that they were diving, as
5 you put it in your statement, as, in an entirely unplanned
6 manner, why wouldn't you have said to them, to him anyway,
7 "Look, I can't permit this. I'm not going to lift this, this
8 diving—restriction on diving, which is causing the hostility—

9 A. Uh-huh.

10 Q. —between us. I'm not going to lift that until I know what kind
11 of plan you have to effect. Tell me. Persuade me, Mr. Dexter
12 Guerra, persuade me that I should permit this." Did you say
13 that to him?

14 A. No, I didn't say that to him, Sir. I—

15 Q. Do you think it would have been a good idea, one way to quell
16 the hostility—

17 A. Yeah.

18 Q. —that existed? One way for you to be satisfied at least of some
19 kind of plan, even if you disagreed with it, do you follow?

20 A. Yeah.

21 Q. Did you, did you, did you not think it would have been prudent
22 to have asked him? How long have you known this man?

23 A. I have known Dexter for a while.

24 Q. Fifteen years?

25 A. Maybe more.

26 Q. Maybe more?

27 A. Yeah.

1 Q. So, and you knew him to be a responsible sort of a fella?

2 A. Re—um, reasonably.

3 Q. Reasonably. I mean I think there was an incident when he took
4 the barge—

5 A. Yeah.

6 Q. —off without permission—

7 A. Yeah.

8 Q. —some months before?

9 A. Yeah.

10 Q. It was hardly a major event. He took the barge away from the,
11 from the edge of the dock without permission.

12 A. Uh-huh.

13 Q. Ultimately and there was permission. We've heard from him
14 about that. That aside, I mean, you've known him for a long
15 time and he works for LMCS, didn't he?

16 A. Yes. Yes, yes, Sir.

17 Q. You were employing them as being a good company to do all
18 of these works, so presumably you had some confidence in
19 him?

20 A. Well yes, Sir, I have to say some confidence, yes.

21 Q. All right, well, with that—

22 A. Yeah.

23 Q. —some confidence did you not think it worthwhile saying to
24 him, since you were talking to him—

25 A. Uh-huh.

26 Q. —you called him, didn't you?

27 A. I called him yes Sir, I called him.

1 Q. Yeah, you called him twice?

2 A. Yeah.

3 Q. So, given that you felt the need to do that, did it not strike you
4 as being appropriate to say that, “Well look, Dexter, I need to
5 know what it is that you have by way of a plan? Tell me what
6 it is” so that you yourself could make an assessment?

7 A. Yeah.

8 Q. Did you?

9 A. No, no, I didn't, no, Sir, I did not.

10 Q. Do you think you should have?

11 A. Right, but, at the time, Sir, right—

12 Q. Well, answer my question first and then you can add your right,
13 all right? But you—

14 A. Yes. No, I did not. No, I did not.

15 Q. You said that?

16 A. Yeah.

17 Q. My question is, do you think you should have?

18 A. Maybe I should have, but the reason at the time, the, the, with
19 the hostilities, I know that people were very emotional, right? I
20 did not think them to be the best people, the best group to, to, to
21 go into the pipeline. All right?

22 Q. That was an assessment made by you which I—

23 A. Yes, Sir.

24 Q. —I can entirely understand.

25 A. Yes.

26 Q. What I'm asking you is whether or not you had—you thought it
27 would have been prudent that you should have asked him,

1 “What is your plan? What is the plan? You’ve got to tell me,
2 Mr. Guerra, what is the plan?”

3 A. Yeah.

4 Q. Help me understand how I can sanction this.

5 A. Yes. Maybe in hindsight maybe I should have, yes, Sir, despite
6 all that was going on.

7 **Mr. Chairman:** Thank you.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Mr. Piper, you were engaged in communicating with diving
10 companies to get opinions, not so?

11 A. Yes, Sir.

12 Q. You were consulting with them, you were waiting on their
13 answers, correct?

14 A. Yes, Sir.

15 Q. You had the LMCS divers who were experienced, commercial
16 divers, experienced in diving, they had all equipment, can do a
17 rescue. Why you didn’t consult with them?

18 A. Sir, nobody, right, nobody, right—those—that team was
19 emotionally charged. Right? Right? My assessment of that is
20 you cannot—it would not be a prudent position to take or a
21 decision to make, right, with a group who are emotionally
22 charged who have never done anything like this before, who
23 have no training to do anything like this. Nobody has done this
24 to the best of my knowledge, gone into a pipeline.

25 Q. Did you find out from them?

26 A. Sir, nobody has ever done this.

27 Q. Did you find out from them?

1 A. No, I did not find out, but I knew nobody had done this.

2 Q. You, you assumed—

3 A. Yes, Sir.

4 Q. —that they never—

5 A. Yes, Sir.

6 Q. You assumed that they didn't have the requisite—

7 A. Yes.

8 Q. —experience and training and competence—

9 A. Yes, Sir.

10 Q. —to go in the pipeline?

11 A. Yes, Sir. This is a 30-inch pipeline with oil. This is a 30-inch
12 pipeline with oil running for about—running for quarter mile.
13 Right? We had no idea. Nobody had ever had—did—had any
14 training in this, right, to go into this pipeline. They were
15 emotionally charged and at the time was—it was not the best
16 group to send in that pipeline.

17 Q. I am suggesting to you that—you would agree with me that in
18 this statement you gave as to the factors which influenced your
19 decision, not to allow anyone to go into the pipeline to dive to
20 do a rescue, at no stage you mentioned that the LMCS divers
21 were too emotional and you didn't consult them? Look at the
22 grounds. Look at the factors you considered.

23 A. No, no I didn't mention it, but, they were very—they—I knew
24 they were very emotional.

25 Q. But when you gave—

26 A. It was clear.

27 Q. When you gave this statement—

1 A. Yeah.

2 Q. —you knew that you were giving the factors to the Commission
3 to consider as to the grounds you considered to prevent you
4 from allowing that dive?

5 A. So, okay, so, admittedly I did not have it here but that was one
6 of the considerations.

7 Q. Okay. And yesterday you told us—

8 A. It was clear.

9 Q. —you spend a lot of time telling us about persons who were
10 involved in accidents, in maritime accidents and sometimes
11 when there are rescues, those who are the rescuers die and that
12 the accident victims are not saved. You remember you told
13 us—you gave us—

14 A. Correct, Sir.

15 Q. Right. Nowhere you have put that in this witness statement.
16 That is not in the witness statement as to the factors you
17 considered.

18 A. I—well, sorry but I didn't—

19 Q. Right. Look at it.

20 A. No, no, I'm agreeing with you, Sir.

21 Q. That you didn't?

22 A. But that is knowledge I've had in this industry. I've been in
23 the, I've been in the marine industry for, for four decades so
24 that is knowledge I have in the industry.

25 Q. And that is knowledge that you had at the time when you did
26 this witness statement?

27 A. Yes, Sir.

1 Q. And that is knowledge that you had at the time which you are
2 saying influenced your decision?

3 A. Yes, Sir.

4 Q. Yeah. Okay. Okay. Let's go to another area and the final area
5 of my questioning to you, Mr. Piper. I want you to look at the
6 IMT notes. That is in the supplemental, supplemental core
7 bundle.

8 **Mr. Chairman:** One five seventy-two.

9 **Mr. Maharaj SC:** Yes, one five seven two.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. And I want to start off at one five four one, and before I start
12 off at one five four one, I want to, I want to re—for you to
13 refresh your memory what you've said that Mr. Christopher
14 Boodram told you at paragraphs 130 and 131 of your witness
15 statement page 1368—130—1368. At paragraph—that's page
16 1368 and 1369, and, um, you see that you, among the things
17 you said in your statement there, that:

18 "I asked Boodram how he was doing. Mr. Boodram
19 responded by saying, 'Mr. Piper I want to say upfront I
20 ain't think dem fellas make it' or words to that effect.
21 And then the phone was placed on speaker"—um, um—
22 "on speaker mode. Mr. Boodram's words are audible to
23 persons round. Mr. Boodram then indicated that he
24 crossed two welded seams on the way out of the pipeline.
25 He said he then crossed Blacks who was unresponsive.
26 He indicated that four of them were making their way out
27 of the pipeline and they were helping Kazim Ali Jr. who

1 had a broken leg and arm. He then said they came across
2 an air pocket which there was one person less—after
3 which there was one person less,. He then said they
4 came across a second air pocket after which they lost
5 Kazim Jr. He further stated that Fyzie was with him until
6 he reached the elbow and then Fyzie said he couldn't
7 make it. Mr. Boodram did not ask during that
8 conversation whether anyone else was rescued from the
9 pipeline.”

10 Q. I want you to look at 1547 and see what the IMT recorded Mr.
11 Boodram said 1541—

12 **Mr. Maharaj SC:** One five four one, sorry.

13 **Mr. Chairman:** One five four?

14 **Mr. Maharaj SC:** Four one.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. Look at the top of the page.

17 A. Sir, um, what page, Sir?

18 Q. One five four one. Read it carefully and then I'll ask you the
19 question.

20 A. Uh-huh, yes, Sir.

21 Q. You read it?

22 A. Read it.

23 Q. Right. I have not seen in this note that was taken by the scribe
24 at the IMT that Mr. Boodram said or Mr. Boodram indicated
25 that he didn't think the divers made it. Could you show me in
26 this note where he said that? Mr. Boodram indicated that he
27 didn't think the divers made it, or that Mr. Boodram said that he

1 didn't.

2 A. No, Sir, it's not there.

3 Q. And I also did not see that he crossed over Blacks who was
4 unresponsive.

5 A. No, Sir, it's not there.

6 Q. And I also do not see in these notes which were made at the
7 time that when he came across an air pocket there was one
8 person less.

9 A. No, Sir.

10 Q. When you wrote your witness statement, when you prepare
11 your witness statement, what, you wrote it from memory or you
12 wrote it from contemporaneous notes?

13 A. Right. No, I did not take notes, Sir.

14 Q. Did you—

15 A. There's some—um, I did not take notes, Sir, so I'm going to
16 answer if I may, please?

17 Q. Sure.

18 A. There are some things that stick with you. This was one of the
19 things I—that stuck with me and I kept repeating this, right?
20 This we also—this was also recorded in the IMT in the log, I
21 believe, similar to what I said here, this was recorded in, in that
22 log. It was not in that note but I believe it was in the log
23 somewhere.

24 Q. Well, I, um, I'd be glad if you could show us it because I want
25 to tell you, Mr. Mushtaq Mohammed gave a written
26 statement—

27 **Mr. Chairman:** Page 1574

1 **Mr. Piper:** Four at the top.

2 **Mr. Chairman:** Page 1574.

3 **Mr. Maharaj SC:** One five seven four. Yes one five seven
4 four, I got it.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. But this log would have been prepared after?

7 A. No, Sir, this was prepared on the night.

8 Q. Well help us. This at 1541, was someone writing this at the
9 time?

10 A. Well, it's clearly—it's written, Sir.

11 Q. Yeah. But, you are the commander?

12 A. Yes, Sir.

13 Q. Did you have someone writing this at the time that—

14 A. No, Sir. At the time, at the time, er, we were in the incident
15 command post. The scribe at the time documented it in the log
16 immediately and I confirmed that. I looked at the log and I
17 confirmed that.

18 Q. But, but the log is typewritten?

19 A. Yes, Sir. The log was being—this log was being typed as, um,
20 on a spreadsheet in the incident command—at the incident
21 command post, so the entries were being made immediately.

22 Q. So you agree with me, then, because I'm now seeing this, I now
23 noticed it—

24 A. Okay, that's fair.

25 Q. So you would agree with me that what is stated on 1541—

26 A. Uh-huh.

27 Q. —or what Mr. Boodram said is inconsistent with what is

1 stated—what you pointed me out, it's inconsistent in the sense
2 that there are things—

3 **Examination By Mr. Chairman:**

4 Q. Well, let's take them one at a time. First of all, you say in your
5 statement at paragraph 131 that the first thing that Mr. Boodram
6 said to you is, "Mr. Piper, I want to say upfront I ain't think
7 dem fellas make it".

8 A. Yes, Sir.

9 Q. That's what you've recorded in your statement.

10 A. Yes, Sir.

11 Q. That does not appear, does it, on the diary memo note at page
12 1541?

13 A. Right. So—

14 Q. No, one thing at a time.

15 A. Sorry.

16 Q. It doesn't appear there, does it?

17 A. Correct.

18 Q. And it doesn't appear in the log at one five seven four?

19 A. Correct.

20 Q. Right. But it's something that you told us is stuck in your
21 mind?

22 A. Yes, Sir.

23 Q. Right, okay. We're agreed, at any rate, that this is—when
24 you're writing this statement it's from memory?

25 A. Right. And I did refer to this log as well because in the one five
26 seven—one five seven four, right, because at the time we
27 were—I was right at this log standing right there in this area

1 and what I heard, when Mr. Boodram spoke, when Mr.
2 Boodram says, “I, I don’t think they made it”, the phone was
3 given to me. Immediately after I put the phone on speaker and
4 I had other parties joining like Mr. Wei, Mr. Mohammed, I
5 believe Narissa Feveck, I believe Mr. Flemming-Holder was
6 there and Mr. Paul Yearwood, right, so I then put the phone—
7 Paul had brought the phone to me. I then put the phone on
8 speaker as people were coming in, right? So I heard—the first
9 bit, I was the person who heard that, it was addressed to me and
10 I heard that. Right? And I’m aware that nobody else heard it.

11 Q. Let’s go first when you were connected with Mr. Boodram at
12 the hospital, who made that arrangement?

13 A. Mr. Ramkissoon who went to the hospital and via Mr. Paul
14 Yearwood.

15 Q. Right. So, Mr. Ramkissoon, what do you say his name?

16 A. I think it’s Shane, I think.

17 Q. Shane.

18 A. Yes.

19 Q. Right. I’m going to call him Shane. So Shane, Shane makes
20 the—goes to the hospital?

21 A. Yes, Sir.

22 Q. And he obviously speaks to Mr. Boodram?

23 A. Yes, Sir.

24 Q. Before he makes a phone call to you?

25 A. Of course, yes.

26 Q. Yes, so do you know what he said to Mr. Boodram?

27 A. Well, I, I think, I think once he got there he just, um, had the

1 phone to Mr. Boodram, say, listen we need to talk because he
2 had a very, very limited time, a minute or two.

3 Q. Sure.

4 A. So I don't know if he had much conversation.

5 Q. He must at least introduced himself—

6 A. Of course, of course.

7 Q. —and told him why he was there and things like that.

8 A. Of course.

9 Q. Exactly. You don't know what he said to him, do you?

10 A. No, Sir.

11 Q. You don't know if he told him, for example, that they still
12 hadn't got anybody out of the pipe?

13 A. Yes, I don't know if he told him.

14 Q. All right, but anyway the first thing he said you to is, "Mr.
15 Piper, I want to say upfront, I ain't think them fellas make it"?"

16 A. Correct.

17 Q. This was at ten o'clock that night?

18 A. Yes, that is what he said to me.

19 Q. Yeah, but this is at ten o'clock that night?

20 A. Yes, Sir.

21 Q. According to your own timeline that you told me before we had
22 our break, you ain't thinking them fellas make it either, have
23 you?

24 A. Well, again, Sir, we, we—at this point, there were no way to
25 tell. There simply was no way to tell.

26 Q. Well on your own calculation—

27 A. Yes, Sir.

1 Q. —it was an extremely slim—

2 A. Yes.

3 Q. —chance that five hours after the event they would still be
4 alive?

5 A. Yes, Sir. Yes, Sir.

6 Q. You agree with that, don't you?

7 A. Yes.

8 Q. I mean, I put the word extremely in but you don't disagree with
9 me do you, do you? Do you?

10 A. It, it, it would have been difficult to, you know, assess they
11 would last much longer.

12 Q. His sentiments coincided with your own.

13 A. Yes, Sir.

14 Q. All right?

15 **Mr. Chairman:** Yes, thank you.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. So we get that—we got that in the second note had some of the
18 things that are recorded but—

19 A. Okay, Sir.

20 Q. —one of the things that neither in the scribe note or in the
21 typewritten note it has the statement you say from memory, “I
22 want to say—Mr. Piper, I want to say in front, I ain't think
23 them fellas make it”?

24 A. Correct, Sir, and I'm very well aware of that.

25 Q. Okay.

26 A. I—that—I included that in my statement because that is
27 something that stuck with me, right? I am aware that it was not

1 in the—it was not in this note here, this log, but that statement
2 stuck with me and I thought it—I thought I should include it.

3 Q. Okay. Look at, look again at page 1541 and there is a notation
4 which states at—you see 202—

5 A. Yes, Sir.

6 Q. —which states: “Clear water. No signs of oil. No air space.
7 Difficult to tell if any air space because of the position of the
8 camera.” So at 202, according to the notes that the IMT had,
9 would it not be that the pipeline had clear waters, no sign of oil,
10 no air space?

11 A. Right. So this—right. This, Sir, is a very short distance into
12 the pipeline. All right? Maybe less than a hundred feet.

13 Q. I’m just asking what is recorded. Weren’t you, weren’t you—
14 the IMT had this information at that time?

15 A. Yes, Sir.

16 Q. Okay.

17 A. And that information was shared prior to that. That information
18 was shared with the dive experts through Mr. Rolph Seales to
19 do an assessment, which they still came back and said they
20 were not willing to send their persons into the pipeline. So it
21 was shared with them.

22 Q. Okay. Just underneath that, if you see on that night there—it
23 seems as though the IMT knew of differen—you see differential
24 pressure?

25 A. Yes, Sir.

26 Q. “Plug rupture or removal, will equalize”?

27 A. Yes, Sir.

1 Q. Yes. So the IMT had that information?

2 A. Yes, as I said, we had spoken to Mr. Donawa earlier.

3 **Mr. Chairman:** Will equalize?

4 **Mr. Maharaj SC:** Will equalize.

5 **Continued Examination By Mr. Maharaj SC:**

6 A. Yes, if the plug is ruptured, Sir, or removed, it will equalize.

7 Q. Yes. Good. And let's go to page 1542 where it is stated that
8 "Crawler", you see that at about the middle of the page,
9 "Crawler put down"?

10 A. Yes, Sir.

11 Q. "220 feet into pipe with tanks and plug from berth 6, side
12 yellow, round and white". You see that?

13 A. Yes, Sir. Yes, Sir.

14 Q. Yes.

15 A. Right, can I explain that?

16 Q. Yes. What you understood it to mean?

17 A. Right. So, what actually happened is the—as they were
18 feeding, as they were feeding it, apparently they had, um, some
19 rotation on—as they were feeding it they actually did not get to
20 the 220 feet. The hose, the line, the connection, was actually
21 turning on itself. So the crawler didn't actually go in 220 feet.
22 That is my understanding. It was recorded in the travel but the
23 crawler didn't travel. That was my understanding on the time.

24 Q. Okay. Let's go to 1544. This is a very interesting page. You
25 see about four lines down it says "Business Continuity 2.30
26 p.m." You see that?

27 A. Yes, Sir.

1 Q. And then you see it says: “Recovery not rescue.”

2 A. Yes, Sir.

3 **Mr. Chairman:** I can’t see it.

4 **Mr. Maharaj SC:** 1544, if you go one, two, three, four, five,
5 there’s a heading “Business Continuity”. And you have 2.30
6 p.m. It’s at the top of the page, 1544.

7 **Mr. Chairman:** All right, yes.

8 **Mr. Piper:** Uh-huh.

9 **Mr. Maharaj SC:** “Business Continuity”.

10 **Mr. Chairman:** Yes.

11 **Continued Examination By Mr. Maharaj SC:**

12 Q. —2.30 p.m., Recovery, not rescue. Eastern divers not willing
13 to go on.” You see that?

14 A. Yes, Sir.

15 Q. And I think that means riser 6 berth. Something—“Site to be
16 secured eight days before loading.” So—

17 A. Yes, Sir.

18 Q. —wouldn’t be something of business you all were expecting,
19 Paria was expecting and it was to be in eight days or something
20 like that?

21 A. Right. Yes, Sir, right, um, let me explain. The configuration of
22 the port, the configuration of the port is such that the location of
23 berths 5 and 6 are on the northern side of the port and the
24 location of—that’s the where we do our black oils, fuel oil and
25 crude. On the southern side of the port about maybe 6,000 feet,
26 six, maybe about five to 6,000 feet away, on the southern side
27 or the port is where we have our main viaduct, right, so that

1 main viaduct is where we do all are clean products.

2 So, in discussions with commercial, right, because part of, part of the
3 incident command is to, to—is for business continuity to get—
4 to stabilize the incident and, of course, to continue on, as and
5 when appropriate, so on the southern side of the port, which is
6 where we handle all our clean products, right, we separated, we
7 isolated, I had one group working there, and we said we will
8 not involve that group, the OTSs and the operators. We didn't
9 need to involve them in the, in the res—in the incident
10 response. So that is what that deals with there. So they could
11 operate on that side of the port. Right?

12 Q. But you'd also agree with me it shows that the IMT was
13 considering recovery and not rescue?

14 A. Right. Okay. So, that note—

15 Q. And that was 2.30 p.m. on—sorry, 2.30 a.m. on Saturday?

16 A. right.

17 Q. Sorry, 2.30 p.m. on—

18 A. Right.

19 Q. —Saturday?

20 A. Right. So, the note says: "Rescue not recovery. Eastern Divers
21 not willing to go on." In fact, eastern divers had indicated that
22 they are, sometime in the maybe about four, five o'clock in the
23 morning, Eastern Divers, Saturday morning, they had
24 considered that they would not send their people in. We were
25 looking at a dry rescue, right, because they were not divers
26 although the company is Eastern Divers. They are confined
27 space entry specialists. They had indicated that they will not go

1 in and they also indicated, as far as they were concerned, it was
2 a recovery and not a rescue. So that note, in my mind, is what
3 treats with that. That is not the IMT making that decision at
4 that time.

5 Q. So Eastern Divers took the position that at that stage it would
6 have been a recovery and not rescue?

7 A. That is the position they took, Sir.

8 Q. Yes.

9 **Examination By Mr. Chairman:**

10 Q. I mean, I mean, surely that was your position as well? This is a
11 day later. How long did you think—I mean, it must have been
12 your position too?

13 A. Sir, we were still, we were still hoping—I mean, it—in—

14 Q. This is—okay, carry on?

15 A. Sir, yes. Um, I personally was moving that—to that position
16 but it was still difficult for me to move to that position. I was
17 still, you know, hoping for some way so we were still
18 considering some way that we could get to those men, Sir. I did
19 not at that point in time make that transition yet.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. But, but—

22 A. All right?

23 Q. But if you look at the discussions, look at what is happening
24 underneath, after that, won't you say that that is what was being
25 thought about, recovery, in order to get—

26 A. Exactly where, Sir?

27 Q. In order to get to know where the persons were, said:

1 “Possible 3 to 4 feet, cameras can go in, cut a test hole, et
2 cetera, crawler with aim, utilize the diver that got to the
3 tank yesterday.”

4 So you were thinking of Michael Kurban?

5 A. Right. So—

6 Q. And you were thinking of Michael Kurban in a different
7 context, not to rescue?

8 A. No, say again, Sir?

9 Q. “Utilize the diver that got to the tank yesterday”.

10 A. Uh-huh. Uh-huh.

11 Q. Isn't that Michael Kurban?

12 A. Yes. I don't know why that is there but if I, if I may, on
13 Saturday, while we were still, while we were still looking at
14 rescue, we had to be—we had to start considering other options,
15 right?

16 Q. The other option of a recovery?

17 A. We had to consider recovery, Sir, and we had to—and we also
18 were considering—we were still considering pumping out of
19 the pipeline. Right? So we were mobilizing pumps and so on.
20 But we also had—we also had in parallel to look at altur—to
21 look at if it is we needed to go into recovery which—

22 Q. So—

23 A. —this was later on. We also had to start looking at those
24 options.

25 Q. Well I got that impression from the notes and I'll show you
26 later down—

27 A. Uh-huh.

1 Q. —that on Saturday the IMT was considering, as you say rescue,
2 but also making plans for recovery, considering plans for
3 recovery?

4 A. Yes, Sir and we had to consider plans in parallel.

5 Q. And in the plans for recovery, you were thinking of sending
6 in—further—you could—you could answer me now but I'll
7 show you something in the notes after. You were considering
8 sending in Michael Kurban into the pipe?

9 A. No, Sir. At no point in time—

10 Q. At no point?

11 A. —was I considering Michael Kurban into the pipe.

12 Q. Okay. I'll take your answer. We'll get to that.

13 A. Yes.

14 Q. All right? So, let's go to the next page, 1545. And we go to
15 1547. You see you listed there Rolph Seales, Mitchell, Eastern,
16 OTSL? Are these the persons you had on standby, not so?

17 A. Yes, Sir. Yes, Sir.

18 Q. And you also—and there's also listed Michael Kurban.

19 A. Uh-huh. Yes, Sir. I don't know who made these notes and I
20 don't know what was the—I don't know why they would have
21 put that note there.

22 Q. Well—

23 A. But at no point in time was I ever considering Michael Kurban.

24 Q. Well these are the IMT notes disclosed by Paria and it shows
25 the name Michael Kurban.

26 A. So I—

27 Q. After, after you have admitted that the IMT was considering

1 both rescue and recovery?

2 A. Yes, Sir.

3 Q. You have told us Michael Kurban was not considered for
4 rescue in your evidence.

5 A. Uh-huh.

6 Q. So, could you explain to us how is—you are the head of the
7 IMT?

8 A. Yes, Sir. I don't know, I don't know who put that note there
9 and for what purpose, Sir. Right? It's just—in that, that name,
10 that name is just written there on its own. I don't know what
11 for.

12 Q. It's written on its own?

13 A. Yes, Sir. I apologize. It's just standing there on the page, right,
14 with no explanation. I don't know why that name is there.

15 Q. At 1572, that is your time—that's Paria timeline, correct?

16 A. Yes, correct Sir.

17 Q. And you see at 1549, "S. Ramkissoon informed from A. Farah
18 that additional LMCS divers were called in"?

19 A. Yes, Sir.

20 Q. You see that?

21 A. Yes, Sir.

22 Q. And at 1800, 1800, you see, "Diver Michael Kurban recovered
23 the GoPro camera and cylinder from the pipe", which I think
24 that would mean the tank?

25 A. Yes, Sir.

26 Q. So you were, you were aware, you were aware at that time that
27 Michael Kurban had entered the pipe and there was recovery of

1 a GoPro camera from the pipe?

2 A. Right, so I, I don't know—as I said, when I spoke to Catherine,
3 right, I don't know who give that information there but as I—
4 when I spoke to Catherine, right, she could not confirm so I
5 don't know who called in that information, Sir.

6 Q. But according to this note of Paria—

7 A. Uh-huh.

8 Q. —this information was given to the IMT that a GoPro camera
9 was recovered—

10 A. Yes, Sir.

11 Q. —from the pipe?

12 A. Yes, Sir.

13 Q. And you could have used that GoPro camera if you wanted to
14 see the condition in the pipe?

15 A. Sir, honestly, um—

16 Q. Well let me put it this way.

17 A. Yeah.

18 Q. That GoPro camera could have been used, not you, but it could
19 have been used to see the condition in the pipeline?

20 A. Yes, Sir.

21 Q. Yes.

22 A. Right? Right, but as I said, just explain again—

23 Q. And that—

24 A. Right.

25 Q. —and that GoPro camera was of—was known to the IMT at
26 6.00 p.m.?

27 A. Right. So I don't know if it is Catherine who called this in but

1 she could not confirm, we could not confirm. Right? This is
2 just her saying, right, we tried, she, um, we spoke with LMCS,
3 they would not—they moved away so we couldn't get it but we
4 could not confirm that.

5 **Examination By Mr. Chairman:**

6 Q. Can I understand this, please? Because you spoke to Mr.
7 Dexter Guerra—

8 A. Yes.

9 Q. —half an hour later?

10 A. Yes.

11 Q. You asked him?

12 A. No, Sir, I—with all that was going on, no, Sir I didn't ask him,
13 right? So I—and I—

14 Q. Let's be clear about this.

15 A. Yeah.

16 Q. You regarded video footage of the inside of that pipe—

17 A. Yes, Sir.

18 Q. —as being the sole determining factor—

19 A. Yeah.

20 Q. —as to whether or not you were going to permit a rescue?

21 A. Yes, Sir.

22 Q. The mere whiff can I suggest, of a camera that might have been
23 retrieved from that pipe would have been something that would
24 have exercised your mind immediately?

25 A. Yes, Sir.

26 Q. So you see, really you answered, that when you spoke to Mr.
27 Guerra half an hour later—

1 A. Yeah.

2 Q. —you did not ask him about the GoPro.

3 A. Yeah.

4 Q. Is that, is that your answer?

5 A. Yes, Sir. There was just so much happening on that time, I—

6 Q. Yes.

7 A. —don't—I can't even remember when this was recorded. No,
8 Sir, I did not ask him.

9 Q. So you did not ask him then?

10 A. And I, I, I don't—

11 Q. When you—no, I understand.

12 A. Yes.

13 Q. You say—

14 A. Yes.

15 Q. —it was an oversight on your part.

16 A. Yes.

17 Q. Right?

18 A. Right? And I am not sure actually when, at what time I actually
19 learned from Catherine. I am not sure what time I learned that
20 from Catherine.

21 Q. Well it's in the log—

22 A. Right?

23 Q. —at 1800 hours.

24 A. Yeah.

25 Q. This is contemporaneously being made, isn't it?

26 A. Yes. But I don't know what time that came to my attention.

27 It's in the log but whether anybody told me at the time, my only

1 recollection is when I spoke to Catherine and what she told me.

2 Q. You mean it's—

3 A. As I didn't pick it up at that time.

4 Q. You mean it's possible that something as important as a camera
5 from inside the pipe could have been recorded in the log and
6 you'd been unaware of it?

7 A. Yes, Sir.

8 Q. For half an hour?

9 A. Right, so I spoke, I spoke at—yes, Sir. No, I cannot recall
10 honestly. I cannot recall what time I would have seen that.

11 Q. In any event, you spoke to Mr. Guerra 15 minutes later?

12 A. Yes, Sir.

13 Q. Was it an oversight then as well?

14 A. It was an oversight, Sir. It would have been.

15 Q. You spoke to—

16 A. As I said, I didn't pick it up.

17 Q. You spoke to him 15 minutes after that as well?

18 A. Yes, Sir.

19 Q. Was that an oversight as well?

20 A. Yes, yes, Sir, I

21 Q. And you spoke to him seven minutes, eight minutes—

22 A. Yes, Sir.

23 Q. —later again. Was that also an oversight?

24 A. Yes, Sir. Sir, there was a lot happening at that point in time
25 and, as I said, as I said, I don't recall when I actually got the
26 information. I don't recall, right? Now, I would have—I
27 would certainly have thought, right, LMCS having this

1 information, right, I would certainly have thought if they had
2 any salient information, knowing, right that they wanted to go
3 in that pipeline and we were stopping them, surely, surely
4 LMCS would have come forward with that information. Right?
5 Even if, even if it was an, was an oversight on my part, surely
6 they should have come forward with the information. Surely
7 when, when we tried—Catherine tried to, to re—to look at it,
8 right, they would not have walked away. As I said, she
9 couldn't even—she wasn't even sure it was a camera, it was a
10 GoPro, right, but they never came forward with it.

11 Q. I follow all of that and an entirely fair point to make, if I may
12 say so, if they had that in their hands why wouldn't they share
13 it?

14 A. Correct.

15 Q. I get that. But I'm asking you—

16 A. Yes.

17 Q. —at the moment, all right? What I want to understand is, is
18 that the last time you made a call to Mr. Guerra, was at seven
19 minutes past 7.00 that evening and you spoke to him for over
20 three minutes?

21 A. Correct.

22 Q. So that, on any view, is over an hour after the log has recorded
23 a GoPro as being recovered—

24 A. Yes, Sir.

25 Q. —by Mr. Kurban, right?

26 A. Yes.

27 Q. Are you saying it's entirely possible that for that hour or so you

1 would have been wholly unaware of the existence of that
2 GoPro?

3 A. I, honestly cannot remember what time I found out about the
4 GoPro, Sir, and, and I only found out from Catherine and I
5 don't—I cannot remember the time.

6 Q. And in answer to questioning from Mr. Maharaj, is it your
7 evidence that you never demanded sight of that GoPro?

8 A. Yes, Sir. I never demanded sight of the GoPro.

9 Q. You could have, couldn't you?

10 A. Yes, Sir, I could have.

11 Q. Was that also an oversight?

12 A. Well, I, I would have thought—yes I, I should have demanded,
13 I should have demanded it. Maybe it was an oversight, but, as I
14 said if there was anything on that GoPro, LMCS would have
15 come forward with that GoPro, Sir.

16 Q. Well they certainly should have.

17 A. Yes, Sir, yes, Sir. Right? They should have shared that GoPro.

18 **Mr. Chairman:** Thank you.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. I now want to show you some entries which will show that you
21 had enough to know—the IMT had enough to know that this
22 was Delta P, the men were in the pipe at an early stage, even
23 before Boodram came up. Okay?

24 A. Okay.

25 Q. So, can I take you to page 1572?

26 A. Uh-huh.

27 Q. And if you look at 1415, you would see, “Five divers entered

1 the chamber”, et cetera, right? They give the names.

2 A. Uh-huh.

3 Q. Then if you look at 1455, sorry, 15—sorry, 1455, sorry, 1455, it
4 says: “A. Farah informed no signs of divers or cylinders in the
5 chamber.’ Then you go to 1523—I’m sorry, I really want to go
6 to 15—page 1523 at your witness statement and I think this is
7 where you would have said that Mr. Kazim Ali spoke to you
8 and told you that the inflatable plug was removed and it’s at
9 page 1352 at paragraph 30 of your witness statement. Okay?
10 So that is—I’m working out the timeline. Then further, at page
11 2008—

12 **Mr. Chairman:** Just one at, one, one at a time, let me just
13 catch up with you.

14 **Mr. Maharaj SC:** Sorry, I’m going too fast.

15 **Mr. Chairman:** So I’ve got available to me page 1572 which
16 is the log—

17 **Mr. Maharaj SC:** Yes.

18 **Mr. Chairman:**—to which you’ve referred.

19 **Mr. Maharaj SC:** So—and I, I have referred to—the last entry
20 on the log I referred to was 1455.

21 **Mr. Chairman:** Yes. Mr. Farah informing him—

22 **Mr. Maharaj SC:** Right.

23 **Mr. Chairman:**—of no, no sign of any divers.

24 **Mr. Maharaj SC:** And then I wanted to show that in the
25 chronology I want to show that at paragraph 30 of Mr. Piper’s
26 witness statement—

27 **Mr. Chairman:** Right.

1 **Mr. Maharaj SC:**—and he, he spoke at paragraph 30 at page
2 1352 he spoke at 1523 to Mr. Kazim Ali and Mr. Kazim Ali
3 told him that the accident occurred with the removal of the
4 plug.

5 **Mr. Chairman:** Yes.

6 **Mr. Maharaj SC:** Add then I wanted to show that in the
7 sequence at page 2008—

8 **Mr. Chairman:** Of?

9 **Mr. Maharaj SC:**—of the supplemental core bundle Volume
10 III—

11 **Mr. Chairman:** Just a minute.

12 **Mr. Maharaj SC:** Page 2008.

13 **Mr. Chairman:** Twenty-one fifty-five in my bundle, right,
14 dive operation at berth No. 6?

15 **Mr. Maharaj SC:** Yes. At 1508 hours, at 1508, “Offshore
16 operator K. Scott reported to OTS J. Ramadan that five divers
17 entered the chamber, a splash was seen on the camera during an
18 operation after which the divers could not be seen.” And
19 then—

20 **Examination By Mr. Chairman:**

21 Q. All right, have you—are you keeping up with this?

22 A. Um, I—yeah, I, I don’t have it here but I—

23 Q. The easier way—

24 A. —I understand what you’re saying.

25 Q. —to do this is for you to see it on the screen so that you can
26 answer the question that Mr. Maharaj will have put. You’ve
27 seen the log where he points out at 1445—

1 Q. Yes, Sir.

2 A. —Mr. Farah is informed of the visual cameras not functioning,
3 then he's taken you to a statement where you spoke to Mr.
4 Kazim Ali at 1523—

5 A. Uh-huh.

6 Q. —where he described how the removal of the plug, and now
7 he's taken you to the dive operation document, my 1021—
8 sorry, at 2155 which shows that at eight minutes past 3.00 the
9 offshore operator, Mr. Scott, reported to Mr. Ramdhan that five
10 of the divers had entered the chamber, there was a splash and
11 they—

12 A. Correct.

13 Q. All right? So we're with you so far.

14 A. Uh-huh.

15 Q. We're with you.

16 **Mr. Maharaj SC:** Well, one more. At page 2008, Volume III
17 of the supplemental—sorry, same page, at 1530.

18 **Mr. Chairman:** Fifteen thirty hours?

19 **Mr. Maharaj SC:** Yeah, but at page 2008 of the same bundle.

20 **Mr. Chairman:** Basis information received.

21 **Mr. Maharaj SC:** “Basis information received from OTS. It
22 was reported that there was a rush of liquid—

23 **Mr. Chairman:** Into the—

24 **Mr. Maharaj SC:**—into the pipe.

25 **Mr. Chairman:** Right. Right.

26 **Mr. Piper:** So, can you just say again please?

27 **Mr. Chairman:** Yes. At 1530, “Basis information received

1 from OTS. It was reported that there was a rush of liquid into
2 the pipe.”

3 **Mr. Piper:** Okay.

4 **Mr. Chairman:** All right? That’s in that log?

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. So, based on what I’ve read to you, I am suggesting to you by
7 3.30 p.m. the IMT had the following information available to it.
8 One, the men were working on an open pipeline in the
9 hyperbaric chamber. Two, the men were removing the
10 inflatable plug. Three, a splash was seen on the screen. Four,
11 the men were not in the chamber.

12 A. Uh-huh.

13 Q. Five, there was rush of liquid into the pipeline?

14 A. Uh-huh.

15 Q. So wouldn’t that be information for you to conclude reasonably
16 that the men was in the pipeline, were in the pipeline?

17 A. Right. Sir, I don’t know where the OTS got that information
18 that there was a rush of liquid into the pipeline. He—nobody
19 was able to see what was going on. He was not on site, right?
20 So he never give me that information at that time. The
21 information I got from Mr. Ali when I spoke to him, right, the
22 information I got from Mr. Ali when I spoke to him was that
23 they moved the first plug, they were moving the second plug
24 and he did not know what happened.

25 Q. Okay.

26 A. I was speaking—if I may finish please?

27 Q. Okay.

1 A. I was speaking with Mr. Harrichan and Mr. Ramdhan who was
2 the OTS and he never gave that information to me that there
3 was any rush of liquid. He just told me, er, they were doing the
4 sea searches, he told me he was talking to Mr. Farah who was
5 just lying on the barge holding his head.

6 Q. Okay. Mr. Piper, if you had that information, would you have
7 started from around 3.30 p.m. to consider the plan to rescue the
8 men from the pipeline?

9 A. Yes, Sir. And, all that time on the way we were through
10 Heritage, Mr. Mohammed through Heritage, we were already
11 mobilizing, we were already mobilizing the best equipment we
12 could get, Sir.

13 Q. But unless I have it wrong, isn't this Paria's timeline? This is
14 part of Paria's record that was disclosed to us.

15 A. Yes, Sir, but at the time I did not have that information at all.
16 Right?

17 Q. You got it at any time?

18 A. No, Sir. That that really could—of that rush of liquid, right?
19 That was never wrought to my attention.

20 Q. But that was very important information?

21 A. Yes, Sir.

22 Q. Because if you had got that information—

23 A. That was not brought to my attention.

24 Q. —that would have led you to the conclusion that the men would
25 have been in the pipe?

26 A. Of course.

27 Q. Yes.

1 **Examination By Mr. Chairman:**

2 Q. In fairness to Mr. Piper, can I—can we have that document?

3 You see it says at the top, “Incident: five divers went missing.

4 One was retrieved”?

5 A. Yes.

6 Q. Do you see that at the top of the document? Is it not on the

7 screen in front of you?

8 A. Oh sorry. I’m sorry, yes.

9 Q. Is it on that screen?

10 A. Yes, Sir.

11 Q. You see right at the very top where it says, “Dive Operation”?

12 A. Yes.

13 Q. That rather suggests that this is not contemporaneous, doesn’t
14 it?

15 A. Correct, yes.

16 Q. Right? So it’s written after the event?

17 A. Yeah. Yes, Sir.

18 Q. Because if they writing up their time one was retrieved—

19 A. Uh-huh.

20 Q. —that was after—

21 A. Right.

22 Q. —1530?

23 A. Correct.

24 Q. All right? So it can’t have been—and can you go to the second

25 page, please where it says, er, at the bottom of the second page,

26 two one, er, two one—ah yes, mine is a different presentation

27 [*Phonetic*], so scroll up a little further, please? Next. Keep

1 going. Keep going. Keep going. No, no, you're going the
2 wrong way. Keep going please to the next page? Now I want
3 the foot of the page, please, that Mr. Piper can see it. There's
4 been some confusion about putting these documents in the right
5 order, but never mind. All right. Tell you what we're going to
6 do. Have a look at mine. [*Mr. Chairman hands documents to*
7 *Enquiry orderly who shows same to Mr. Piper*] At the bottom
8 of that page, my page 2156, what does it say? Who's written
9 it?

10 A. Yes, OTS, "OTS J. Ramadan received information from coast
11 guard dive team on site".

12 Q. No, no, below that.

13 A. Um, 2156, I'm looking at, page 2156?

14 Q. Yes. Right at the bottom—

15 A. Right. Or, or.

16 Q. —somebody's name there.

17 A. Yes, or, Leandra Singh.

18 Q. PC Leandra Singh?

19 A. Yes, Sir.

20 Q. Who's that?

21 A. Or, port coordinator.

22 Q. Sorry?

23 A. The port coordinator.

24 Q. The port coordinator?

25 A. Yes, Sir.

26 Q. Works for you?

27 A. Yes, Sir.

1 Q. Right and he's written—er, he's put his name to this?

2 A. Yes.

3 Q. Right? And then he says 0700 to 1900?

4 A. Yes.

5 Q. So is this document intended to provide the information of the
6 events that took place between those times?

7 A. Yes.

8 Q. I think it's wrong because he does have 2010 in there as well,
9 but, never mind. Mr. Leandra Singh is writing this. Where
10 would he have got the information?

11 A. Miss. Right. So Ms. Leandra Singh, the port coordinator, was
12 documenting this, right? Now, I spoke with Ms. Leandra Singh
13 during—on my way there. I was also speaking to Johnathan
14 Ramadan, right—

15 Q. Yes.

16 A. —all the time and that was not brought to my attention at that
17 time. When I arrived on site, so I'm looking at this timeline
18 now, when I arrived on site, at 16—at 4.55, I called for Mr.
19 Farah, right, to come in. So this is at 5.00 o'clock now when I
20 arrived. Immediately after I arrived at five to five, I called for
21 Mr. Farah at five o'clock. He was on the way and at about ten
22 past 5.00 people were hearing the knocking, right? And—

23 Q. I—can we get back to the position—

24 A. Yes.

25 Q. —because you weren't on site until around five o'clock.

26 A. Correct.

27 Q. Right? But you'd, you'd assigned Mr., um—

1 A. Mr.—Johnathan, Johnathan Ramadan.

2 Q. No.

3 A. Or Visham, Visham Harrichan.

4 Q. Who was in charge of the IMT before you arrived?

5 A. That will be Paul Yearwood.

6 Q. Yearwood. That's it.

7 A. Right.

8 Q. Thank you. So Mr. Yearwood was in charge—

9 A. Yes, Sir.

10 Q. —before you arrived. The first thing you would have wanted to
11 do upon arrival is to be updated by Mr. Yearwood?

12 A. Yes, Sir.

13 Q. Did that not include the information that you've had pointed out
14 to you by Mr. Maharaj, that there was a report from OTS that
15 there was a rush of liquid into the pipe?

16 A. No. I don't know if we had that information. He did not pass
17 that information to me.

18 Q. So, let's, let's, let's be clear. It is of course important
19 information?

20 A. Yes, Sir.

21 Q. From wherever it came, it should have been passed to the IMT?

22 A. Correct.

23 Q. And, had it been, it would have come to your attention when
24 you arrived, if not before?

25 A. Correct.

26 Q. And if you'd been provided with that information, you would
27 have been able to conclude that there was every prospect of a

1 Delta P—

2 A. Yes, Sir.

3 Q. —that dragged these men into the pipe?

4 A. Yes, yes, Sir.

5 Q. And had you been informed if you'd come to that conclusion at
6 half past 3.00 that afternoon, you would have actioned it from
7 then?

8 A. Of course.

9 **Mr. Chairman:** I think that's where you wanted to get to.

10 **Mr. Maharaj SC:** Yes.

11 **Mr. Piper:** Yes, Sir.

12 **Mr. Chairman:** Can I have that back please? Because that's
13 mine. [*Enquiry orderly retrieves document from Mr. Piper and*
14 *returns same to Mr. Chairman*]

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. I'm coming to the end, I'm coming to the end, Mr. Piper. I'm
17 coming to the—just few more, right? You have told us that at
18 the—around eleven o'clock or for the period eleven o'clock,
19 twelve o'clock on Friday night—

20 A. Uh-huh.

21 Q. —the IMT was making plans or discussing plans for a rescue
22 operation, correct?

23 A. On Friday night, Sir?

24 Q. Yes.

25 A. Yes, Sir, we were in rescue.

26 Q. The IMT was not making plans for a recovery operation on
27 Friday night?

1 A. No, Sir. We were in res—we were in rescue mode.

2 Q. Rescue mode. I want to show you 1574 at—and that's in his
3 supplemental core bundle.

4 **Mr. Chairman:** I'm sorry, we're going to have to—
5 immediately. Thank you.

6 [*Commissioner Wilson leaves Enquiry room*]

7 [*Off the record discussion*]

8 **Mr. Chairman:** We'll just stop for a moment and see if he can
9 come back.

10 [*Commissioner Wilson re-enters Enquiry room*]

11 **Mr. Chairman:** All right. I think we can, we can—

12 **Mr. Maharaj SC:** Much obliged.

13 **Mr. Chairman:**—make some progress.

14 **Mr. Maharaj SC:** Much obliged.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. Okay you had given us the answer that at Friday at eleven
17 o'clock, twelve o'clock, IMT was not considering recovery, it
18 was considering a rescue?

19 A. We were still in the rescue mode. Just let me explain. We were
20 still trying to rescue at that time, all right? That is correct, Sir.

21 Q. Okay.

22 A. We were still trying to rescue.

23 Q. Okay. Look at 1574.

24 A. Yes, Sir.

25 Q. At 2304 hours?

26 A. Uh-huh.

27 Q. It states here according to—"IC recovery plans to be drafted."

1 A. Uh-huh.

2 Q. “Scenario one, all four persons non-responsive. Scenario
3 number two, found responsive. Scenario number three
4 non-responsive and submerged.”

5 A. Uh-huh.

6 Q. “Scenario number four, non-responsive air pocket.”
7 This to me tells me that there were plans being made, drafted,
8 for recovery?

9 A. Right. Yes, Sir, that is what it says, if I may explain?

10 Q. Uh-huh.

11 A. Of course, we are at midnight, right? We—I—the IMT still
12 making efforts to rescue, however, we had to start considering
13 if we were unable to rescue, right, at this time, so we had to
14 consider we had to start considering the different options, so
15 that is what that speaks to.

16 Q. So—

17 A. It did not—it does not speak us to moving from rescue to
18 recovery at that point.

19 Q. So on Friday, men were in the pipe, it was urgent to rescue
20 them but the IMT was considering rescue and recovery?
21 Recovery would only arise if they did not survive?

22 A. That is correct, Sir. We had to run it in—you have to run it in
23 parallel. You can’t run in series where you come to that point
24 and then you start. So we had to start considering it.

25 Q. If you look—um, I want to refer to the supplemental core
26 bundle one at page 1515. This is on the—page 1515. [*Enquiry*
27 *orderly assists Mr. Piper. Commission Secretary hands*

1 *document to Mr. Piper]* Well I see this, this now, I want to
2 show you something on the Saturday morning. I just showed
3 you Friday night.

4 A. Okay Sir.

5 Q. So Saturday morning the 26th, look at the bottom of page 1515.
6 Twenty-six slash two, the time is 2.54 a.m.

7 “Two working drafts for press releases.”

8 On the next page:

9 “Two working drafts for press releases. Moving from
10 rescue to recovery effort. Condolences once bodies are
11 recovered.”

12 That is accurate?

13 A. Right. This, this document I’m seeing here at the top, I’m
14 seeing “Temporary” um, this is “Paria incident Temp, Andy,
15 Anil, Arlene Chow”, this, I don’t know if—what
16 correspondence this is, right but this, they were not members of
17 the IMT.

18 Q. Oh, no, but they were, they were part of the IMT on that day?

19 A. Yes, Sir.

20 Q. So they were all—as a matter of fact—

21 A. Yeah.

22 Q. —they were all communicating with each other?

23 A. Yes, Sir.

24 Q. As a matter—

25 A. Uh-huh.

26 Q. —as I understand it from the evidence—

27 A. Yes.

1 Q. —the—Paria's IMT was combined with persons from
2 Heritage—

3 A. Yes.

4 Q. —to constitute the IMT for this event?

5 A. Yes, Sir. And I—Sir, I was not part of this communication,
6 right, so these would be, if you see, they are draft press
7 releases. Normally in incidents like these, right, you always do
8 draft press releases for different, different scenarios,.

9 Q. Yes, but this—

10 A. So that's all that is, Sir.

11 Q. But this communication came to everyone in the IMT including
12 Paria IMT?

13 A. I was not in this—I was not in this group, Sir, right?

14 Q. You were not in this group?

15 A. No, Sir I don't recall—

16 Q. So, today is the first day you're knowing about this? You're
17 now—

18 A. Yes, but these are just draft—in any event these are just draft
19 press releases. Any time you have an incident you always do
20 draft press releases. You don't just wait up to the last moment.
21 So that is all that is, Sir. That does not mean, that does not
22 mean at all that you go from—that you have moved or
23 transitioned from one point to the other. It simply means you
24 do a holding statement. That's standard practice.

25 Q. Mr. Piper, I want to suggest to you that the evidence shows that
26 the IMT at Paria was moving slow, very slow, to rescue the
27 persons in the pipeline.

1 A. I understand your suggestion, Sir, but I want to say—I want to
2 state to you, right, that that is not correct. We—given under
3 those circumstances, I am declaring to you that the IMT was
4 making every effort to rescue those men and to protect the lives
5 of the responders.

6 Q. And I'm suggesting to you that the evidence shows that there
7 was available to the IMT other divers, LMCS divers,
8 experienced with all the equipment, to effect a rescue, during
9 the period of time the divers most likely would have been alive.

10 A. I understand your suggestion, Sir, and I am stating to you, right,
11 that I had a duty, right, to those responders and I, I had a duty
12 for, for, for their lives as well, right, to make sure that their
13 lives were saved, right?

14 Q. Can I just, before I sit, refer you to what you stated at paragraph
15 seven of your affidavit, or, sorry, of your witness statement at
16 page 1345?

17 A. Yes, Sir.

18 Q. “As on-scene commander, it was my responsibility to
19 respond urgently to the emergency, assess the incident
20 scene, conditions and circumstances, gather valuable
21 information from the incident scene, act as the on-scene
22 liaison between other responders and the incident
23 command team and otherwise feed the incident command
24 team with relevant information to arrive at possible
25 mitigation options and methods, and to participate in the
26 planning and execution of the emergency response. In
27 some instances, I was required to lead the execution

1 process with the support of a team.”

2 Would you not agree with me that since you have to assess the
3 conditions and the circumstances and consider all the relevant
4 matters, you had to consider whether you could have got
5 alternative divers, apart from the divers that you contacted, to
6 rescue these men from the pipe?

7 A. Yes, Sir. And we did that. We got alternative divers, we got
8 the dive experts, right, and they, they said, right, when whatever
9 information we gathered that it was too risky to send somebody
10 into that pipe, Sir. Right? And again, part of my duty, right, is
11 to, is to the responder. It's his life. That was part of my duty,
12 Sir.

13 Q. I know you could say that now but you didn't say that in your,
14 in your witness statement.

15 A. No, Sir, but that is part of my duty, Sir, as the incident
16 commander and it's written in there in the incident command
17 system.

18 **Mr. Maharaj SC:** No further questions.

19 **Mr. Chairman:** Thank you, Mr. Maharaj.

20 **Examination By Mr. Chairman:**

21 Q. Just before we rise for lunch, can I just ask you to help me out
22 with something, please? The log that you provided to us is in
23 our Volume II at page 1573 to 1576. This is, as I understand it,
24 a contemporaneous log.

25 A. Yes, Sir. Yes, Sir.

26 Q. When did the IMT stand down?

27 A. The IMT stood down on the Thursday morning after the

1 recovery of the last bodies, when we would have stood down,
2 so when I would have stood down the IMT.

3 Q. Can you help me please as to why the log ends, apparently quite
4 abruptly, at 1410, page 1576? Is there some part of the log
5 that's somewhere else? Because I am—

6 A. Yes, there has to be some part of the log somewhere else, Sir.

7 Q. Well, um, just for my satisfaction, please, can someone find out
8 what the position is? We've got four pages of the log, five.
9 Sorry, one, two, there, four, five, yes, five. It appears to stop at
10 ten past 2.00 on Saturday afternoon. Do you see what I mean?

11 A. Yes, yes, but, um, I, I know for a fact the log was being
12 continued.

13 Q. Right.

14 A. I think what happened here was this was doing on one
15 spreadsheet and then they went over to another spreadsheet,
16 so—yeah, but, but it is there.

17 Q. It exists somewhere?

18 A. It exists. It does exist.

19 **Mr. Chairman:** All right, thank you very much. We'll
20 adjourn now for lunch. Two o'clock please? Two o'clock.

21 **1.59 p.m.:** *Enquiry suspended.*

22 **1.58 p.m.:** *Enquiry resumed.*

23 **Mr. Chairman:** All right, good afternoon. We have our
24 witness, Mr. Piper, please?

25 [*Mr. Collin Piper enters enquiry room and sits at witness table*]

26 **Mr. Chairman:** Good afternoon.

27 **Mr. Piper:** Good afternoon.

1 **Examination By Mr. Chairman:**

2 Q. Good. Before I hand it over, as it were, to others who may have
3 questions for you, can I just ask you one matter, please? It's to
4 do with your statement at page 1361 and it's paragraph 81. I
5 want to start at 80, if I may?

6 A. Yes.

7 Q. Do you see it there, Mr. Piper?

8 A. Yes, Sir.

9 Q. Do you have it?

10 A. Yes.

11 Q. Yes. Just, I'll read it aloud.

12 "Kazim Ali and Dexter also never made any request to
13 me during our conversations or at all for any LMCS
14 representative to join the ICT and never actually sent a
15 representative as LMCS was invited to do by Paul—"

16 That's Yearwood, isn't it.

17 A. Correct.

18 Q. Right:

19 "—prior to my arrival on site."

20 And we've heard the evidence about, um—

21 A. Yes, Sir.

22 Q. —Mr. Faizal—not Faizal, forgive me, he's—

23 A. Mr. Farah?

24 Q. Mr. Farah, thank you very much. Mr. Farah, as it were, being
25 invited to come and attend and you just at that moment in time
26 Mr. Boodram was coming out of the pipe, so he turned round
27 and went back?

1 A. Correct.

2 Q. Right. So that's where we are and that's the bit—that's what
3 you're dealing with here. You then go on to say this.

4 "In any event, LMCS, through Kazim Ali Sr., and Paria,
5 the ICT through me, were able to collaborate on the
6 following measures taken in anticipation of attempting to
7 rescue the divers."

8 All right? So this paragraph is seeking, as I understand it by
9 you, to say well, what did you do with their cooperation to
10 achieve the conditions for a rescue.

11 A. Correct.

12 Q. That's what you're saying here?

13 A. Yes, Sir.

14 Q. Isn't it? So can we look at those briefly, please, and put some
15 timelines on them so that I understand, all right? The first thing
16 you identify is this. You made arrangements for the provision,
17 I say you. I don't necessarily mean you personally but the ICT
18 or the—

19 A. Understood, Sir, yes.

20 Q. —making arrangements for the provision of a police escort
21 because of the outrageous traffic in this country—which I have
22 suffered by—for LMCS additional divers from "Carnage"
23 [*Phonetic*]?

24 A. Carenage.

25 Q. Carenage—I was about to get that wrong—to Port of Spain, all
26 right?

27 A. Correct.

1 Q. So you—somebody made a call and said to the police, “Look,
2 can you—we’ve got an emergency situation. Bring those
3 divers up super fast.”

4 A. Correct.

5 Q. Right? So you did that. And that would have been, um—well
6 we know the incident took place at 2.45. We know that Mr.
7 Boodram came out of the pipe at 5.30ish so what sort of time
8 we’re talking about, after Boodram or pre-Boodram?

9 A. Um, it’s somewhere on—I’m not sure if it was on the timeline
10 but it was on somebody’s statement.

11 Q. It probably doesn’t matter in your [*Inaudible*]?

12 A. Yeah, it would be—it would, I think, be pre-Boodram, I
13 believe, because I think one of those divers was, um—

14 Q. All right.

15 A. —might have been Conan Beddoe.

16 Q. So we can, we can chalk that up as something that you were
17 able to achieve as it were—

18 A. Yes.

19 Q. —on behalf of affecting the right conditions for a—

20 A. Right.

21 A. —er, a rescue, yes? The second thing that you identify is this.
22 The refilling by Paria of LMCS scuba tanks, their diving tanks,
23 with air?

24 A. Correct.

25 Q. All right? Now I can tell you that we know that that’s at 6.30
26 that evening, all right?

27 A. Okay.

1 Q. So it's post Boodram but it's about 6.30—

2 A. Uh-huh.

3 Q. —on the Friday evening. So you were able to fill up their tanks
4 with air for them, all right? Then the third thing is this. The
5 installation of the topside riser at berth 6. This is putting on the
6 piece that takes it above the water line, doesn't it?

7 A. That's correct, Sir.

8 Q. Right. That wasn't done until ten o'clock on the Friday
9 evening, all right?

10 A. Yes, correct.

11 Q. Right, so just to put that into our timeline as it were, ten
12 o'clock, that is about—it's approaching the five-hour mark,
13 isn't it, from when Mr. Boodram came out of the pipe?

14 A. Yes, Sir.

15 Q. It's certainly four and a half hours or thereabouts, all right?

16 A. Correct.

17 Q. So that was, um, the sort of window that you were thinking,
18 realistically that's about as far as we can go and rescue people
19 alive, isn't it? I know you've put your caveat on that.

20 A. Ten [*Inaudible*].

21 Q. We all sit there in hope rather than in despair, yes?

22 A. [*Nodding*]

23 Q. The fourth thing that you were able to identify was the removal
24 by LMCS of the blind flange from berth 5.

25 A. Correct.

26 Q. I personally at the moment regard it as a rather dubious thing to
27 do, and, that's been identified by number of people already and

1 there was some hours between the request being made for that
2 to happen and it happening because of how it might affect the
3 equilibrium in the pipe, all right, so I—but let's proceed on the
4 basis that you regarded that was one of the preconditions to
5 effecting a rescue. All right? That did not happen, did it, until
6 4.30 in the morning on Saturday?

7 A. Uh-huh.

8 Q. So well past any realistic timeline that we discussed earlier
9 today, correct?

10 A. Correct.

11 Q. And then the fifth thing and final thing that you identify as
12 being of relevance in making preparations for attempting a
13 rescue was this. The removal by LMCS of the hyperbaric
14 chamber, albeit they dropped it in the ocean or somebody did,
15 and that didn't happen until six o'clock on Saturday evening?

16 A. Correct.

17 Q. By any view they were likely dead?

18 A. Uh-huh, okay.

19 Q. Right. So all I want you to understand is, was—is there
20 anything else that would like to add to that list of five things
21 that you can say that you, together with LMCS, did in order to
22 create the right environment for you to carry out a rescue?

23 A. Okay. So, um, I think I need to explain this, this um, item here
24 right.

25 Q. Yes. That's why I'm asking you about it.

26 A. Right. So, here really what I, um—what I'm speaking to is the
27 collaborative effort, right? All, um— and of course, they

1 didn't—not all to come together. For instance, number four,
2 the removal of the blind flange at berth No. 5, we, we delayed
3 that because we were still working with the crawler. The blind
4 flange removal was to really get the crawler in to—into the
5 pipeline. Now, we were making all attempts from berth No. 6
6 in—to find out what, as best as we could so that's why we
7 delayed that, right?

8 Q. Mr. Piper, forgive me. We've got that.

9 A. Right.

10 Q. What I want to know is, you put a list of five things together in
11 your statement—

12 A. Right.

13 Q. —in your very lengthy statement—

14 A. Correct, yes.

15 Q. —covering many, many aspects of this matter, only some of
16 which we've touched on in the live evidence, all right?

17 A. Correct.

18 Q. I just want to understand, is this paragraph intended by you to
19 reflect what you believe was the entirety of the things that you
20 were able to put into place in a collaborative way with LMCS
21 in anticipation of attempting a rescue? Because that's what
22 you're saying there, isn't it?

23 A. Right. I'm saying those are some of the things we collaborated
24 on, yes.

25 Q. No, not what you're saying, not some of the things.

26 A. Uh-huh.

27 Q. You're saying that's what you achieved. I want to know if at

1 this stage you want to add anything to that list.

2 A. [Pause] No. I think those are the things we were able—I think
3 those are the things we were able to get through at that point in
4 time.

5 Q. Reflecting on that—

6 A. Uh-huh.

7 Q. —do you think that that was adequate?

8 A. I'm not, er, I'm not quite sure your question where you're
9 leading to, um—

10 Q. Don't worry about where it leads.

11 A. Please, forgive me. Forgive me.

12 Q. Worry not where it leads. Can you answer it? Do you think
13 that in the time that you were giving yourself for the, what you
14 call in anticipation of attempting to rescue the divers—

15 A. Uh-huh, yeah.

16 Q. —do you think that this was sufficient, with the benefit of
17 hindsight, I accept, but do you think this was sufficient effort by
18 both of you, that is you and LMCS—

19 A. Uh-huh.

20 Q. —working together, to create the environment in order to
21 rescue these divers?

22 A. These are some—these are the physical things, right, we were
23 able to do, right, together. Other than that, and in between here,
24 we were—I—the IMT, we were focusing on assessing, on
25 assessing the pipeline as I keep saying. We were focusing on
26 assessing. Once we had gotten any information, if there was
27 anything else we could have done, we would have done. It was

1 not that we just wanted to get these things and shut down but
2 anything that had come along at any point in time to aid in that
3 rescue effort, we would have done.

4 Q. Can I make some suggestions as what you might have done?

5 A. Okay, thank you, Sir.

6 Q. The first thing that you might have done would have been—you
7 see that board up there, imagine that that wasn't on that board.

8 A. Uh-huh.

9 Q. You might have put a timeline starting from when the accident
10 happened to the time when Mr. Boodram came out—

11 A. Uh-huh.

12 Q. —to the time that you estimated you said three and then you
13 added four and then it became five but whatever it is, whatever
14 you might have thought was the reasonable timeline to save—

15 A. Uh-huh.

16 Q. —these men and you might have been working together with
17 Mr. Kazim Ali and/or Mr. Dexter Guerra or anyone else that
18 you could get hold of from LMCS that this is the timeline to
19 which we are working. Get their agreement that that is the
20 timeline to which you're working. Do you think that might
21 have been something you could have done?

22 A. Um, yes. That could have been something we could have done
23 in time—in hindsight but, again, we all knew it was a tight
24 timeline and we were working towards that.

25 Q. Yes, but having, having it up—

26 A. Yes, having it up—

27 Q. —literally on the board, I mean you've given us some

1 documents—

2 A. Yes, Sir.

3 Q. —photographs of the board—

4 A. Yeah.

5 Q. —that you had, we put various things on the board, the point
6 about an IMT, as I understand it—

7 A. Uh-huh.

8 Q. —you know far more than I do I'm sure, but, as I understand it,
9 is to get the people—the right people together in that room, you
10 stay in that room, working on what needs to be done in a short
11 space of time that you've given yourselves—

12 A. Huh.

13 Q. —realistically, you had but hours, not days, we're agreed about
14 that, are we not?

15 A. Yes, Sir.

16 Q. Right. So, once you've got that, once you had that timeline and
17 you have the agreement, particularly in this case, where LMCS
18 had divers who they were directly related to, these are not some
19 remote individuals, they were people that were related to them.
20 You knew, man you've known for 30 years, his son was in that
21 pipe, another man whose father was in that pipe, given those
22 circumstances, working with LMCS, on a time scale to see
23 what could be achieved within that time scale, is something that
24 I suggest you could have done with LMCS.

25 A. Right, and, Sir, when I, I did make attempts, when Mr.
26 Boodram came out of the pipe as well, I did make attempts to
27 get in touch with Kazim Ali. It's in my statement.

1 Q. Well, it is, but, you see—

2 A. And I was unable to get in touch with him.

3 Q. Well, well, forgive me, your own statement at paragraph 74 sets
4 out, no doubt from you examining your telephone, the number
5 of times you called Mr. Kazim Ali or tried to.

6 A. Yes, Sir.

7 Q. We know, don't we, that Mr. Boodram came out of the pipe at
8 about 5.30ish.

9 A. Yes.

10 Q. It's 6.30 before you even tie and call Mr. Kazim Ali.

11 A. Right, and during that time, during that time we were oc—we
12 were occupied. I was certainly occupied in trying to—in
13 working with my—with my group, right, on how to approach it
14 at that time, yes, Sir.

15 Q. I, I, I, I know. I know. But, you know—

16 A. Yeah.

17 Q. —it's his son who's in the pipe, isn't it?

18 A. Yeah. Yes, Sir.

19 Q. And I, I just want you to—I, I'm trying to place myself in the
20 situation that you would have been in, okay?

21 A. Uh-huh.

22 Q. This is a man you know for 30 years. Okay?

23 A. Yeah.

24 Q. His son is in that pipe, renewed hope, renewed hope given to
25 you all because Boodram comes out of the pipe.

26 A. Of course.

27 Q. And it's an hour before you call him?

1 A. Yes. Right, so, um, I, I understand that, but, please understand
2 there would—there were any number of things happening,
3 talking with people, trying to find out, get information—

4 Q. Of course.

5 A. —so there was all of that happening at that point in time.

6 Q. Well get somebody else to call him, then. You've got a whole
7 team of staff—

8 A. Yeah.

9 Q. —to call him. All I'm, all I'm trying to do is to understand, you
10 see, whether what you're saying in the statement at paragraph
11 81—

12 A. Yeah.

13 Q. —is a fair representation of what might have been achieved
14 between you and LMCS. I'm not blaming you or them. I just
15 want to understand—

16 A. Yeah.

17 Q. —the degree of collaboration that needed to be—

18 A. Yeah.

19 Q. —achieved in order to try and effect a proper rescue.

20 A. Yeah.

21 Q. All right? And you've set out, not at our behest but yourself—

22 A. Uh-huh.

23 Q. —in a statement what you say was the—were—

24 A. Yeah.

25 Q. —the five things that you managed to achieve.

26 A. Yes.

27 Q. I'm simply trying to understand whether now, with the

1 benefit—

2 A. Uh-huh.

3 Q. —of hindsight obviously, you could reflect on whether actually
4 more might have been done, one of which is this timeline that
5 you might have agreed between the two of you, so that you both
6 understood—

7 A. Yes.

8 Q. —where we were.

9 A. And that would have helped, Sir.

10 Q. It would have, wouldn't it?

11 A. Yes.

12 Q. Right. And the other thing I thought that you might have
13 considered would have been to have pressed either Mr. Guerra
14 or Kazim Ali, or anyone else frankly for that matter at the
15 LMCS or divers that were expressing a willingness at an early
16 stage to dive into the pipeline, "Give me a scheme", like I think
17 I asked you earlier, and I don't want to rehearse it but I did ask
18 you whether or not you had pressed anyone for a scheme,
19 whether you pressed Mr. Guerra or anything else, and you dealt
20 with that then.

21 A. Right.

22 Q. But, the point I want to try and raise with you now, is, in
23 looking at the things that you did collaboratively—

24 A. Uh-huh.

25 Q. —do you not think that it would have been helpful for you as
26 the head of the IMT to have pressed those at LMCS to come up
27 with a plan that you could properly consider? Because, as I

1 understand it, you say you never had such a plan or it was never
2 conveyed to you.

3 A. Uh-huh. Right. So, the, the, the rationale for me was the—we
4 simply, and again, I'm going to repeat this, in my mind, I
5 needed to—we needed, whether it's—we needed to really
6 assess. Now, we did not know the dangers in that pipe but we
7 knew, we knew certain things in that pipe, right? So, not
8 having that information, even if we came up with a simple plan,
9 we—there were things in there that we, because we didn't
10 know, we were not—we would not have been able to mitigate
11 in any event, right. I cannot mitigate against what I don't
12 know. So—

13 Q. Pausing there for a moment—

14 A. Yes, Sir.

15 Q. —I think that must be right mustn't it? Can't mitigate about
16 what you don't know.

17 A. Yeah.

18 Q. On the other hand, there were only a number of potential
19 scenarios—

20 A. Yeah.

21 Q. —weren't there? You could presumably have a plan that would
22 mitigate against each of those potential scenarios.

23 A. And, Sir, for instance, I, I would not have known how far the
24 men in, how much oil. Those things are very difficult to
25 mitigate against, right? This is—this really was just guesswork,
26 right?

27 Q. No, no, I follow that.

1 A. Right, so—

2 Q. I mean—I, I—look, I—

3 A. That would have been very, very difficult for me.

4 Q. Right, I accept entirely, right, that you did not know the
5 conditions—

6 A. Yes.

7 Q. —in the pipe.

8 A. Yes.

9 Q. I accept that. Whether you could have informed yourself is
10 another matter, which Mr. Maharaj has addressed and others
11 will no doubt do so also, but I accept your assertion that you did
12 not know the conditions in the pipe, all right? The point I am
13 simply making is this. There are a number of potential issues
14 that you have raise—yourself raised. Was there a possibility of
15 a second Delta P? What if the fluids were toxic in some way,
16 or a number of potential scenarios, all of which might have
17 been mitigated. You might have said, well, “If it’s this, can we
18 do that? Does it help?”

19 A. Uh-huh.

20 Q. If it’s that, can we do something else? Do you follow what I
21 mean? Isn’t that part of your job in the IMT where there are—

22 A. Yeah.

23 Q. —unknowns—

24 A. Yeah.

25 Q. —to make a rational—take a rational view about what they—
26 what it could be and then have a plan to deal with what could
27 be?

1 A. Yeah.

2 Q. Well did you regard that as your role?

3 A. Yes, Sir.

4 Q. Did you do that?

5 A. Um, I, I did that to the extent not, not with LMC S but I would
6 have done that—we would have discussed with the IMT
7 some—some what were—we would have discussed, er, really
8 is assessing, getting the information, right? We went to the, we
9 went to the specialists, they said no, right? We, whether we put
10 it down, er—

11 Q. What I suppose I'm asking you, and I know you're trying to
12 work it through in your own mind—

13 A. Yes.

14 Q. —is this, is that, you see, if, for example, as you've told Mr.
15 Maharaj, if for example you thought there was the existence of
16 a second Delta—

17 A. Uh-huh.

18 Q. —P, as an issue—

19 A. Right.

20 Q. That's just an example, right? There are other issues I've
21 raised—

22 A. Yeah.

23 Q. —but if that was the case you write that on your board don't
24 you—

25 A. Yes.

26 Q. —onto your white board, second Delta P.

27 A. Yeah.

1 Q. Right? And then another issue arises, you say, um, toxic fumes,
2 put that on the board.

3 A. Yeah.

4 Q. Um, another issue arises, um, communication or, um,
5 something like that, you put that on the board.

6 A. Yeah.

7 Q. So you identify all the potential hazards.

8 A. Yeah.

9 Q. You put them all up on your board and then you look to see,
10 well how can I fix that one? What can I do about that one?
11 Right, so for example with Delta P you might say, “Now, if
12 there’s a second Delta P they’re tethered and they’ve got
13 communications and they’re in there for probably maybe no
14 more than 15 minutes or something like that, is that, can we
15 assess that then as a risk ameliorated to this extent?” Do—you
16 follow that?

17 A. Oh, yeah, understood, Sir.

18 Q. And—but, I mean, what, what I want to know, I suppose, and I
19 know Mr. Wilson wants to know as well, is, whether or not that
20 exercise was entertained by you in collaboration with LMCS to
21 say, this is the way forward for us in the time frame that we
22 have?

23 A. No, I didn’t do that with LMCS, Sir.

24 Q. Did you do it at all?

25 A. Well, yeah, we would have discussed it in the IMT, Sir.

26 Q. And now I understand—

27 A. And they didn’t put it down, yes. Didn’t put it down.

1 Q. —this part. I mean, there's nowhere that I—

2 A. Yes.

3 Q. —could where, you know, that issue is identified as an issue—

4 A. Yeah.

5 Q. —contemporaneously, and here are the ways of dealing with it.

6 A. Yeah.

7 Q. There isn't, is there?

8 A. No, no, Sir.

9 Q. Right, okay. So, moving forward, because our job is not just to
10 analyze what happens but what are we going to recommend for
11 the future—

12 A. Yeah.

13 Q. —do you think that that would be the right sort of approach in
14 any scenario—

15 A. Yes, Sir.

16 Q. —like this?

17 A. Yes, Sir.

18 Q. Right. And so, any recommendations that we might want to
19 make in regard to this should reflect that kind of approach?

20 A. Correct.

21 Q. Thank you.

22 **Mr. Chairman:** Yes sorry, I've taken a little time doing—er, I
23 just need to understand it from our point of view. Right, so,
24 who would like to ask Mr. Piper some questions? Don't all put
25 your hands up at once. Right. Well, what we'll hear from is
26 Ms. Alfonso first of all. She will have some questions for you.
27 She is from the trade union. She'll introduce herself.

1 **Ms. Alfonso:** Thank you, Mr. Chairman.

2 **Cross-Examination By Ms. Alfonso:**

3 Q. Good afternoon, Mr. Piper. My name is Nyree Alfonso.

4 A. Good afternoon.

5 Q. And I represent the interest of the Seamen and Waterfront
6 Trade Union. Mr. Piper, just to take you back to something
7 before we had the lunch break, in particular paragraph 131 of
8 your witness statement which was at 1368, that is a
9 conversation—I'll let you get to it but that is a conversation that
10 you say, or an exchange that happened with Mr. Boodram from
11 the hospital. You recall it?

12 A. Yes, Ma'am.

13 Q. Okay. Now, aside from saying, "I don't think them fellas make
14 it and so on", right, Mr. Boodram says he crossed Blacks who
15 was unresponsive.

16 A. Uh-huh.

17 Q. Would that mean to you that Mr. Boodram—would that equate
18 in your mind that Mr. Boodram was able to swim past Blacks?
19 I think that's Mr. Nagassar.

20 A. Yes, Ma'am.

21 Q. Okay. And then he says they left behind Kazim Jr. You say,
22 you say that he left—

23 A. Yes, Ma'am.

24 Q. Okay. Right. So, let me take you to 1541 of the supplemental
25 core bundle and Mr. Chairman the ITT bundle, I beg your
26 pardon, and this is the corrected version?

27 **Mr. Chairman:** Volume I of IV—

1 **Ms. Alfonso:** Oh dear. We don't—how it was downloaded we
2 don't have volumes but it is 1541.

3 **Mr. Chairman:** Fifteen forty-one? Yes.

4 **Ms. Alfonso:** And that's in the corrected download.

5 **Mr. Chairman:** Yes, I have it.

6 **Ms. Alfonso:** Right.

7 **Continued Cross-Examination By Ms. Alfonso:**

8 Q. Now, I think because the handwriting is kinda like mine, quite
9 bad, that that is 9.58 at the top circled, yes, p.m.?

10 A. Yes.

11 Q. On Friday, on Friday the 25th. Now, I don't see there anything
12 about leaving people in, you know, persons not making it,
13 they're not making it, they haven't made it and so on, and I
14 want you to—but, more importantly, I want to take you to
15 something that you say is also—this is a contemporaneous note.
16 I should have asked you that first, made by the scribe, yes?

17 A. Right Ma'am and I—we discussed this morning—

18 Q. Okay.

19 A. —that there was also contemporaneous notes in the log.

20 Q. And I'm taking you to the log next, Mr. Piper. So the log in
21 relation to, um—too many tags. Right, the log in relation to
22 that conversation at 2158 is at—sorry the time is 2158, the page
23 number is 1574. In that same ITT bundle.

24 A. Yes, Ma'am.

25 Q. So you say that this, for my clarification, that this is now a
26 contemporaneous typed version of—this is being typed
27 contemporaneously, that was your evidence this morning?

1 A. Yes.

2 Q. Did I get it right?

3 A. Yes, Ma'am, that is correct.

4 Q. Okay. Thank you for that. So if I go to 1576, two pages on,
5 where the note mysteriously stops at 2.10 in the afternoon, and I
6 look at the bottom below that, is there a date there, Mr. Piper,
7 on the right-hand side, I beg your pardon?

8 A. Yes, Ma'am.

9 Q. And a signature above it?

10 A. Yes.

11 Q. Okay. And what that—what date is that, Mr. Piper?

12 A. It says 2022, March 21st.

13 Q. Okay, so if this is a contemporaneous note—

14 A. Uh-huh.

15 Q. —how it is that it is dated in March?

16 A. Yeah, I just signed it then, Ma'am. So I just dated it when I
17 signed it.

18 Q. That is your signa—that is your signature there?

19 A. Yes, Sir. Yes, Ma'am.

20 Q. Okay.

21 A. But this, this is contemporaneous. I can guarantee that.

22 Q. You can guarantee that this is contemporaneous?

23 A. Yes, Ma'am, this—

24 Q. Okay.

25 A. —these notes were being typed at the time of the incident live
26 in this.

27 Q. Okay, and the handwritten note that I referred you to a little

1 while ago—

2 A. Yes.

3 Q. —at 958, that is contemporaneous as well?

4 A. I don't know who wrote that note, Ma'am. I, I was—I, I don't
5 know who wrote that note. I—so I cannot assume.

6 Q. Okay.

7 A. But I know this is contemporaneous.

8 Q. Okay. These are the documents belatedly supplied by Paria.
9 You don't know whose handwriting that is?

10 A. No, Ma'am. I focused on this log, yeah.

11 Q. Okay. But what you're saying is Ms., Ms., I think it's Ms.
12 Maharaj too, Shelly Ann Maharaj, is the one who typed these
13 documents?

14 A. At that time, Ma'am, Ms. Maharaj was the person, yes, typing
15 this, typing this document on 1576.

16 Q. Okay. Now, the—on 1537, if you go to 1537, you see that, you
17 see the first item, "Notes taken by ICT scribe Shelly Ann
18 Maharaj Kenson", presumably she's a Kenson employee?

19 A. Yes, Ma'am.

20 Q. On the 25th of February?

21 A. Yes.

22 Q. So when you say notes you mean the typewritten notes or you
23 mean the handwritten notes?

24 A. I can only tell you, Ma'am, that Ms. Shelly Ann Maharaj was in
25 the ICT at the time taking these notes, right, at the time of that,
26 um, the conversation with Mr. Boodram, and she was typing
27 these notes contemporaneous, as it happened.

1 Q. Mr. Piper, you know, I'll put to you that this note was
2 developed after the fact. This note, and I beg your pardon, this
3 typewritten note, this typewritten note was developed after the
4 fact.

5 **Mr. Peterson SC:** Mr. Chairman, we are all lawyers. I mean,
6 I, not objecting but I just would like to cross-examine the
7 source of those instructions.

8 **Mr. Chairman:** I understand exactly you can wait till the end
9 of the question and prevent Mr. Piper from answering it so
10 please frame your question?

11 **Ms. Alfonso:** Thank you, Mr. Chairman.

12 **Continued Cross-Examination By Ms. Alfonso:**

13 Q. So, Mr. Piper, I'll put to you that the handwritten note is the
14 contemporaneous note taken by Ms. Maharaj, a Kenson
15 employee and that the document which is the typewritten
16 version or part—the document which is partially a recording
17 and stops at 2.15, 2.10 I think—is, is, was developed at a later
18 stage.

19 A. Right. And I would tell you—

20 **Mr. Chairman:** Right, just before you answer that question,
21 first of all let's just take one at time, all right? The first
22 question is whether you know whose handwriting appears on
23 the pages between 1538 and 1549. Is that your question, the
24 whole of that or just the memo notes?

25 **Ms. Alfonso:** The handwritten memo notes, Sir.

26 **Examination By Mr. Chairman:**

27 Q. The memo notes. So 1541, please? One five four one through

1 to 1547. Are those memo notes—do you know who wrote
2 those notes?

3 A. No, Sir, I don't know.

4 Q. Can I ask you before you move on to the second part of Ms.
5 Alfonso's question, would you, just flicking through that, tell
6 me if in your view that's written by the same hand or that
7 different people contributed to it?

8 A. The first section, the top of 1541—

9 Q. Yes.

10 A. —seems to be different from the bottom.

11 Q. Yes. Then the next page?

12 A. The next page seems to be different again.

13 Q. Next page?

14 A. The next page may be the—1542 may be similar to 1543.

15 Q. Yes. And then—

16 A. May be similar to 1544.

17 Q. —45?

18 A. Forty-five may be, 46 may be different.

19 Q. Well 45 looks like it's got three or four different contributors?.

20 A. Yes.

21 Q. Forty-six, right.

22 A. Yeah.

23 Q. So, and concomitant to what Ms. Alfonso is asking you, these
24 are clearly handwritten notes.

25 A. Yes.

26 Q. Did you see anyone making handwritten notes on a memo pad
27 in the IMT?

1 A. No. I, I—

2 Q. At any time?

3 A. No, not, not on—not, not, not the scribe. And—

4 Q. Well someone's scribbling down?

5 A. Yes. Yeah.

6 Q. If it's contemporaneous they're either in there or someone's
7 giving them this information at some other point?

8 A. Yes, correct. I—no. I didn't see people writing taking these
9 notes here.

10 Q. Right.

11 A. Right.

12 Q. So you're not able to help us or Ms.—

13 A. Correct.

14 Q. —Alfonso as to who this was or however many it might have
15 been?

16 A. Right, no, Sir.

17 Q. Or whether they were in the IMT at the same time as the
18 information was being passed?

19 A. That's correct.

20 Q. Neither are you able to identify the provenance of this memo
21 pad?

22 A. No. I can't.

23 **Mr. Chairman:** Okay, well that was not very helpful I'm
24 afraid?

25 **Ms. Alfonso:** Unfortunately.

26 **Mr. Chairman:** But that's where we are.

27 **Examination Mr. Chairman:**

1 Q. The second part is whether or not the typewritten note, that is
2 apparently ascribed to Ms. Shelly Ann Maharaj, is a
3 contemporaneous record as it was happening.

4 A. Yes.

5 Q. Right. First of all, I don't suppose you did check every entry,
6 because you already told me you didn't know certain entries,
7 but was there a person in the IMT keeping a record?

8 A. Right. So—and are we speaking, are we speaking of this
9 specific entry

10 Q. No, we're talking about this whole record that's been
11 provided—

12 A. Oh yes, yes.

13 **Mr. Chairman:** I take it that's what you asked after Ms.
14 Alfonso?

15 **Ms. Alfonso:** Indeed.

16 **Examination By Mr. Chairman:**

17 Q. Yes, the whole of this typewritten record.

18 A. Right. In the IMT we had somebody stationed at their laptop
19 continuously taking records and typing. Right?

20 Q. Do you believe this to be that document?

21 A. Yes, Sir, I believe this to be that document.

22 Q. And was it a Ms. Shelly Ann Maharaj who was doing the
23 typing?

24 A. Yes, she had—she was doing the typing for not all of the time
25 of course, right, they were, um, rotating but at the time it was
26 Ms. Shelly Ann Maharaj. At the time when Mr. Boodram
27 called she had taken that note.

1 Q. Right. And—

2 A. Made that entry.

3 Q. I'm sorry, Ms. Alfonso, I've just—because I'm dealing with
4 this now I asked you before the lunch whether or not that was
5 the entirety of the record and you said clearly it was not?

6 A. It was not.

7 Q. No. What is clear, though, from it, is that you signed it on the
8 21st of March as being the record—

9 A. Yes, Sir.

10 Q. —those five pages. There clearly are more pages?

11 A. Yes, there are more pages, Sir. Um, and they should have been
12 submitted.

13 Q. Right.

14 A. But they're not.

15 Q. They're not in our bundles and I don't believe they are but I'm
16 certainly hoping to be disabused of that thought, but if they're
17 not, can you ensure that we have them, please—

18 A. Yes, Sir, I will.

19 Q. —before you leave that witness box?

20 A. Yes.

21 Q. Thank you. And so I pass you back to Ms. Alfonso who was
22 asking you specifically about this.

23 **Mr. Chairman:** Now, um, you, I think at some stage, are
24 seeking to put that this was not contemporaneous. Before you
25 can put such a suggestion, you'd need the source of that
26 assertion. You can suggest it. Is it true that you're saying this
27 was made contemporaneously, but in the absence of having any

1 other independent evidence that it was not contemporaneous,
2 you cannot put it as a positive assertion?

3 **Ms. Alfonso:** Thank you, Sir.

4 **Continued Cross-Examination By Ms. Alfonso:**

5 Q. Before I leave this point, Mr. Piper, you said that there were
6 different persons at different times at—stationed at a laptop or
7 their laptop as the case may be making these notes?

8 A. Yes, Ma'am.

9 Q. Because we start off on Friday of course and we end on
10 Saturday afternoon, as far as we have?

11 A. Yes, Sir and, Yes, Ma'am, and as I said I know for a fact people
12 were taking notes, so I know for a fact there is the document.

13 Q. So, could I ask you to explain, Mr. Piper, if different people are
14 making the note, why does it end, as far as we have, why does
15 the note end on 1576 saying "Prepared by Shelly Ann
16 Maharaj"? It's only one name there. I take it that's your
17 signature on the right-hand side above the date?

18 A. Yes, Ma'am.

19 Q. Okay. So why does it say prepared only by this person?

20 A. I, I, I don't know why only by this person, Ma'am, but Shelly
21 Ann, Shelly Ann is the person who started it off, right, and she
22 just, um, sent off the documents for signature, right, but she was
23 not—she was not writing this document.

24 Q. Okay. You're typing the document if I follow you, yes?

25 A. No. This document was done by somebody sitting in the ICT,
26 right, and typing as the information was coming in. The
27 person—they were rotating the people, right, Shelly Ann may

1 have just put her name there and sent it off for my signature,
2 but the document was done as the ICT was—as the incident
3 unfolded.

4 Q. So, as I'm corrected by the honourable Chairman, I could only
5 suggest to you that there's one name there as having prepared
6 the document because this document was prepared at a later
7 date.

8 A. Right, Ma'am, and I am suggesting to you and I'm saying the
9 same thing to you.

10 **Examination By Mr. Chairman:**

11 Q. Just a moment, just a moment. She's asking you to—the way
12 that you're being asked this is not an appropriate way. What I
13 think she's asking is, whether or not you can be satisfied so that
14 you are sure or confident that this is an accurate representation
15 of the contemporaneous note that was being made at the time
16 and it was being made at the time?

17 A. Yes, Sir.

18 Q. There's no evidence to suggest that it is not so?

19 A. Correct.

20 Q. But you're satisfied that it is so?

21 A. I'm satisfied that it is so.

22 **Mr. Chairman:** Right, I don't think you can take it any
23 further.

24 **Ms. Alfonso:** I, I—and I'm not going to take it any further, Sir.

25 **Continued Cross-Examination By Ms. Alfonso:**

26 Q. Just to carry it back to 1541, that handwritten note that we don't
27 know who made it, it ends with something which, as far as I can

1 tell saying, “Felt two weld seams”, yes?

2 A. Yes Ma’am.

3 Q. Okay. Is that Mr.—from—okay. I don’t know anything about
4 pipelines. Does that suggest to you, Mr. Piper, something about
5 distance?

6 A. Yes, yes Ma’am.

7 Q. If Mr. Boodram says I passed two weld seams—

8 A. Yes.

9 Q. —is there something that you can take away from this with
10 respect to the distance that he travelled?

11 A. Right. Yes. Well the pipes are normally, the pipes are
12 normally about 40 feet length, right? Now, 40 feet length right?
13 So there you’re looking maybe 120 feet, but bear in mind, bear
14 in mind that Mr. Boodram—there are several weld seams Mr.
15 Boodram would have missed or could have missed, so that
16 doesn’t really give me that indication. So he may have just
17 come—he may have just touched two weld seams.

18 Q. Mr. Piper—

19 A. Weld seams are very, weld seams are very thin.

20 Q. So, I take it from your answer that perhaps every 40 feet or so
21 in the pipe—

22 A. Yes.

23 Q. —there will be a weld seam so that two—

24 A. Uh-huh.

25 Q. —well, various components of the pipe are welded together.

26 A. Yes, Ma’am.

27 Q. Yes? So that’s what a weld seam means, yes?

1 A. Yes, Ma'am.

2 Q. Good. So that Mr. Boodram doesn't have any light—

3 A. Uh-huh.

4 Q. —and is feeling his way through this water filled—

5 A. Uh-huh.

6 Q. —some oil, um—

7 A. Yes.

8 Q. —pipe, and one of the ways that he is estimating his, his
9 passage is two weld seams. So you would say—you said
10 that's—if it's every 40 feet wouldn't that be 80 feet?

11 A. Well, you'll have to add three pipe lengths a pipe, so that's 120
12 feet.

13 Q. Okay. So I accept that, 120 feet.

14 A. Yeah.

15 Q. So Mr. Boodram in relaying this information to whomsoever
16 this particular scribe is, is attempting to give something about
17 distance, yes?

18 A. Yes.

19 Q. Okay. So, I want to bring you back to where we were this
20 morning. So that the persons who could tell you something,
21 you were—it was vitally important to the ICT team—

22 A. Uh-huh.

23 Q. —which you head, you headed, to understand something or
24 everything for that matter about the pipe conditions, about
25 what—the location of the divers. Wouldn't that important
26 information that you knew he, at least even if he missed one, he
27 was estimating, as you say 120 feet, that he had traversed in the

1 pipe. Right or wrong, missed some, picked up some?

2 A. Could have been 500 feet.

3 Q. Okay, Mr. Piper. I would just put it to you that I say he was
4 providing this information so that you get an idea of the
5 location of his, his, his brothers, his fellow divers.

6 A. No Ma'am. I didn't interpret that that way.

7 Q. Might I enquire, Mr. Piper, how you interpreted it?

8 A. He just, he just said, "I touched two welded seams", right? I—
9 it could have been closer, when he was close out, I don't know.

10 Q. But—

11 A. Right? There are a number—right? He's going along the pipe.
12 There'll be several weld, several welded seams, right? When
13 we did get the camera in there was—we didn't see anything.

14 Q. Meaning anything what, any welded seams?

15 A. We didn't see anything at that—no, we won't pick up the
16 welded seams there, but when we got the cameras we didn't
17 see—we got in about maybe 80 feet and we didn't see anything.

18 Q. So, Mr. Piper, you have this conversation which you detailed,
19 well, somebody details in handwritten notes and you detail in
20 your witness statement at 1.31. Did anybody—the people in
21 the room who you say were on the speakerphone would be
22 people who understand pipes and distances and all manner of
23 things. Did anybody ask Mr. Boodram if he could estimate the
24 distance that he swam in order to come out to the top of the
25 riser?

26 A. Ma'am, we didn't.

27 Q. Or the bottom of the riser to be fair, the bottom of the riser.

1 A. Our conversation with Mr. Boodram, Ma'am, was very short,
2 right? And the EMT who was with him had to quickly shut
3 down the conversation. It was very—we had a very, very
4 limited time.

5 Q. Okay. So my question, Mr. Piper, is, did you ask Mr. Boodram,
6 before the very brief conversation, I not too sure why the
7 conversation is brief but, in the brief exchange, did you ask him
8 could he estimate where he had come from, where his fellow
9 divers—he left his fellow divers.

10 A. Right.

11 Q. And where he had come from.

12 A. Right, so, Ma'am, Miss, the way the conversation started, I
13 documented how the conversation started and we were trying to
14 find out the condition of the divers, right, at that time. By the
15 time we got there, Mr. Boodram—they had to cut the
16 conversation with Mr. Boodram so we were not be—able to get
17 any further.

18 Q. Well let me ask you that, Mr. Piper, why did you have to cut
19 short your conversation with Mr. Boodram?

20 A. That was all the time the EMT was allowed and he had to
21 quickly leave. They had, in fact, told him I believe one minute,
22 all right, and we spoke for a little more than a minute. The
23 EMT said, "Listen, I need to go immediately", right? And that
24 is—has to do with the medical, the medical side.

25 Q. Okay. Well, I imagine Mr. Boodram was injured and he would
26 be receiving treatment in the hospital, yes?

27 A. Yes, Ma'am, and we had to be guided by the medical fraternity.

1 Q. Okay. But you, Mr. Piper, as head of the ICT, did—when is the
2 first time—let me ask you the question. When is the first time
3 that you instructed somebody from Paria, Kenson, anybody,
4 anybody under your control, to go to the hospital to talk to Mr.
5 Boodram?

6 A. Right.

7 **Mr. Chairman:** We've dealt with this. It's at page 1573. At
8 2035, Mr. Shan Balkissoon was dispatched to the hospital by
9 Mr. Piper. He told me that when I asked him about it.

10 **Ms. Alfonso:** Thank you, and I have that in my note. I was
11 just asking Mr. Piper.

12 **Continued Cross-Examination By Ms. Alfonso:**

13 Q. But Mr. Piper, so it's not until two hours after Mr. Boodram,
14 two hours and a little bit, after Mr. Boodram is rescued that
15 you—it—that it, it dawned on somebody, including yourself, to
16 send somebody to the hospital?

17 A. Right, so, again—

18 **Mr. Chairman:** Roughly three hours.

19 **Ms. Alfonso:** Three hours, yes. My bad mathematics. That's
20 terrible mathematics.

21 **Mr. Piper:** Yeah.

22 **Mr. Chairman:** So at 5.35, roughly half past 5.00.

23 **Ms. Alfonso:** And this is now 8.35, by their [*Inaudible*] three
24 hours, so three hours.

25 **Continued Cross-Examination By Ms. Alfonso:**

26 Q. I'm not talking about when you actually spoke to him and the
27 phone was used and so on, it is, from what I read in the log, it is

1 three hours before you dispatched, not reached, not the people
2 reached the hospital, three hours before you instruct somebody
3 or somebody is instructed to go and to speak to Mr. Boodram.

4 A. Right. So, I mean, as an IM—as the incident commander I
5 depend on people, I—it should not—I don't have to make every
6 instruction. I depend on a team, right? I was busy, as the
7 incident commander, with a lot of things trying to get, trying to
8 get assessments, there was a lot of conversation going on, there
9 were a lot of things happening at the same time. As I got back
10 around, um, they—were we able to contact Mr. Boodram, right,
11 I would have asked? Did anybody send Mr. Boodram—I had a
12 team to help me with these things, right, because by then I
13 would, hopefully would have been able to talk to Mr. Boodram.
14 Once I understood no, we had not dispatched Mr. Boodram, I
15 passed those instructions immediately, right, but I have a—

16 **Mr. Chairman:** I think we've covered this ground now.

17 **Ms. Alfonso:** Okay.

18 **Mr. Chairman:** We've covered this ground.

19 **Continued Cross-Examination By Ms. Alfonso:**

20 Q. Would you consider, Mr. Piper, you were depending on
21 members of your team. Would you, would you—you just said
22 that, you were depending on—

23 A. Yes, Ma'am.

24 Q. —members of your team to do things like go to the hospital and
25 so on. Would you—in your view, would that be a, I want to be
26 very kind, a shortcoming on the team not to have done that at
27 an earlier stage?

1 A. Well—

2 Q. I didn't say you. You said you're depending on other members
3 of the team.

4 A. Yes, maybe they should have had somebody there earlier. In
5 any event, when Mr., when Mr. Ramkissoo got there, it took
6 more than an hour, hour and a half before we were given—in
7 fact, yeah, it took about an hour to an hour and a half before we
8 were able to speak to Mr. Boodram. He was not allowed to.
9 They were attending to Mr. Boodram and he was not allowed
10 to. Right? I, I would imagine when, when Mr. Boodram came
11 out of the pipe, we—one of the focus was we're trying to see if
12 there was anybody else coming out of the pipe, we're trying to
13 focus on that, among other things, so—and, you know, within
14 the first hour offer or so, maybe, right, they would have been
15 attending to Mr. Boodram, they had to stabilize him, right, so
16 and again, as I said, took about another hour before we were
17 able to speak to him.

18 Q. Okay. Mr. Piper may I ask you something from what you just
19 said there? You would be aware that when Mr.—I don't know,
20 that's a terrible mistake. You would be aware that when Mr.
21 Boodram came at of the pipe, swam out of the, the, the, the, the,
22 well swam out of the pipes, swam into the water and so on, he
23 was brought up on to the barge, on to LMCS' barge—

24 A. Right.

25 Q. —and you had personnel there, yes?

26 A. Yes, Ma'am.

27 Q. Okay. And—so another opportunity was missed there that Mr.

1 Boodram was lying down, I presume there, being attended to by
2 one of your own personnel, yes?

3 A. Yes.

4 Q. And that certain information about what was going on in the
5 pipe could be elicited at that point in time?

6 A. Mr., Mr. Boodram, you have to—I—Mr. Boodram came out of
7 a pipeline that he had been in for some time. Mr. Boodram, as
8 far as my information was, was not oriented with time and
9 place. Mr. Boodram was in a traumatic condition. He had to
10 be. Right? You had to attend to Mr. Boodram. You had to
11 attend to his safety. You had to attend to his well-being.
12 Right? That was a priority. During that time, we would, we
13 would have had an EMT there. I understand that Mr. Boodram
14 just kept repeating, “The guys behind, the guys behind mih, the
15 guys behind mih”, right? They had to quickly get him onto the
16 launch but they were—that was all they were able to get from
17 Mr. Boodram, that—to the best of my understanding.

18 Q. Okay.

19 A. When Mr. Boodram came to the, the—when he came ashore,
20 right, I had the safety officer, Mr. Paul Yearwood, there.
21 Again, right, Mr. Yearwood tried to get information from Mr.
22 Boodram once again. Mr. Yearwood advised me that all Mr.
23 Booed am kept saying is, “They’re right behind me, go and get
24 them. They behind, the men there, the men there, go and get
25 them.” And within a minute or so Mr. Boodram was off in the
26 ambulance by the GMRTT. They quickly grabbed him and
27 took him off to attend to Mr. Boodram. So there was only that

1 opportunity, right, which he was not very coherent.

2 Q. Okay. Mr. Piper—

3 **Mr. Chairman:** Who was the—just a moment please—who
4 was the HSE gentleman who assisted him when he came out of
5 the pipe?

6 **Mr. Peterson SC:** Mr. Dopson.

7 **Mr. Chairman:** Mr. Dopson, is it? Thank you, yes, because
8 he had something to say about this. Just a moment, please?

9 [*Mr. Chairman peruses documents*] Where do I find Mr.
10 Dopson's statement? Ah yes, it's in the supplemental
11 statement. [*Mr. Bissessar assists Mr. Chairman*] Yes, they're
12 two different matters.

13 **Examination By Mr. Chairman:**

14 Q. Mr. Dopson was the man who was present when he came out of
15 the pipe. He says at, um, statement 3024 in the supplemental
16 bundle, he says the following. It's only fair that you should
17 know this all right? This is what he said.

18 "I observed Mr. Boodram was pulled from the chamber
19 by Cody and Ramoutar. I assisted getting Mr. Boodram
20 safely on to the deck, performed a rapid body scan
21 assessment on him to determine if he sustained any
22 trauma. I used a knife to expose his body suit. I
23 observed trauma to the left side of his face, left arm, left
24 torso and right ankle. There were no exposed bones or
25 bleeding. I used a rag to clean his mouth, eyes and ears
26 due to the presence of hydrocarbon on his entire suit and
27 body. Mr. Boodram was moaning and appeared to be in

1 pain.” Unsurprising. “In my presence, Mr. Boodram
2 was transported back to shore, and, upon reaching the
3 launch I handed him over to ambulance staff.”

4 And that’s what he said. I know I asked him some questions
5 about that as well, but then in your incident timeline, your
6 contemporaneous document which you were being given
7 information about, that is contained—I’ll get my copy on it—at
8 page 1091. Yes, actually it’s 1572 of the new supplemental
9 core bundle which is the one that’s up there. [*Indicating*
10 *screen*] Yes. You’ve got that I think in front of you. It’s at
11 page 1572. Ten past 6.00. “Mr. Boodram attended by EMTs,
12 treated for muscular injury, patient was alert and conscious.”
13 You see that?

14 A. Yes, Sir.

15 Q. “Complained of pain in his right shoulder.” That I would think
16 was probably the least of his problems having managed to get
17 out of that pipe, but the fact is he was described to you and
18 therefore entered into the log, I don’t mean you personally, the
19 EMT, “treated for muscular injury, patient was alert and
20 conscious.”

21 A. Uh-huh.

22 Q. So that’s the information that we had and I know I certainly
23 asked the witness about it when he was giving his evidence, and
24 I shall turn that note up later, I can’t find it now because I
25 haven’t got that pad with me, but, um—so that was the position
26 he took. Was it your understanding then that he was both alert
27 and conscious?

1 A. Yes. And, when I spoke to Mr. Yearwood, right, he told me
2 Mr. Boodram just kept repeating, um, “Go for them. Go for
3 them.”

4 Q. Yes.

5 A. And he had very limited time. He wasn’t able to, to really
6 speak to Mr. Boodram as he—

7 Q. Well we’ll ask Mr. Yearwood about it when he gives evidence.

8 A. Okay.

9 **Mr. Chairman:** All right, well that’s where we are. So I think
10 it’s only fair that he has a full picture if you’re going to be
11 asking him about that, all right?

12 **Ms. Alfonso:** Thank you, Mr. Chairman, and I think it’s only
13 fair to the witness that he be showing the witness statement of
14 Mr. Paul Yearwood at 1307, paragraph 30 in particular.

15 **Mr. Chairman:** Yearwood statement, that’s in bundle four.

16 **Ms. Alfonso:** Thirteen oh seven, paragraph 30.

17 **Mr. Chairman:** Just a minute.

18 **Ms. Alfonso:** Okay, I beg your pardon I should really say for
19 narrative purposes it starts at 29—

20 **Mr. Chairman:** Yes.

21 **Ms. Alfonso:**—and goes on to 30 at the top of the next page.

22 **Mr. Chairman:** Paragraph 39?

23 **Ms. Alfonso:** No, no, no, no start starts at 29—

24 **Mr. Chairman:** Twenty-nine, sorry.

25 **Ms. Alfonso:** And, and, and the, and the more relevant section
26 or part is paragraph 30 which starts at the top of the next page.

27 Could I—

1 **Mr. Chairman:** Please put it to him, yes.

2 **Ms. Alfonso:** Okay.

3 **Mr. Chairman:** Paraphrase it again.

4 **Ms. Alfonso:** Okay.

5 **Continued Cross-Examination By Ms. Alfonso:**

6 Q. So, Mr. Piper, have you read paragraph 30 of Mr.
7 Yearwood's—

8 A. Yes, yes, Ma'am.

9 Q. Okay. So, Mr. Yearwood, who is your eyes and ears on the
10 berth at that time, you sent—you said you sent, you sent Mr.
11 Yearwood down to meet Mr. Boodram, yes?

12 A. No. I didn't send him.

13 Q. Okay, they said he was there?

14 A. He, he was there, yes.

15 Q. He was there. Okay, my apologies. So Mr. Boodram was able
16 to communicate with people on site and used a cell phone to
17 contact a person whom he identified as his wife.

18 A. Uh-huh.

19 Q. Mr. Boodram gave evidence of that when he was, well, I think
20 he was the first witness if I recall?

21 A. Uh-huh.

22 Q. So, what do you say now? Mr.—I'm not saying Mr. Boodram
23 was not traumatized, but Mr. Boodram was lucid, Mr. Boodram
24 was speaking. Mr. Boodram was not just saying over and over,
25 "Go and get the guys. Go and get the guys." So, all of this
26 happened here, so do you still say, is that still your position,
27 Mr. Piper, that, that Mr., that Mr. Boodram was not able to be

1 communicated with to get information that could assist in a
2 rescue?

3 A. Yes, Ma'am. I'm still saying—well, I can tell you what I was,
4 um—when I spoke to Mr. Paul Yearwood, right, Mr. Boodram
5 just kept repeating, right, he told me Mr. Boodram just kept
6 repeating that, “Go get them guys. Go get them guys”, right,
7 and they whisked him away very quickly in the ambulance.
8 That was my conversation with him.

9 Q. Does that accord, that version—what you've just said there,
10 does that accord at all with Mr. Yearwood's own words in
11 paragraph 30?

12 A. No, Ma'am, that doesn't align but that is what I—that is what
13 he told me.

14 Q. I like that term “align”, I like—okay, I like that term. So, it
15 doesn't align because Mr. Boodram in his own evidence, and I
16 can't say that you would have heard Mr. Boodram's evidence
17 but we here heard his evidence, that he was asking to speak to
18 his wife, asking to call his wife who I believe is a nurse. He
19 was asking for a hyperbaric chamber. He was asking for people
20 to go back and rescue his, his colleagues, his fellow divers, not
21 just saying, “Go back, go back, go back.”

22 A. In, in my conversation with my team, that was the information I
23 had at the time.

24 Q. Okay. When Mr. Yearwood—

25 A. Okay.

26 Q. —comes, um, to give evidence, Mr. Piper, we will certainly ask
27 him that but—so all I can tell you, I believe Mr. Yearwood

1 who's the person on the scene that you've admitted is on the
2 scene, is giving a true account of what he witnessed, heard, you
3 know, what he witnessed, what he heard, what he saw, when
4 Mr. Boodram was on the land and what you are saying, and I
5 use your term, does not align with that narrative.

6 A. Yes, Ma'am. That is what Mr.—that—in the discussions that is
7 what I was told, yes.

8 Q. Okay. I'll leave that alone. I'll leave that alone. Mr.
9 Yearwood will come and we will—

10 A. Okay, Ma'am.

11 Q. —ask him the appropriate questions. Now, Mr. Piper, again I'll
12 go back to the ICT team of which you were the head, were very
13 concerned about the conditions in the pipe, so you had two
14 people who knew something about the conditions in the pipe,
15 Mr. Michael Kurban, Mr. Boodram. Yes?

16 A. Yes, Ma'am.

17 Q. Okay. So you already—I wouldn't take you back through Mr.
18 Kurban because no real questioning of Mr. Kurban took place.
19 Yeah, is that correct?

20 A. That's correct.

21 Q. Okay. So, you—in your mind you wanted to know the
22 conditions of the pipeline and you felt that the only route to that
23 would be to get some sort of camera, however design, whether
24 on an ROV, whether on a borescope, some kind of camera
25 footage of the area but—

26 **Mr. Chairman:** Ms. Alfonso, we—

27 **Ms. Alfonso:** Okay and I'm—

1 **Mr. Chairman:** Some length.

2 **Ms. Alfonso:** Okay, yes.

3 **Mr. Chairman:** Both by me and by Mr. Maharaj, so, please, if
4 you have a specific question about his area just ask that
5 question.

6 **Ms. Alfonso:** I will, I will, I will.

7 **Continued Cross-Examination By Ms. Alfonso:**

8 Q. And Mr. Piper, did it occur to you at all that all that you were
9 trying to achieve and you're not getting those cameras in a
10 quick time, did it occur to you that a diver, sending a diver with
11 the appropriate camera equipment, the video, audio, and this is
12 what Mr., I think Mr. Seeterram, Alvin Seeterram would have
13 said that the equipment that they had on the Waterworld,
14 Waterworld, would allow them to have video, audio, as well as
15 the air of course, all bundled in one thing, did it occur to you
16 you could send a diver to get that information, that same
17 information, the conditions of the pipe, where the plug was
18 where the divers were? Did it occur to you?

19 A. Ma'am—

20 Q. I didn't even use the word rescue. Did it occur to you you
21 could, you could send a diver, tethered, with surface air, with
22 video, audio and everything to go down into the pipe to see if
23 he could locate the divers?

24 A. You are asking me, and I have said repeatedly, you are asking
25 me to send a man in a pipe 30-inch diameter, I don't know the
26 conditions in that pipe. Right?

27 **Mr. Chairman:** Okay, so, er, the answer is the same as you've

1 given already.

2 **Mr. Piper:** Yes, Sir.

3 **Ms. Alfonso:** And I, I—

4 **Mr. Piper:** I had a decision to make. This was no simple time.

5 This was no—you see, we sit here in this room and we believe

6 that this was just something that was not stressful, right? We

7 believe in this room here that this was not something that we

8 were under, we were under strain, we were under pressure,

9 right? That is the furthest thing from the truth. And we can sit

10 in this room and believe what we want to believe but put

11 yourself in that position on that night. Put yourself in that

12 position on that evening, when you have to make a decision to

13 send a man into a pipeline, a quarter of a mile long. You have

14 no idea where this man is going, you have no idea what this

15 man is going to face, you have no idea. You are accountable

16 for this man. You have that accountability.

17 Once you sanction sending that man in that pipe, you are

18 accountable for that man's life, and if you believe in this room

19 that that was a simple thing—because we had four men in that

20 pipe—if you believe that I just sat there and decided I'm just

21 not sending a man in a pipe, right, you simply do not

22 understand what we went through that night. That is not

23 something I want anybody in this room or anybody at all to

24 have to go through and to make a decision. That is not a simple

25 decision as we feel to believe you just send a man and pull him

26 out with a rope. That is not a decision like that.

27 That is the—that man's life. I had four men in that pipe, four

1 men. I had husbands in that pipe, I had fathers in that pipe, I
2 had sons in that pipe. Whose father should I have allowed and
3 sanctioned to go down in that pipe? Again, whose son should I
4 have allowed to go down in that pipe. Right? Whose husband
5 should I have sanctioned to go down in that pipe and perish?

6 I have run this through my mind on many occasions and I still
7 do. And let me tell you something. I understand Mr. Kurban
8 because somebody is in the back is talking about whose son. I
9 understand Mr. Kurban's courage because his father was in the
10 pipe. I understand why Mr. Kurban will want to go into that
11 pipe and if I was a son, yes.

12 But I've also looked at this on the reverse. If I was the father in
13 that pipe, would I want somebody to send my son into that pipe
14 after me in a reckless manner where he could perish? And
15 every time I ask myself that question, my answer was no. I will
16 not want anybody to be so reckless with my son's life. So if
17 you believe in this room that that was simple for me, and simple
18 for the IMT, what, what would I have done? Would I have
19 done said, "Well, listen, I can't get the information just send
20 somebody in the pipe?" That would be totally reckless, totally
21 reckless. And then—do you, do you understand what I'm
22 saying? Do you understand what we were faced with?

23 **Mr. Chairman:** All right I, I, I, I, I, I—you are entitled to have
24 your say. You were asked a question and you've given a very
25 comprehensive answer and, um, I'm sure everyone understands
26 that it was not easy for you either, but, um, coming back to, er,
27 er, where we are now, Ms. Alfonso, do you have any other

1 questions to ask?

2 **Ms. Alfonso:** Yes, yes, um—

3 **Mr. Chairman:** Right.

4 **Ms. Alfonso:**—Mr. Chairman, I do, but I will um, I under—I
5 don't think you had an easy job, Mr. Piper, so it's not— I'm not
6 sitting down here as the arms chair critic of your—

7 **Mr. Chairman:** Right. Could you just ask the question?

8 **Ms. Alfonso:** Right?

9 **Mr. Piper:** I don't think you understand.

10 **Ms. Alfonso:** Okay, fair enough.

11 **Mr. Chairman:** Mr. Piper—

12 **Mr. Piper:** Okay.

13 **Mr. Chairman:**—I've allowed you to have your say.

14 **Mr. Piper:** Sorry, Sir.

15 **Mr. Chairman:** No, that's all right. You're entitled to your
16 say. You were asked a question and I didn't stop you because
17 you were entitled to have what you want to say. All of us here
18 will assess that to in addition to everything else we've heard.
19 All right? If there are questions, please ask the question.

20 **Ms. Alfonso:** I, I will do so. Thank you, Sir.

21 **Continued Cross-Examination By Ms. Alfonso:**

22 Q. Mr. Piper, as I understand it, I understand. You felt a had a
23 duty to protect the would-be rescuers, yes?

24 A. Yes.

25 Q. The people who wanted to effect a rescue, you had a duty to
26 protect those people?

27 A. Yes.

1 Q. I understand that. That is understandable. Did you feel also,
2 Mr. Piper, that you had a duty to the four workmen, the four
3 divers, who were—

4 **Mr. Chairman:** He's already said he felt that. He's taken
5 some time to make it clear that he felt for them too and the
6 reasons why he approached it the way he did. He spoke about
7 the way in which he would feel if he was one of the people in
8 the pipe and it was his son on the outside. He's done all of that,
9 so unless there's something else that you want to ask—

10 **Ms. Alfonso:** Okay, yes, let me please get on Sir.

11 **Mr. Chairman:** Please?

12 **Ms. Alfonso:** Yesterday—thank you Sir.

13 **Continued Cross-Examination By Ms. Alfonso:**

14 Q. Yesterday, Mr. Piper, you would have referred us to—so let me
15 be a little more clinical. Yesterday you would have referred us
16 to something from the 1980s. You referred us to something
17 about rescuers who find themselves in difficulties and you said
18 something about if I recall your figures, if they—your 16
19 people dead in a rescue, ten was the rescuers. You recall that?

20 A. Yes, Ma'am, I said there were eight cases then, and of the eight
21 cases, 16 died, 10 were rescuers.

22 Q. Okay. So I also, when I—I was quite alarmed when I saw that
23 myself so I had a little look through some OSH reports and so
24 on with respect to rescuers and so on. And, in fact, there was
25 quite a big study in 2018 I think, about a hundred deaths that
26 had occurred while persons were going into confined spaces to
27 effect rescues. What I—my takeaway from that, from that

1 study, was that the persons who perished, the rescuers who
2 perished were what they referred to as would-be rescuers which
3 I understand to be, Mr. Piper, persons who on the spur of the
4 moment rushing to an area where maybe there's carbon
5 monoxide or some other toxic fumes which is by and large what
6 those deaths occurred, you know, took it, with no training, no
7 equipment, just spur on the moment. That is my understanding
8 from the study, which is study, by the way that is in 2018, not
9 the 1980s but it referred to a 1980s study. So I assume they're
10 linked somehow.

11 So, would you agree, Mr. Piper, there would be a difference between
12 the would-be rescuer, the ones who rush in without a plan,
13 without equipment, without proper, in this case, tendering and
14 equipment to do the dive, is it not a difference between, say,
15 what you thought of Michael Kurban's attempt to rescue his
16 father? Is it not a difference when Mr. Beddoe and Mr.
17 Ramoutar and these other people came and the other equipped
18 dive ships came with equipment, is it not a difference between
19 that kind of rescue operation?

20 A. To—

21 **Mr. Chairman:** Can you try to keep the answer shorter than
22 the question?

23 A. I don't—I'm not sure if we're understanding. You are, you are
24 sending a man into a pipeline for—hydrocarbon spaces, oil, he
25 has no training, you are sending the man, it is not different. He
26 may have equipment. It is not different. He doesn't know what
27 he's going to face, how he is going to deal with it. This is not

1 simple. This was never simple.

2 **Examination BY Mr. Chairman:** No, I don't think anyone—

3 A. It's a quarter mile long.

4 Q. Mr. Piper, I think we get that sentiment. I don't think anyone
5 has suggested for one moment that the task was a simple one.
6 No one has made that suggestion. If they did I would have
7 stopped them. All right? No one's suggesting the task was
8 easy. These tasks are never easy. That's why they pick
9 hopefully the right people to do them. The question ultimately
10 is whether, on reflection now, you think you got it right.

11 A. Yes, Sir.

12 Q. Right. Well I got that—

13 A. Yeah.

14 Q. —because you've told us. You don't think that, well, apart
15 from the things you've identified where you think you might
16 have done things differently, the fact is, you don't think you
17 made the wrong decision in deciding not to send anybody into
18 that pipe until you had a video footage of what the conditions in
19 that pipe were like. That's where we got to as I understood it,
20 right?

21 A. Yes, Sir.

22 Q. Right. I don't think we're—no one's trying to shift you from
23 that position. We're simply exploring it, all right? And your
24 position remains the same?

25 A. Yes, Sir.

26 Q. The same as it was when you walked into that witness box as it
27 is now as you shortly will hopefully leave it. All right?

1 **Mr. Chairman:** So, I'm not sure that there's much to be
2 gained from asking the questions which seem to me to just elicit
3 the same answer.

4 **Ms. Alfonso:** Okay, I'm moving on, Mr. Chairman. I'm
5 moving on, Mr. Chairman.

6 **Continued Cross-Examination By Ms. Alfonso:**

7 Q. Mr. Piper, are you aware—you know Andrew Farah, the diver,
8 Andrew Farah?

9 A. Yes, I do.

10 Q. Okay. Are you aware that Mr. Farah has experience in diving
11 into pipes?

12 A. No, Ma'am. You want to elaborate? When you say diving into
13 pipes, what do you mean?

14 Q. Pipes at, well I have to say Petrotrin. If we go to 44—

15 A. Yes, I, I am. Yes, if—may I?

16 Q. Yes, go ahead.

17 A. Yes, right. So I am aware, right, that, er, we were doing a job at
18 berth No. 6, right, I am aware of we doing a job at berth No. 6
19 where someone, I don't know if it is Andrew Farah, right,
20 would have entered a riser, right. This riser would have been, I
21 think it would have been a 50-inch—well, No. 6 is 50-inch and
22 48 inches in some areas. Right? This would have been a 50-
23 inch riser. This, they were renewing this riser at berth No. 6 on
24 66 Sealine. I vaguely remember, um, some discussions with
25 Mr. Kazim Ali, as you mentioned Pointe-a-Pierre. I vaguely
26 remembered some discussions with Mr. Kazim Ali where they
27 were putting on this riser and it had an elbow about maybe

1 about 10 feet long, the elbow, and they were having some
2 problems with the joint. This was a new riser, it was a 50-inch
3 riser diameter riser, there was no oil in this riser. This line was
4 flushed so there was, there was no oil in the line, right, and he
5 was just going to slip in this, um—he was just going to align
6 this, er—

7 **Mr. Chairman:** The flange.

8 **Continued Cross-Examination By Ms. Alfonso:**

9 A. The flange, the flange gasket, right? Right, in this case they
10 would have had, um, as the flange is coming together they
11 would have had divers on the other side, so he was just going
12 down into this clean 50-inch diameter riser and back up, right?
13 If we, if we want to say that is experience in diving in a pipe, I
14 cannot argue with that. That is experience.

15 Q. Okay, well, thank you for that, Mr. Piper. Mr. Piper, I just have
16 one or two more questions for you. I want to go to—the
17 Chairman would have referred you to a short window in which
18 the divers were likely to be alive, yes?

19 A. Yes, Ma'am.

20 Q. Okay, so whether it's four, five, six hours as the case may be, at
21 what point in time, Mr. Piper as the head of the ICT, would you
22 say that Paria moved to—from res—you know, a plan or took a
23 decision to move to recovery effort rather than a rescue effort?

24 **Mr. Chairman:** Haven't we dealt with this already?

25 **Ms. Alfonso:** Could I just ask kindly that Mr. Piper just give
26 me the timeline? Because I'm seeing some conflicting, er,
27 information elsewhere.

1 **Mr. Piper:** Right.

2 **Examination By Mr. Chairman:**

3 Q. Did there come a particular time when you made the decision
4 they are no longer alive?

5 A. Right. There were—again this was—as a person, right, I
6 wasn't just an incident commander. I'm a person. Right? This
7 was another very difficult thing for me to say suddenly accept,
8 so this was a transition in my mind, right? So, there were a
9 number of things happening here. Somewhere on, somewhere
10 around 4.00, 4.30 on Saturday, the General Manager, Mr.
11 Mohammed, Mr. Michael Wei and myself, we attended a
12 meeting outside of the ICT room and we attended a meeting
13 with Heritage. During that meeting, and this was on Saturday
14 afternoon somewhere between 4.00, 4.30, all that time, because
15 this is important, we were still in the rescue mode trying,
16 making arrangement to get to pump out this riser, right? We
17 were arranging pumps and so on. We were still talking about
18 rescue with the incident command.

19 At that meeting, we discussed moving from rescue to recovery.
20 Right? And what are some of the, what are some of the ways—
21 if we moved from rescue to recovery what are some of the
22 things we're going to have to do, put in place. When I left that
23 meeting, I left that meeting with Mr. Mohammed. On the way
24 back to the ICT, we discussed what had just—we went over the
25 discussions with Heritage. We came to the place, Mr.
26 Mohammed and I, that, listen, we think we've, we, we, we're
27 losing hope here now, right, the chances here are slim to none.

1 So, together, we came to that place where, listen, we're going to
2 have to move to recovery.

3 I repeat, that was on Saturday, this may be around half past 4.00, 5.00,
4 now, maybe half past 4.00. We kept that decision to ourselves.
5 Right? The reason being we wanted to speak to the families
6 first. Right? So we didn't want to—we didn't want the
7 information—we didn't—we wanted—we had to treat very
8 respectfully. So we didn't say anything at that point in time to
9 anybody for that reason. So that would be around the time,
10 right? Mr. Mohammed contacted Mr. Ali and we met with Mr.
11 Ali, okay? So that would have been around the time to discuss
12 recovery. That would have been around the time.

13 Q. Thank you, Mr. Piper.

14 **Ms. Alfonso:** That would be all. Thank you very much for
15 your time and attention.

16 **Examination By Mr. Chairman:**

17 Q. And that's contained at paragraph 177 of his statement. So, the
18 position is, is that, um, by Saturday afternoon, could we say at
19 the very latest, you had to reconcile in your own mind that they
20 were almost certainly dead?

21 A. Yes, Sir. I had to reconcile in my mind, yes.

22 Q. Yes. And, you already made it clear that realistically and
23 objectively they probably only had a timeline of a few hours?

24 A. Yes, Sir.

25 Q. All right.

26 **Mr. Chairman:** Yes, Mr. Ramadhar? How long do you think
27 you're going to be, Mr. Ramadhar?

1 **Mr. Ramadhar:** I think half hour.

2 **Mr. Chairman:** You said about half an hour? That would take
3 us to—getting on to four o'clock. Mr. Pegus, do you have any
4 questions at the moment?

5 **Mr. Ramadhar:** If I do—sorry, I beg your pardon.

6 **Mr. Chairman:** Mr. Pegus. [*To Mr. Ramadhar*] You need to
7 turn your microphone off.

8 **Mr. Pegus:** No, Mr. Chairman, I don't have any questions for
9 this witness.

10 **Mr. Chairman:** So that will leave the front bench for
11 afterwards. All right. So we'll have, we'll have your questions.
12 Do the best you can, please?

13 **Mr. Ramadhar:** I, I, I will, of course.

14 **Mr. Chairman:** So, um, the sooner we finish here the sooner
15 we can all go home, but, what I may do, depending on what the
16 others say is to have a short five-minute break after you all
17 right, so—

18 **Mr. Ramadhar:** Of course. I'm so grateful.

19 **Mr. Chairman:** Mr. Ramadhar will introduce himself, Mr.
20 Piper.

21 **Cross-Examination By Mr. Ramadhar:**

22 Q. My name is Prakash Ramadhar. I represent the Aliyah Henry,
23 the daughter of Yusuf Henry, and the family of Faizal Kurban,
24 okay?

25 A. Good afternoon, Sir.

26 Q. Good afternoon to you. Now, Mr. Piper we have had no
27 interaction before today, is that accurate?

1 A. That is correct, Sir.

2 Q. So I want you to know that whatever shall come now is not
3 personal, okay? And equally, I sympathize with the position
4 that you would have put yourself in as commander. Okay? It's
5 not easy as we all appreciate, yes? However, you were not the
6 average citizen of Trinidad and Tobago that day. You're not
7 the average citizen, you're the commander of an incident
8 management team. Isn't that true?

9 A. That's correct, Sir.

10 Q. And therefore, one would expect that you're made of very
11 hardy stuff in terms of dealing with catastrophes and very
12 difficult decisions. Isn't that correct?

13 A. I'm very human.

14 Q. Human, yes, but I am a lawyer, I'm a human first but when I
15 stand here I don't represent me. I represent my clients, and,
16 whether you like it or not, I have to do so. Whether I enjoy
17 doing what I have to do with you today is irrelevant. So, you
18 are human first, we get that. You are the commander of the
19 incident command team. You agree with that?

20 A. Yes, Sir, I, I—

21 Q. And therefore that takes you to a high status of responsibility,
22 yes?

23 A. Yes, Sir.

24 Q. Yes. Now, what special training did you have to obtain such a
25 lofty position as commander of the incident command team?

26 A. Yes, Sir, I was under—under Petrotrin I was trained, ICS
27 trained.

1 Q. I don't understand what does ICS training mean?

2 A. Incident command system trained.

3 Q. Right. Tell us what does that mean? Are you formally trained
4 to deal with incidents of such a violent and horrific nature at the
5 outcome?

6 A. You are trained to deal with incidents—you are trained, it's the
7 system.

8 Q. Yes.

9 A. Right? Um, the incident command system can apply to many,
10 many things.

11 Q. Yes.

12 A. Right? Um, this was a real highly unusual system, um,
13 incident, but the system applies.

14 Q. The system applies. When did you undergo that training?

15 A. This was under Petrotrin, Sir.

16 Q. That is not a when. That's a where.

17 A. Sir, I cannot remember the exact—the year.

18 Q. When was your refresher, the last refresher you had, because, as
19 Ms. Alfonso put in a way but I think we should get it clear, the
20 technology and training of 1980 is not the technology and
21 training of 2022. You appreciate that, yes?

22 A. Of course.

23 Q. Yes. When was the last bit of refresher training you had in
24 incident management?

25 A. I haven't had any refresher recently but we have managed
26 incidents.

27 Q. Of course. And how many died in those incidents?

1 A. Fortunately, we've had—not had any of those deaths.

2 Q. Since when?

3 A. This is the first time in this type of incidents we've had deaths.

4 Q. In the years that you were at Petrotrin?

5 A. Yes, Sir, me personal, yes.

6 Q. Congratulations.

7 A. Thank you.

8 Q. So therefore this would be a most significant moment in terms
9 of your management, isn't it?

10 A. This is significant, Sir.

11 Q. Yes.

12 A. But the system, the system remains.

13 Q. Listen, we could have the best system and you put rubbish in it
14 you get a rubbish outcome. You agree with that? You're a
15 technical man. Garbage in, garbage out, yes?

16 Q. I'm tending to take offence at that, Sir.

17 A. No, don't take offence. Men died. Don't be so thin-skinned.
18 Are you a crybaby too? Do you intend to cry here today?

19 A. Sir—

20 **Mr. Chairman:** Just a minute, Mr. Piper. Just a minute. First
21 of all, the expression, "garbage in garbage out" is probably
22 unnecessary. There are other ways of putting that question.
23 And certainly I don't need any suggestion that he's a crybaby.

24 **Mr. Ramadhar:** Yes.

25 **Mr. Chairman:** All right? Please?

26 **Mr. Ramadhar:** Of course. I'm just being preventative.

27 **Mr. Chairman:** We're going to be here for an awful long time

1 if I have to interrupt you, and I'd rather not.

2 **Mr. Ramadhar:** I hope you don't interrupt and I shall not do
3 anything to endeavour—

4 **Mr. Chairman:** I, I'd rather have no reason to do so.

5 **Mr. Ramadhar:** If you do, of course.

6 **Continued Cross-Examination By Mr. Ramadhar:**

7 Q. So, garbage in garbage out is not an insult to you, Sir. It is—

8 A. I take it as an insult.

9 Q. I'll—tell you what it is if you don't know. It is a technical
10 terms in terms of computer science. You put in garbage, you
11 get garbage out.

12 **Mr. Piper:** Chairman, please, I mean, it is a long day, I, I, I
13 don't think I should be subjected to this. I honestly sorry. I
14 don't think I should be subjected to this.

15 **Mr. Chairman:** Just, just a moment. I, I don't know how
16 plain I can make it, um, but I don't think it's necessary to use
17 that expression.

18 **Mr. Ramadhar:** Of course.

19 **Mr. Chairman:** Please don't use it again.

20 **Mr. Ramadhar:** I shan't. I was just apologizing—

21 **Mr. Chairman:** I don't want to hear any explanation about. I
22 don't want to hear any apology about it.

23 **Mr. Ramadhar:** Thank you.

24 **Mr. Chairman:** Just don't use it, all right?

25 **Mr. Ramadhar:** Thank you very much. Of course.

26 **Mr. Chairman:** You could make the same point in a different
27 way.

1 **Mr. Ramadhar:** Thank you. I appreciate that.

2 **Continued Cross-Examination By Mr. Ramadhar:**

3 Q. Now, in terms of the information you get, you make decisions
4 based on it. You get good information you are better able to
5 make better decisions. You agree with that?

6 A. Yes, Sir.

7 Q. And if you get bad information, the likelihood of you making a
8 bad decision is more likely, isn't it?

9 A. You will make the best decision based on the information you
10 have.

11 Q. And if it's bad information, what kind a decision you expect?

12 A. You will make the best decision based on the information you
13 have.

14 Q. Now from what you described here today, you made the best
15 decisions? Difficult as it would have been, in your mind you
16 made the best decision?

17 A. Yes, Sir, based on the information I had, yes, Sir, I made that
18 Sir.

19 Q. So what you have, no dead rescuers but four dead divers,
20 correct? That's the decision you made?

21 A. And were I to make a different decision—

22 Q. Yeah we could—

23 A. —I could have had four dead divers—

24 Q. Uh-huh.

25 A. —and I could have had three, four, five dead rescuers.

26 Q. Right, coulda shoulda woulda. Now you made no decision for
27 rescue, isn't that accurate?

1 A. We did not—

2 Q. Listen to my question so that we could move along nicely and
3 not be told that we're running out of time. You made no
4 decision for rescue?

5 A. I consulted—

6 Q. Listen to my question, Sir. It's very clear. You, Sir, and your
7 team, made no decision to rescue?

8 A. Um, can I answer the question?

9 Q. Yes. It's a yes or no.

10 A. No, I don't believe it's a yes or no.

11 Q. Well whether you believe it or not I'm asking you yes or no.

12 A. Well I am saying no that is not a yes or no answer.

13 Q. Well give me your answer.

14 A. We consulted—

15 Q. Uh-huh.

16 A. —right, based on the limited information we were able to get—

17 Q. Yes.

18 A. —we consulted, we consulted with the, with the dive
19 specialists, dive supervisor—

20 Q. Right.

21 A. —right, and they were not willing to go into the pipeline. They
22 thought it was—

23 **Examination By Mr. Chairman:**

24 Q. Mr. Piper, with respect, those are the reasons why you decided
25 not to authorize—

26 A. Yes.

27 Q. —a rescue. They're not the answer to the question. In

1 fairness—

2 A. Yes.

3 Q. —to Mr. Ramadhar he's asking you did you ever, in effect, did
4 you ever authorize a rescue? And the answer to that is clearly
5 no.

6 A. No.

7 Q. Exactly. The reason why you didn't may be a perfectly good
8 reason, it may be a bad reason, but that's different to the
9 question he's asking you.

10 A. Okay. Understood.

11 Q. Right? So he's asking you a question, did you ever authorize a
12 rescue?

13 A. No I did not.

14 **Mr. Ramadhar:** No.

15 **Mr. Chairman:** If you feel it necessary to add a but or—

16 **Mr. Piper:** Yes.

17 **Mr. Chairman:**—a however—

18 **Mr. Piper:** Okay.

19 **Mr. Chairman:**—please answer the question first and then I
20 will allow you to make a but or however, providing it's not
21 repeating anything you've already said. All right?

22 **Continued Cross-Examination By Mr. Ramadhar:**

23 Q. You appreciate that these men were in extraordinarily perilous
24 condition in that pipe?

25 A. Yes, Sir.

26 Q. Yes. Oxygen, air, would have been limited, first of all, correct?

27 A. Yes, Sir.

1 Q. Two, you did not know the physical condition in terms of the
2 hat ring of their bodies, correct?

3 A. Correct.

4 Q. Three, in terms of drowning because either too much oil or too
5 much water, correct?

6 A. Correct.

7 Q. Right. And as we have all established and believe, that time
8 was the most critical, what shall I say, asset or value that you
9 had, time, time, time, isn't it the most important thing?

10 A. And life, go ahead.

11 Q. Yeah, right.

12 A. And responders' lives,. yes.

13 Q. Well we're coming to that. We have two lives to this and I'm
14 very fair contrary to what many may say. You have two sides.
15 You have the rescuers on the one end and the men who, we
16 have a countdown, you agree there was a countdown to when
17 we believe they would perish if they hadn't already, you agree
18 with that?

19 A. Yes, Sir.

20 Q. Yeah.

21 A. It must have been a countdown.

22 Q. Huh?

23 A. Must have been a countdown as to where exactly—

24 Q. A countdown. And as the moments pass by, the anxiety to get
25 things done would have been increased, yes?

26 A. The anxiety was always there from, from very—the very early.

27 Q. And it didn't increase as time was passing and nothing was

1 happening to save them?

2 A. It must increase, Sir.

3 Q. Thank you. Well that's the point. So—but you, what was the
4 decision you made that was communicated? Stop the dive, isn't
5 it? That's the one decision you've taken in terms of diving, to
6 stop it, isn't it?

7 A. I, I went through this yesterday, Sir.

8 Q. Oh gosh, I am here now—

9 A. Yes, yes.

10 Q. —you are here now just tell me, very quickly. Don't tell me
11 about yesterday. We're dealing with now.

12 A. Right.

13 Q. Was it the only decision you took that you communicated in
14 relation to dive or rescue is to stop the dive?

15 A. Yes, Sir.

16 Q. Thank you.

17 A. But, if I may—

18 Q. But, but—

19 A. —explain, as I would like to please? As I said yesterday, I,
20 when I took that decision, right, people were just—I was
21 advised people were just diving into the pipe. We did not know
22 what we were facing, right, people were going in there on, on
23 emotion.

24 Q. Uh-huh.

25 A. Right? People were going in there on, on instinct, right? It
26 was, as far as I'm aware, just a sort of chaotic situation, so
27 somebody had to step in, somebody had to make a hard

1 decision and, yes, Sir, I took that decision.

2 Q. Thank you. Now, you would have wanted to know, as you've
3 told us painfully, to get cameras to go in to see what was inside
4 there, correct? You already knew water, the possibility of oil
5 was real, correct? You also wanted to see if there were physical
6 objects within the pipe?

7 A. Was that a question, Sir?

8 Q. Yes it is.

9 A. Yes, Sir.

10 Q. Right. Logic will tell us that if you needed to know what was
11 in the pipe, apart from the men and the plug, that all you needed
12 to know what was in the chamber before the catastrophe, the
13 accident, isn't it?

14 A. Yes, Sir. We wanted to know where the divers were.

15 Q. Yes.

16 A. We wanted to know what sort a distance we were going in. We
17 needed to know.

18 Q. I'm coming to that. I've asked you about the physical items. If
19 you wanted to know what physical items would most likely
20 be—

21 A. Yes.

22 Q. —within the pipe, you needed to know what was in the
23 chamber before the vortex of the Delta P, isn't it?

24 A. Yes, I—

25 Q. Right. So did you establish what would have been there so
26 you'd have an idea as to what physical items were there, apart
27 from the divers and the plug?

1 A. Yes, Sir. We knew all the tanks and so on—

2 Q. Right.

3 A. —and possibly chain blocks, right, spanners and so on.

4 Q. Yes.

5 A. But we also needed to know—

6 Q. Uh-huh.

7 A. —where the divers were—

8 Q. Yes.

9 A. —we needed to know oil, distances, all—we need—several
10 things we needed to know.

11 Q. And this brings me to the point, and you fed into it. when
12 Christopher took these very precious moments on the hospital
13 bed to speak with you for the shortest period, you thought he
14 were just old talking to tell you that he felt two welding seams?
15 You thought that that was loose talk, or this is a trained diver
16 who knows, because he was more interested in getting his
17 colleagues out? You appreciate that?

18 A. Yes, Sir, so—

19 Q. So you discounted, did you, the fact that he counted, and it may
20 have been a very deliberate action on his part, to measure out
21 one, two, so therefore, you would have a clearer idea, if not an
22 identical accurate one, a clearer idea as to where in the pipe the
23 men may be? You thought when he told you this, that was in
24 loose conversation? You laugh.

25 A. No, Sir, I, I'm not laughing, Sir.

26 Q. Well I saw you.

27 A. Right?

1 **Mr. Peterson SC:** Mr. Chairman, I mean—yeah.

2 **Mr. Ramadhar:** Mr. Peterson, thank you very much Mr.
3 Peterson.

4 **Continued Cross-Examination By Mr. Ramadhar:**

5 Q. Yeah. You didn't think that he was trying to get to you very
6 important information?

7 A. Yes, Sir and as I said—

8 Q. Thank you.

9 A. And as I said when we got the camera down to that distance,
10 we—there were—did not see anything.

11 Q. Well blame your camera, but a live person, Christopher, is
12 telling you he want, he say—listen and you know we're hearing
13 this thing about, "Go get the men, go get the"—is that what you
14 heard that is all that he said, "Go get the men, go get the men"?

15 A. No, Sir.

16 Q. No. There's more. He says to Michael, "Go get your father.
17 He right behind me. Don't be no—what, what—hearing that,
18 what do you believe that would a meant, he was a quarter mile
19 away?

20 A. Yes, and Mr. Kurban did go down into the pipe.

21 Q. Right.

22 A. And he did not see—there was no sign of his father.

23 Q. How far in?

24 A. As far as we know, he went in about 10 to 15 feet.

25 Q. Right.

26 A. We also sent the camera in some 80 feet and we were not able
27 to find anyone.

1 Q. What time did you send the camera in?

2 A. When we got the camera he was not there.

3 Q. What time?

4 A. I think we discussed the times already right.

5 Q. Well, I am not interested in discussion. Tell me now. Is mano
6 to mano here. What time?

7 **Mr. Peterson SC:** Man, I mean, in a court of law we usually
8 say asked and answered, but I wouldn't say that here, but I
9 think asked and answered about 10 times, and I know I can't
10 count well, but I know I had crossed 10, Sir.

11 **Mr. Chairman:** Um—

12 **Mr. Ramadhar:** All I'm asking is at what time the camera
13 went.

14 **Mr. Chairman:** Well, again, Mr. Ramadhar, I don't mind you
15 asking the question even though we've had this evidence
16 already.

17 **Mr. Ramadhar:** Yes.

18 **Mr. Chairman:** I don't mind you asking the question and I'll
19 permit it to a degree, but you've got to let him answer it.

20 **Mr. Ramadhar:** Of course.

21 **Mr. Chairman:** Let him answer it. And there's not a long
22 point unless you want to make a speech, and I've had my say.

23 **Mr. Ramadhar:** You told me I could make one later.

24 **Mr. Chairman:** Yes.

25 **Mr. Ramadhar:** So I reserve that position.

26 **Mr. Chairman:** Exactly. Not now. Right?

27 **Mr. Ramadhar:** I may decide not to.

1 **Mr. Chairman:** All right.

2 **Mr. Ramadhar:** But all I wanted to get from him, Sir, as we
3 refocus is what time did the camera go in so you could know it
4 went to—

5 **Mr. Chairman:** Well there were a number of cameras that
6 were attempted. So, let, let, let's be clear.

7 **Mr. Ramadhar:** And thank you much.

8 **Mr. Chairman:** I think the earliest one was some time after
9 midnight.

10 **Mr. Ramadhar:** There you go.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 Q. So your camera did not see anybody after 12.00, yeah, when
13 around 5.30 is when you were told the man was right there.

14 A. Sir, and Mr.—and Mr. Kurban went in the pipe and he was not
15 right there.

16 Q. Exactly the point, and you find this funny. The reason, of
17 course, is he's there his oxygen probably going so he tried to go
18 back to get more air in a air pocket. Is that not logical?

19 A. Sir, that's, that's speculation, I—

20 Q. Of course it is, but you didn't even bother to speculate about the
21 proof of life and the possibility of rescue? You wanted
22 certainty and you talk about us in this room, you write your
23 reports. It required immediate response to the facts that you
24 knew them and then educated—

25 **Mr. Peterson SC:** Is there a question—is there a question in
26 all of this, Mr. Chairman?

27 **Mr. Ramadhar:** Yes there is. There is and I'll, I'll—

1 **Mr. Chairman:** I'm hoping we get to one eventually.

2 **Mr. Ramadhar:** Yeah; and you see if I don't do it they'll say
3 I'm unfair.

4 **Continued Cross-Examination By Mr. Ramadhar:**

5 Q. In all of it, do you know what an educated guess is? You're
6 talking about speculation. What is an educated guess?

7 A. Um, please share with me?

8 Q. All right, an educated guess is when you know all that you do
9 and you use your experience and your intelligence and try and
10 figure out what is the more probably situation and you act upon
11 it.

12 A. Okay, thank you.

13 Q. Did you use any educated guess in this effort or you wanted
14 perfect information?

15 A. [*Inaudible*]

16 Q. The Chairman can't help you. You have to give evidence.

17 **Mr. Chairman:** I'm assuming you're going to say you didn't
18 want perfect information but you got to say something to it.

19 **Mr. Piper:** Okay. Yes, Sir. Um, thank you, Mr. Chairman.

20 **Continued Cross-Examination By Mr. Ramadhar:**

21 A. No, Sir I did not want perfect information but, as I said before,
22 this was no easy decision. I'm still having to send—

23 Q. We know.

24 A. —a man in the pipe

25 Q. We know.

26 A. —with no—you know—

27 **Mr. Chairman:** Well, I think what we can say, Mr. Piper, is

1 this, isn't it? If you believed Mr. Boodram when he said he felt
2 two welds and each weld represents 40 feet, then the one thing
3 you could say about that was that he was at least 120 feet into
4 the pipe.

5 A. That was my—

6 Q. At least?

7 A. Yes, Sir.

8 Q. Right? Assuming—

9 A. That was my thought.

10 Q. —assuming he was correct in his feeling of these welds, so, his
11 assertion that it was that distance as a bare minimum that he
12 was inside this pipe and the others with him, all right, you
13 knew, in addition to that that there were air pockets because he
14 told you that.

15 A. Yes, Sir.

16 Q. Correct? Um, and, er, two, at least?

17 A. Yes, he had mentioned.

18 Q. You knew from the other information you had that he was at
19 least asserting that Fyzie was right behind him, whether that's
20 within the few feet that we're talking about or not, um, fact is,
21 he was saying he was behind him. The camera, as I understand
22 it, only went in about 80 feet.

23 A. Yes, Sir.

24 Q. Is that right?

25 A. Yes.

26 Q. Right, so that the furthest that you were able to observe was
27 about 80 feet?

1 A. Correct.

2 Q. Which is obviously a good deal shorter than the 120. You had
3 had at least that information, didn't you, as to the condition of
4 men and the pipe—

5 A. Uh-huh.

6 Q. —as a bare minimum—

7 A. Yes.

8 Q. —you had that, didn't you? All right. So, I suppose what
9 you're being asked is, did that feature in your assessment?

10 A. Yes. Right. So, him touching, again, this—he is coming
11 through this pipeline, all right? Several welded seams. If
12 you're coming through the pipeline you will miss seams.
13 Right?

14 **Continued Cross-Examination By Mr. Ramadhar:**

15 Q. Listen, Sir, Christopher is a trained diver. You ever went in a
16 pipe diving?

17 A. No, Sir.

18 Q. So what you talking about he would miss seams? If he's
19 looking for them, you don't think that he would also know that
20 there will be seams every 40 feet and therefore do a
21 measurement, like Hansel and Gretel you know you throw your
22 little, um, bread, so you have a marker? You don't think that's
23 what he was trying to communicate to you in this supposed
24 conversation at ten o'clock from the hospital bed? Yes or no?

25 A. Sir, when he spoke to us, right—

26 Q. Uh-huh.

27 A. —how I interpreted, “Listen, when I was coming through, right,

1 I know I touch two seams”, right?

2 Q. Yeah.

3 A. So when we put together, we say, listen, two seams that will be
4 at least 120 feet.

5 Q. Beautiful.

6 A. Right? But, right, I know this is when he was coming closer.
7 My interpretation is, “When I was coming closer out I touched
8 the two seams.” That was my position.

9 Q. So you took a God-like position that your interpretation would
10 be correct and his would be wrong?

11 A. And, Sir, again, he said again his father—“Fyzie was behind
12 mih”, Mr. Kurban went down he did not find Fyzie, right?
13 Remember this, this gentleman was in this pipe. Distance—
14 it’s, it’s very difficult—

15 Q. You ever went—all right—

16 A. —for this gentleman to give any idea of distance.

17 Q. We heard this. We heard this.

18 A. Yes.

19 Q. But this is a live witness who’s telling you because you wanted
20 to talk to him from early. You get a few moments and this is
21 the thing he told you. You discounted that because he could be
22 wrong, right? Let’s go on. Did anybody take a audio recording
23 of what he is supposedly to have said—is supposed to have said
24 in that telephone conversation, a audio recording?

25 A. No, Sir.

26 Q. You had—

27 A. We had several people listening. I didn’t take an audio.

1 Q. I tell you—we will deal with—we'll deal with that in a
2 moment. You have told this court that as information came in it
3 was put by ICT into a chart? Is that correct?

4 A. They were documenting it yes, Sir.

5 Q. They were documenting it?

6 A. Yes, Sir.

7 Q. You had a white board up?

8 A. Yes, we had a white board.

9 Q. Document? You'll be surprised that we have photographs of it?

10 A. No, Sir.

11 Q. No? Do you still stand by your word—I will come to that in a
12 few moments. Remember you're under oath, eh. Yeah. Who
13 wrote on that white board?

14 A. Er, a number of people wrote on the white board.

15 Q. Number, a number, give me the names. This is important stuff.

16 A. So as people were coming through the incident command
17 system a number of people wrote on the white board, Sir.

18 Q. Give me the names of those who may have written on that
19 board. It's not an open thing that anybody could just walk in
20 and say, "Ey, let me put a note here."

21 A. No. I may have written on the board, Mr. Randolph Ramou—
22 um—

23 Q. Uh-huh.

24 A. —Archbald may have written, Mr. Flemming-Holder may have
25 written on the board.

26 Q. Right. Tell me—tell the—tell all of us here that that was the
27 first location that information is put, isn't it, and then later

1 transcribed, isn't that correct?

2 A. No, some of the information and—but during we—as I said, we
3 had, we had a scribe at the laptop in—entering information.

4 Q. You're getting me—you're getting a little fuzzy there. You're
5 talking about some, some, some. Are you saying that not all the
6 information was put on that white board?

7 A. Not all the information was put on that white board.

8 Q. No? Was all the information put for the scribe, with the scribe
9 putting it on the computer?

10 A. Maybe not all the—as the information—

11 Q. Or, I see.

12 A. —came to the scribe the scribe was putting it in.

13 Q. And who determined what information the scribe should put?

14 A. I would have spoken with the scribe and—

15 Q. You had control?

16 A. Yes, Sir.

17 Q. That's it?

18 A. I would have spoken to the scribe, other people would have
19 spoken to the scribe—

20 Q. I hear you.

21 A. —as information came in.

22 Q. You're the boss man, boss, boss man there, right? You're the
23 commander. What a lovely, powerful name, authority, okay,
24 and responsibility? Did you observe on that board that from
25 very early in the evening that Paria—there are other issues but
26 I'll deal with this one now—that Paria had formed the view that
27 the likelihood of, um, of rescue, well, they being alive, was

1 very slim?

2 A. Which board are we speaking of, Sir?

3 Q. White board that everybody writing on, including you.

4 A. All right, so, yeah there was a white board, there was a white
5 barred in the conference room—

6 Q. Uh-huh.

7 A. —of the shipping office which was downstairs. That was the
8 initial incident command post, right?

9 Q. Thank you.

10 A. As—when I, when I got into the incident command centre,
11 when I got into the incident command centre—

12 Q. Yeah.

13 A. —when I arrived initially.

14 Q. Uh-huh. You took the board upstairs with you? I'm asking you
15 because we don't have all evening, you know? I have a
16 timeline to work with, countdown.

17 A. No, Sir, I did not take the board upstairs with me.

18 Q. So—

19 A. May I continue with the answer?

20 Q. No, I—I want specifics. Were there a second set of boards
21 upstairs?

22 A. Yes, we had a white board upstairs.

23 Q. And where was the scribe, upstairs or downstairs?

24 A. When—well, there—the incident command post when it was
25 first set up—

26 Q. Uh-huh.

27 A. —the incident command post was downstairs and as

1 information came in they were just jotting the information on
2 the, on the white board.

3 Q. All right.

4 A. As, as we went upstairs—

5 Q. Yes.

6 A. —there was a scribe upstairs and they were jotting it down on
7 their computer.

8 Q. Jotting it down. Good.

9 A. Writing it.

10 Q. Right, we will deal with that probably in another even location,
11 but let's deal with very important matters here today. Who
12 gave you authority to make decisions about dives or to prevent
13 dives? Who gave you, Mr. Piper, the authority to decide who
14 should dive and who shouldn't dive and consequently who
15 should die and who should not?

16 A. Sir, I had no authority to say who should die and who should
17 not. Right? I—

18 Q. I started with dives. We'll come to the dying later. Who gave
19 you the authority to say who should dive and who should not?

20 A. Right, so, as the incident commander—

21 Q. Uh-huh.

22 A. —right, the incident is under my control, right, so I had to
23 manage the incident and there are certain decisions that I had to
24 take. Right?

25 Q. Where, where in the, where in the law did you get exclusive
26 right or authority?

27 **Mr. Chairman:** Well, I'm not sure it's a law.

1 **Mr. Ramadhar:** Let me rephrase that. Thank you very much.

2 **Continued Cross-Examination By Mr. Ramadhar:**

3 Q. Did you make contact with the Trinidad and Tobago Police
4 Service, as an example, as to what was happening? I'll give
5 you that to start.

6 A. I didn't make contact. I know we made contact with the TTFS
7 and so on. I know we made contact with the coast guard and
8 the coast guard are the people who deal with diving matters.

9 Q. Yeah. So the fire services were alerted, correct?

10 A. Yes, Sir. That would be all emergency response and so on.

11 Q. All right, thank you so much.

12 A. Right? And the Trinidad and Tobago Coast Guard—those—
13 that is the authority we look to for diving.

14 Q. Yeah. And who was coordinating among the national assets?
15 Who was coordinating among the national assets to—for—as
16 first responders?

17 A. Well, who, we were coordinating, the incident command.

18 Q. Right.

19 A. We had people coming in, coming in to the thing.

20 Q. Thank you for that. So you took command of the coast guard?

21 A. No, Sir. I did not take command of the—we were coordinating
22 with the coast guard.

23 Q. And who do you—

24 A. I cannot take command of the coast guard.

25 Q. I see. So, did the coast guard work together with you in terms
26 of decisions you would have taken?

27 A. Yes, the coast guard worked with me, Sir.

1 Q. I think—now—

2 A. Rig? But, but the decision—but I took the decisions, Sir.

3 Q. Of course. And it was conveyed and executed by others, isn't
4 that correct?

5 A. What, what exactly you are speaking of?

6 Q. Whatever decisions you made, you conveyed it to others and
7 they took—they execute them?

8 A. I told—I spoke to, er, I spoke to my people on site about the—
9 about not diving, yes, and they conveyed it.

10 Q. Or, much obliged. Now, you kept repeating that you were
11 accountable. You remember you said that in answer to my
12 friend that you would have been accountable?

13 A. Yes, Sir.

14 Q. Yeah. You, Sir, were more interested in lives or liability?

15 A. Sir, I of course was more interested in life, including the lives
16 of the responders.

17 Q. Yeah.

18 A. Right?

19 Q. But you said accountable.

20 A. And my priority was the safety of the responder, yes, Sir.

21 Q. Yes. Accountable. That has a meaning to you. What does that
22 mean?

23 A. There must be accountability, Sir.

24 Q. Thank you. Of course. And you would have been held
25 accountable either way, for instance, if a rescuer perishes, you
26 agree with that?

27 A. Yes, Sir.

1 Q. You agree you're accountable now for the divers having died?

2 A. Well, that's for the Commission to decide.

3 Q. And a court, possibly?

4 A. Okay, Sir.

5 Q. Yes. Now, you took a decision, when I say you I mean you and
6 your—all the assets, your team, whatever, to have, um, what's
7 the word for it, where you put, you blocked off the top of a
8 certain riser at any time?

9 **Mr. Peterson SC:** A flange.

10 **Mr. Ramadhar:** A flange. Thank you, Mr. Peterson.

11 **Mr. Chairman:** Or a cap.

12 **Mr. Ramadhar:** A cap.

13 **Mr. Chairman:** A lid on top.

14 **Mr. Ramadhar:** A lid.

15 **Mr. Piper:** Sir can you repeat, please?

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. Yes. You took a decision to cap off, to lid, to enlid [*Phonetic*],
18 or to flange, right, the top of one of the risers, isn't it?

19 A. No, Sir, I have no idea what you are speaking of.

20 **Mr. Chairman:** Neither do I. I, I, I—

21 **Mr. Ramadhar:** Let me help.

22 **Mr. Chairman:** The lid was already on the riser at No. 5.

23 **Mr. Ramadhar:** Yes. At any stage—

24 **Mr. Chairman:** And there was a, and there was a, and there
25 was a, a, a habitat with a downward pressure on 6.

26 **Mr. Ramadhar:** Absolutely.

27 **Mr. Chairman:** What is it you want to ask?

1 **Continued Cross-Examination By Mr. Ramadhar:**

2 Q. I'm going to ask now on 6 was there at any time a flange put on
3 the top of that pipe after the accident?

4 A. No, Sir. There is, there's, there's no—this is the first I'm
5 hearing about this except on social media.

6 Q. No, I'm asking.

7 A. No, Sir. No.

8 Q. No. Good.

9 A. At no point in time.

10 Q. Right. But, there was an extension of the riser?

11 A. Yes, Sir.

12 Q. To what height?

13 A. We extended it to above water.

14 Q. Yes. To what height from the sea bottom?

15 A. I, I'm—

16 Q. From the top of the riser to the seabed?

17 **Mr. Chairman:** Just a minute. How high was it above sea
18 level?

19 **Mr. Piper:** It was about five, five, six, seven feet above sea
20 level, yes.

21 **Mr. Ramadhar:** Sea level. I'm asking you now about seabed.

22 **Mr. Chairman:** From, from the bottom of the ocean?

23 **Mr. Ramadhar:** Yes.

24 **Mr. Piper:** Well it would have been about maybe 50—maybe
25 between 50 to 60 feet above.

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. Fifty to 60 feet.

1 A. Yes.

2 Q. You know that young Christopher, it was from that pipe he was
3 saved, that, that area, correct?

4 A. Yes, Sir.

5 Q. Fifty to 60 feet, it's a formidable height.

6 A. Yes, Sir.

7 Q. Good. Sir, you know yesterday you were at pains to tell us that
8 your experience of 45 years and you had never experienced
9 anything like this, that meaning people getting sucked into a
10 pipe. You remember you told us that?

11 A. That's correct.

12 Q. Yes. And you were quite and rightly concerned, as we all agree
13 with you, that it will not be the most prudent thing for a person
14 who is emotional or instinctual to dive in?

15 **Mr. Chairman:** Instinctive I think you—

16 **Mr. Ramadhar:** Whatever, whatever word—thank you. I'm
17 so grateful. The British language is, you know, um, not as
18 respected here in some cases.

19 **Mr. Chairman:** Well, we're all using it.

20 **Mr. Ramadhar:** Eh.

21 **Mr. Chairman:** I quite like the vernacular. but never mind.

22 **Mr. Ramadhar:** Thank you. Thank you. I appreciate that so
23 much, Mr. Chairman.

24 **Mr. Peterson SC:** [*Inaudible*]

25 **Mr. Ramadhar:** So look it up, Mr. Peterson. Look it up, Mr.
26 Peterson. You're never too old to learn.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. Yes, so, you didn't want person who was—let me get this clear
2 now. Mr. Peterson, is it instinctive—am I permitted—
3 instinctive or emotional to enter the pipe, you agree with that?

4 A. Yes, Sir.

5 Q. Yes. You know the name Conan Beddoe?

6 A. Yes.

7 Q. Highly trained, highly qualified, deeply motivated diver,
8 correct?

9 A. Correct.

10 Q. He was willing, right, I just want you—that you knew, he was
11 willing, knowing all that he did from the years of experience
12 that he had and the training that he had acquired to go into this
13 pipe. You knew that, yes?

14 A. I don't how many years of training. I don't know he had ever
15 done anything like this.

16 Q. Beautiful. So the person who was presenting himself, did you
17 make any inquiry as to his expertise that would be far greater
18 than yours?

19 A. Yes, Sir, but again—

20 Q. No, no, no, no. Just stop with the yes. So yes you make
21 inquiries. Did you then ascertain how many years' experience
22 he had?

23 A. Sir—

24 Q. Would that have been important?

25 A. Sir, Sir—

26 Q. Yes, yes or no?

27 A. Sir, you are still—I'm still sending somebody into this

1 pipeline—

2 Q. Wait, wait, wait, wait, wait.

3 A. —who would never have done anything like this.

4 Q. You're didn't—you're not sending anybody. You're assessing
5 now. Remember you are the A-S-S-E-S-S-O-R-S—assessors,
6 right? You are assessing the risk factor. You are needed
7 now—this man is saying—he's not related, he's not blood
8 related to any of the divers, you appreciate that?

9 A. Yes, Sir.

10 Q. So therefore the emotive issue is diminished. You agree with
11 that?

12 A. Okay.

13 Q. He didn't just jump off Oa board and dive in. He didn't—he
14 was not acting instinctively. You agree with that?

15 A. I don't necessarily agree with that.

16 Q. So you'd heard that he had jumped off a boat and tried to dive
17 in the pipe?

18 A. No, Sir. We were, we were just going into the pipe without
19 assessing.

20 Q. Who, you? You didn't assess. Did you know what assessment
21 he made?

22 A. There's no—what, what assessment he, he would make, Sir,
23 that—

24 Q. Did you—that's the point I'm asking you. Did you speak to
25 him to enquire what he knew that you may not have known?

26 A. Sir, we, we knew very little in the—we knew very little about
27 the pipeline.

1 Q. You—

2 A. He would not have known.

3 Q. You knew very little.

4 A. Yeah.

5 Q. And you took no action. You agree with that?

6 A. No, I don't agree with that.

7 Q. You took action to rescue the men?

8 A. Sir we took—yes we took—we were taking action to rescue the
9 men.

10 Q. Taking, taking and when did you take it?

11 A. Oh—

12 **Mr. Peterson SC:** Sir, we could avoid all of this. We could
13 avoid all if at some stage, Sir, with the greatest respect to my
14 friend Mr. Ra—Mr. Ja—Mr.

15 **Mr. Ramadhar:** You forget your partner name. You see?

16 **Mr. Peterson SC:** Mr. Jamadar—Ramadhar, sorry. This has
17 to stop.

18 **Mr. Ramadhar:** Mr. Gilson, I am doing what I have to do and
19 my friend may be uncomfortable but I think we're on a very
20 important track here.

21 **Mr. Chairman:** Now, I'll tell you what we're going to. We're
22 going to take 5 minutes.

23 **Mr. Ramadhar:** Thank you very much.

24 **Mr. Chairman:** We're going to take 5 minutes now. I would
25 like you to confine the remainder of your cross-examination to
26 15. So think about it in the next 5 minutes please. All right?

27 **Mr. Ramadhar:** Thank you.

1 **Mr. Chairman:** And, and you, you know, you do need to calm
2 down a little bit, all right? I get the emotion of it but you do
3 need you to calm down a little. All right? Please?

4 **Mr. Ramadhar:** Since I was a teenager they've been telling
5 me that, but—

6 **Mr. Chairman:** Five minutes, please, 5 minutes.

7 **Mr. Ramadhar:** Thank you.

8 **3.59 p.m.:** *Enquiry suspended.*

9 **4.05 p.m.:** *Enquiry resumed.*

10 **Mr. Chairman:** I am in a hearing in the Court of Appeal at
11 five o'clock on a matter for a client, so I need to be out of here
12 by five to 5.00. I do not want this witness to be held over, so if
13 we are not concluded by five to 5.00, you'll all have to wait
14 until I've finished in the Court of Appeal and come back. All
15 right? So let's try and concentrate on that. Thank you. Please
16 do sit down, Mr. Piper.

17 **Mr. Ramadhar:** Thank you, Mr. Chairman.

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. Mr. Piper, when we took the break I was making inquiry of you
20 about Conan Beddoe. You remember this?

21 A. Yes, Sir.

22 Q. Yes. This is the person who was presented as a potential
23 lifesaving rescuer, you agree?

24 A. This is the person they—this is the person at this point in
25 time—

26 Q. Yeah.

27 A. —right, I'm aware—

1 Q. And what time was this? Don't forget we have an appeal at
2 5.00 so do, do hurry up.

3 A. Yes, Sir, well if you'll allow me to answer the question.

4 Q. Yeah. What time—

5 A. Right?

6 Q. —did you become come aware that Conan was willing to go
7 into the pipe?

8 A. I became aware that people were diving into the pipe at about
9 6.25 on Friday evening.

10 Q. Mr. Conan Beddoe, when did you become aware that he was
11 willing to go into the pipe?

12 A. I did not get the name of the person on that night at—who,
13 right? All I know that people were willing to go into the pipe.

14 Q. People, people saying like—

15 A. They had a couple divers willing to go. One was Michael
16 Kurban.

17 Q. One was Michael Kurban. You had Catherine Balkissoon, your
18 eyes and ears at the scene, you agree?

19 A. Yes, Sir.

20 Q. So at no stage did you know that there was a professional diver
21 willing to go into the pipe? You say all kind a people. Let we
22 talk about professional divers, commercial professional divers.

23 A. Yes, Sir. We had other commercial divers there that night who
24 told me no.

25 Q. Yeah, yeah.

26 A. You shouldn't go in the pipe.

27 Q. You listen to the noes. Let we hear about the yes, yes to life.

1 A. Sir we've coming back to the same position where—

2 Q. Sir, you didn't do my job. You answer and we will get through
3 and His Lordship will go to his appeal for 5.00, okay? So,
4 question: you did not know through your eyes and ears, whether
5 it's Catherine or whomever at the scene, that there was a
6 commercial professional diver ready, willing, able and
7 equipped to go into the pipe?

8 A. I don't know that there was anybody. I know somebody was
9 willing, right, I know they had the equipment. They're able to
10 go in that pipe? No, Sir under—the conditions were unknown.
11 No, Sir. I didn't know they were able.

12 Q. You didn't know. Did you care to know what they knew?

13 A. Yes, Sir.

14 Q. Good. What inquiries—

15 A. Right?

16 Q. —did you make?

17 A. Sir—

18 Q. What inquiries did you make?

19 A. Sir, we—I keep coming back to the same thing.

20 Q. You can keep going where you want to go. Answer the
21 question.

22 A. No.

23 Q. Did you make an inquiry?

24 A. No, Sir.

25 Q. Thank you very much.

26 A. Right? At that time I was trying to find out what was
27 happening in the pipe.

1 Q. You remember what you told us—

2 A. Right? Because I still could not send anybody in that pipe.

3 Q. You remember what you told us about the time countdown
4 yeah, every minute becoming more and more—

5 A. Yes, Sir. I still didn't have the information—

6 Q. Right.

7 A. —about the inside of the pipe.

8 Q. And when did you expect to get your information?

9 A. I needed to assess, Sir. I still—

10 Q. When?

11 A. —could—I was still—I still could not send anybody in that
12 pipe until I get that information.

13 Q. When did you expect to obtain the necessary information to
14 give you the—

15 A. I was trying my best, Sir.

16 Q. I didn't ask you that.

17 A. I, I, I—

18 Q. What was your timing that you were—

19 **Mr. Chairman:** No, no, no, no. We can't—

20 **Mr. Ramadhar:** My Lord, could you ask him—

21 **Mr. Chairman:** Stop, stop, both of you, please?

22 **Mr. Ramadhar:** Yes.

23 **Mr. Chairman:** One person at a time. You ask the question,
24 you pause. You answer the question, then you pause.

25 **Mr. Piper:** Thank you.

26 **Mr. Chairman:** Try and keep it brief, both of you, please.

27 **Mr. Ramadhar:** Thank you. Could we, while we—

1 **Mr. Chairman:** Or I'll bring it to an end.

2 **Mr. Ramadhar:** Let's—while we have this moment to please
3 advise the witness to answer what he's asked and nothing else?
4 I am not here for a speech, okay?

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 Q. When did you expect to get the necessary information to give
7 you the comfort to press the button go, to get those men?

8 A. As soon as I could get my cameras down, Sir.

9 Q. Camera, right?

10 A. Right? And I could get the information.

11 Q. And we've been through that before you knew that there were
12 hours away, the cameras, correct?

13 A. Yes, Sir.

14 Q. And you knew that at the time when you had a live, willing,
15 able diver?

16 A. Sir, if, I may, are you suggesting then without the information I
17 should just take the decision to be reckless? No, Sir I was not
18 prepared to do that.

19 Q. Yeah. You used the word, "reckless". You used the word,
20 "reckless".

21 A. Yes, Sir.

22 Q. The lack of recklessness led to what?

23 A. What would have—what would recklessness lead to, Sir?

24 Q. Yeah, the death of four?

25 A. So should I be reckless?

26 Q. No, but you are using the word, "reckless". I coming to that in
27 a minute. Do you know, because you had taken the authority

1 and you are the decider, and you're the one who said no dive,
2 that your decision to not decide or to stop the diving ultimately
3 led to no rescue? You agree with that?

4 A. Sir, can you repeat that?

5 Q. Certainly. Your decision to stop the dive ultimately led to no
6 rescue. You agree with that?

7 A. No, Sir.

8 Q. So you did cause a rescue?

9 A. No, Sir. In consultation, that was not what stopped—that was
10 not why we ended up with no rescue.

11 Q. No.

12 A. We spoke with the rescuers and nobody was willing to go into
13 the pipeline, the professionals—

14 Q. Yeah.

15 A. —right, those professional divers, they were not willing to go
16 into the pipeline. My dive supervisor advised me the same and
17 all those things combined—

18 Q. And what time—sorry.

19 A. led to no rescue.

20 Q. I beg your pardon. I don't want to interrupt your—

21 A. Yes.

22 Q. —your, your, your—

23 A. That was later on, Sir.

24 Q. What time? What time?

25 A. That was later on around midnight when—

26 Q. Around midnight?

27 A. Yes.

1 Q. What was your timeline for death?

2 A. Sir—

3 Q. What was your timeline for death?

4 A. We were saying maybe five hours or so.

5 Q. From what time?

6 A. Yes? From—

7 Q. Five hours from when?

8 A. We were saying from about the time Mr. Boodram came out.

9 Q. Right? You're talking ten?

10 A. Yes, Sir.

11 Q. Right.

12 A. But I still—

13 Q. Did you—

14 A. —could not send anybody in that pipeline.

15 Q. Right, right, because—

16 **Mr. Chairman:** We're going over the same territory.

17 **Mr. Piper:** Yes, Sir.

18 **Mr. Ramadhar:** I know we're going over.

19 **Mr. Chairman:** We've covered all of this.

20 **Examination By Mr. Chairman:**

21 Q. Can I, apropos your question, it might be helpful if you have
22 your timeline in front of you. If you go to one five seven three,
23 please? One five seven three Volume II of our corrected
24 version of the material supplied over the weekend. Do you see
25 at 1855, "Divers and diving equipment arrived on site"?

26 A. Yes, Sir.

27 Q. Right. Did you know who that was?

1 A. Yes, Sir. It was, um—at this time here that would have been,
2 er, the SGS, Sub Global.

3 Q. Who?

4 A. This here was, um, Sub Global, to the best of my information.

5 Q. Sub Global?

6 A. Yeah. Subsea Global.

7 Q. Subsea Global?

8 A. Yes.

9 Q. Seeterram, yes, thank you. Prior to that, had you heard the
10 name Beddoe.

11 A. I don't know that I heard the name Beddoe.

12 Q. What's the company again for Beddoe? He's a freelancer.
13 Yeah, and, and his brother it's Conan Beddoe and Colin,
14 Conrad.

15 A. Conrad.

16 Q. Yes. Had you heard about those two?

17 A. No, Sir.

18 Q. Did—no one told you about those two?

19 A. I don't think anybody called that name.

20 Q. Ms. Balkissoon?

21 A. I—

22 Q. Mentioned anything about them?

23 A. I'm not saying she, she didn't but I'm not recalling that if she
24 did.

25 Q. It's not recorded in this log. You know about them now?

26 A. Yes, Sir.

27 Q. You know them to be experienced divers, don't you, very

1 experienced divers?

2 A. I know them to be experienced divers, yes.

3 Q. Yes. Right.

4 A. In, fact, Mr. Beddoe was, Mr. Beddoe was the diver on Sunday
5 when—who came with Mr. Ali, right, and when we asked him
6 about his experience, his experience did not include this—any
7 dive like this. He said he has actually just—

8 Q. I'm not sure that anybody's—

9 A. Yes.

10 Q. —experience would include a dive like this.

11 A. What he said—

12 Q. That is inevitable—

13 A. Yeah.

14 Q. —in some sort of—

15 A. Right, okay.

16 Q. —accident type or emergency—

17 A. Yeah.

18 Q. —situations.

19 A. Yeah.

20 Q. That's inevitable, isn't it?

21 A. Yes.

22 Q. You can't have someone who's done it before. Somebody has
23 to do it for the first time.

24 A. Yeah. What he did say he had experience in was, um, going
25 like in, um, just pump cases which is, like, I think about 12-foot
26 I think pump cases, that is what he had but not—

27 Q. Some confined space—

1 A. —going in pipe.

2 Q. Some confined—

3 A. Yeah.

4 Q. —spaces experience?

5 A. Right, but nothing, nothing remotely similar to this.

6 Q. And I think what Mr. Ramadhar is asking, if I may say so, not
7 unreasonably, is, did you know that he was on site from quite
8 early that evening?

9 A. Yes. I know they were on site from about when Mr. Boodram
10 came up, we had people on site, yes.

11 Q. Shortly after that.

12 A. Yes, shortly after that.

13 Q. Right. There or thereabouts. And did you know that they had
14 equipment with them?

15 A. I know they had the equipment with—when Subsea Global
16 arrived.

17 Q. All right.

18 A. They had that.

19 **Mr. Chairman:** All right, yes.

20 **Mr. Ramadhar:** Thank you so much, Commissioner.

21 **Continued Cross-Examination By Mr. Ramadhar:**

22 Q. And you made no enquiry as to capacity of those who had
23 presented within the timeline of life?

24 A. Sir, again, we are coming back to I had to assess the pipeline
25 before and so no, Sir. Right?

26 Q. You did—no, hold on. We—I'm not on your pipeline
27 assessment, you know, about the quality of the personnel who

1 had arrived,

2 A. No, no, Sir.

3 Q. No.

4 **Mr. Chairman:** I think we've arrived—

5 **Mr. Ramadhar:** Yes.

6 **Mr. Chairman:**—at the position—again, Mr. Ramadhar, I
7 don't want to stop you unnecessarily, but, have we not arrived
8 at the position that this witness has made clear, that,
9 irrespective of whatever else there might have been, he was not
10 going to authorize a search of that pipe until he had a camera?
11 Which rightly or wrongly that was his position.

12 **Mr. Ramadhar:** Thank you.

13 **Mr. Chairman:** So going over it again is not really going to
14 improve it, is it? I mean, he's made that clear. Doesn't matter
15 how experienced the diver was, doesn't matter what equipment
16 he had—

17 **Mr. Ramadhar:** Yeah.

18 **Mr. Chairman:**—he was not prepared to take the decision for
19 someone to go into that pipe without cameras, footage.

20 **Mr. Ramadhar:** Thank you so much. And I'm about to
21 complete, yeah?

22 **Continued Cross-Examination By Mr. Ramadhar:**

23 Q. In the similar circumstances as you sit here today, looking back,
24 you would do the same thing, wouldn't you?

25 A. When you say same, when you say do the same thing, can you
26 elaborate?

27 Q. Of course. Do nothing to save the lives, because you assessed

1 and assessed. Well, let me help you a little bit. Did you ever
2 assess that it was safe enough to go in?

3 A. No, Sir. Once we spoke with the—we spoke with the dive
4 experts and they indicated no it is not safe to go in the—

5 Q. To go in for a rescue or a retrieval?

6 A. To go in for a rescue. They simply said they were not sending
7 their divers in for rescue.

8 Q. Who, who—

9 A. We—I was—I asked Mr. Seales to go to them and talk about—

10 Q. Yeah, yeah.

11 A. —going in for a rescue and they—I was told when Mr. Seales
12 came back—

13 Q. Right.

14 A. —he said no.

15 Q. Right. And forgive me if I have to—

16 **Mr. Chairman:** That, that is in the early hours of the morning,
17 isn't it?

18 **Mr. Piper:** Yes, Sir.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Long after your timeline for life had extinguished, isn't it?

21 A. Yes, Sir, but we were still talking rescue.

22 Q. And you would expect that these men would know, for the
23 length of time, since three o'clock, to, let's—even if it's twelve
24 o'clock in the night, the likelihood was rescue as minimal at
25 best if not zero? You agree?

26 A. It was no not eliminated, Sir.

27 Q. No, in your mind.

1 A. We were still trying to rescue.

2 Q. No, of course.

3 **Examination By Mr. Chairman:**

4 Q. Again, to be fair, you hadn't eliminated it?

5 A. I had not eliminated it, Sir.

6 Q. No. But you don't know what the individual diving teams
7 had—

8 A. No, Sir.

9 Q. —decided in their own mind?

10 A. No, Sir.

11 Q. With all their experience—

12 A. Correct.

13 Q. —they may very well have eliminated it?

14 A. Correct.

15 Q. And that may well have played into the reason why they were
16 not prepared to dive?

17 A. That is possible, Sir, but even earlier when I spoke to Mr.
18 Seales when he first came on I showed him what was going on.
19 With his experience he said, Collin, you know, this is too, this
20 is too risky. You simply don't have the information. I factored
21 all of that into and plus—

22 Q. You've told, you've told us that. I have that very well in mind.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. remember I asked you whether you were more interested in
25 lives or liability? Remember you told us—I asked you that,
26 yes?

27 A. Yes, Sir, you did.

1 Q. Right. Do you know what a disclaimer is?

2 A. No. If you—go ahead you—if you'll care to explain.

3 Q. No, no. I want to know if you know what a disclaimer is.

4 A. Yes, Sir.

5 Q. What is it?

6 A. Well, you say something to disclaim any, um [*Inaudible*] claim.

7 Q. Liability?

8 A. Yes, Sir.

9 Q. Did you raise that issue with anyone that, “Look, people are
10 willing—there are men who are certainly going to dive, I don't
11 take action—that you want to go I am telling you there is
12 tremendous risk. I do not advise this but you can choose to and
13 sign off a disclaimer”?

14 **Mr. Peterson SC:** All right, I said I would intervene and but
15 this is law and I don't know if you could have a disclaimer to
16 that—to—in those circumstances legally. That is a matter
17 which my friend can make submissions on if he could find law
18 to support that at the end of the day.

19 **Mr. Chairman:** That's true, on the other hand, I don't see
20 harm in ask—in being asked if he was—er, if he considered a
21 disclaimer or if he was asked to sign a disclaimer. Whether or
22 not it had any efficacy in law is a separate matter.

23 **Mr. Piper:** No, Sir, I, I wouldn't ask—I, I don't think that
24 really is a fair position to put anybody in. I, I don't think so for
25 a disclaimer. No.

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. Hold on. You're not putting anybody in a position, you know.

1 People are volunteering to go. You are saying, “No, I need to
2 assess.” Right? You had access to Kenson, you had access to a
3 number of—well, you had the resources of the State available
4 to you to get advice, isn’t it?

5 A. Sir, I, I wouldn’t ask anybody to sign any disclaimer in a
6 situation like this.

7 Q. I didn’t ask you whether you would. I asked you if you had
8 access to advice.

9 A. Yes I, I could have sought advice. I didn’t think of asking for
10 any disclaimer.

11 Q. You didn’t think?

12 A. I don’t think that is a—I don’t think that is a position somebody
13 should take in something like this.

14 Q. So that you accept responsibility one way or the other for
15 anything that happens on Paria’s estate. Is that accurate?

16 A. Sir, I will have to get my counsel to advise me on that. I don’t
17 know.

18 Q. Oh?

19 **Examination By Mr. Chairman:**

20 Q. just a minute. Let me ask you this question. I think it gets to
21 where Mr. Ramadhar wants to be. There is a difference
22 between your saying to someone, “Please enter the pipe and
23 rescue these men”, all right?

24 A. Uh-huh.

25 Q. There’s a difference between that and saying to someone, “I
26 cannot authorize this. If you want to go ahead and do it, that’s
27 your business, but I cannot and my advice to you and

1 everything I've heard, is, this is completely wrong. You
2 shouldn't do it, but I'm not going to physically stop you if you
3 want to do it." There's a distinction between those two, isn't it?

4 A. Understood.

5 Q. I'm not preaching one or the other. I'm simply saying there is a
6 distinction between those two, and I think Mr. Ramadhar is
7 asking you whether or not, in effect, you ever considered the
8 latter.

9 A. Well we actually did, um, we actually did consider a disclaimer
10 to OTSL.

11 Q. Right.

12 A. Right? Yes. Indemnity.

13 **Continued Cross-Examination By Mr. Ramadhar:**

14 Q. The guys who tell you, "No we not going—

15 A. Yes.

16 Q. —after midnight"?

17 A. Yes.

18 Q. Is that accurate? Yeah?

19 A. Yes, Sir, that was later on, yes.

20 Q. Right? When, in reality, I mean let's be real, the likelihood that
21 the men were alive or, in fact, the likelihood that they were
22 dead was almost certain—

23 A. Yeah.

24 Q. —isn't it?

25 A. Yes, Sir.

26 Q. Yeah. So, you appreciate that part of the contract, eh, you're
27 talking lawyer and thing, right, part of the contract was in the

1 event of an emergency or so, LMCS was to provide what?

2 A. Say again, Sir?

3 Q. Are you aware, as you sit there today, in this room, that part of
4 the contract that Paria entered into with LMCS in relation to
5 any emergency or accident is that they were to provide what?

6 A. Emergency response, Sir.

7 Q. And including you?

8 A. For credible, for credible scenarios.

9 Q. Yes. And—

10 A. And this was not listed.

11 Q. There is a—

12 A. This was not listed by LMCS—

13 Q. Sitting as—yeah.

14 A. —as a credible scenario.

15 Q. Sitting as you are today, the reality is not credible? The reality
16 was of a Delta P. Is that not credible?

17 A. It was not presented—

18 Q. Yeah.

19 A. —by LMCS as a credible scenario—

20 Q. Yeah.

21 A. —right, in the contract. It was not presented and it was not
22 catered for.

23 Q. So therefore it was not catered for, let the men die? Is that it?
24 That's the effect of it. Now, Sir—

25 A. No, Sir.

26 Q. No. Well that's why I'm coming to it.

27 A. That's not what I'm saying.

1 Q. Well let me help you and tell me if you agree or not. LMCS,
2 for whom I do not appear, came prepared at some stage with
3 able, competent, willing and equipped divers to do a rescue.
4 You agree with that?

5 A. They came with—they had equipment and they had divers.

6 Q. Right.

7 A. Right?

8 Q. And it was your decision to not allow them to do, to dive, is
9 that accurate?

10 A. Sir, it was my decision to stop the diving at that point in time
11 when they were just diving, as far as I'm concerned, it was a
12 instinct, it was emotion, I understand Mr. Kurban was diving. I
13 said stop the diving at this time let us assess.

14 Q. All right, let's—

15 A. I never said we were not diving.

16 Q. Okay, you, around seven o'clock, issued an edict that all—an
17 instruction there shall be no further dive. You agree with that?

18 A. Yes, we should not dive into the pipeline.

19 Q. And you know it was around that time that Mr. Conan and other
20 divers, their brotherhood had come there, the coalition of the
21 willing, ready and able, and it is your instruction that prevented
22 any effort to go into that pipe, right?

23 A. Yes, Sir, because willing doesn't—

24 Q. That is all.

25 A. —willing does not change the conditions in the pipeline.

26 Q. Well, I will stand again. Did you ever know what the
27 conditions were ultimately in that pipeline? Did you ever know

1 what the conditions were ultimately?

2 A. No, Sir, we—no, we did not know—

3 Q. Well thank you very much.

4 **Examination By Mr. Chairman:**

5 Q. All right. Thank you. Can I just, apropos what Mr. Ramadhar
6 was asking you, can you have, please, page 1549 of the
7 supplemental core bundle? It's one of the documents that we
8 received over the weekend from your office. Do you have that
9 in front of you?

10 A. Yes, Sir.

11 Q. You can see from the top it comes from someone Called
12 Nerissa Feveck.

13 A. Yes, Sir.

14 Q. And who is she?

15 A. She was our communications clerk.

16 Q. And I think what she's done here is to record a meeting
17 between a number of people, Mr. Mushtaq Mohammed,
18 yourself—

19 A. Uh-huh.

20 Q. —Arlene Chow, I think was head of Heritage, is that right?

21 A. That's correct, yes.

22 Q. And then, um, a number of copied in people and it says”

23 “Subject matter: meeting with LMCS 10.51 a.m.”

24 And that's on the Sunday morning, the 27th?

25 A. Correct.

26 Q. Right. And on this day, you can see that there are—it describes
27 a number of attendees, all right, the venue is downstairs

1 conference room and the time between 10.51 and 11.38, so, um,
2 three-quarters of an hour or so?

3 A. Correct.

4 Q. All right? Do you see then it has a subheading: “Mushtaq and
5 Paria”?

6 A. Yes, Sir.

7 Q. And then after that, um, a few of the bullet points say a—10 or
8 so bullet points down there’s a line which says this. “Any
9 approval”, can you see that, “Any approval”?

10 A. Yes, Sir.

11 Q. “Any approval provided for the diver to enter, then a liability
12 waiver will need to be signed.” Do you see that?

13 A. Yes, Sir.

14 Q. Well, Mr. Ramadhar was asking you whether or not there was
15 ever any issue about signing any waiver.

16 A. Yes.

17 Q. He didn’t put it like that, but that’s what it, I suppose, amounts
18 to?

19 A. Uh-huh.

20 Q. Was that discussed at that meeting on Sunday?

21 A. I, I imagine it would have been discussed. I don’t fully recall. I
22 don’t recall but if it’s there it would have been discussed. I
23 don’t know if it was.

24 Q. Because, at that meeting was both Andrew Farah and Conan
25 Beddoe?

26 A. Yes.

27 Q. And so I’m assuming if it’s there it must have been discussed?

1 A. Yes, I'm assuming it was discussed, yeah.

2 Q. I mean, and I drew that distinction between the two potential
3 scenarios—

4 A. Yeah.

5 Q. —where, on the one hand you were saying, yes please send a
6 diver in to the pipe to rescue these men, or on the other hand—

7 A. Yeah.

8 Q. —saying, “Look, I’m, I’m against the idea of that”?

9 A. Yes.

10 Q. “I think it’s wrong, I think it’s dangerous. We don’t have
11 enough information, but I am not going to stand in your way as
12 it were”, there’s a—that’s the distinction I sought to draw.

13 A. Yes.

14 Q. In the latter situation—

15 A. Uh-huh.

16 Q. —is it that scenario in which you were seeking some sort of
17 liability waiver so that you wouldn’t be held responsible or you
18 the firm wouldn’t be held responsible for what you would have
19 regarded as an irresponsible act trying to save somebody?

20 A. Right. So, um—

21 Q. Is that what you understand by it or is it something else?

22 A. Well, um, um, so I, I suppose as maybe as things settled people
23 were sort of thinking this as—but at the time, no, I didn’t
24 consider that.

25 [Mr. Chairman confers with Mr. Bissessar]

26 **Mr. Chairman:** Just a moment. Yes.

27 **Examination By Mr. Chairman:**

1 Q. You know somebody by the name of Ian Bertrand?

2 A. Ian Bertrand? The name is familiar.

3 Q. He's, um, Chief Executive Officer of Offshore Technology
4 Solutions?

5 A. Yeah, I know the name, yes.

6 Q. Yes, OTSL?

7 A. OTSL.

8 Q. One of the companies you consulted with?

9 A. Yeah.

10 Q. Did he, at any stage, as far as you're aware, indicated that he
11 would want from Paria or from your legal counsel a standard
12 indemnity in the event of any loss?

13 A. I don't know—I don't know any discussion that would have
14 gone on.

15 Q. Can I ask, did it ever enter into your consideration that you
16 might permit someone to go into the pipe, I mean permit in the
17 sense of not stopping them from entering it—

18 A. Uh-huh.

19 Q. —without your approval on the basis that they provided some
20 sort of indemnity?

21 A. No, Sir, because my, my primary concern was the responder
22 safety so I did not—that—I did not consider that at that point in
23 time.

24 Q. All right.

25 A. I was just concerned with the person's safety.

26 Q. All right, thank you very much.

27 **Mr. Chairman:** Mr. Ramadhar, is there anything that rises

1 from that question that you'd want to ask?

2 **Mr. Ramadhar:** *[No indicated]*

3 **Mr. Chairman:** No. Thank you. All right. In that case, then,
4 I'm going to ask Ms. Persaud Maraj if she has any questions.

5 **Mrs. Persaud Maraj:** Thank you, Mr. Chairman.

6 **Cross-Examination By Mrs. Persaud Maraj:**

7 Q. Good afternoon, Mr. Piper. My name is Kamini Persaud Maraj
8 and I'm representing LMCS Limited.

9 A. Right, good afternoon.

10 Q. Earlier in your questioning you mentioned that Kazim Ali was
11 contacted around 9.00 p.m. and where there was discussions in
12 relation to the installation of the riser extension. You recall
13 that? You recall seeing that?

14 A. Yes, Kazim Ali called me at that time.

15 Q. Kazim Ali called you at that time. Now, I'd like to take you to
16 page 1573 of the ICT records bundle, the fourth time slot from
17 the bottom, 2106 hours.

18 A. Uh-huh.

19 Q. You have there—well, the ICT records show that:

20 "In discussion with Kazim Ali Sr. LMCS, Catherine
21 Balkissoon on site and the PFTC team, C. Piper, Mushtaq
22 Mohammed, Michael Wei, Randy Archbald. A decision
23 was taken to install riser spool at berth No. 6 to bring the
24 end above water at atmosphere and thereafter to remove
25 the flange on the riser at berth 6."

26 **Mr. Chairman:** Berth 5.

27 **Mrs. Persaud Maraj:** Berth 5, sorry.

1 **Continued Cross-Examination By Mrs. Persaud Maraj:**

2 Q. Information from Kazim Ali, LMCS, according to LMCS
3 personnel on site they were hearing knocking on the line below
4 in response to knocking on the line above water.”

5 A. Yes.

6 Q. Right.

7 A. I see it, uh-huh.

8 Q. So, I take it from this note that you would be in agreement that
9 the information or the request for the installation of the riser
10 was directly related to the noise that was being heard, the proof
11 of life that was being had, as it is, from berth No. 5?

12 A. Right.

13 Q. Yes.

14 A. Good, yes, and if I may, I did instruct, I did instruct my
15 personnel to go at berth No. 5, right, um, I think it was Mr.
16 Visham Harrichan and it may have been Mr. Beckles, right, I
17 instructed him to go to berth No. 5, right, they were there with
18 the LMCS personnel and they were listening out and there was,
19 and there was no—

20 Q. And what time was that?

21 A. That was immediately, that was immediately after this, this
22 conversation.

23 Q. All right. Can I take you to—and this conversation is around
24 9.00 p.m. in the night?

25 A. Yes, Ma'am. Right? And they reported back to me there no
26 knocking, they were there for about an hour. I told them to just
27 stand by, right, and con—but there was no sign of any

1 knocking.

2 Q. Thank you. Can I take you to paragraph 74 of your witness
3 statement at page 1360?

4 A. One three six zero?

5 Q. One three six zero.

6 A. Paragraph 74, yes Ma'am.

7 Q. All right. You have in this paragraph listed the number of—
8 nine conversations or nine telephone calls with respect to
9 Kazim Ali Sr. You see that?

10 A. Yes.

11 Q. Right. Twenty-one oh six or thereabout, you would notice that
12 there is no log for that timing?

13 A. Correct.

14 Q. All right.

15 A. These are, if I may, if I may, these are the, these are the times
16 from my call log. These had calls that I made so those are
17 recorded, right? Um, that was from Bmobile. The calls
18 received would not have been there so that is why that call is
19 not there.

20 **Mr. Chairman:** Paragraph 75 says, "Kazim Ali Sr. also called
21 me on more than one occasion."

22 **Mrs. Persaud Maraj:** Accepted.

23 **Continued Cross-Examination By Mrs. Persaud Maraj:**

24 Q. So I would ask you to turn to please show the witness statement
25 of Kazim Ali at paragraph 98? This is the—at page 2872 of the
26 supplemental witness statement bundle.

27 **Mr. Chairman:** Paragraph?

1 **Mrs. Persaud Maraj:** Paragraph 98.

2 **Mr. Piper:** I'm not sure which one it is.

3 **Mr. Chairman:** I think it's on the screen.

4 **Mr. Piper:** Okay.

5 **Mr. Chairman:** It's a short paragraph.

6 **Continued Cross-Examination By Mrs. Persaud Maraj:**

7 Q. You have that in front of you, Mr. Piper?

8 A. Yes, Ma'am.

9 Q. All right. So this is Kazim Ali's statement—

10 A. Uh-huh.

11 Q. —in relation to the knocking. And what he says here is that he
12 was informed by Dexter that there were report of knocking at
13 berth 5. Yeah? This is at paragraph 98.

14 A. Correct.

15 Q. Then at 99 he continues.

16 “At this stage it would have been after 6.00 p.m. I called
17 Piper and Mushtaq Mohammed. I don't know who I
18 spoke to at first. I requested that we bolt the riser
19 extension in order to do two things. One was to remove
20 the chamber in order to more easily access the pipeline.
21 The other was to be able to open the riser at berth 5.
22 Mushtaq agreed. He said he would go ahead and make-
23 up the riser. Dexter, however, informed me that
24 Catherine Balkissoon who was at berth 6 said that
25 nobody told her about this and I assume they never
26 relayed this message to her.”

27 So what he is saying essentially is that this conversation

1 happened a lot earlier than you are saying in your statement and
2 to this Commission.

3 A. Yeah, right, so, this—

4 Q. Do you accept same?

5 A. I accept, I accept that he is saying it happened earlier but that
6 conversation happen around nine o'clock.

7 Q. All right. How long can you say did it take to have the riser
8 installed?

9 A. We give, we give the authorization straight away and it took
10 them about maybe, maybe less than an hour because the riser
11 was already inside the chamber.

12 Q. And you have that recorded in your, in your ICT?

13 A. Yes.

14 Q. So, straight away at 9.00 p.m., let's just, just take this back a
15 little bit, essentially, there were works that LMCS was being
16 requested to be performed, correct?

17 A. No, LMCS made that request.

18 Q. Right. And at 9.00 p.m. they made that request and at 9.00 p.m.
19 that permission was granted?

20 A. Yes. We discussed it quickly and we granted the permission.

21 Q. All right. But, in relation to all other requests for diving, and
22 all other aspects of a rescue, there was no immediate response?

23 A. Because every situation is different.

24 Q. All right. So now, the, the blank at—the flange at berth No. 5
25 was requested to be removed. The installation of the riser was
26 to be done at 6?

27 A. Correct.

1 Q. Can you tell us or tell this Commission that without the removal
2 of the blank at 5 as requested by Mr. Ali and the installation of
3 the new riser, whether or not there would have been access to
4 any diving or rescue operations at all?

5 A. All right. So when we spoke to, when Mr. Ali spoke to—

6 Q. It's, it's a simple question. Would there be access to the—to
7 any—any rescue within the pipeline?

8 A. There will be access at berth 6 once we—when we removed
9 the—the intention was to install the riser and remove the top
10 flange on the hyperbaric chamber, and the discussion was with
11 Mr. Ali that we will lower somebody down in the crane. If we
12 needed to, that was the discussion we had the berth No. 5—at
13 berth No. 6, so there would be access.

14 Q. But wasn't there a bar across the top?

15 A. Mr. Ali mentioned that bar to us on Saturday morning.

16 Q. So you were not aware that there was a bar—

17 A. No, Ma'am.

18 Q. —on top of that?

19 A. No. He never mentioned that bar until Saturday morning.

20 Q. Mr. Piper, I'm going to put to you that the intention in relation
21 to the installation of the riser was to open the—whether or not
22 it's right or wrong, was to open the berth at 5, the blank at berth
23 No. 5 because of the knocking that was being heard, the
24 intention being that hopefully the men would have been seen or
25 there would have been some prospect of life to be had in a
26 rescue mission at that end.

27 A. Right. So, that was not the discussion. Mr. Ali said—in the

1 discussion with me he said he wanted to put on the riser at berth
2 No. 6 in case the compressor failed. In the same discussion, he
3 said to me, he—the men said they heard knocking at berth No.
4 5, right, and they wanted to remove the flange. I sent my
5 people at berth No. 5 to, to listen out, right? I sent two people
6 there. They spent an hour there. We also had discussions at the
7 time with our technical people—

8 Q. So, so—

9 A. —on—

10 Q. —they spent one hour at berth No. 5—

11 A. Remember, we—

12 Q. —after you would have had the conversation with Mr. Ali
13 about hearing the noise and the—the knocking, sorry?

14 A. I sent them at berth No. 5. When they went to berth No. 5 they
15 were listening out for the knocking. They were also knocking
16 and they were not getting any response.

17 Q. This is at 9.00 p.m. in the night?

18 A. This is when the request was made, right?

19 Q. Right.

20 A. I immediately dispatched them there, right? In conjunction
21 with that we told Mr. Ali we'll get back to him on the blank. I
22 told Mr. Ali we would get back to him on the blank because we
23 did have some concerns in concerns in removing that blank
24 what would happen, so we spoke to our process people and at
25 the time they said they had too little information, right? And
26 there was, and there was no sign, there was no knocking we
27 were hearing, so at that time they said to us—

1 Q. Mr. Piper, you heard there was no report from Paria's personnel
2 that there was any knocking or confirmation of the knocking
3 being heard by LMCS' agents and personnel, but—

4 A. They were together with LMCS personnel.

5 Q. —but you have permitted the, the secondary plan that Mr. Ali
6 had proposed to you?

7 A. Which, which is—

8 Q. The secondary plan in order to install the riser and to open the
9 blank at berth 5?

10 A. Right. We permitted the riser to be installed, right, at 6. Good?
11 When we spoke we continued listening out, we were knocking
12 the pipe, if I may, we were knocking, there were there was no
13 knocking at berth No. 5. Our guys were at that point with the
14 LMCS guys at berth No. 5.

15 **Mr. Chairman:** We're going around in circles now.

16 **Mrs. Persaud Maraj:** Okay, so the last—the—

17 **Mr. Chairman:** We're going round in circles.

18 **Mrs. Persaud Maraj:**—the last question.

19 **Mr. Chairman:** Please?

20 **Continued Cross-Examination By Mrs. Persaud Maraj:**

21 Q. The last question is that at that point in time did you understand
22 the condition of the pipeline before allowing that? Because that
23 has been the theme of what you have been saying to the
24 Commission, that you didn't understand the condition of the
25 pipeline within the pipeline if there was going to be a second
26 Delta P, et cetera et cetera, right? Did you understand it at the
27 time that you gave that permission what effect that would have

1 had?

2 A. On the—

3 Q. —having been very considered?

4 A. Yes we had—at that point in time we had to make some
5 decision and we thought, listen, this would be minor, okay?

6 Q. Minor, okay.

7 **Mr. Chairman:** Is that—

8 **Mr. Piper:** We had to make a decision.

9 **Examination By Mr. Chairman:**

10 Q. Is that, is that right, Mr. Piper, that removing the downward
11 force on the riser at 6 would have only a minor effect?

12 A. Right, so, we knew—the pipe was full and at that point in time,
13 Sir, we had to take some decisions.

14 Q. So, so you knew the pipe was full?

15 A. Well the pipe was up to the riser in the chamber which was not
16 the full riser.

17 Q. You knew it wasn't full?

18 A. It was about 4 feet or 5 feet below.

19 Q. No, no, no that's where the water level was but you knew it
20 wasn't full?

21 A. It wasn't full.

22 Q. You'd been told there were air pockets.

23 A. Yes, Sir.

24 Q. So it wasn't full, was it?

25 A. Right.

26 Q. Well I suppose it's full if you include air—

27 A. Yes.

1 Q. —with the fuel that was there?

2 A. Yes, Sir.

3 Q. But I, I mean, as it stood at that time, before you agreed to put
4 in this riser in—

5 A. Yes, Sir.

6 Q. —you understood, didn't you, that there was a plug somewhere
7 potentially stuck—

8 A. Yes, Sir.

9 Q. —in this pipe?

10 A. Yes.

11 Q. That it may have been pressure on the other side of that plug up
12 to—

13 A. Correct.

14 Q. —riser No. 5? And that's indeed why you didn't want to open
15 the lid—

16 A. Correct.

17 Q. —at No. 5?

18 A. Correct.

19 Q. Right? But equally, there was a pressure, the other side,
20 between riser No. 6 and where the plug was?

21 A. Correct.

22 Q. Which included where the men were?

23 A. Yes, Sir.

24 Q. And there was a downward force of the, the compressor—

25 A. Correct.

26 Q. —on that, on that liquid, wasn't there?

27 A. Yes.

1 Q. And if you stopped that downward force—

2 A. Uh-huh.

3 Q. —did you think that that would make a difference to the—to, to
4 what was in the pipe?

5 A. Right, yes. We thought it would make a difference. We also
6 thought opening at berth No. 5 would make a difference.

7 Q. Yes.

8 A. We had to come to some decision so we thought, let us put on
9 the riser at berth No. 6, continue at berth No. 6. Once we
10 weren't successful, we also had to come to a point at berth No.
11 5 and we had to take that decision to move forward. So there
12 was some decisions to make.

13 Q. Did anyone consider whether stopping the compressor at berth
14 6 was likely to generate a difference in the pressure in the
15 remaining part of the pipe between the plug and the top of the
16 riser?

17 A. Yes, Sir.

18 Q. And that that might mean that whatever air pockets were in
19 there were going to be compromised?

20 A. Yes. So we had to consider that, yes, we did consider that and
21 we had to, we had to move forward, right, so it was a
22 consideration, right, at that point in time.

23 Q. I mean one alternative was if your concern was as expressed by
24 Mr. Ali that the, um—they were concerned that the compressor
25 might fail because—

26 A. Yes.

27 Q. —it had been going for so long, one alternative was to get

1 another compressor, wasn't it?

2 A. Yes, Sir.

3 Q. You didn't do that?

4 A. No. He actually had a compressor on the barge.

5 Q. Right.

6 A. Right? He made the request, right, to us. Right? We discussed
7 the request and we decided, okay, because he didn't want it—if
8 it failed on him he would lose the chamber.

9 Q. Right.

10 **Mr. Chairman:** Yes.

11 **Continued Cross-Examination By Mrs. Persaud Maraj:**

12 Q. But there was also a back-up compressor?

13 A. Yes, Ma'am he had it, right?

14 **Mr. Chairman:** All right.

15 **Mrs. Persaud Maraj:** Al right.

16 **Mr. Chairman:** Thank you. Yes.

17 **Continued Cross-Examination By Mrs. Persaud Maraj:**

18 Q. Mr. Piper, I'd like to ask you to switch your mind a little bit to
19 address the issue of the contract between Paria and LMCS.

20 A. Uh-huh.

21 Q. Your position is that LMCS had a specialist contract, that's
22 what you're saying?

23 A. Yes, they were the specialist contractor.

24 Q. Right. And in having the specialist contract, they were to
25 design and advise Paria in relation to methodology and how the
26 work is to, to progress and be executed as well as progress and
27 execute the work, that's correct?

1 A. Correct.

2 Q. All right. Would you accept that there is a difference between
3 service contract and advisory contract? Because essentially
4 what you're saying is that they're performing dual function.
5 They're advising and performing the service contract to Paria?

6 A. No. This, this was a turnkey contract where the contractor was
7 supposed to do all his method statement and execute. This was
8 a turnkey contract.

9 Q. So, I've heard this turnkey contract before but a turnkey
10 concept, is it relevant or does it pertain to contracts in the oil
11 and gas industry?

12 A. Yes, Ma'am. They have turnkeys—many turnkey contracts in
13 the oil and gas industry.

14 Q. Was turnkey—okay. So turnkey contract, that concept is that
15 there is full control to the contractor, is that true?

16 A. Yes. He comes up with his method statement as well.

17 Q. Did—LMCS had full contract—full control over this contract?

18 A. Yes. They had to do all their method statements. We were, we
19 were permitting—doing—thus permitting so to coordinate with
20 our operations.

21 Q. No. But a turnkey contract does—gives full control. There is
22 no permit in a turnkey contract.

23 A. Yes but they are within our operations department so they were,
24 they were supposed to do all their method statements with all
25 the works, all their job steps—

26 Q. But doing—

27 A. —execute those job steps within our operations.

1 Q. Mr. Piper, you would appreciate that a concept of doing a
2 method statement is entirely different from having total
3 control?

4 A. Yes, Ma'am. They did all their method statement and they
5 were executing the contract. We had no part of that execution
6 of that contract.

7 Q. Will I appreciate you had no part in the execution, but certainly,
8 in relation to the actual development of scope, from the
9 development of scope and the monitoring that was part and
10 parcel of Paria's responsibilities?

11 A. Paria just told them what we needed to do which was to change
12 the riser. They had to develop their method statement, right,
13 and then execute the job, Ma'am.

14 Q. All right. So you will not accept that there's a difference
15 between a service and advisory contract?

16 A. I will accept that this is a turnkey contract.

17 Q. So it has no component—

18 A. And they would execute it.

19 Q. It has no compliment of advisory and service aspect to it?

20 A. Well if it—

21 Q. When you're developing the method statement?

22 A. Yes. I did—Ma'am, that would be—you would, I would say
23 deal with technical and maintenance. I had no part of that
24 contract—

25 Q. Oh you—

26 A. So please, I just—

27 Q. So I will take that to you and I will not go further with this

1 witness on this point but it is certainly a point. And whom may
2 I ask will he presented in relation to the contract, the
3 specifications under—

4 A. That contract comes under the technical and maintenance.

5 Q. Okay, so we will speak with technical and maintenance.
6 Forgive me for switching and switching but I have the tail end
7 of the questioning, so, I'd like to take you to your experts that
8 you had advising in relation to the dive, in relation to the
9 rescue, and I'd like to take you to paragraph 53 of your witness
10 statement. Right. So at your paragraph 53, you say:

11 "Paria did not have the required knowledge of or access
12 to competent, experienced divers, diving contractors
13 and/or confined space entry specialists. This expertise
14 was required to assist the ICT in assessing the feasibility
15 of attempting to rescue the divers from inside the pipeline
16 and to advise the ICT on the most appropriate rescue
17 options and methods and risks and precautions associated
18 with the said options and methods."

19 This is your statement. Right? So there were four things that
20 you were looking for from your experts, that's correct? This is
21 your statement.

22 A. Yes, Ma'am.

23 Q. Right. And I'll just repeat it again. Appropriate rescue options,
24 methods, risk, precautions associated with the said options.
25 Yes?

26 A. Yes.

27 Q. Did any of your experts provided any of those four things to the

1 ICT?

2 A. Yes. They—one second. [*Perusing document*] No, Ma'am.
3 Um, I cannot say they provided, right—what—when we went
4 to them, right, they would have assessed it and they came back
5 to us and said it was too risky.

6 Q. Thank you.

7 **Mrs. Persaud Maraj:** That would be all.

8 **Mr. Chairman:** Thank you very much.

9 **Mr. Peterson SC:** I have two quick questions, Sir. We'll
10 clearly be able to finish—

11 **Mr. Chairman:** I've managed to secure a few more minutes—

12 **Mr. Peterson SC:** Yes.

13 **Mr. Chairman:**—and so your—

14 **Mr. Peterson SC:** Only two questions.

15 **Examination BY Mr. Peterson SC:**

16 Q. Mr. Piper, we heard that you gave the instruction not to dive to
17 Ms. Catherine Balkissoon to pass on?

18 A. Yes, Sir.

19 Q. Not to dive into the pipe. Do you know if, notwithstanding
20 your instruction, I think Mr. Ramadhar referred to it as your
21 edict—

22 A. Uh-huh.

23 Q. —that diving continued?

24 A. Yes, Sir, diving continued after that instruction.

25 Q. Yeah. So you were ignored basically?

26 A. Yes, Sir.

27 Q. All right.

1 A. The instruction was ignored.

2 Q. And just one more point. I was attracted to the issue raised by
3 Mr. Ramadhar about waiving and waiver and giving indemnity
4 for civil liability. That must be civil liability he was referring
5 to?

6 A. Well I could only assume, Sir.

7 Q. Did anybody discuss with you that you were exposed to
8 criminal liability if you send people into an area where they
9 die?

10 A. Well I would imagine that I would be exposed sending
11 somebody in there.

12 Q. And you know the DPP in Trinidad don't pause?

13 A. Yes, Sir.

14 Q. Thank you.

15 **Mr. Peterson SC:** Thank you very much, Sir. That's all.

16 **Examination By Commissioner Wilson:**

17 Q. Good afternoon, Mr. Piper.

18 A. Good afternoon.

19 Q. I'll try to be quick. I just want some clarity on your response to
20 the incident. Yesterday I heard from you on-scene commander,
21 that's the title of her—or on-site?

22 A. Yes, she was more—she was—well, she was more operations
23 section chief, yeah.

24 Q. Operations section chief on site?

25 A. Yes, [*Inaudible*].

26 Q. One thing that didn't come out powerfully, she said that she
27 was on site from 1800 to 0600.

1 A. Uh-huh.

2 Q. As the incident commander was she relieved? Did she hand
3 over or her duties were finished on site managing the incident at
4 0600 on Saturday?

5 A. No, Sir. Catherine actually stayed onsite until about six o'clock
6 on Saturday evening.

7 Q. Well, according to her she said yesterday she finished up at
8 0600 Saturday morning.

9 A. No, no, she was on site up to—she was, she was at the incident
10 command on site, she may not have been fully on site at that
11 time, right, she, but she left Paria compound at six o'clock on
12 the evening.

13 Q. Okay. So, who did you have managing the incident or an
14 extension of the IMT on site?

15 A. I don't—

16 Q. —at 0600?

17 A. I can't recall that at this time—

18 Q. Okay, Sir.

19 A. —who she—um, when she left I can't re—I don't know who
20 she would have asked to, to hold on for her at the time. I don't
21 know at this time.

22 Q. Okay. I hope you would have an appreciation of having ICS
23 training—

24 A. Yes, Sir.

25 Q. —someone on site, they left site without any handover, so, how
26 was information on Saturday morning feeding back into the
27 IMT?

1 A. Yes, I—well, I know she was also still liaising but at this point
2 in time I can't say who she—who was on site.

3 Q. I'll just push it a little further. How was information from
4 onsite berth 5, berth 6, feeding back into the IMT in service of
5 tactical plans, situational updates, awareness or a rescue plan,
6 from 0600 on Saturday morning?

7 A. Right. So at that time, um, I can't say at this point in time how
8 that was being fed back, but I know Catherine Balkissoon
9 continued to send people there and so on.

10 Q. Okay. So having ICS training, that sort of information needs to
11 come in to you as the IC?

12 A. Yes, yes I'd say.

13 Q. Okay, so, for a whole flush of the day on Saturday what you're
14 saying is you don't have no information from on the site or
15 updates?

16 A. Well we had—no, we had people back and forth on the site.
17 I'm not saying we didn't have any information from the site.

18 Q. Okay. All right. One last thing is, um, in the interest of being
19 quick about it, I saw in paragraph 16 under your roles and
20 responsibilities—

21 A. Uh-huh.

22 Q. —that you have to implement HSEQ standards and facilities
23 adherence to same.

24 A. Yes.

25 Q. Yes? In your experience of doing that, have you ever heard
26 about bridging documents or have you utilized bridging
27 documents at Paria?

1 A. No, not really.

2 Q. You know the concept of bridging documents?

3 A. Well, if you explain I might—

4 Q. So essentially you have your—

5 A. —along—

6 Q. —safety, safety philosophy or—

7 A. Yes, right.

8 Q. —your safety management philosophy or your management
9 system, the contractor has theirs?

10 A. Yes.

11 Q. So as per my friend, whether it's a turnkey contract or what—

12 A. Yeah.

13 Q. —the philosophies need to be understood and one unified
14 philosophy of executing the work—

15 A. Right.

16 Q. —needs to be understood under a robust—

17 A. Yeah.

18 Q. —safety management system?

19 A. Right, so what we do—

20 Q. Uh-huh.

21 A. —what we do, when, when the contractor provides—

22 Q. In the interest of time, sorry to cut you.

23 A. Yeah, I'll be very quick.

24 Q. Okay.

25 A. What we do is the contractor provides his risk assessment, all
26 his credible risks, his emergency response plan and then the
27 HSE department marries those two, with Paria's emergency

1 response.

2 Q. Okay, so in the interest of time I'm going to move on. Under
3 the emergency response plan, LMCS' response plan, you
4 indicated that you review and accept when you've given the
5 turnkey contract or given the contractor full control?

6 A. The HSE department does, yes.

7 Q. Right. But in reviewing and, and how do you constitute
8 acceptance of something that you don't have competence in?

9 A. Well, the HSE department, they look as I mentioned, at the
10 obvious risk, right, on all—they look at the obvious risk and
11 that would have been mentioned and that's how they review the
12 contract.

13 Q. Well would you, would you accept that part of that is auditing?
14 How do you test the system? So they presented you with an
15 emergency response plan?

16 A. Yes.

17 Q. Did the HSE department test that emergency response plan to
18 see how effective it is?

19 A. I don't know if they tested the plan at that time. I don't know if
20 they tested the plan at that time.

21 Q. And I'll finish here. Since you have the responsibility for HSE
22 and reviewing it and ensuring that those standards are
23 implemented, have you reviewed the incident reports, any
24 lessons learned and anything going forward out of this incident
25 that has already been documented—

26 A. Yes, Sir.

27 Q. —and implemented, such as?

1 A. Right. So what we've done is we've improved the contractor,
2 the contractor management when he submits with his
3 contract—

4 Q. Uh-huh.

5 A. —we improved that. We started looking at the last three years',
6 um, documentation, not, not only his management plan.

7 Q. Okay.

8 A. Right? Et cetera.

9 Q. Let me get right direct to it. Did you see any gaps in your IMT
10 that needed addressing [*Inaudible*]

11 A. Yes, there are gaps to be addressed.

12 Q. To be addressed or being addressed?

13 A. Well, being addressed, yes.

14 **Commissioner Wilson:** Okay, thank you.

15 **Examination BY Mr. Chairman:**

16 Q. Yes, I'm sorry that we're pressed. I've managed to secure a
17 few more minutes but can I? There's just one more thing I need
18 to ask you which arises from what I asked you at the end of
19 yesterday. You remember—

20 A. Yes, Sir.

21 Q. —I, I—we adjourned yesterday when you were standing in
22 front of the screen trying to explain to us, or explain to me at
23 any rate, how it's possible to put one pint in at one end and get
24 two pints out at the other?

25 A. Yes. Right so—

26 Q. Have you been able to give any thought to that?

27 A. Have I been able to give any thought to that? I have thought

1 about it. Um, I don't know if I'll be successful in the
2 explanation. The—you're moving from one pipe into another
3 pipe. If, if you have a full plug, if you have a full plug then you
4 should—if you move one barrel here you move one barrel
5 there, but if you have in any way any—you're moving from,
6 different sizes a—different line sizes.

7 Q. All right. You see this is where I struggle. I don't see how it
8 can make any difference at all.

9 A. Yeah.

10 Q. You might start off with a little pipe this big and—

11 A. Yeah.

12 Q. —end up with something that's 20 feet wide.

13 A. Yeah.

14 Q. It seems to me not to make any difference. You pour one pint
15 in at one end, how can you get more out of the other?

16 A. Yes.

17 Q. Because I'd like to know that because I will, I will put a bar of
18 gold in that and then try and get two bars of gold out of the
19 other.

20 A. A liquid, Sir. Yeah, once—if you—if for any—perchance you
21 get any blow by in that liquid, right, you could maybe pickup
22 liquid in the other pipe. It's just—this is difficult to explain.

23 Q. Well, I mean, I can get it, some—

24 A. Yeah.

25 Q. —marginal difference—

26 A. Yeah.

27 Q. —might exist for any number of reasons.

1 A. Yeah.

2 Q. I struggle to understand get more.

3 A. Yeah.

4 Q. I could readily understand getting less.

5 A. Yes.

6 Q. I do struggle to understand more, and I struggle even more
7 when I think of the amount more that we're talking about.

8 A. Yes.

9 Q. You know, moving from the sort of 18 barrels that we were
10 speaking of yesterday—

11 A. Yeah.

12 Q. —to the sort of 400 potentially at the other end.

13 A. Yeah.

14 Q. I really do struggle to understand.

15 A. And that is why it was always the dip on the line that we were
16 considering.

17 Q. All right well, I hear what you say, thank you very much. Mr.
18 Piper, I appreciate you've been in the witness box for a very
19 long time. Thank you very much indeed for coming.

20 **Mr. Chairman:** We are now adjourned until the 4th of
21 January.

22 **Mr. Peterson SC:** Ten a.m.?

23 **Mr. Chairman:** At 10.00 a.m., yes. The best suggestion
24 you've made all day, if I may say so. So ten o'clock on
25 Wednesday the 4th of January, please? You will have probably
26 later today or tomorrow morning at the latest the schedule of
27 witnesses for that Wednesday. Yes, Mohammed, I think, who's

1 going to be here on that Wednesday and Mr. Yearwood, but
2 anyway, it will come up on the screen. You will have it all
3 available to you if not by today by tomorrow. Thank you all
4 very much.

5 **5.05 p.m.:** Enquiry adjourned.

6 **Mr. Chairman:** Merry Christmas.
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1 **EVIDENTIARY HEARING DAY 11**

2 **10.19 a.m.: Enquiry Commenced.**

3 **Mr. Chairman:** Good morning, and welcome to 2023. A few
4 things I just need to cover this morning before we hear the
5 evidence, Mr. Maharaj. Yes. First of all, witnesses. The
6 position, I think, is now clear on the website which witnesses
7 we will be hearing from, the course of this—the remainder of
8 this week and next week. I've made the position, I think, fairly
9 clear about which order they'll be heard in. Mr. Donawa is now
10 going to give evidence on Monday rather than Friday to
11 accommodate him. He's out of the country at the moment.

12 The witness statements from a couple of people from
13 HHSL who deal with the crawler are not required by us, and I
14 don't propose—we got their statements. We got the material
15 they've provided, and I don't propose to have them called
16 unless someone can persuade me otherwise. That's where we
17 will be with them.

18 The pathology, you asked—I think particularly Mr.
19 Peterson asked about the two pathology reports on each of the
20 victims in this incident. We've had photographs from Dr.
21 Pramanik—I hope I've pronounced his name right—but
22 anyway, we have a number of photographs from him. And as I
23 indicated to you, Mr. Peterson and Mr. Mootoo, we will make
24 them available to you both on the understanding that that's to
25 be confined to you for the moment, at any rate, unless you
26 make such application as you think appropriate, to see if that
27 provides you with any additional help. If not, then I would

1 expect that you will just destroy them in the usual way. So
2 those photographs, we'll make available to you. They will not,
3 I make clear, appear on the website. They will not be made
4 available to anybody else unless they make specific application
5 to me.

6 There is, as you know, a second pathology report that
7 was obtained on behalf of the families provided by Professor
8 Daisley, I believe. He has not responded to all our missives,
9 and I'm not persuaded of the need to pursue it beyond that. So
10 anything you want, Mr. Peterson, I'm afraid you're going to
11 have to get it yourself. All right? So I can't provide you with
12 anything further from that.

13 Still dealing with witnesses. Mr. Fuentes has provided
14 additional material that appears in the supplementary bundle. I
15 am told it now is on the site. He's giving evidence, I believe,
16 tomorrow.

17 OSHA—can I remind you all that at the moment they are
18 not scheduled, save that I have informed the witnesses for
19 OSHA that we require them to attend on Monday of next week
20 subject to being told otherwise. I make clear that we are in
21 some discussion about the necessity to have them give
22 evidence. I can't tell you beyond that, but at the moment they
23 are scheduled, subject to anything further that we as a
24 Commission determine, to come on Monday.

25 Which brings me, finally, to the Tuesday which will be
26 the last day upon which we will hear evidence in this session
27 and maybe completely. Mr. Zaid Khan from In-Corr-Tech will

1 be giving evidence and a small video demonstration on that
2 Tuesday. I have scheduled in a number of family members
3 who have indicated that they wish to give evidence live.

4 May I make this—in particular, I address this to Mr.
5 Ramadhar, because I understand you represent and have made it
6 clear you represent a number of different family members. At
7 present, I'm not informed as to whether any of those that you
8 represent would wish to give evidence. Can I say this; I
9 encourage those who are directly affected by the outcome of
10 this Enquiry and those who are the relatives, close relatives of
11 the victims of this tragedy to consider giving evidence. I want
12 them to understand that we, the Commission, would regard that
13 as important evidence.

14 We will not, I make it absolutely clear, permit anyone to
15 be cross-examined. They should feel completely at ease to say
16 that which they want to say. What weight we give it is a matter
17 for us, you'll appreciate. But I will not—and I don't want them
18 to feel that they don't wish to give evidence simply because the
19 prospect of facing a phalanx of lawyers who might ask a
20 number of questions which they might find difficult to
21 answer—that will not happen.

22 I will not permit it to happen. So they can write out what
23 they want to say; they can go in the witness box over there, and
24 they can read it. We will treat them with the degree of
25 sympathy that they deserve and they'll be allowed to leave.
26 And that's the extent to which they will be taking part if they
27 wish. I don't want anyone to feel compelled to do so, but,

1 anyone who wants to, should. At the moment, we have two
2 people who've indicated they wish to do so, and, if they do on
3 the day, then they'll be permitted to do so. That's the
4 arrangement it's going to be in relation to those people.

5 **Mr. Ramadhar:** Chairman, first of all, thank you very much
6 for that. I think it's an excellent opportunity for the families to
7 have a centre of ventilation. And, indeed, young Aaliyah Henry
8 has already produced a statement. It ought to have been
9 forwarded to your Commission already. I'm still in
10 conversation with other members of the Kurban family as to
11 whether they wish to do equally.

12 **Mr. Chairman:** Yes. I'll make it equally clear. It's not an
13 opportunity for them to have a rant about who they think is
14 responsible one way or the other or anything like that. I want to
15 understand what they had to suffer and the circumstances in
16 which, in particular, they awaited the outcome of what they
17 believe to have been a rescue attempt.

18 **Mr. Ramadhar:** Absolutely.

19 **Mr. Chairman:** And that's what I'm particularly interested in
20 hearing. As I say, it's not an opportunity to have some rant
21 about, well, it's his fault or that person's fault. I won't permit
22 that either.

23 **Mr. Ramadhar:** Absolutely. And we are grateful for that
24 opportunity.

25 **Mr. Chairman:** All right.

26 **Mr. Ramadhar:** Thank you so much.

27 **Mr. Chairman:** Right. That deals with witnesses and the

1 timetable. You would have seen from the timetable that we
2 intend to conclude the evidence on Tuesday 10th January. That
3 will leave three days for potential closing statements.

4 As I indicated at the outset of this Enquiry, I will permit
5 those who were not permitted to make statements at the
6 beginning to do so at the end. At the present time, I am minded
7 to allow everyone to go before the two principal parties; that is
8 to say LMCS and Paria. Anybody who has anything to say will
9 be permitted to do so. I will need from you an estimate, please,
10 between now and Friday of how long each person or each team
11 anticipates they are likely to be so that we can timetable it in.
12 At the conclusion of all of what anyone has had to say, Mr.
13 Maharaj will then address this Commission as a final address
14 on behalf of the Commission.

15 So that is the current timetable as we see it. Can I add to
16 that, this? We, as you know, have been quite anxious to see the
17 habitat itself, and with the cooperation of Paria and LMCS, we
18 understand it is to be removed from the seabed. Unfortunately,
19 for reasons I needn't bother everybody else with, that's not
20 likely to happen until the end of January; so not during this
21 period, which is a little unfortunate, since we've indicated we
22 wanted to do it some time ago. Be that as it may, it is being
23 done, as I understand.

24 So what I'm minded to do is to schedule two days in
25 February for us to return to see the habitat and to have one day,
26 I put very much as a tentative day, in the event than we felt it
27 was necessary to hear any further evidence, either arising from

1 the habitat itself, related to that, or as a result of our
2 consideration between now and that date to recall any particular
3 witness. I'm hoping that that will be wholly unnecessary. But I
4 am anxious that we should not lose the opportunity if we
5 thought it appropriate or, indeed, if principal parties thought it
6 was appropriate. Those days are the 23rd and 24th February; so
7 after Carnival and after you've had a day to recover from
8 Carnival.

9 **Mr. Peterson SC:** Sir, you may not be aware; a day is not
10 enough to recover from Carnival.

11 *[Laughter]*

12 **Mr. Chairman:** Well, you might have to do your best.

13 **Mr. Peterson SC:** I don't know of anyone who has recovered
14 within 24 hours of participating in Carnival.

15 **Mr. Chairman:** I appreciate your frankness, Mr. Peterson, but
16 Ash Wednesday will have to be it, I'm afraid. Can I make
17 clear, this is tentative and I will hear representations if it is
18 particularly difficult for any particular party, other than
19 recovery. And at the moment, I'm minded to say the 23rd,
20 which is a Thursday, 23rd February, to view the habitat. That
21 would be an easy day, if I can put it like that, with those who
22 have hangovers. We can view the habitat.

23 And then on the 24th, as I say, a tentative day, that's
24 Friday 24th, to hear evidence if necessary. And I will make
25 sure that if we thought it necessary, people will have ample
26 notice, that is what is going to happen. So that is a tentative
27 timetable which we've scheduled in so that everyone can make

1 their arrangements around it. As I say, I'll hear any
2 submissions there are, as to the impossibility of those days.

3 All right. I believe that covers all of the issues I wanted
4 to raise this morning, save the application by Counsel for Paria
5 for disclosure from LMCS. Can I invite you to—I've seen the
6 correspondence provided by Ms. Baird, I believe, on behalf of
7 Paria. Can I ask, first of all, if that has been circulated to the
8 parties? If everybody has seen the application that's been
9 made. In particular, have you seen it, Ms. Persaud?

10 **Mrs. Persaud Maraj:** Good morning, Mr. Chairman. Yes,
11 indeed, I have seen that correspondence and application.

12 **Mr. Chairman:** Right. Well, unless you've got something to
13 add, Mr. Peterson, to the letter that we've received, can I take it
14 as that's your—

15 **Mr. Peterson SC:** No, Mr. Chairman. We just thought that in
16 the procedure or the process of assisting the Commission, we
17 thought that since we are focused around the incident and the
18 management of the incident thereafter within that 48, 72 hours,
19 we thought that all communication, including—and since we
20 have recognized that LMCS is a party with standing, and as you
21 had indicated, even on the closing statements that they are the
22 two focus parties that how they dealt and communicated with
23 respect to the communication of what they had—because
24 there's a big issue in this Commission as to whether they had a
25 formulated plan and what they did with it, and all of that.

26 **Mr. Chairman:** It is—

27 **Mr. Peterson SC:** So I think the communication between

1 them, not the position that they may have taken at the
2 Commission, but the communication between them at the real-
3 time, which would have been the 48 to 72 hours after the
4 incident, I think that will be helpful to the Commission to
5 determine how things were actually dealt with.

6 **Mr. Chairman:** Yes. Well, so that everyone else understands
7 what's being asked for, I mean, the application was orally made
8 in brief by you before we broke off last year. And the follow-
9 up correspondence from Ms. Baird who instructs you, asked for
10 all records and/or documents produced by LMCS personnel
11 involved in the rescue and/or recovery efforts from Friday 25th
12 to Thursday 3rd March, 2022, and identified specific emails and
13 other correspondence. And then (b) all records and/or
14 documents received by LMCS personnel from third parties in
15 relation to aforesaid rescue and/or recovery efforts; and then
16 any emergency response plan.

17 And then it sets out: It's important to properly
18 interrogate this allegation that they were prepared to have
19 divers enter the pipe and to understand the circumstances
20 surrounding the decision so to do.

21 Pausing there for a moment, it seems to me that this was
22 a matter that could well have been identified at a much earlier
23 stage, and I simply wonder why this application is being made
24 now, following the oral application at the end of the Enquiry
25 last year rather than at an earlier stage. And I see the
26 identification of particular material, and why it's decided that it
27 be important to this Enquiry to have it for the purpose of

1 interrogating that allegation. But given that those witnesses
2 have now already given evidence, I don't know how you're
3 going to interrogate at all without looking at the material. I
4 mean, assuming the material threw up some issue that you
5 thought was relevant or important, Mr. Peterson, you haven't
6 got a witness now to cross-examine about.

7 **Mr. Peterson SC:** We don't have the material, Sir. But if that
8 material does exist, I think under your edict earlier in these
9 proceedings with respect to disclosure of all in their possession
10 that reasonably would have been of assistance to the Terms of
11 Reference of the Commission, that that would have been
12 forthcoming, and should not have even give cause for us to
13 generate this request. So I think that if it does exist that that is
14 something that should have been voluntarily given to your
15 Commission.

16 **Mr. Chairman:** All right. Well, let's hear from Ms. Persaud
17 Maraj then, please.

18 **Mrs. Persaud Maraj:** So, Mr. Commissioner, as has been just
19 indicated by you, LMCS' personnel have already given
20 evidence in this proceeding in the live evidential hearing. But
21 in addition to this live evidential hearing, all the parties, and
22 particular persons who have not been called, were interrogated
23 and went through that process of dealing with all of the issues
24 in relation to plans and everything that would have coincided
25 with plans, decisions, discussions.

26 Now, the evidence is already on record—

27 **Mr. Chairman:** Pause, please, for a moment, so that I

1 understand where we're going. First of all, do you concede any
2 of this exists?

3 **Mrs. Persaud Maraj:** It doesn't, and that's why I was now
4 going to go into the evidence, because—

5 **Mr. Chairman:** Right. Pause for a moment. First of all, if it
6 doesn't exist, it doesn't exist.

7 **Mrs. Persaud Maraj:** It doesn't exist.

8 **Mr. Chairman:** So there's not a lot of point in us debating
9 whether it should be disclosed, or not disclosed, or why, or any
10 of those things. That either is in existence or it is not.

11 **Mrs. Persaud Maraj:** There are a few documents which were
12 emailed and those are already part and parcel of these
13 proceedings. So whatever could have been disclosed have
14 already been disclosed and whatever could have been
15 interrogated, have already been interrogated both at this live
16 evidential hearing and at the interview interrogations, which
17 would have taken place between October to November.

18 **Mr. Chairman:** Yes. So that I'm clear—

19 **Mrs. Persaud Maraj:** Yes.

20 **Mr. Chairman:**—all right, your instructions are having
21 considered the specific requests that have been made, is that if
22 anything existed it has already been disclosed.

23 **Mrs. Persaud Maraj:** Yes, please.

24 **Mr. Chairman:** And if it's not been disclosed, it simply does
25 not exist.

26 **Mrs. Persaud Maraj:** That's correct.

27 **Mr. Chairman:** All right. Yes. Well, I don't think we need to

1 take it any further.

2 **Mrs. Persaud Maraj:** I concede. I'm grateful.

3 **Mr. Chairman:** Mr. Peterson, you will make such
4 observations of that fact as you seek to choose to do so.

5 **Mr. Peterson SC:** Yes, Sir. That's exactly the focal point, Sir.
6 We requested this; if it doesn't exist, it doesn't exist. The only
7 way it falls to be disclosed—and the earlier point I made is that
8 if it existed then it ought to have been disclosed at your earlier
9 invitation. So if the instructions from Counsel is that it doesn't
10 exist, then it doesn't exist, because we only requested what
11 exist. And if it didn't exist, then, it falls by the way.

12 **Mr. Chairman:** All right. Well, we needn't have any further
13 discussion about it. As I say, you will make such observation
14 of that as you choose. Yes.

15 **Mr. Peterson SC:** As I will. Thank you, Sir.

16 **Mr. Chairman:** All right. Thank you very much, everybody.
17 Does anybody else want to say anything about that? No, all
18 right, good. Well, then why don't we get to the evidence? Mr.
19 Maharaj?

20 **Mr. Maharaj SC:** Mr. Chairman, the witness would be Mr.
21 Mushtaq Mohammed, and Ms. Vijaya Maharaj will read the
22 summary of that evidence.

23 *[Mr. Mushtaq Mohammed sworn]*

24 **Mr. Mohammed:** I, Mushtaq Mohammed, solemnly swear
25 that the evidence I shall give to this Commission in this case
26 shall be the truth, the whole truth, and nothing but the truth.

27 **Mr. Chairman:** Good morning.

1 **Mr. Mohammed:** Good morning, Sir.

2 **Mr. Chairman:** Thank you for coming. The water is there for
3 you. You've done the right thing, brought yourself into the
4 desk and brought the microphone closer to you. What's going
5 to happen now is this: You, through lawyers, Ms. Baird, I
6 believe, prepared a statement on the 7th October of this year.
7 That statement has been summarized and Ms. Maharaj is going
8 to read a summary of that statement. All right?

9 **Mr. Mohammed:** Good.

10 **Mr. Chairman:** So, please, listen to her summary. If you
11 agree it at the end, and hopefully you do, we can then proceed
12 to any further questions. If not, you'll point it out to me. All
13 right?

14 **Mr. Mohammed:** Great.

15 **Mr. Chairman:** Any issues that arise, please raise your hand,
16 let me know, and we can proceed from there. Whenever a
17 document is referred to including your statement, I hope you
18 will be given it from our team that sits behind me here. All
19 right?

20 **Mr. Mohammed:** Great.

21 **Mr. Chairman:** As I say, if you need anything just let me
22 know.

23 **Mr. Mohammed:** Thank you.

24 **Mr. Chairman:** All right, Ms. Maharaj. Thank you very
25 much.

26 **Ms. Maharaj:** Thank you.

27 Mr. Mohammed provided a witness statement to the

1 Commission dated 7th October, 2022. It's in the witness
2 statement bundle at page 1440. Mr. Mohammed had declined
3 to be interviewed by the Commission.

4 Since August 2019, Mr. Mohammed had been the
5 Terminal and Trading General Manager of Paria. Paria's day-
6 to-day operations are carried out by its employees as well as
7 employees of Kenson who are deployed by Paria in its HSEQ
8 Department which is the Health, Safety, Security, and Quality
9 Department, as well as its Maintenance and Operation
10 Departments as subordinates of Paria officials.

11 Paria has engaged Kenson by way of contracts. Paria's
12 workforce as at the 25th February, 2022, comprise 95
13 employees of Paria and 183 employees of Kenson. The HSEQ
14 Maintenance and Operations Departments were the main
15 departments involved in facilitating and overseeing the
16 execution of the project by LMCS. Paria did not possess the
17 specialist skills and expertise to perform subsea maintenance
18 works and, therefore, it was necessary to outsource the works to
19 a competent, experienced specialist contractor.

20 LMCS was hired for the 2021 project after undergoing a
21 process of selective tendering in accordance with the State
22 Enterprise Performance Monitoring Manual and Paria's
23 Procurement Policies and Procedures.

24 LMCS was the sole bidder who was found after
25 evaluation to have submitted a technically compliant and
26 suitable bid. Its commercial submissions were evaluated and
27 also found to be compliant and suitable. A recommendation

1 was made by Paria's Technical and Maintenance Department to
2 Paria's Management Tenders Committee for LMCS to be
3 awarded the contract for the 2021 project—and that
4 recommendation is at the core bundle of documents, page 928.

5 Mr. Mohammed is a member of that committee which
6 reviewed, discussed, and approved the recommendation and
7 awarded the contract to LMCS. Between 2015 to 2018, LMCS
8 carried out at least 17 jobs in respect of which LMCS was rated
9 by Petrotrin as acceptable.

10 Between 2019 and 2021, LMCS was engaged by Paria
11 for approximately seven jobs, which they successfully
12 completed, including a 2020 project involving repairs to No. 36
13 Sealine Riser at Berth No. 5, which was similar to that of the
14 2021 project. LMCS' performance in that 2021 job was
15 evaluated by Paria in several categories as being very good or
16 excellent.

17 Mr. Mohammed states that LMCS was, therefore, not
18 only a competent and experienced specialist contractor, but they
19 ought to have been very familiar with Paria's policies,
20 procedures, and practices.

21 On July 2, 2021, during the course of prework at Paria's
22 offshore services dock, critical injury was sustained by one of
23 LMCS' workers. This led to OSHA issuing a Prohibition
24 Notice on the 6th July, 2021, and that notice is at the core
25 bundle of documents, page 1173. *Pending Paria's Compliance*
26 *with OSHA's Requirements for Work to Resume*

27 Mr. Mohammed appointed an investigative team on July

1 7th to investigate the matter. The investigators concluded that
2 the incident was caused, among other things, by certain
3 breaches of Paria's permit to work procedure, and made several
4 recommendations for actions.

5 Paria's investigation report into this incident is at the
6 bundle of submissions, page 5126. Mr. Mohammed states that
7 the recommendation were accepted and implemented or in the
8 course of being implemented by Paria.

9 Mr. Mohammed learnt about the incident on 25th
10 February, 2022, at around 3.15 p.m. from Mr. Collin Piper. His
11 involvement in the aftermath of the incident included
12 performance of his duties as General Manager, liaising with the
13 incident commander, Mr. Collin Piper, and requesting and
14 facilitating access by the Incidents Management Team to the
15 resources required to assist in an emergency response, and
16 liaising with the divers' families, Paria's Chairman, and other
17 stakeholders with a view to keeping them apprised of material
18 developments.

19 On his way to Paria, Mr. Mohammed requested Paria's
20 Communication Lead, Nerissa Feveck, to join him at Paria as
21 he wanted to start communication with the divers' family and
22 the public. He also informed Paria's Chairman, Mr. Paul
23 Newman, the Chief Executive Officer of Heritage, Arlene
24 Chow, of the incident. He also had a number of exchanges with
25 Mr. Piper on his way to Paria. Mr. Piper informed him, among
26 other things, that a diver was recovered from within the
27 chamber.

1 Mr. Mohammed arrived at Paria at about 5.00 p.m. He
2 was informed that rescue divers were entering the pipeline in
3 search of the missing divers. At that time, there were several
4 unknowns, and therefore Mr. Piper held the position that it was
5 unsafe to dive into the pipeline. Mr. Mohammed supported this
6 view.

7 Mr. Mohammed was also informed that LMCS' persons
8 at the site were becoming anxious, emotional, and hostile and
9 he became concerned that persons supporting the rescue
10 operations may be in harm's way and that search and rescue
11 operations could be disrupted. Mr. Mohammed indicated to
12 Mr. Piper that the coast guard were the best persons to protect
13 Paria and Kenson's personnel to assist with a search and rescue
14 efforts and to control the site with a view to ensuring that the
15 search and rescue efforts proceeded safely and efficiently.

16 At approximately 6.24 p.m., Mr. Mohammed made a
17 request to Mr. Piper for the coast guard to take control of the
18 site at Berth No. 6 and Mr. Piper agreed to his request. His
19 expectation was that the coast guard would work with Mr. Piper
20 to plan, develop, and implement plans to attempt to rescue the
21 divers. He also expected that they would have made their
22 presence felt on the LMCS' Crane Barge so that there would be
23 some respected authority on site and they would prevent divers
24 from entering into the pipeline in an unsafe manner as no
25 specialist advice had been received that it was safe to enter the
26 pipeline. However, Mr. Mohammed states that he could not
27 recall whether he actually spoke to the coast guard and

1 requested them to assist.

2 Mr. Mohammed said that in the wake of Christopher
3 Boodram's retrieval from the pipeline, the main focus was to
4 inspect the internal conditions of the line with the assistance of
5 video footage and as night-time approached, the divers stopped
6 diving on their own accord.

7 At around 7.45 p.m. Mr. Mohammed heard Mr. Piper
8 speaking to Kazim Ali Sr. on the phone. Mr. Piper asked
9 whether the divers' families were informed of the incident and
10 Mr. Ali Sr. confirmed that they were. Mr. Ali Sr. requested of
11 Mr. Piper for the topside riser to be installed at Berth No. 6 in
12 order to mitigate the risk of compressor failure and facilitate the
13 use of tools like the crawler inside the pipeline. He also
14 requested that the blind flange be removed from the Berth No. 5
15 as he had heard reports of knocking at Berth No. 5 and wanted
16 to enter from that Berth to attempt a rescue.

17 Mr. Piper agreed for LMCS to install the topside riser but
18 indicated that he would get back to Mr. Ali Sr. in relation to the
19 removal of blind flange. Around 9.15 p.m. Mr. Mohammed
20 was advised by Shantal Ramdeo, Senior Process Engineer at
21 Heritage, that the removal of the blind flange at Berth No. 5
22 could cause any existing air pockets in the pipeline to move or
23 be extinguished, but she could not answer the question
24 definitively as she did not have all the necessary information.
25 Based on this information, Mr. Piper decided that it was too
26 risky to the missing divers to remove the blind flange at that
27 stage. Mr. Mohammed agreed with this position.

1 At around 9.30 p.m. Mr. Mohammed stated that he called
2 Dr. Maryam Richards to assist with the Incident Management
3 Team having an interview with Mr. Boodram so that more
4 information on the incident and the condition of the pipeline
5 could be obtained.

6 At around 9.43 p.m. the Incident Commander had a
7 discussion with Mr. Piper wherein Mr. Boodram provided
8 information in regard to the state of the other divers and the
9 pipeline.

10 At around 10.30 p.m. to around midnight the coast guard
11 concluded that it was too risky to dive into the pipeline. By
12 midnight there were a number of specialist diving companies;
13 companies with confined space rescue capability as well as the
14 coast guard representatives on site. The Incident Management
15 Team was also having discussion with the Heritage team who
16 was providing support.

17 At around 1.30 a.m. on Saturday, Mr. Piper reported to
18 Mr. Mohammed that the data received from the push rod
19 camera borescope footage was viewed with the coast guard and
20 two rescue diving contractors, and they all indicated that they
21 would not enter the pipeline to perform a rescue due to the risks
22 involved.

23 At approximately 4.00 a.m. Mr. Mohammed was
24 informed by Mr. Piper that attempts by a crawler to get past the
25 blockage was unsuccessful. Mr. Mohammed left Paria at about
26 5.00 a.m. and returned about 7.00 a.m. on Saturday. Mr.
27 Mohammed was informed that after reviewing the information

1 from the borescope and crawler footage, none of the rescue
2 companies were willing to enter the pipeline to attempt the
3 rescue.

4 As such, Mr. Piper indicated that further opportunities for
5 rescue were being developed by the Incident Management
6 Team. However, those options including the cutting of the
7 horizontal section of the pipeline to create an escape hatch for
8 the divers, was deemed to be too risky and not feasible. Also,
9 Eastern Emergency Response Services indicated that a dry
10 rescue option by pumping was too risky and they now consider
11 the operation to be a recovery and would, therefore, not enter
12 the pipeline.

13 The Incident Management Team, however, agreed to
14 continue with pumping out the line option in the event that
15 Eastern or another company could be persuaded to execute a
16 confined space dry rescue.

17 From around twelve noon to about 1.00 p.m., Mr.
18 Mohammed and other members of Paria Management Team
19 held a meeting with the divers' families. The purpose of this
20 meeting was to give the families an update on the situation and
21 ongoing operations. Mr. Stuart Young was present, and at that
22 meeting Nerissa Feveck, Paria Communications Lead, was also
23 present at the meeting and obtained the contact information for
24 the relative of each diver, and by 3.00 p.m. on Saturday she
25 formed a WhatsApp group to provide the families with timely
26 updates. She offered the divers' families assistance including
27 free counselling services and the purchase of groceries which

1 was accepted by some of the families, but not all.

2 From around 4.00 p.m. to 4.45 p.m. Mr. Mohammed
3 attended a meeting with Mr. Piper, Mr. Michael Wei, as well as
4 Heritage officials. Mr. Mohammed addressed the meeting by
5 providing an update of where the efforts were and indicated that
6 they were working with the option to pump down the lines so
7 that a dry rescue could be performed.

8 In addition, the likelihood of the divers not being alive
9 and the potential transition from rescue to recovery were also
10 discussed. After the conclusion of the meeting Mr. Mohammed
11 and Mr. Piper discussed whether time had come for Paria to
12 make the decision to transition from rescue to recovery based
13 on all the information received.

14 At paragraph 97 of his witness statement Mr. Mohammed
15 outlined the relevant factors which they considered. A joint
16 decision was made by Mr. Mohammed and Mr. Piper at about
17 5.15 p.m. to transition Paria's response from rescue to recovery.
18 However, Mr. Mohammed indicated that they agreed to speak
19 with the families first before informing the public.

20 Mr. Mohammed met with Mr. Kazim Ali Sr. at 5.30 p.m.
21 at the shipping building. He told Mr. Ali Sr. that the likelihood
22 of the survival of the divers was low and that they should talk to
23 the families and advise them of this. Mr. Ali Sr. said that that
24 was a message he could not deliver and that he didn't know
25 how to tell them the chances of survival were slim.

26 Mr. Mohammed says he asked Mr. Ali Sr. to accompany
27 him to the families and Mr. Kazim Ali Sr. suggested that they

1 meet with Kazim Jr's one wife, and they did so. At around 6.00
2 p.m. to 6.30 p.m., Mr. Mohammed went to the house of Kazim
3 Jr's wife and informed her of the decision. It was a difficult
4 meeting. However, after the meeting with the Ali family,
5 neither Mr. Kazim Ali Sr. nor any other representative of
6 LMCS was willing to accompany Mr. Mohammed to visit the
7 other families.

8 Mr. Mohammed was informed that the divers' families
9 were gathered outside Paria's gates. He returned to Paria's
10 main building to attempt to get the families to come inside one
11 by one in an orderly fashion. However, they refused.

12 Mr. Mohammed says, therefore, that at approximately
13 8.00 p.m. he held a WhatsApp call to inform the other families
14 of the decision to transition to recovery and the reasons for that
15 decision.

16 Mr. Mohammed states that around 9.00 a.m. on Sunday,
17 27th February, he met with Paria's Chairman, Newman George,
18 and then he and Mr. Piper met with Minister Young and the
19 CEO of Heritage, Arlene Chow, and informed them that Paria
20 was transitioning to recovery.

21 Mr. Mohammed and other Paria representatives held a
22 meeting on Sunday morning with Kazim Ali Sr. and other
23 LMCS representatives. During the session Mr. Ali Sr. stated,
24 among other things, that he knew his son had already passed,
25 and that he was thinking about recovery of his body and those
26 of the other families, and he expressed concern that the way
27 Paria intended to recover the bodies may cause them to become

1 mangled and indicated that this is why he wanted to send a
2 diver into the pipeline to bring them out.

3 Mr. Mohammed states that he requested a method
4 statement for the proposed LMCS plan to recover bodies with a
5 risk assessment and emergency response plan and the diving
6 certification of a diver whom they proposed to deploy so that
7 Paria's experts could review the documents and assess the
8 procedures, its risks, and mitigation measures before making a
9 decision.

10 Paria received LMCS' documents around 2.20 p.m. on
11 Sunday, after which a meeting was convened with LMCS to
12 discuss the rescue plan. Mr. Krishna Fuentes, Independent
13 Dive Expert, Mr. Rolph Seales, Dive Expert on behalf of
14 Heritage, and Lt Hargreaves of the coast guard did not agree
15 with the proposed dive into the pipeline and indicated that the
16 plan was too vague and risky. Mr. Mohammed and Paria held a
17 conference at about 8.00 p.m. on Sunday to inform the public of
18 transition to recovery.

19 Mr. Mohammed, is this an accurate summary of your
20 evidence?

21 **Mr. Mohammed:** Yes.

22 **Ms. Maharaj:** Thank you.

23 **Mr. Chairman:** Thank you for that.

24 **Examination By Mr. Chairman:**

25 Q. Can I just ask you one thing before Mr. Maharaj ask you any
26 questions? You declined to be interviewed by the Commission
27 of Enquiry in advance of this hearing. Are you able to say

1 why?

2 A. I think the logic behind it is that, you know, I wanted to be
3 interviewed, have one clear, concise statement around the
4 activities around the incident, and I thought that this would be
5 the best avenue to have that done. And that was the simple
6 reason why we declined to have the interview earlier. So I'm
7 prepared today to go through the extent of the interview as the
8 Commission required to give all the evidence that I could give.

9 Q. I mean, you understood that the purpose of that particular
10 approach to this Enquiry was to try and save time in a public
11 hearing going through the sort of questions that might have
12 been established in advance?

13 A. I gave it some thought and, you know, I kind of resolved myself
14 that this was probably the best way to do it.

15 Q. Was that an independent decision made by you in relation to
16 your own position?

17 A. I think it was in consultation with the legal team also. So there
18 was both consultation and independent decision.

19 Q. I don't want to hear what they might have advised you.

20 A. I'm just saying—yes.

21 Q. But it was—having taken advice, you decided that it was an
22 appropriate course to take?

23 A. Correct, correct.

24 Q. And was that one which you, given your role in Paria, advised
25 other members of staff of Paria to also adopt?

26 A. I would say generally, yes, we all agree that, you know, we'd
27 give the evidence once; give it as clearly and concisely as we

1 can, and we would respond in writing to any questions that the
2 Commission had.

3 **Mr. Chairman:** All right. Thank you. Yes. Thank you. Mr.
4 Maharaj.

5 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

6 **Examination By Mr. Maharaj SC:**

7 Q. Mr. Mohammed, I want to ask you some questions.

8 A. Yes.

9 Q. According to your statement that you gave as you stated at
10 paragraphs 4 and 5 that as General Manager of Paria, your
11 duties included an overall sort of responsibility for safety—

12 A. Yes.

13 Q. —and secure operations. Am I correct?

14 A. That is correct.

15 Q. And according to paragraph 5.2 of your statement, the words
16 you use is “Driving a safety first culture” was the sort of motto
17 that you operated on?

18 A. Yes.

19 Q. And then at paragraph 15 of your witness statement you
20 stated—and I’m a bit concerned about this, and I want to get
21 some answers from you, because I think it’s very important.
22 You stated that, “Paria did not own the necessary equipment
23 nor did it have the specialist skills and expertise required to
24 perform such a job.”

25 A. That is accurate.

26 Q. And you maintain that today?

27 A. And I maintain that today.

1 Q. And then at paragraph 17, you stated that LMCS was hired and
2 there was an evaluation process and Paria was involved in that
3 evaluation?

4 A. That is correct.

5 Q. And Paria found that the bid submitted by LMCS was
6 technically compliant and a suitable bid?

7 A. Yes.

8 Q. Well, I'm concerned, and I want you to help us. If Paria did not
9 have the expertise required to perform such a job, it also
10 undertook to evaluate the bid in order to determine whether
11 LMCS should be awarded the contract?

12 A. That's the question, if—

13 Q. Yes.

14 A. So I agree with the statement above that Paria did not have the
15 skills. I'd start by saying that I don't believe any organization
16 has all the skills to execute every bit of work that it is going to
17 do. Paria is no different to any other organization from that
18 respect. We'd have gone out with a process where we would
19 have identified the scope, we would have identified the
20 challenges around doing the job, and we would have gotten
21 returns from contractors.

22 In the evaluation process, what would we have looked
23 for? We would have looked that the company had certain
24 management systems in place; that they had an HSE
25 management system in place; that they were certified and
26 deemed competent in this case. One of our key expectations
27 from people who do high-risk work is that they were STOW

1 certified, which is an indication that they have met a certain
2 standard on the performance of work with regard to safety. We
3 would have looked at the general competence of the people and
4 the people supplied to do the job. We would have looked at the
5 ability of the company to do the job. We would have looked—

6 **Mr. Chairman:** Sorry, I'm trying to write this down. Just a
7 bit too—

8 **Mr. Mohammed:** Sorry about that; sorry about that.

9 **Continued Examination By Mr. Maharaj SC:**

10 A. And we would have looked at the company's track record
11 in being able to execute this type of job. And in all cases,
12 particularly there's no—in my view there's no better proof of
13 competence than having done a similar job successfully, and
14 LMCS met those criteria. In each case they were able to meet
15 the criteria. They had done a very similar job on the same
16 section of line only a year ago—I think it's 2020. So they
17 would have met, I would say, the general requirement for being
18 able to execute a job of this type.

19 Q. Okay. I'll come back to this similar job matter in a short while.

20 A. Great, okay.

21 Q. But you will appreciate, tell me if you agree, that the contracted
22 works in this case that we are concerned about involve a
23 dangerous operation, in that there could have been a Delta P
24 hazard and persons could have got injured and persons could
25 have been in difficulties. It was a dangerous operation.

26 A. My understanding of the job that was done in 2020, that
27 possibility also existed: That there were plugs inserted in the

1 line; there was likely to be a Delta P activity. So, you know, in
2 terms of—the differences in the job would have been the depth
3 under water; I guess the length of pipeline, but there were no
4 major material differences with regard to the type of job and the
5 risk associated with the job.

6 Q. So, Mr. Mohammed, you recognize that in this job that had to
7 be done there was the possibility of a Delta P hazard?

8 A. I would say at the time of investigating the tender, no.

9 Q. No. So having Paria not having the expertise as you said to do
10 this kind of job, Paria, according to the permit to work
11 procedure of Paria, was required to determine whether to accept
12 or reject LMCS' method statement for these works?

13 A. That's the question?

14 Q. Yes. Paria had to determine whether to accept it or not to
15 accept it?

16 A. From the perspective of the permit to work system, all right,
17 every contractor that we hire to do specialist task is expected to
18 bring to the table the specialist risk involved in doing that job.
19 Paria's permit to work system would take into consideration
20 both the obvious risk that Paria has to manage based on the
21 things that we do day-to-day and it would also combine that
22 together with the specialist risk that is brought to the table by a
23 specialist contractor. As I indicated before, I don't think there's
24 any company in the world who understands every bit of risk for
25 every job that they do. So there's an expectation that a
26 specialist contractor will bring forward special risk associated
27 with the execution of that job.

1 Q. I accept that.

2 A. Okay.

3 Q. But the fact is that whatever the contractor does, whatever
4 LMCS put forward in this matter, Paria had to determine
5 whether to accept the method statement or to reject it.

6 A. Paria had a role in terms of doing two things, according to the
7 permit to work system. We had a role to ensure that there was
8 process set up where the risks were discussed between the
9 contractor and the operator for doing that particular job, that a
10 risk assessment was developed where the knowledge of the
11 contractor and the knowledge of the operator is brought to bear
12 onto the risk assessment. Paria, obviously, would consider the
13 risk that is evident to them and they could clearly identify, and
14 there has to be an expectation that the contractor would bring
15 those specialized risks to the table.

16 Q. Yes. But do you agree that in this matter Paria accepted the
17 method statement LMCS did in respect of this work?

18 A. I won't agree with that in the manner that you are presenting the
19 question.

20 Q. Well, it's accept—it's either accept or reject?

21 A. I'll reject.

22 Q. Did Paria reject it?

23 A. I'll reject it, but I'll also want to add—

24 Q. No. The question is, did Paria reject the method statement?

25 A. I would add context to the answer. It's not as simple as
26 accepting or rejecting without understanding context.

27 **Mr. Chairman:** Well, you're perfectly entitled to add context,

1 and I'll permit you to do that, of course, and you must. But it's
2 a straightforward question, isn't it? Either you accepted the
3 method statement or you didn't—

4 **Mr. Mohammed:** Well, well—

5 **Mr. Chairman:** Just a minute.

6 **Mr. Mohammed:** Sorry.

7 **Mr. Chairman:** If you say you didn't, then I need to know
8 why you say that you didn't, when all the evidence points to the
9 fact that you did. Secondly, if you accept that you did accept
10 the method statement, and you wish to add a rider to that, then
11 you have to accept that you had accepted it, if you see what I
12 mean.

13 **Mr. Mohammed:** Yes.

14 **Mr. Chairman:** And then you get your opportunity to add the
15 rider.

16 **Mr. Mohammed:** Fair enough.

17 **Mr. Chairman:** All right. So that I get a clear note of what
18 you're saying, please answer the question first then give us your
19 rider. All right?

20 **Mr. Mohammed:** Great. So we accepted the method
21 statement. LMCS was hired to do the job. All right?

22 **Continued Examination By Mr. Maharaj SC:**

23 Q. Sorry?

24 A. We accepted the method statement. LMCS was hired to do the
25 job. That's the fact.

26 Q. Okay.

27 A. Right. However, the acceptance of the method statement and

1 other pre-activity before the job started required that a process
2 of understanding the risk that would come with this specialized
3 work would have been brought to the table. That would have
4 been the expectation on the acceptance of the method statement.
5 And I want to make that clear.

6 Q. Next question.

7 **Mr. Chairman:** Before you do. Brought to the table by
8 whom?

9 **Mr. Mohammed:** By the specialist contractor.

10 **Mr. Chairman:** Right. Thank you. Got it.

11 **Continued Examination By Mr. Maharaj SC:**

12 Q. Did Paria accept the risk assessment done by LMCS in respect
13 of these works?

14 A. The answer would be Paria would have accepted the risk
15 assessment. But I would also caveat to say that in that risk
16 assessment done by a specialist contractor, the expectation is
17 that that contractor would have brought the relevant risk to the
18 table, the risk that Paria would not have been—that would not
19 have been obvious to Paria, so that a discussion could be had,
20 and mitigations against that risk would be put in place. Let me
21 also add that there was mitigation against that risk. There were
22 three. There were two solid barriers and an administrative
23 barrier to help to manage that risk. So I just want to make sure
24 we add that, so we're very clear.

25 Q. Yeah. I'll come—we'll come to some of that.

26 A. Yeah. All right. All right.

27 Q. Okay. Did Paria accept the job Safety analysis done by LMCS

1 in respect of these works?

2 A. Paria would have accepted on the condition that the specialist
3 contractor would have you brought specialist knowledge to the
4 execution of the job.

5 Q. Okay. Did Paria also accept the emergency response plan
6 submitted by LMCS for these works?

7 A. Paria would have accepted the emergency response plans based
8 on the credible risk that was identified by the contractor as part
9 of the job. And let me explain what credible risk is. Right?
10 Credible risk is a term that we use in industry to identify the
11 risk that the contractor and the operator see as credible.
12 Without understanding the concept of a credible risk, you
13 know, it would almost be saying that—let me use a little bit of
14 an example that might be way out; should Paria have been
15 pre—we work in the sea, so would we have planned for a
16 tsunami on that day? That would not have been a credible risk.
17 This was not identified as a credible risk by the specialist
18 contractor.

19 Q. Okay. Would you agree with me that in all of the documents
20 relating to the method statement, the risk assessment, the job
21 safety analysis and the emergency response plan which Paria
22 reviewed, LMCS did not identify in those documents a Delta P
23 hazard?

24 A. I agree with that.

25 Q. And Paria accepted those documents?

26 A. Yes, Paria accepted those documents on the condition that we
27 hired a specialist contractor who would bring specialist

1 knowledge both on safety and the execution of this particular
2 type of job.

3 Q. We'll come to that. Because you are saying that and I accept
4 what you are saying.

5 A. Great.

6 Q. We'll come to that. I'll show you the permit to work rules and
7 what—

8 A. Fine.

9 Q. Okay. So Paria, in doing its review, did not also identify for
10 these works a Delta P hazard?

11 A. That is correct.

12 Q. You would accept that, from your knowledge from what you
13 know now that there was a Delta P hazard, a latent Delta P
14 hazard from the 13th February?

15 A. I would accept that we had a Delta P event, and there was a
16 hazard of Delta P with a—with this project.

17 Q. You would be familiar with the—

18 **Examination By Mr. Chairman:**

19 Q. Again, sorry. I do need to be clear.

20 A. Yes.

21 Q. Are you accepting that there was a—whether you identified it
22 or whether LMCS did or not, irrespective of that, do you accept
23 now that on the evidence there was a latent Delta P hazard from
24 the 13th February?

25 A. I would accept that there was a potential for a Delta P incident
26 or a Delta P hazard at this time; yes.

27 Q. From the 13th?

1 A. From the 13th?

2 Q. Yes. The 13th is the day upon which the first works took place
3 in relation to this piece of pipeline. In other words, did the
4 works on Berth No. 6—once the works had started there was in
5 existence a potential Delta P hazard. Do you accept that as a
6 fact now?

7 A. I would accept that as a fact with a caveat, though, if you don't
8 mind that I explain a little bit. Right?

9 Q. Whatever caveat you like.

10 A. All right. Good. The fact that we would have had differential
11 pressures because of hyperbaric chamber and the pipeline
12 would have—in hindsight would have created the potential for
13 a differential pressure—for a differential pressure condition
14 within the pipeline. I accept that.

15 Q. From the 13th?

16 A. From the time the hyperbaric chamber—

17 Q. Not before the hyperbaric chamber—

18 A. No. If the hyperbaric chamber was never pressured—
19 remember the Delta P was created only during the pressurized
20 period of the hyperbaric chamber. Once the hyperbaric was not
21 in place, then the pressure above the plugs and below the plugs
22 was the same. The pressure potential that created the DP came
23 about with the pressurization of the hyperbaric chamber.

24 Q. I understand what you're saying. So for my note—

25 A. Yes.

26 Q. —your position is this: that with the benefit of hindsight there
27 was a Delta P issue from the time that the hyperbaric chamber

1 was put in place.

2 A. And pressurized.

3 Q. And pressurized.

4 A. Yes.

5 **Mr. Chairman:** Thank you.

6 **Examination By Commissioner Wilson:**

7 Q. I'd just like to intervene here. I would like to offer you the
8 Delta P existed when the pipeline was empty, not necessarily
9 when the habitat was put on.

10 A. I, um, I don't accept it. Right? And I don't accept it because
11 both sides would have been at atmospheric pressure. And if
12 both sides were at atmospheric pressure, then where was the
13 pressure differential?

14 Q. Yeah, I understand where you're going, and I'm not going to
15 argue it, but, um, once a pipeline is dry—

16 A. Uh-huh.

17 Q. Right—you would have that differential pressure with all the
18 water wanting to rush into the pipelines, really, the basic, so
19 I'm not going to argue with it—

20 A. All right. Good, good, good.

21 Q. But pipeline empty; Delta P exists.

22 A. I don't accept it a hundred percent, but—

23 **Examination By Mr. Chairman:**

24 Q. I understand your position. I'm going to leave it to Mr.
25 Maharaj to ask the questions about [*Inaudible*] but he's going
26 there. But so that we are clear, your position is that there was a
27 latent Delta Pressure issue, but that only arose once the

1 hyperbaric chamber was placed over the open end of the pipe
2 and pressurized.

3 A. And pressurized.

4 **Mr. Chairman:** I got you. Right.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. Mr. Mohammed, I want to take you to the permit to work rules
7 of Paria.

8 A. Yeah.

9 Q. And that is in core bundle one. It starts as page 26, but I want
10 to take you to page 30. You would agree with me that the site
11 authority under the rules was Paria.

12 A. Just now, eh, leh me just get mih bearing in the document here.
13 Yes.

14 Q. You would agree with me that the site authority in respect of
15 these works was Paria?

16 A. Yes.

17 Q. Correct? If you go to 5.3: The Site Authority shall. You see it
18 says:

19 "The Site Authority shall ensure that a suitable and
20 sufficient JHA has been prepared for the job."

21 A. Site authority shall; okay. Good. Yes.

22 Q. The site authority shall ensure that a suitable and sufficient job
23 hazard analysis (JHA) has been prepared for the job.

24 A. Yes.

25 Q. Correct? You agree with that?

26 A. I agree with that.

27 Q. And a sufficient job hazard analysis for this job would include

1 stating that there was a risk of a Delta P hazard?

2 A. I agree with that.

3 Q. You agree with that.

4 A. Could I add context, though?

5 Q. Yes.

6 A. Now, I want to bring what a permit to work system is. Right?

7 A permit to work system is not simply documents that you fill

8 out. It is a process by which an operator engages the person or

9 the company that is going to execute work to develop these

10 exact documents that you speak about. The JSA—the

11 supporting necessary certificates. This is a process, Mr.

12 Maharaj. This is not somebody sitting down by the desk and

13 say Paria is going to do the JSA. In that process the specialist

14 contractor is expected to bring the specialist risk and the

15 challenges that has—to be able to execute that job.

16 Q. Could you show me in these rules where what you're saying is
17 stated?

18 A. Like everything else, Mr. Maharaj, the rules are the rules; the

19 way—the execution of process is also important to how the

20 rules are operated.

21 Q. Would you agree with me that what you're telling us not stated
22 in the rules?

23 A. I don't think it has to be stated in the rules, Mr. Maharaj. I

24 think there has to be a distinction between the rules and the way

25 the process is organized to have the benefit of the rules make

26 sense.

27 Q. Okay.

1 A. I think it is unreasonable not to think about the process.

2 Q. Okay. Look at 5.2 on page 29. You see the rules define a
3 competent person?

4 A. 5.2.

5 Q. On page 29?

6 A. On page 29. I am seeing page 14. Is it 29 at the—or, 29; yes,
7 0029.

8 Q. Yes.

9 A. Okay.

10 Q. 5.2. You see a heading “Competent Person”?

11 A. Yes.

12 Q. “A competent person in Paria’s permit to work system is
13 an individual who has the required training, knowledge,
14 experience, qualifications to identify the hazards and to
15 develop effective precautions for high hazard activities
16 such as...”

17 Et cetera, et cetera. Now, Paria decided that LMCS was a
18 competent contractor?

19 A. Yes.

20 Q. Correct?

21 A. Yes.

22 Q. A competent contractor would be expected to identify, as it
23 states here, the hazards, and develop effective precautions?

24 A. Yes.

25 Q. Would you agree with me that based on the works which were
26 done in this matter, and the documents which were submitted,
27 the hazard of Delta P was not identified and precautions for that

1 activity was not also identified?

2 A. Well, I want to deal with the two things separately.

3 Q. Okay.

4 A. The competent person. And then I want to deal with whether
5 these documents were supplied or not. I think they are two
6 different questions.

7 Q. Okay.

8 A. Right? So LMCS was identified as the competent contractor to
9 be able to execute that job. Why? Simply there was no better
10 proof of competence than having done it before. LMC had
11 safely executed this job not more than a year ago or around a
12 year ago on the same pipeline, bearing the same risk, using the
13 hyperbaric chamber, using the same barge, using most of the
14 same people. That, to me, help to define that the competent
15 person was LMCS. Now, as part of whether that competent
16 person in this job would have identified that risk, it was not
17 identified. So I don't want to confuse the two.

18 Q. Okay. But let's take what you say about a competent person.

19 A. Yes.

20 Q. And you are relying on the fact that LMCS did these works
21 before. Right?

22 A. Yes. And dah is a fact.

23 Q. Okay. Okay.

24 A. Right.

25 Q. But we do not know from the evidence that is before us, we do
26 not know the exact—what were the exact amount of liquid in
27 the pipe at the time in those works. We do not know whether

1 those works had liquid in the pipe to a certain extent that a
2 Delta P could not have occurred. So we do not know from the
3 evidence that Paria has produced what those works—even
4 though there was a hyperbaric chamber and there was a similar
5 pipeline works, we do not know the details of those works. So
6 what I'm asking you, you would agree with me that the fact that
7 a contractor would have done work like this on a pipeline using
8 a hyperbaric chamber, that in itself is not sufficient to determine
9 whether a contractor was competent, according to these rules, to
10 do a particular job?

11 A. I disagree with that.

12 Q. You disagree with that.

13 A. And let me tell you why I disagree with it. Right? I know we
14 don't have the exact facts, and I wouldn't pretend to know them
15 exactly, but what I could say in principle there are a few things
16 at play here. One, there is the use of the hyperbaric chamber.
17 Two, there is liquids in the pipeline that we needed to empty to
18 be able to get to the point in the riser where we had to cut. So
19 that pipeline also had to be drained to some extent. Three, that
20 the potential for DP would have existed in that job no
21 differently than it existed for this job, once that hyperbaric
22 chamber was pressurized. Four, very similar people worked on
23 that job who worked on this job. So there may be details that
24 are different, but broadly the job require the same skill set and
25 the same thought processes to be executed.

26 **Examination By Mr. Chairman:**

27 Q. Before you move on, can I just be clear, please. You have

1 identified four reasons. Use of the hyperbaric—reasons why
2 you say it's not a matter for Paria but a matter for the contractor
3 LMCS.

4 A. Yes.

5 Q. The use of the hyperbaric chamber being something which is
6 unique to them—

7 A. Correct.

8 Q. —the removal of liquid from the pipeline; the draining or
9 partial draining from the pipeline.

10 A. Yes.

11 Q. Something which you were responsible for.

12 A. Keep on going. I'll come back to that.

13 Q. No, no. I'd like the answer now, please.

14 A. I would say that—

15 Q. Was your company responsible for the removal of the liquid
16 from the pipeline?

17 A. I would say our company was responsible for the process and
18 the system by which the liquid would have been removed from
19 the pipeline.

20 Q. Well, I don't understand that.

21 A. All right.

22 Q. Either you're taking the oil out or you're not.

23 A. No, no, no. That's it; that's it. And I think you hit the nail on
24 the head.

25 Q. Good.

26 A. Because we are going to be able—think about it this way, right?
27 We have a pipeline that is the system that is going to be worked

1 on. The pipeline is the system that we are going to work on.

2 Q. Yes. I just want an answer, if I may, please. All of this, I
3 anticipate, is going to be gone into with some detail by Mr.
4 Maharaj.

5 A. Paria had a—

6 Q. I simply want to know—when I make this note of what you've
7 said, I need to understand it when I go back over it.

8 A. No; fair enough.

9 Q. So I need to understand. You are saying that the reason why it
10 was necessary to rely on LMCS' specialty—special abilities
11 was because of the use of the hyperbaric chamber. I get that
12 straightaway.

13 A. Right.

14 Q. The second point you raised was the removal of the liquid from
15 the pipeline or partial removal of liquid from the pipeline,
16 which, as I understand it, is your responsibility?

17 A. Paria had a role in ensuring that liquid [*Crosstalk*].

18 Q. No, no, no; not a role. Was it your responsibility to remove the
19 liquid from the pipeline or not?

20 A. Let me say yes to that.

21 Q. Thank you. Right. And then the third point you made is
22 potential from—the potential for Delta P existed—

23 A. Yes.

24 Q. —as an issue. And that, presumably, was an issue in the
25 previous job as well.

26 A. Yes.

27 Q. And was no [*Inaudible*] in that job either.

1 A. Well, we'll have to go back to check. Maybe. I am not sure. I
2 haven't looked at it. So that's something we could test.

3 Q. All the evidence suggests that is the position. So neither LMCS
4 nor you, Paria—I don't mean you personally, but Paria,
5 recognized a Delta P issue in either job.

6 A. I would say that's probably true.

7 Q. And the fourth reason you gave for it, I think it's sort of allied
8 to the others is that similar people worked on a similar job.

9 A. That's correct.

10 Q. Right. So that I understand those are the reasons why it's
11 important, you say, to rely on the expertise that they were
12 bringing to bear?

13 A. Correct.

14 **Mr. Chairman:** All right. I'll leave it to Mr. Maharaj.
15 Proceed.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Let's go back to the permit to work rules a bit.

18 **Mr. Chairman:** Sorry, Mr. Maharaj. There was a further
19 question. I made a note of it. I didn't ask it.

20 **Examination By Mr. Chairman:**

21 Q. So who do you say the competent person under your own rules
22 was?

23 A. The competent person would have been the expert contractor
24 that they brought in or the specialist contractor.

25 Q. Not anyone employed by you?

26 A. Not anyone employed by us.

27 Q. So to name an individual, the competent person was who?

1 A. LMCS.

2 Q. As a company?

3 A. As a company.

4 Q. They were the competent person.

5 A. Yes.

6 **Mr. Chairman:** All right. Thank you very much. Thank you,
7 Mr. Maharaj.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Mr. Mohammed, I take you to page 28 of the rules; core bundle
10 one. You see the heading “Applicant”?

11 A. Yes.

12 Q. Would you agree that the applicant for these works under these
13 rules was Paria?

14 A. Yes.

15 Q. And it says: “The applicant is the person who initiates the job
16 activity by completing Section A”, et cetera, et cetera. The
17 applicant must have the necessary competence to execute the
18 job or to supervise the execution of the job.

19 A. Uh-huh.

20 Q. He shall be knowledgeable of the hazards associated with the
21 job, and the necessary controls for these hazards. He shall be
22 responsible for the job and for the safety of the people who
23 work on the job. Those were the responsibilities of Paria in
24 respect of these works.

25 A. But let us—I agree. But let us understand how the hazards are
26 identified. The applicant—the hazards are identified through
27 the process where the experience or the competent contractor

1 and the operator work together to identify the hazard. There is
2 a process by which this system works. That allows both the
3 knowledge of the competent contractor or the competent
4 person, the applicant or the operator to be able to identify the
5 hazards. It is unreasonable to have any company understand
6 every single hazard, every single day of the job. Ah mean, that
7 is just not a request that—that's just not something that makes
8 sense.

9 Q. Mr. Mohammed, there may be a process, and there probably is
10 a process. But I cannot find anything in these rules which talks
11 about these duties that I just referred to you as. Two, these
12 duties—anything that you are saying are contained in these
13 rules—and I'm going to give you the opportunity.

14 A. Go ahead, go ahead.

15 Q. What you—the explanations you are giving us today, could you
16 point to any of these rules which say so?

17 A. I can't point to it specifically in the rule book, but as I said,
18 with any rules that you have there would be a process by which
19 those rules were executed. I don't think rules stand on its own.
20 And I think dah is just a fact of how things operate. There is a
21 process by which things are executed and work is done. Now,
22 whether that should be detailed in the permit to work system—

23 Q. Well, you have told us that Paria didn't have the necessary
24 expertise for this work.

25 A. Yes.

26 Q. So would you agree then that it did not have the necessary
27 expertise to assess whether the documents submitted by LMCS

1 were adequate for the work?

2 A. I would argue that—or I would say on its own, Paria would not
3 have had the competence to be able to do that. And that's just
4 the fact. I would also say that Paria has a permit to work
5 system and a permit to work process and encourages and
6 facilitates discussion between the competent contractor and the
7 operating company whereby those risks are identified and
8 mitigated.

9 Q. So according to what you're saying then, you're saying that in
10 this matter, notwithstanding the permit to work rules and
11 whatever it says, that Paria depended upon the expertise of
12 LMCS in respect of the risk assessment, the job safety analysis,
13 because it did not have any expertise to do that, and it relied
14 entirely on LMCS' assessment?

15 A. I would say that Paria would have expected a competent
16 contractor to bring forward the specific risk that was associated
17 with execution of that scope of work.

18 Q. Okay. Let me ask you this question. As general manager on
19 reflection and what happened with these documents for these
20 works, do you regard LMCS as a competent contractor?

21 A. I mean the—

22 Q. A competent contractor for these purposes?

23 A. We hired LMCS based on their track record and the
24 competence they demonstrated to do a very similar job on the
25 very same system a short while ago. They were—hold on; give
26 me a chance. Right? We hired them based on that, and the
27 documents that they submitted.

1 Now, the root cause of the incident and why the incident
2 occurred, I think it's more than just the competence of the
3 contractor. I think there needs to be a little more understanding
4 of what was the critical factor that caused the incident to occur
5 before I answer that question. What was the critical thing that
6 changed that caused this incident to occur, and why did that
7 change take place.

8 Q. Okay.

9 **Examination By Mr. Chairman:**

10 Q. We are going to determine that in due course. But I do want to,
11 if I may, please, pursue that a little further. You see what Mr.
12 Maharaj has been asking you about is the applicant.

13 A. Yes.

14 Q. Now, the applicant is described in your own document—the
15 document that is the permit to work procedure.

16 A. Yes.

17 Q. That your firm effectively put in place.

18 A. Yes.

19 Q. And it assigns various different roles to different people and
20 different responsibilities to different people?

21 A. Correct.

22 Q. Yes. And the purpose of that is so that everybody understands
23 what their competencies are and what their responsibilities are.

24 A. Yes.

25 Q. So in paragraph 5.1 it describes who the applicant is, doesn't it?

26 A. Yes.

27 Q. It says, so that we're clear about it: The applicant is the person

1 who initiates the job activity by completing Section A of the
2 work permit. Right?

3 A. Yes.

4 Q. Or the certificate. End of—that's the first sentence. The
5 second sentence: The applicant must have the necessary
6 competence to execute the job or to supervise the execution of
7 the job. That's one sentence.

8 A. Right.

9 Q. So the applicant himself in this case was who? It was, can I, if
10 you can't remember, Mr. Houston Marjadsingh.

11 A. Yes.

12 Q. Yes. He is the person described in this rule book, if you like—
13 your rule book—as the applicant.

14 A. Yes.

15 Q. And it follows that any ordinary reading of that sentence, that
16 the applicant Mr. Marjadsingh is that he must have the
17 necessary competence to execute the job.

18 A. Yes.

19 Q. Or supervise the execution of the job.

20 A. Yes.

21 Q. Right? Now, given that is the position, is it not, in its ordinary
22 and plain reading, his responsibility to ensure that such hazards
23 as might exist are identified?

24 A. Right. And it's all right if I take you to the next statement—the
25 next sentence?

26 Q. Yes. Well, I'm going to read the next sentence. Because the
27 next sentence which is equally important—

1 A. Right.

2 Q. He shall be knowledgeable of the hazards associated with the
3 job and the necessary controls for these hazards?

4 A. Right.

5 Q. And he should be responsible for the job and safety of people
6 working on them. Now, is it your position that he only gains
7 that knowledge from the contractor?

8 A. It is my position that knowledge of the hazards in a specialist
9 type job is gained through the process of engagement with the
10 contractor who would bring specialized knowledge and
11 specialized understanding of the risk and hazards associated
12 with that job.

13 Q. I think—I understand you then. So what you're saying is his
14 knowledge is not independent of the contractor.

15 A. That is correct.

16 Q. It is linked to the contractor?

17 A. That is correct.

18 Q. So if the contractor is wrong, he's going to be wrong

19 A. If the contractor is wrong and the specialist relies on it, there is
20 a chance that he could be wrong, yes.

21 Q. Almost inevitable, if that is where he gains his knowledge from.

22 A. Yes.

23 Q. So the sentence which says the applicant must have the
24 necessary competence to execute the job, clearly he didn't—
25 your Mr. Marjadsingh is not your—he is your employee, isn't
26 he?

27 A. He's Paria through Kenson, yes.

1 Q. Yes. Kenson employed him. He was for Kenson, but Kenson
2 are employed by you to do those jobs. Right?

3 A. Yes.

4 Q. So to all intents and purposes, he's Paria. Correct?

5 A. All right. Well, I wouldn't argue that.

6 Q. Good. So he being the applicant must have the necessary—I
7 mean these are your words—must have the necessary
8 competence to execute the job. The fact is he didn't have the
9 necessary competence to execute the job, did he? He didn't.

10 A. He didn't on his own, I would say, without the experience and
11 the knowledge of the contractor would have complete
12 experience.

13 Q. I'm struggling a little. I'm being frank with you. I'm
14 struggling a little to understand this whole concept of an
15 applicant. If he doesn't have the competence to execute the job
16 himself, or to supervise that execution of that job because he
17 doesn't know how to do the job, what role does he actually do?
18 If he's just depending on the knowledge from the contractor,
19 then what is he actually doing?

20 A. So what—the practical world that we live in, in the execution of
21 work, Chairman, is as I said there is no company, no applicant
22 that will be able to identify every single risk that is associated—

23 Q. Of course not.

24 A. So what is done—and that is why we have a permit to work
25 process—is that a system of engagement with the contractor
26 and with the applicant or the company is set up to be able to
27 identify and be able to work these risks.

1 Q. Mr. Mohammed, you've said that several times in answer to
2 Mr. Maharaj and to me. What I want to understand is what is
3 his actual role. If he can't do the job and he can't supervise the
4 execution of the job because he can't do the job, I want to
5 understand what the applicant's role actually is. What is he
6 actually doing? If he's totally depending on information
7 provided by the contractor himself, what is he doing?

8 A. I never said that he was totally dependent. Right? So
9 remember there are two types of risk and there is the
10 supervision of the job. The two types of risks are the obvious
11 risk. So LMCS is coming to work on our facility.

12 Q. Yes.

13 A. We transport cargo. We use ships. We have high volumes of
14 inventory of hydrocarbons. We have all of that—

15 Q. Pause for a minute. I follow all of that.

16 A. Right.

17 Q. Why would you make the applicant in a work permit system
18 this individual, Mr. Ken—somebody from Kenson or employed
19 by Paria. Why not make the applicant the contractor?

20 A. That's a good point; very good point.

21 Q. I mean, if it's his responsibility, if you're relying on him as
22 you've been at pains to tell us and Mr. Maharaj, why are you
23 making this other person do anything?

24 A. Good point.

25 Q. I simply don't understand it. I mean, at best, would you not
26 agree it is ambiguous, to me, at any rate, reading that?

27 A. Yeah. I think it creates some ambiguity so, you know, I think

1 you made a very good point.

2 Q. I simply don't understand the point of having an applicant
3 unless that person—I could see it in other circumstances, but
4 where you are wholly reliant on the contractor being able to
5 identify the problems that might exist, why not make that
6 person the applicant?

7 A. It's a very good point, Sir.

8 **Mr. Chairman:** Okay. Thank you very much. I'm sorry, Mr.
9 Maharaj. Just needed to understand.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. Mr. Mohammed, as general manager of this company, if as you
12 said, Paria did not have the competence to do this job or to
13 supervise this job, why Paria did not employ an expert to advise
14 it in respect of these documents which were submitted by
15 LMCS as a sort of client representative, an expert, to assist
16 Paria in discharging these responsibilities?

17 A. Mr. Maharaj, there are a number of options that are available.
18 The option we choose to execute this job was to bring that
19 expertise through the contractor that we hired. I'm not saying
20 that what you're saying is not an alternative, but what Paria did,
21 and the expectation, is that that competence and that expertise
22 would have come through the contractor who had experience in
23 executing a similar job before.

24 Q. But, Mr. Mohammed, I want you to try and understand my
25 question.

26 A. I understand your question very clearly.

27 Q. If, according to the permit to work rules, the applicant here is

1 Paria, and Paria had the responsibility of ensuring that
2 necessary competence to execute the job or to supervise the
3 execution of the job, and you as the general manager know
4 Paria did not have the competence to do that, why Paria did not
5 consider having an expert to advise it in respect of the
6 documents which were submitted for these works?

7 A. That would also be a consideration, Mr. Maharaj. In this case,
8 as I explained, Paria choose to go with a contractor who had a
9 track record of executing this very same work not longer than a
10 year ago.

11 Q. But you would agree with me—I think you agreed with me
12 before, but tell me, you would agree with me that these works
13 had serious hazards which could have caused persons to be
14 injured, and in this case four persons lost their lives. So this
15 was dangerous operation. Won't you say that?

16 A. Mr. Maharaj, it's very unfortunate and regrettable that four
17 people lost their lives. I can't explain to you how it feels to be
18 sitting on this end of microphone in a situation like that. All
19 right? And I have been in this industry for all my life, since
20 1985. But I also want to add that we do dangerous work every
21 day. Today while we sit here, I have guys who are standing on
22 top of a tank that is 90 feet high doing welding. That is
23 dangerous work. I have guys who are working on 12,000 volts
24 systems. That is dangerous work. So there was no—I would
25 say this was specialist work requiring specialist risk. But we
26 conduct dangerous work every day.

27 Q. I agree with that.

1 A. Okay.

2 Q. But, Mr. Mohammed, all that I'm asking you, if you know that
3 Paria is doing dangerous works, which could cause injury to
4 persons or even death, would you not think that in the exercise
5 of your duty of care to persons, you would have an expert to
6 advise it in respect of these documents which were submitted
7 by LMCS?

8 A. Paria has adopted a system for work that includes the hiring of
9 competent contractor and a permit to work system through a
10 process where those risks are expected to be identified. I am
11 not discounting what you said, Mr. Maharaj. I mean, this is
12 very good consideration, but I am saying it is not the only
13 consideration. We have a process by which we manage those
14 risks. Now, if that's something for consideration, then that's
15 fine, but there is a process. What ah doh want to leave on the
16 table that has to be said is that there is a process that Paria has
17 in place to allow these risks to identify and a particular
18 approach. If in this case—

19 **Examination By Mr. Chairman:**

20 Q. I'm not sure that's right, Mr—you see, I'm not sure that that's
21 right. Is it? Because if we just go back to what I was asking
22 you and what Mr. Maharaj asked you before, I mean, if you
23 read paragraph 5.1 on what the applicant is supposed to do, if
24 that person is somebody from your firm or someone you
25 employ through Kenson, is not the contractor entitled to think,
26 well, if we miss something, they will pick it up. It's a two-way
27 street as you put it yourself.

1 Why would it be that you are entitled to be completely
2 reliant on the contractor, abrogating any responsibility yourself
3 for something that might be not an unreasonable risk when one
4 reads what the applicant's job responsibility is? Why wouldn't
5 you think, if you were the contractor: Well, they are taking on
6 some responsibility too. They are saying we will employ an
7 applicant who must have the necessary competence to execute
8 the job or to supervise the execution of the job, and he should
9 be knowledgeable in the hazards associated with such a job. I
10 mean, wouldn't the ordinary reader think, well, I got some
11 cover here.

12 A. As I said, the perspective is not lost, Chairman, or the
13 perspective is not lost from Mr. Maharaj.

14 Q. All right.

15 A. The perspective is not lost.

16 **Mr. Chairman:** Well, thank you for that. I think we'll take a
17 short break now. Thank you very much. We'll take 15
18 minutes.

19 **11.52 a.m.:** *Enquiry suspended.*

20 **12.06 p.m.:** *Enquiry resumed.*

21 **Mr. Chairman:** Yes, thank you. Mr. Maharaj.

22 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. Mr. Mohammed, I want to pass on to another issue, but before I
25 do that I just want to ask you a little few more questions.

26 A. All right, yes.

27 Q. As General Manager and having regard to what you stated as

1 you have a motto of safety first culture—

2 A. Yes.

3 Q. —in respect of safety—

4 A. Yes.

5 Q. —on hindsight, would you say—or on reflection and on
6 hindsight, would you agree with me that it would have been
7 prudent for you to get an expert to advise Paria in respect of
8 these documents submitted by LMCS for these [*Inaudible*]?

9 A. Mr. Maharaj, as I said, that perspective is not lost. You know,
10 right. That's something that we would have to give deep
11 consideration to.

12 Q. All right. Let's, um, let, let me just, let me just refer you, um,
13 in respect of some of the things you told us this morning. In
14 paragraph 13 of the witness statement of Mr. Marjadsingh—

15 A. Yes.

16 Q. —he was the applicant for Paria in the work permit. At page
17 3051, 3051.

18 A. That's in this document in front of me?

19 Q. No. It's in the supplemental witness bundle. It's on the screen.

20 A. It's on the screen?

21 Q. Yes.

22 A. Okay.

23 **Mr. Chairman:** Behind Tab 79.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. I refer you to what he said at paragraph 13.

26 “It was not my job to a proof LMCS’ method statement
27 and job safety analysis nor do I have the expertise to do

1 so. Documents such as method statement and the job
2 safety analysis were approved before they were handed
3 over to me. And I recall Mr. Rampersadsingh told me
4 verbally that the documents attached to the work permit
5 were approved.”

6 So, according do what Mr. Marjadsingh, who is the applicant,
7 was saying that he really did not have the expertise and you are
8 saying that he didn't have the expertise and Paria did not have
9 the expertise.

10 A. I—yeah, I—the expertise is expected to come from the
11 competent contractor.

12 Q. Now, I want to read to you what Mr. Michael Wei said in his
13 witness statement in respect of the removal of the migration
14 barriers.

15 A. All right.

16 Q. That would be at pages 1286 and 1287.

17 A. That is in this?

18 Q. In the supplemental bundle, so—

19 **Mr. Chairman:** No.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. Sorry, witness bundle Volume IV at page 1286, 1287,
22 paragraph 85 and 86. You can read it and then I'll put to you
23 what is the summary of what he says.

24 **Mr. Chairman:** Which paragraph we're looking at?

25 **Mr. Maharaj SC:** Paragraph 85 and 86.

26 **Mr. Chairman:** Eighty-five and six.

27 **Mr. Mohammed:** Eighty-six, right?

1 **Mr. Maharaj SC:** Yes, 85 and 86.

2 **Mr. Mohammed:** You have it up on the board?

3 **Mr. Maharaj SC:** It's on the board, on the screen.

4 **Mr. Mohammed:** All right.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. Eighty-five it said:

7 "More importantly the removal of the migration barriers
8 would have caused a dangerous disturbance of the
9 atmospheric conditions inside the hyperbaric chamber
10 and the differential pressure between inside the pipe and
11 inside the chamber."

12 A. Yes.

13 Q. And then in paragraph 86:

14 "The removal of the migration barriers by LMCS also
15 opened the differential pressure between the pipeline and
16 the chamber which is likely to have caused a powerful
17 and immediate suction effect which pulled and entrapped
18 the divers inside the pipeline and ultimately caused the
19 death of the four of them."

20 A. Yes.

21 Q. So, the identification of differential pressure, Delta P hazard,
22 for these works was critical and very important in assessing the
23 risk for these works. Would you agree with me?

24 A. I agree with that, yes.

25 Q. Well let's go to another aspect of your evidence. I want to go
26 to the rescue efforts.

27 A. All right.

1 Q. Now, would you agree that when you got the information about
2 the men trapped in the, in this pipeline—

3 A. Yes.

4 Q. —and you had to liaise with the IMT, and, as General Manager
5 had to be informed and give suggestions and advice, that you
6 would have regarded that any rescue of the men from the
7 pipeline had to be done with speed and urgency?

8 A. Yes.

9 Q. As General Manager, were you aware at any time that evening,
10 after you got this information, that there was any timeline set by
11 the IMT to effect the rescue of the men? In other words, it was
12 urgent so they fix a timeline that the rescue should be done
13 within a certain—all efforts should be done to have a rescue
14 within a certain timeline?

15 A. The question is around the timeline?

16 Q. Uh-huh.

17 A. I wouldn't say that we, we established a specific timeline.
18 What I would say, though, is that we were working very—the
19 team was working very assiduously to have a rescue plan in as
20 quick time as possible and, you know, we—probably thinking
21 between, you know, within the first six to 12 hours.

22 Q. Six to 12 hours?

23 A. Yes.

24 Q. To have a rescue plan?

25 A. To be able to, to be able to, to engage in some, in some type of
26 rescue.

27 **Mr. Chairman:** Pause there, I want to make a note.

1 **Mr. Maharaj SC:** Right.

2 **Continued Examination By Mr. Maharaj SC:**

3 Q. According to your evidence, during the period of time you said
4 that a rescue had to be effected, look at from paragraph 52. I
5 have read it with interest, Mr. Mohammed, and would you
6 agree with me that when you look at paragraph—you have it
7 before you?

8 A. No.

9 Q. Your witness statement?

10 A. No, I don't have the witness statement. But I could read it off
11 the, um, off the screen.

12 **Mr. Chairman:** No, it's probably easier for you if you have it
13 in front of you because then you can look at it contextually as
14 well.

15 **Mr. Mohammed:** Okay.

16 **Mr. Chairman:** Because if you're just looking at the
17 paragraph that's on the screen, it's perhaps a little unfair on
18 you, all right? You can see what it says in the previous
19 paragraph and so on. So if you look from page 1451—

20 **Mr. Mohammed:** Yes.

21 **Mr. Chairman:**—right, you'll see paragraph 52 at the foot of
22 that page.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. Right, you'll see that you received the update from Collin and
25 Catherine?

26 A. Yes.

27 Q. And Visham Harrichan?

1 **Mr. Chairman:** This is Friday evening.

2 **Mr. Maharaj SC:** Friday evening.

3 **Continued Examination By Mr. Maharaj SC:**

4 A. Just now, eh.

5 Q. Paragraph 52. Fifty-one that is after Boodram's retrieval, right?

6 A. Yes, I have it.

7 Q. Right. At paragraph 52 you got updates?

8 A. Yes.

9 Q. Right? And then at paragraph 53 at approximately 1824 hours
10 you made a request to Collin for the TTCG to take control of
11 the site.

12 A. Right.

13 Q. So, so would you agree with me that at 6.24 p.m.—

14 A. Yeah.

15 Q. —you gave instructions to the—well you gave instructions for
16 the coast guard to take control of the site, that meant to prevent
17 diving—

18 A. Yes.

19 Q. —by persons unless—

20 A. Yes.

21 Q. —unless you approved it?

22 A. Yes.

23 Q. Correct.

24 A. So if it was approved by the incident command team and
25 supported by myself. Just to be clear.

26 Q. Okay.

27 **Mr. Chairman:** Sorry, I didn't quite—I didn't hear you.

1 Would you say that again, please?

2 **Mr. Mohammed:** Unless it was approved by the incident
3 command team and supported by myself.

4 **Examination By Mr. Chairman:**

5 Q. Approved meaning, we're dealing with whether anyone was
6 allowed to dive in the water at all, to dive in the hyperbaric
7 chamber or to dive into the pipeline? Can I be clear please
8 which of the—

9 A. Specifically speaking about diving into the pipeline.

10 Q. Pipeline. So you did not prevent anyone from diving into the
11 hyperbaric chamber?

12 A. [*Shaking head*]

13 Q. Or diving in the water generally?

14 A. No. Because I think I was very clear that diving in the pipeline
15 was there the big concern and the risk was.

16 Q. Right. So your position is, and what you meant by paragraph
17 53 at approximately 1824—

18 A. Yeah.

19 Q. —“I made the request to Collin for the coast guard to take
20 control of the site at berth number 6—

21 A. All right.

22 Q. —and he agreed to my request” and what you mean by that is,
23 is that you were preventing anyone from entering the pipeline
24 without your express authority?

25 A. And, and I think I've clarified that in 54 by saying my
26 expectation would be—

27 Q. Right.

1 A. —they would prevent divers—

2 Q. You did.

3 A. —from entering the pipeline, right?

4 Q. You do.

5 A. So I was quite clear on what my request was at the time.

6 Q. Not to enter pipeline. Just let me—[Writing] Without the IMT
7 and, and your express authority?

8 A. Yes.

9 Q. Do you mean by that that the buck stops here?

10 A. The buck stops with me, I guess, yes. I'm the General Manager
11 the company and—

12 Q. Yeah.

13 A. —I—my responsibility is to oversee the safety of both the
14 organizational rescue as I said, so yes, the buck stopped at me.

15 Q. Stops with you?

16 A. Yes.

17 Q. Thank you very much.

18 **Mr. Chairman:** Thank you, Mr. Maharaj.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. Now, at that time you knew that the four men, you knew four
21 men were in the pipeline?

22 A. Yes. By this time, yes. I think we [*Inaudible*]

23 Q. And you knew from the information you would have gotten that
24 they were wai—that the men, based on what Boodram said, the
25 men were waiting to be rescued?

26 A. Yes, based on the knowledge coming from Boodram, yes.

27 Q. At that time, when you gave those instructions, Paria did not

1 have a rescue plan?

2 A. It was not a credible risk and a rescue plan at that time wasn't
3 fully developed, that is correct. We never anticipated that
4 people would be in the pipeline.

5 Q. So let me, let me go a little before that. Paria did not have a
6 rescue plan even before 6.24 that if anyone was sucked into the
7 pipeline it had a rescue plan for that?

8 A. Let me, let me go—let me start a little bit before that, all right?
9 So I think all these things have to be in context, Mr. Maharaj,
10 and I would ask to have some patience with me while I explain.

11 Q. No, certainly.

12 A. Okay.

13 Q. I have a lot of patience.

14 A. Okay, good. Thank you. I really appreciate that. The credible
15 risks were identified and an emergency response plan was
16 developed for the credible risk that we thought possible.
17 Remember, to get into that pipeline two physical barriers had to
18 be removed and an administrative barrier had to be broken to
19 get into that pipeline. So to believe that it was credible that we
20 would have people sucked into that pipeline and have an
21 emergency response plan prepared ahead of that incident, you
22 know, I think it's unreasonable.

23 Q. Okay. So the—

24 **Mr. Chairman:** No, I don't understand that.

25 **Examination By Mr. Chairman:**

26 Q. Are you saying that if Delta P had been identified that there
27 was—you would have not have had a credible plan to deal with

1 it?

2 A. If Delta P, if Delta P had been identified—

3 Q. Yes.

4 A. —the best option and the risk of Delta P of guys being sucked
5 into that pipeline, the option would not have—would be to have
6 a rescue plan. The option would have been to look for a
7 different method of execution for that job.

8 Q. Right. So what you're—so that I'm clear again, if Delta P had
9 been a recognized risk, you simply wouldn't have done the job?

10 A. I simply would not have done the job in the way that we
11 executed it. I would have evaluated different technical means
12 of achieving the same objective.

13 Q. All right, I got you.

14 **Mr. Chairman:** Yes. Thank you, Mr. Maharaj.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. And I wouldn't go through everything that you said but you
17 would agree with me that your main focus was on getting
18 reports from Collin in respect of the internal conditions of the
19 pipeline?

20 A. Yes.

21 Q. With the assistance of a video footage?

22 A. Yes.

23 Q. And that, up until 4.00 a.m. on Saturday morning—

24 A. Yes.

25 Q. —some 13 hours after the men were sucked into the pipeline,
26 and some 11 hours after Christopher Boodram was rescued,
27 Paria was still getting video footage?

1 A. Again, I would say—and the answer to that is yes, but, the
2 context is this. Let's look at the activities that took place from
3 the time the guys were sucked into the pipeline. So based on
4 the emergency response plan we had with LMCS, LMCS were
5 the first responders to the—to any diving incident because they
6 had divers that were available, not Paria. Paria didn't have any
7 divers. LMCS dived into the pipeline. Paria began searches
8 into the water. Paria also called in expertise to be able to
9 analyze whether a dive was possible, including the coast guard
10 and expert diving.

11 So to say that Paria was only waiting for video footage, if you look at
12 the, at the, at the series of parallel activities that were taking
13 place, Paria was trying to bring expertise and information to
14 ensure the safety of a rescue diver who would have to enter that
15 pipeline. So to simply say that Paria was waiting for video
16 footage I think is—is not, is not totally accurate.

17 Q. I'm just telling you what the evidence shows.

18 A. Okay, good.

19 Q. Okay? The evidence shows that until 4.00 a.m. on the Saturday
20 morning, Paria was still looking for video footage. That is 11
21 hours—

22 A. Well Mr. Maharaj, the evidence also says that, you know, by
23 1.30—by, by, by, by 12.30 on Friday night that that video
24 footage were looked at by expert divers, it was also regarded by
25 the Trinidad and Tobago coast guard as a dive that they were
26 not willing to risk, so it was not just the video footage, it was
27 also the use of professional opinion to be able to guide us.

1 Q. But we have evidence that the coast guard said they were not
2 experienced in that kind of operation.

3 A. Coast guard said they weren't experienced but they were
4 brought to, to, to, to test.

5 Q. But I'll come to—

6 A. Okay.

7 Q. —I'll come, I'll come to what Paria had available from LMCS,
8 but just follow me and answer my questions, okay?

9 A. I following you.

10 Q. Right. Now, according—I just put to you the length of time.

11 A. Yes.

12 Q. Now, Mr. Piper when he gave evidence here—

13 A. Yeah.

14 Q. —he said that the timeline that he thought a rescue was
15 required—

16 A. Yeah.

17 Q. —and I'm referring to the transcript of the 15th of December,
18 2022—

19 A. Yes.

20 Q. —at page 33 lines 1 to 4—

21 A. Yes.

22 Q. —it's on the screen, he said three to five hours from when
23 Boodram came out but they simply didn't know but understand
24 they had to work quickly. So, according to Mr. Piper, from the
25 time when Boodram came out, the timeline was approximately
26 three to five hours in order to be safe to have a rescue. So, by
27 Saturday at, Saturday at 4.00 a.m.—

1 A. Uh-huh.

2 Q. —was too late, according to Mr. Piper.

3 A. That, that, that, that's a perspective but I would say that rescue
4 activities were being attempted way before that by the LMCS
5 crew who were the first responders.

6 Q. Now, at paragraph 51—

7 A. Yes.

8 Q. —you stated that you wanted to have a risk assessment—

9 A. Yes.

10 Q. —a method statement—

11 A. Yes.

12 Q. —a job hazard analysis—

13 A. Yes.

14 Q. —in respect of any rescue plan.

15 A. Yes.

16 Q. What you wanted, a written plan? A written, written method
17 statement, a written job hazard analysis and a written rescue
18 plan?

19 A. I would say, I would say, Mr. Maharaj, more like a well-
20 thought-out plan than actually a written plan. If there was some
21 writing, something to test, yes. that would have been
22 acceptable.

23 Q. Okay. But you would agree with me—

24 A. Uh-huh.

25 Q. —that up to that time—

26 A. Uh-huh.

27 Q. —up to that time Paria did not have a rescue plan?

1 A. Up till?

2 Q. Up to, let's say up to about midnight on Friday, Paria did not
3 have a rescue plan.

4 A. Up until midnight on Friday Paria continued to assess to be able
5 to develop a rescue plan.

6 Q. Assess to be able to develop. And, even up to 4.00 a.m. on
7 Saturday morning, Paria did not have a rescue plan?

8 A. No. I would say that—

9 Q. If—

10 A. Hold on, hold on. Hold on. Up until four o'clock Friday
11 morning—

12 Q. Friday?

13 A. —Paria had developed—

14 Q. You mean Saturday morning?

15 A. Saturday, Saturday morning, sorry, I'm sorry, Saturday
16 morning, Paria had evaluated or was working with a number of
17 different rescue agencies to be able to have a workable rescue
18 plan. What Paria did not have was a workable rescue plan.

19 Q. Were you aware—

20 A. Uh-huh.

21 Q. —that LMCS had a rescue plan?

22 A. I was aware that LMCS had a rescue—I wouldn't know—I
23 don't know if to call it a rescue plan. What was—I—how—let
24 me just think a little bit.

25 Q. Okay well—

26 A. LMCS—the information that we had at the time, and just bear
27 with me, I trying to recall, right, the information we had at the

1 time was there was a, a method that LMCS was suggesting. I
2 wouldn't call that a plan.

3 Q. Okay. Well let me suggest to you what it had and tell me if you
4 had that information.

5 A. Go ahead.

6 Q. Okay. I am suggesting to you that according to the evidence
7 that Andrew Farah gave—

8 A. Uh-huh.

9 Q. —he was going to enter the pipeline with scuba—

10 A. Uh-huh.

11 Q. —and that is at paragraph 26 of Farah's witness statement—

12 A. Yeah.

13 Q. —page 446—

14 A. Yeah.

15 Q. —at Volume I.

16 A. Uh-huh.

17 Q. But were you aware of that plan?

18 A. Enter the line with—yes, I believe so.

19 Q. Yeah. And that were you also aware that he could not do it
20 because Paria did not approve him doing so?

21 A. That's the part that I have a concern with. It is a fact that
22 diving continued by the LMCS crew way past the—into the
23 evening, both Mr.—

24 Q. Diving into the pipeline?

25 A. Mr., Mr.—did Mr. Kur—I believe Mr. Kurban entered the
26 pipeline, right, not Mr.—

27 Q. I'm coming to Mr. Kurban.

1 A. All right.

2 Q. I'm talking about before Mr. Kurban.

3 A. And, and, and when—Paria in—Paria never—let me repeat the
4 question so I could give it a proper answer. I trying to, I trying
5 to figure out where you're going with this.

6 Q. I'm coming to Kurban. I'm talking about Kurban I'm trying to
7 talking how the first rescue plan—

8 A. Right.

9 **Examination By Mr. Chairman:**

10 Q. Let, let's not worry about where trying to go with it. If you can
11 address your mind to the question that's being asked?

12 A. What—that's what I trying to figure out. What you asked the
13 wrong question.

14 Q. What is being asked—

15 A. Yes.

16 Q. —first of all, going back a little way from what Mr. Maharaj
17 was asking you, he asked you, were you aware that LMCS had
18 a plan?

19 A. I was aware that LMCS had a method of wanting to enter the
20 pipeline.

21 Q. Right.

22 A. I wouldn't call it plan.

23 Q. All right. Well what you're saying, if I read between the lines,
24 is that whatever they might have called it, you did not—you
25 didn't like their plan?

26 A. I didn't see it as a plan.

27 Q. Right. Fair enough. So whilst you were aware of what they

1 were proposing—

2 A. Yes.

3 Q. —you didn't see it as a, as a—

4 A. No.

5 Q. —viable plan?

6 A. No.

7 Q. Would that be fair?

8 A. That's fair. That's fair.

9 Q. Right.

10 A. Thank you. I appreciate that, Chairman.

11 Q. Okay, right? Not a viable plan, right? Then the next question
12 was that Mr.—that plan involved Mr. Farah entering the pipe
13 with scuba equipment?

14 A. Yes.

15 Q. You said you knew that?

16 A. Yes.

17 Q. And then that, um, Paria had not—you were then asked if Paria
18 had approved him doing it and you said well that's where you
19 have a problem about Paria not approving anything.

20 A. Well, well—

21 Q. And you asked—then you said—I want to go back a little and
22 you said then this: the fact is that diving continued into the
23 evening.

24 A. Yes.

25 Q. All right. Now first of all, were you aware that Mr. Farah
26 wanted to enter the pipe using scuba equipment?

27 A. Yes, I believe so yes.

1 Q. You gave an answer to that, yes.

2 A. Yes.

3 Q. Right. Were you seeking to prevent him from doing so? Listen
4 to the question.

5 A. Yes.

6 Q. Were you seeking to prevent him from doing so?

7 A. I was—I think the objective we had on our minds that evening,
8 I had on my mind that evening, is I wanted to ensure that if Mr.
9 Farah had entered that pipeline he would have been able to
10 safely achieve his objective and be able to, he himself, not be
11 caught in or be trapped in that pipeline.

12 Q. Right. I'm going to ask the question again and regard what you
13 just answered as a rider to the question. So the question is:
14 were you seeking to prevent him from going in the pipeline?

15 A. I was seeking to prevent Mr. Farah from entering the pipeline
16 with a, with a plan that in my mind didn't consider the risk of
17 going into that pipeline to execute a rescue.

18 Q. Does it follow from that that you sought at that time to prevent
19 him from going in the pipeline?

20 A. Well I think saying yes or no to that question without context is,
21 you know, I just, I just don't know how I answer that question
22 without context.

23 Q. Well you've given the context. I want to know the answer. Did
24 you seek to stop him from going in the pipeline, for perfectly
25 good reasons from what you're saying, but is that what you
26 wanted to a chief?

27 A. I'd probably say yes.

1 Q. Good. I'll write down the yes. And I've taken into account
2 what you've added by way of rider to that, all right?

3 A. So thanks. Thanks very much. I think that's important.

4 Q. No, no, of course. As I've made clear to you, Mr. Mohammed,
5 you can—it helps me if you answer the question, where it is
6 possible to do so, with a yes or no, and then you can add
7 whatever you like afterwards in order to put it into context or to
8 give it what I referred to others as a but or a however, right?

9 A. Okay.

10 Q. You're more than welcome to do that but it does help if you
11 answer the question first.

12 A. Yes.

13 Q. Do you follow?

14 A. Fair enough.

15 Q. All right.

16 **Mr. Chairman:** Thank you. Yes.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. Were you aware that there was a second attempt by LMCS to
19 implement a rescue plan by Michael Kurban going into the
20 pipeline with scuba and an umbilical?

21 A. Scuba, not umbilical.

22 Q. Scuba and an umbilical.

23 A. I wasn't aware of umbilical at the time.

24 Q. You were not aware of umbilical at the time?

25 A. Yes.

26 Q. And—but were you aware that he went as far as he could have
27 gone that—on that occasion?

1 A. That is the information that we had.

2 Q. Yes. And what is in Farah, just for the record, Farah's witness
3 statement at paragraph 36 page 448. The next question. Were
4 you aware that there was a third rescue plan when Conrad
5 Beddoe arrived with commercial equipment at 6.30 p.m.? The
6 plan was revised so that Conan Beddoe, supported by other
7 experienced divers, could enter the pipeline with commercial
8 diving equipment. That is at paragraph 40 of Andrew Farah
9 witness statement. Were you aware of that?

10 A. I haven't seen that plan.

11 Q. You haven't? It wasn't a written plan?

12 A. Where—what, what was that plan, Mr. Maharaj? Where,
13 where—how, how is—how, how—where was that plan
14 outlined?

15 Q. Well—

16 A. Let me hear what Mr. Farah plan was.

17 Q. Well, I, I, I will, I will show to—I'll point out to you that it was
18 communicated to Catherine Balkissoon who was Paria's
19 representative—

20 A. Yeah.

21 Q. —at berth 6.

22 A. What was the plan? Help me. Help me.

23 Q. That's just the plan was—

24 A. Uh-huh.

25 Q. —to send—

26 **Examination By Mr. Chairman:**

27 Q. Just a minute, just a minute, to be fair, I don't think she entirely

1 accepted that the detail of that plan was communicated to her
2 but, just one step at a time, please.

3 A. Okay.

4 Q. What's being suggested to you is that Mr. Farah had
5 communicated such a plan to Ms. Balkissoon. All right? Now
6 she does not accept that the detail of that plan was conveyed to
7 her.

8 A. All right.

9 Q. She was aware of the equipment arriving.

10 A. Right.

11 Q. She was aware of—

12 A. Correct.

13 Q. —aware of Mr. Beddoe's presence.

14 A. Correct.

15 Q. And commercial equipment.

16 A. Correct.

17 Q. But she does not accept—

18 A. Correct.

19 Q. —and my correction is if I record this wrongly but my
20 recollection is—

21 **Mr. Maharaj SC:** I think that's correct, Sir.

22 **Examination By Mr. Chairman:**

23 Q. —that she did not accept that she was given the detail, even in
24 outline, of a particular plan.

25 A. Thank you, Chairman.

26 Q. Whether that is true or not will have to be determined.

27 A. Correct.

1 Q. The question is, that's what she said, all right?

2 A. Correct.

3 Q. But Mr. Farah says he told her, and the question that Mr.
4 Maharaj is asking is whether it was ever communicated to you
5 that such a plan was in place.

6 A. No, no.

7 Q. Or that Mr. Beddoe had arrived with commercial equipment.

8 A. No clear plan for dive with commercial equipment.

9 Q. Sorry, can you lean forward just a bit?

10 A. Sorry, so I'm sorry. I'm sorry. No clear plan on the rescue
11 with commercial equipment was communicated to me.

12 Q. Right. Of any kind by anybody—

13 A. [*Shaking head*]

14 Q. —who was at that berth at that time?

15 A. No, no clear plan. We know that there were additional
16 equipment there but no clear dive plan was communicated.

17 Q. So you knew commercial equipment had arrived?

18 A. Correct.

19 Q. You knew additional divers in the shape of Mr. Beddoe, or
20 whatever their names were—

21 A. Yeah, yeah.

22 Q. —commercial divers—

23 A. Yeah, yeah.

24 Q. —had arrived?

25 A. Yes.

26 Q. You were aware of that?

27 A. Yes. They told—

1 Q. Yes.

2 A. to just—and just to add to that, Paria would have provided
3 transportation for those divers to arrive at the facility.

4 **Mr. Chairman:** Yes, all right. Thank you.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. But you don't know of a plan but you—but were you aware that
7 there were offers for them to go into the pipeline?

8 A. There were offers, yes but no plan.

9 Q. No plan?

10 **Mr. Chairman:** All right, thank you.

11 **Mr. Maharaj SC:** Sorry.

12 **Examination By Commissioner Wilson:**

13 Q. Hi, Mr. Mushtaq. Hearing that there was no defined plan, how
14 did Paria and the specialists determine that it was too dangers to
15 go in without a defined plan? What process or what risk
16 assessment tools you guys used—

17 A. All right.

18 Q. —and how did you align it to a plan if it didn't exist?

19 A. You mean for Paria to develop a plan? Let me just—just to be
20 clear?

21 Q. No, no, no. You're indicating that you was never aware of a
22 robust plan.

23 A. Yes.

24 Q. Right? But, I'm hearing that there were specialists and you
25 were taking advice from specialists.

26 A. Yes.

27 Q. The specialists gave a resounding not willing to make a rescue.

1 A. Right.

2 Q. But if there wasn't a defined plan, what did Paria, Paria officers
3 the ICT—

4 A. Uh-huh.

5 Q. —together with the specialists, how did you determine it wasn't
6 safe to go and enact a rescue or attempt a rescue if there wasn't
7 any defined plan?

8 A. The approach that, that Paria took, right, as, as you said Paria
9 didn't have the expertise so we, we, we called who we think
10 were the experts, right? We called the coast guard and we
11 called professional diving companies. Paria presented all the
12 information it had at that time to these professional companies.
13 Right? And none of these professional experienced diving
14 companies agreed that they were sufficiently comfortable to be
15 able to go into that pipeline to execute a rescue.

16 Q. I understand that. But what I'm hearing, and I really—let's go
17 back a bit.

18 A. Right.

19 Q. In the absence of a defined plan, what—again, I'm sorry to be
20 repetitive—

21 A. No, that's all right.

22 Q. —what did Paria and your specialists use to determine to, let's
23 do, say, a task risk assessment? How did you assess that it's
24 not safe to at least attempt in the absence of no defined or
25 communicated plan?

26 A. It's a good question. To the extent, to the extent that the
27 experience of the professional dive companies, as well as all the

1 information that Paria had at the time that was passed on to
2 these dive companies, including two dive companies and I
3 guess the coast guard who would have had footage of what the
4 pipeline looked like to be able to get to the point where we
5 developed that task risk assessment, both the coast guard and
6 these professional diving companies agreed that it was too risky
7 to enter the pipeline.

8 Q. Was a task risk based assessment or any risk assessment ever
9 done or documented or was this just a conversation in the ICT?

10 A. I wouldn't say it was only a conversation. I think it was a
11 conversation where the information we had at the time was
12 presented to the expert diving companies and the coast guard.

13 Q. Well then, you're saying that there was no defined plan, so
14 what was presented? My question now would turn to, what was
15 presented to the specialists to be considered?

16 A. The information that we had at the time and that is where we
17 would have expect that plan to be developed.

18 Q. Okay, understood. Thank you.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. Okay, you have agreed with me that LMCS had experienced
21 divers who were prepared to enter the pipeline?

22 A. Experienced had—LMCS had experienced divers who were
23 prepared to enter the pipeline. I want to be careful with that
24 and say that ex—that LMCS had experienced divers. Whether
25 they had experienced divers who had entered a pipeline before
26 to do a rescue is arguable.

27 Q. Okay. All right. But you were aware that they had commercial

1 divers?

2 A. Commercial diving and experience in doing a rescue inside a
3 pipeline is two different things.

4 Q. Okay.

5 A. Yes they had commercial divers.

6 Q. Okay. And you—were you aware that support vessels arrived
7 with commercial equipment by 7.14 p.m.?

8 A. I was aware that commercial vessels arrived, yes.

9 Q. That is in Alvin Seetaram's witness statement at paragraph 10.

10 A. Yes.

11 Q. At page 396.

12 **Mr. Chairman:** Seeterram works for who?

13 **Mr. Maharaj SC:** Seeterram was the Subsea Global.

14 **Mr. Chairman:** Subsea Global.

15 **Mr. Maharaj SC:** Global, Volume I at page 395 at—
16 specifically at page 396 at paragraph 10. He was the gentleman
17 who said he arrived with the boat and he had all the necessary
18 equipment and they arrived at 7.14 p.m. to assist in a rescue by
19 providing the equipment.

20 **Mr. Mohammed:** Yeah.

21 **Mr. Chairman:** Was he, was he the one that was unable to
22 provide divers because they'd been diving all day long and they
23 couldn't then dive again—

24 **Mr. Maharaj SC:** Correct.

25 **Mr. Chairman:**—because of the potential for damage to them?

26 **Mr. Maharaj SC:** Yes.

27 **Mr. Chairman:** Thank you very much.

1 **Mr. Maharaj SC:** But he had all the commercial equipment
2 on board.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. Were you aware of that?

5 A. I know that there was commercial equipment.

6 Q. Yes. Now, knowing that these men, that, that, that, that there
7 were divers who were prepared to go into the pipeline, did you
8 or the IMT had any discussions with them to find out about
9 their plan and to assess whether they could go and do this
10 operation?

11 A. The IMT and myself were assessing the plan through the
12 resources that we had brought in.

13 Q. Through who?

14 A. That was through the dive companies that was brought in
15 through Paria.

16 Q. Yes. Those are the dive companies?

17 A. Yes.

18 Q. And they were saying they wouldn't go?

19 A. Yes.

20 Q. It was unsafe to go?

21 A. Yes.

22 Q. But you had other divers—

23 A. Yeah.

24 Q. —who were prepared to go in. Did the IMT or you decide that
25 you wanted to talk to them to find out whether you would agree
26 with them or disagree with them?

27 A. No, we did not speak with them.

1 Q. Why?

2 A. We did not speak with them because we—no, we had, we had,
3 we had called the coast guard and we had called our specialist
4 diving companies to be able to discuss the potential for a
5 rescue. All right? Both of these companies, including the coast
6 guard, by one o'clock that night say that it was too risky—

7 Q. Okay.

8 A. —to be able to get into that pipeline to be able to do that rescue.

9 Q. Yeah, you have said that.

10 A. Right? So, so that was the approach that we had.

11 Q. Okay. So you are telling us that the IMT did not call them or
12 go to meet them to discuss this plan?

13 A. Whatever plan was discussed was discussed either in full or in
14 part at the site and those plans never reached the IMT as
15 complete plans for being able to execute a rescue of the nature
16 that was required.

17 Q. Mr. Mohammed, I'm asking you a simple question.

18 A. And I—

19 Q. You have men in the pipeline. You all are working to do a
20 rescue. You are talking to other divers, professional divers,
21 professional companies.

22 A. Yes.

23 Q. You know there are persons who are divers, they have
24 commercial equipment, they're prepared to go in the pipeline to
25 try and save the lives of the men.

26 A. Yes.

27 Q. Didn't you think it advisable or it is fair or that it should be in

1 the interest of the men in the pipeline or in the interest of Paria
2 to go and at least talk to them to find out what their plan is and
3 to assess it and to get advice on it?

4 A. Mr. Maharaj, in any event, going into that pipeline was a very
5 complex thing and I will start by saying one of the key things to
6 that was the unknown conditions that existed within that
7 pipeline. We were not clear whether, even with commercial
8 equipment, sending people in that, into that pipeline where we
9 had no idea of what had taken place in that pipeline would have
10 provided an opportunity for a safe rescue and for the rescuer, so
11 it was always part of the consideration that we had to
12 understand and assess the condition of that pipeline before that
13 decision was made.

14 Q. Mr. Mohammed, I want to pass on to another issue.

15 A. Okay.

16 **Mr. Chairman:** Before you do, I'd like to ask some questions
17 please?

18 **Mr. Maharaj SC:** Yes.

19 **Examination By Mr. Chairman:**

20 Q. Does it come to this, Mr. Mohammed, that in the absence of
21 having the detailed knowledge of the conditions in the pipeline,
22 you, Paria, ultimately you, because the buck stops with you,
23 were not prepared to countenance anyone entering that
24 pipeline?

25 A. I would say it like this. That was one of the fundamental
26 reasons for not wanting anybody to enter the pipeline.

27 Q. Were there any circumstances in which you would have

1 countenanced anyone entering into the pipeline to effect a
2 rescue without having video footage of the conditions inside
3 that pipeline?

4 A. Here's what I would say to that, Chairman. All right? Going
5 into that pipeline there were risks—

6 Q. Is it possible to give a yes or no answer and then give you your
7 rider rather than the rider first, because I'll only come back to it
8 again?

9 A. Is there any condition that we would have allowed people to go
10 in?

11 Q. I'll repeat the question.

12 A. Yes.

13 Q. Hopefully not in exactly the same terms.

14 A. Right.

15 Q. I'll do my best. Were there any circumstances in which you
16 were prepared to countenance people entering that pipeline in
17 the absence of having any video footage of what the conditions
18 were?

19 A. I'd probably say—

20 Q. It's an important question so please take your time.

21 A. No, no I, er—and it is an important question for me too. And I
22 would probably say the answer is no. I needed to have
23 information for that—

24 Q. Let me write that down and then you can add your rider.

25 A. Yeah.

26 Q. [*Writing*] Thank you, yes. You want to add something?

27 A. Yeah I, I, I think, you know, other than having some

1 information or having into that pipeline, I would have been
2 sending people into a hazardous situation that I didn't
3 understand, couldn't quantify, had no real way of determining
4 and, and, and, just to, just to add one or two things, without that
5 information, what would have been the rescue plan for the
6 rescuers? Is it possible that the rescuers could have also been
7 trapped?

8 Q. Sure.

9 A. What, what, what was the res—what would have been the
10 rescue plan for those rescuers?

11 Q. Now, all perfectly reasonable questions if I may say so, and I'm
12 certainly not criticizing you for having that in your mind. A
13 couple of things arise from that.

14 A. Go ahead.

15 Q. First of all, there is a distinction, do you agree, between sending
16 someone into a pipeline and permitting it?

17 A. Between sending someone into a pipeline—

18 Q. Yes, and ordering it?

19 A. —and permitting it.

20 Q. I'm employing you to go into that pipeline to do this job.
21 Please go in there and do it. There's a difference between that
22 and saying to somebody, "Look, if you want to go in this
23 pipeline, I think it's a bad, bad idea, I do not countenance it, I
24 do not agree but I understand your position and if you want to
25 go, go ahead." Do you see a difference between those two?

26 A. Not, not clear in my mind, Sir.

27 Q. You don't see a difference?

1 A. No, I'm not, not clear in my mind at all.

2 Q. Do you think it makes any difference that the persons who
3 might have been prepared to go into the pipeline were either
4 relatives of those that were in there and/or close associates of
5 those who were in there and/or have an understanding of the
6 hazardous nature of the work that they do and would want
7 people to do what they were prepared to do to rescue them if
8 they were in that situation?

9 A. Chairman, I have a real deep understanding for why family,
10 relatives, close friends, would have want to go into that
11 pipeline. But, in my view, whether permitting or sending
12 somebody into a situation where I had no information or
13 complete, incomplete, almost no information of what was in
14 that pipeline into a hazardous situation that I could not quantify,
15 I don't see a difference. To me I'd still be sending people into a
16 situation that I just didn't—I had no information on.

17 Q. I understand. I understand that.

18 A. And I had to protect the life of the rescuers also.

19 Q. A perfectly reasonable approach if I may say so?

20 A. Yeah.

21 Q. I'm not criticizing that. I just want to understand whether you
22 saw a difference between the two. The second part of what I
23 wanted to ask you about then is this. Is, um, you've been asked
24 already about a timeline and you've—

25 A. Yes.

26 Q. —given some evidence about that.

27 A. Yes.

1 Q. You would appreciate, wouldn't you, that the longer the period
2 of time between Mr. Boodram coming out—

3 A. Yes.

4 Q. —of that pipe and you effecting any kind of rescue—

5 A. Uh-huh.

6 Q. —was going to be affected by the likelihood of them being
7 alive—

8 A. Yes.

9 Q. —continuing to be alive. So, in other words, if there were a
10 clear plan that you could have approved—

11 A. Yeah.

12 Q. —the, minute Mr. Boodram came out of the pipe—

13 A. Yeah.

14 Q. —the likelihood of rescuing people who were still alive was
15 high, yes?

16 A. Yes. It was probably higher than more time passed, yes.

17 Q. As each hour passed by—

18 A. Yeah, h-huh.

19 Q. —that changed, didn't you?

20 A. Yes.

21 Q. You'd agree?

22 A. Yes.

23 Q. Right. And there comes a point in time, whatever that point
24 is—

25 A. Yes.

26 Q. —when, frankly, to send somebody into a pipe or to invite them
27 or permit them even—

1 A. Yeah.

2 Q. —into a pipe was going to be an unnecessary risk because the
3 likelihood is they were already dead, isn't it?

4 A. Yes.

5 Q. Right. So what I want to ask you is this. If you had, as Mr.
6 Maharaj has suggested, some sort of timeline, did you on your
7 board, a bit like the white board we have behind us here, and as
8 you had in your IMT, put up a sort of timeline and say, "Right,
9 hour one, this needs to happen. Hour two this needs to happen
10 so that you could measure the things that were being proposed
11 in the IMT against the likelihood of them still being alive?"

12 A. Chairman, I would say that, that is one element of the rescue
13 plan. Right?

14 Q. Quite an important one though isn't it?

15 A. An important element but there's also an element there's also
16 an ethical element here that had to be a considered.

17 Q. Ethical?

18 A. Yes. Because, as I said, sending people into an unknown
19 situation where the risks were unknown, all right, we never had
20 an incident before, none of these people had practice in diving
21 into pipelines in situations like this, we still at some point in
22 time was not clear on the incident, we didn't have a rescue plan
23 to rescue the rescuer, the ethical decision is how much risk do I
24 take with the life of the rescuer?

25 Q. Umm.

26 A. How do I sit and make that decision? How much risk do I take
27 with that? That is a ethical question that, that, I think, you

1 know the—I want to force the committee to think about. I think
2 it's a serious question.

3 Q. It is.

4 A. And it's not simply about time and pipeline and—there's a
5 serious ethical issue.

6 Q. Well it is, isn't it?

7 A. It is.

8 Q. It must be about time.

9 A. Well, it has to be about time, but not only that. There's a—it
10 was risky.

11 Q. Well, the risk assessment you're talking about with rescuer
12 himself must be governed by time?

13 A. And, and, and Sir and information and data.

14 Q. Yes.

15 A. To be able to be confident—

16 Q. I follow that. But one follows from the other, doesn't it? You
17 see if, if the reality is, as has been pointed out to you By Mr.
18 Maharaj, that you didn't have the information about the
19 conditions in the pipeline until the early hours of Saturday
20 morning—

21 A. Yeah.

22 Q. —frankly it was too late, wasn't it?

23 A. Well I—you know, look—

24 Q. Wasn't it?

25 A. That's, that's—

26 Q. Realistically.

27 A. That's a pos—even realistically yes.

1 Q. It was too late.

2 A. But, but I would also argue—

3 Q. So, if, if the—forgive me for interrupting you, but, I mean, I am
4 anxious to understand this from you, you see, because, if it's
5 not driven by time, you are inevitably going to be saying to
6 yourself, "Look, if I can't have details of the—of what's inside
7 that pipe by virtue of putting in a camera of one kind or another
8 until the early hours of Saturday morning, then there's not
9 going to be a rescue. Let's stop now. There's not going to be a
10 rescue. I'm not prepared to risk anybody going in that pipeline
11 six hours after Mr. Boodram has come out because the
12 likelihood is they're dead and there's no point in sending
13 anybody else to their death or potential death to try and rescue
14 them."

15 A. Well I am—and then I could argue on the opposite side, huh.

16 Q. Um, go ahead.

17 A. Without the information, it's also difficult to make that decision
18 and put the rescuer's life at risk.

19 Q. No, no well I—we're all—we're on the same page.

20 A. Okay, good, good.

21 Q. We're all exactly on the same page.

22 A. I just want to make sure we're clear.

23 Q. No, no, we are on the same page.

24 A. All right, good, good. Thank you.

25 Q. If, if the—if the assessment is—

26 A. Yeah.

27 Q. —that I can't get a camera into that pipe until the early hours of

1 the morning, then—and I'm not prepared to let anybody go in
2 the pipe until I have the—have the evidence, then there is not
3 going to be a rescue?

4 A. And, and I would say information to ensure that there's a safe
5 rescue, there's safety for the rescuer.

6 Q. Of course.

7 A. Okay.

8 Q. But, you see, it comes back to what Mr. Maharaj is saying.
9 You had commercial divers on the scene with a whole range of
10 equipment.

11 A. Yeah.

12 Q. Right? Pause for a moment.

13 A. Yeah. I'm listening.

14 Q. With a whole range of equipment, you agree with him that you
15 didn't actually ask them, well what is a credible plan? We are
16 not going to be able to get a camera in that pipe in a time that
17 makes it work, so you tell me what is the credible plan? What
18 is an alternative?

19 A. Right.

20 Q. You didn't do that?

21 A. No, I—so—but I also spoke to other commercial divers.

22 Q. Yeah, but, you see, the other commercial divers, Hull Support,
23 Offshore Technology, Mitchell's Professional Diving Service,
24 Eastern Emergency Response Services, these are all companies
25 you contacted, or your—

26 A. Yes.

27 Q. —company contacted.

1 A. Yes.

2 Q. They didn't arrive on the scene until much later.

3 A. Even in the event that we had spoken to the companies that
4 were on site, and they were there by, I think, about eight
5 o'clock or something like that, something around 1930, the
6 ethical decision would have still been there, whether we knew
7 enough about that pipeline and what was happening in that
8 pipeline to send people into that pipeline. That remained a
9 compelling question.

10 Q. All right, well we're coming back to the same position. We
11 had, I think, agreed that you ultimately were not prepared to
12 permit anyone in that pipeline without having video footage,
13 and the truth is the video footage was never available until the
14 early hours of the morning.

15 A. Having information to do—to derisk the—information to derisk
16 the dive, Chairman, video footage with information to derisk
17 the dive. That's the objective. I, I, I—you know, I don't want
18 to be—I don't want it to be trivialized.

19 Q. No, no.

20 A. Informa—please.

21 Q. Rest assured.

22 A. Information—go ahead.

23 Q. Rest assured it's not being trivialized. The only other thing I
24 would say to that is—

25 A. Yeah.

26 Q. —is that, um, as we've put to a number of other witnesses, is
27 that you had perhaps some information that was even better

1 than having a video camera. You had somebody who'd
2 actually been in there for several hours.

3 A. Chairman, and I would argue differently. Right? And I would
4 argue with—

5 Q. Oh, I see what you're saying.

6 A. —with two facts, right?

7 Q. Go ahead, yes.

8 A. So, the key fact that, that, you know, came out is that we were
9 able to get the cameras in eventually and that camera went 600
10 and—over 600 feet, right, and we were not able to see any
11 persons in that pipeline—600 feet. Right? Sending somebody
12 into that pipeline with incomplete information going in and
13 expecting to find somebody at 120 feet, 130 feet, 200 feet, a
14 family member, somebody who has emotional connection to
15 somebody what they would have done, logically? They
16 probably would have tried to go the extra mile. We had
17 information of somebody who come out of the pipeline but the
18 rescuer had to make a two-way trip. He had to go in and he had
19 to come back out. There were too many questions. Would one
20 tank have been able to do it? Would two? Would three?

21 Q. Do you know the answer to that?

22 A. I don't.

23 Q. Did you ask?

24 A. In hindsight, I'm asking. But those are—

25 Q. Yeah, well, did you ask at the time?

26 A. At the time it was more thinking through the, the ethical
27 question of how do I find myself at a place where I—we get

1 comfortable with that dive rescue and the approach we took
2 was consultation with professional dive companies.

3 Q. All right. Yes, thank you very much.

4 **Mr. Chairman:** Mr. Maharaj, I'm sorry I took so long.

5 **Mr. Maharaj SC:** That's all right.

6 **Continued Examination By Mr. Maharaj SC:**

7 Q. Consultation with professional divers but not consultation with
8 LMCS commercial divers?

9 A. Well, professional commercial divers. Both those companies
10 are commercial diving companies.

11 Q. Anyhow, let's go to the other issue. That other issue has to do
12 with the communication with the family.

13 A. Yes.

14 Q. Okay? Did Paria make arrangements to accommodate the
15 families of the men to keep them updated as to what was
16 happening?

17 A. Yes. Paria offered that the families would stay at the, er, the
18 staff complex, all right, where we—

19 Q. At what time you offered that?

20 A. That was offered I believe on Saturday, Saturday afternoon.

21 Q. Saturday afternoon. So between Friday to Saturday afternoon,
22 between Friday afternoon to Saturday afternoon, is it correct
23 that Paria did not make any arrangements to accommodate the
24 families during that period?

25 A. During Friday to Saturday afternoon, no. We'd asked LMCS if
26 they had communicate with the families. We had planned a
27 meeting for ten o'clock with the families on Saturday morning

1 and is at that meeting discussions were had with
2 accommodation and what future communications would look
3 like.

4 Q. Right. At paragraph 91 of your witness statement, you stated
5 that there was a meeting with the family members at the Pointe-
6 a-Pierre staff club was—that was a meeting arranged by Paria?

7 A. Yes.

8 Q. And that staff club was the venue for that meeting that Paria
9 fixed?

10 A. Yes.

11 Q. So, the meeting with the families at the Petrotrin Sports Club on
12 Saturday was the first time that Paria met with the families?

13 A. That is correct.

14 Q. Before this meeting, did you know where the families were
15 when they were trying to get information from Paria?

16 A. I want to make something kind a—

17 Q. But did you know—

18 A. No, no.

19 Q. —where the families—

20 A. I don't know where the families were.

21 Q. Right.

22 A. But we enquired from Mr. Ali whether he had communicated
23 with the families. Now on Friday night, if you mind if I add
24 some context here, Mr. Maharaj, Paria would not have had next
25 of kin numbers for the guys who were, who were in the
26 pipeline. All those contact information would have been with
27 the contractor, with the LMCS contractor. We wouldn't have

1 had all that information at that time and we had specifically
2 requested that the contractor or we had tested with the
3 contractor whether he had spoken to his employees and the
4 families of his employees. Paria stepped in on Saturday to be
5 able to meet the families and have that discussion with them.

6 Q. Mr. Mohammed, I accept that—

7 A. Okay.

8 Q. —what you say, as to getting information, but are you aware
9 that the families were in the car park from Friday afternoon?

10 A. No. I'm not aware of that.

11 Q. You're not aware of that?

12 A. No. From Friday afternoon?

13 Q. Yes. From Friday afternoon throughout Friday evening
14 throughout Friday night.

15 A. No.

16 **Examination By Mr. Chairman:**

17 Q. Or that they tried to get into Paria and were denied entry?

18 A. The families were denied entry into Paria?

19 Q. Yes, families denied entry from entering the Paria, um, er,
20 premises. When they came to the gate and asked to speak to
21 someone they were denied. You're aware of that?

22 A. On Friday afternoon?

23 Q. Friday afternoon, evening certainly.

24 A. I'm not aware of that, Sir.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. I want to go through the witness statement of Vanessa Kussie?

27 A. Uh-huh.

1 Q. It's at Volume IV of the witness statement bundle at page 1585.

2 A. What page, sorry?

3 Q. Fifteen eighty-five.

4 A. Fifteen eighty-five.

5 Q. It's Vanessa Kussie.

6 A. Witness statement bundle nine to 474.

7 **Mr. Chairman:** It's Tab 53.

8 Q. Volume IV.

9 A. Tab 53. Right. I have it, Tab 53, good. I've got it, thank you.

10 Yes.

11 Q. At paragraph five she referred to as getting the information.

12 Then at paragraph six.

13 "Within about—

14 A. Paragraph six.

15 Q. —half an hour or so we were there at Paria in Pointe-a-

16 Pierre. This was about 6.30 p.m. going to 7.00 p.m.

17 When I got there, I was still shaking. My Uncle Alan

18 went up to the secure tight the entrance. There were four

19 of them. He told them he understood there was an

20 accident and we came to find out. He told them that I

21 was the wife of Rishi. The reply from the security was

22 that this is the first time they are learning"—I'm sorry—

23 "they are hearing about an accident and they didn't

24 know."

25 And then she went on in her statement at paragraph seven that

26 the uncle went and asked the security, et cetera, and then at

27 paragraph eight:

1 “By this time we saw vehicles coming in and out of the
2 compound. We were right outside by the security booth
3 on the road. My uncle stopped a few vehicles and asked
4 if there was an accident inside. One person who said he
5 works for Paria said that he understood that there was an
6 accident and the guys are trapped in the pipeline but they
7 are hearing knocking, so don’t worry. He said they,
8 Paria, was helping to rescue them. I then relaxed a little
9 bit based on what I heard.

10 My uncle told him that Rishi Nagassar is my husband.
11 The man then said, ‘Don’t worry, Ma’am. We are going
12 to get them out. Help is on the way.’”

13 At paragraph nine:

14 “About, five or 10 minutes I saw a few of LMCS workers
15 going into the compound. I stop them. One of them I
16 know as Brown. He is one of the Ryan’s friends”—and
17 then, um, I’ll go to paragraph 10.

18 “I less than half an hour we saw an ambulance coming
19 out from Paria. When they were halfway through my
20 uncle Alan stopped the driver and asked the driver if
21 there was any accident that took place inside there and if
22 the ambulance was here concerning the accident. He said
23 he didn’t know exactly what was going out but he can
24 say they took out someone and took him to the San
25 Fernando Hospital. We asked him if the person they took
26 was Rishi or what was his name. He said if we want to
27 know we should go to San Fernando because they took

1 him about half an hour ago. My uncle asked if there was
2 someone in the ambulance at the time. He said no. My
3 uncle asked if he knew someone we could call. He said
4 hold on a minute and he made a few phone calls and then
5 told us that it was Christopher Boodram who came out.
6 My uncle went back to the security and said all of these
7 vehicles going in and out. This is the second time an
8 ambulance is coming out of the compound and they still
9 saying no accident and they don't know anything about it
10 and didn't have a phone number to call a secretary. He
11 said a big company like this and you don't have a
12 member, a number to give to call someone and there was
13 one to help us and give us information. One of the
14 security ladies came out and then two others came out
15 and said if we wish we can park inside the compound and
16 hold on there in the car park as there are two vehicles
17 inside there. She then said that she didn't know if they
18 are families of the victims.”

19 And then she went on at paragraph 13.

20 “We stayed in the car park until about 4.00 a.m. on the
21 26th of February. No one from Paria came out and spoke
22 to me. No one from LMCS called me and told me what
23 happened.”

24 Then she said she went home to shower, et cetera, et cetera,
25 that's on Saturday the 26th of February.

26 **Mr. Chairman:** Pause there for a moment.

27 **Mr. Maharaj:** Yes.

1 **Examination By Mr. Chairman:**

2 Q. Were you aware of any of this?

3 A. No. What, what I am aware of is that on Friday night we had
4 asked Mr. Ali if he was communicating with the families on the
5 incident, Mr. Kazim Ali. And Mr. Kazim Ali told us yes that
6 he had been communicating with the families on the incident
7 and on the updates. So this, this detail, you know, I—this is the
8 first time I'm seeing this detail.

9 Q. I mean, whether or not Mr. Ali was or was not communicating
10 with some or all of the members of the families—

11 A. I, I, I, I would not have known that.

12 Q. No.

13 A. I mean it was a straight question to Mr. Ali on that night.

14 Q. But, but, just reflecting for a moment—

15 A. Yes.

16 Q. —on what this lady is saying, um, she's at Paria attempting to
17 find out what's going on and apparently no one's telling
18 anybody anything.

19 A. Yeah.

20 Q. They're resorting to have to stopping cars—

21 A. Yeah.

22 Q. —entering and/or leaving the premises to find out what's
23 happening.

24 A. Yeah, well—

25 Q. I mean, it—on any view, not an acceptable position, is it?

26 A. No. That's not—that was not a—that's unacceptable.

27 Q. Can I ask you this?

1 A. Yeah.

2 Q. And I don't wish to short-cut—

3 A. Yeah.

4 Q. —Mr. Maharaj from relaying the narrative of this lady, but,
5 once you knew, as you did, that there was a major incident
6 which potentially involved the death of anything up to five
7 divers—

8 A. Yes

9 Q. —um, did you, as the Managing Director, make any facility
10 available at Paria to accommodate the immediate relatives and
11 to keep them informed on a step by step basis?

12 A. Those arrangements were made on Saturday morning but not on
13 Friday afternoon.

14 Q. I mean, 24 hours after the event is not an acceptable approach,
15 is it? Come on, Mr. Mohammed.

16 A. No, no, no, it's not acceptable.

17 Q. These, these are the victims' families.

18 A. And I would, I would argue—I would—I wouldn't, I wouldn't
19 argue the point—

20 Q. Right.

21 A. —Chairman.

22 Q. You agree with that?

23 A. I wouldn't argue the point. I wouldn't argue the point.

24 Q. Right. I mean—

25 A. I wouldn't argue the point.

26 Q. —something should have been done—

27 A. I wouldn't argue the point.

1 Q. —[Inaudible]

2 **Mr. Chairman:** Right. Thank you. Mr. Maharaj, is there any
3 value in putting any more of the—

4 **Mr. Maharaj SC:** No, no—

5 **Mr. Chairman:**—tragic circumstance of this to—

6 **Mr. Maharaj SC:** No I don't think so, because it's there on
7 the record.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Do you know—

10 **Mr. Chairman:** If you're moving on to a completely different
11 topic, I wondered if we should take our lunch break.

12 **Mr. Maharaj SC:** Yeah, I'll be glad and I'll just be about half
13 an hour when we come back.

14 **Mr. Chairman:** All right. Well, let's take our lunch break
15 now.

16 **Mr. Maharaj SC:** Okay.

17 **Mr. Chairman:** One way or the other, Mr. Mohammed, I can
18 give you this reassurance. I don't care what time it is but we
19 are going to conclude your evidence today. All right?

20 **Mr. Mohammed:** Oh, thank you. And I'm willing to spend
21 the day.

22 **Mr. Chairman:** Sorry?

23 **Mr. Mohammed:** I'm willing to spend the day. I'm going to
24 spend day, giving to the best of my ability.

25 **Mr. Chairman:** All right. Well, thank you very much.

26 **Mr. Mohammed:** Giving—

27 **Mr. Chairman:** We will conclude you at some point today.

1 **Mr. Peterson SC:** Mr. Chairman, we—

2 **Mr. Chairman:** Yes, of course.

3 **Mr. Peterson SC:** Sorry. Mr. Chairman, we have Mr.
4 Yearwood in the wings. Do we keep him or—

5 **Mr. Chairman:** I was going to, I was going to discuss that
6 with the team and see how much longer. I'm assuming that
7 there are going to be some questions from a number of people
8 of Mr. Mohammed this afternoon. Can I see a show of hands of
9 those who would wish to ask questions? [*Hands raised*] Do
10 you all think you're going to be more than 10, 15 minutes?
11 One, two.

12 **Mr. Pegus:** I'll be less than 10 minutes.

13 **Mr. Chairman:** Less than 10.

14 **Mr. Hosein-Shah:** Chair, I estimate to be around 30 to 45.

15 **Mr. Chairman:** Thirty to 45, if I let you. And, um—

16 **Mr. Hosein-Shah:** I will restrain to 30, Sir.

17 **Mr. Chairman:** You will be. Yes, thank you very much. And
18 what do you think Ms. Persaud Maraj?

19 **Mrs. Persaud Maraj:** Mr. Chairman, I perhaps have about 45
20 minutes. Of course, that might be reduced by the time—

21 **Mr. Chairman:** All right, well, I think we can safely say Mr.
22 Yearwood can go.

23 **Mr. Peterson SC:** Thank you very much, Sir.

24 **Mr. Chairman:** Because we're not going to get past that. So
25 what we're going to do, given that timetable, Mr. Maharaj will
26 conclude at—can we, can we resume at two o'clock? That's a
27 45-minute lunch break? Is that sufficient for everyone?

1 **Mr. Peterson SC:** Yes.

2 **Mr. Chairman:** Good. We'll resume at two o'clock, Mr.
3 Maharaj will conclude his questions, and then we will hear in
4 the order I determine and we'll get it done today, but I think
5 we'll stop here. So thank you very much indeed.

6 **1.15 p.m.:** *Enquiry suspended.*

7 **2.04 p.m.:** *Enquiry resumed.*

8 **Mr. Chairman:** Good afternoon. Mr. Maharaj.

9 **Mr. Maharaj SC:** The witness.

10 **Mr. Chairman:** And then our witness—ah, here he is.

11 [*Mr. Mushtaq Mohammed re-enters enquiry room and sits at*
12 *witness table*]

13 **Mr. Chairman:** You're still on oath, Mr. Mohammed.

14 [*Off the record discussion*]

15 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Mr. Mohammed, I just want to ask you a few more questions in
18 respect of the families.

19 A. Right.

20 Q. Would you agree that at the time of the meeting that you had
21 with the families at the Pointe-a-Pierre Staff Club, Paria was
22 considering recovery?

23 A. I would say that recovery had been discussions that started to
24 emerge by that time but we were still moving ahead full-
25 fledged with the attempted dry rescue, in terms of getting the
26 pumps and—

27 Q. As a matter of fact, on that Saturday at around 5.15 p.m.—

1 A. Yes.

2 Q. —you and Mr. Piper made a decision to move to recovery?

3 A. Yes.

4 Q. How did you inform the family of Rishi Nagassar about the
5 decision to move to recovery?

6 A. Rishi?—

7 Q. Do you know?

8 A. —Nagassar. Yes. So Friday we informed them by—

9 Q. I'm talking about Rishi Nagassar.

10 A. Rishi Nagassar?

11 Q. Yeah, the family of Rishi Nagassar.

12 A. We informed them through a WhatsApp call.

13 Q. WhatsApp?

14 A. Yes.

15 Q. And how did you inform the family of Yusuf Henry?

16 A. Same, same method.

17 Q. And the family of Faizal Kurban?

18 A. Same method.

19 Q. I'm suggesting to you that the Rishi Nagassar's family were
20 informed of the decision to move to recovery—

21 A. Uh-huh.

22 Q. —at Paria's media conference.

23 A. No.

24 Q. Which was on Sunday.

25 A. No. So, just let me be—no and I want to provide an
26 explanation, right?

27 Q. Yeah, okay.

1 A. When we met on Saturday, the families were there. Right? We
2 asked the families what would be the best method to continue
3 the communications if they opted not to stay at the complex.

4 **Mr. Chairman:** Can you reach a little closer to the mike
5 please?

6 **Mr. Mohammed:** Sorry. I'm sorry, yes.

7 **Continued Examination By Mr. Maharaj SC:**

8 A. And they said that WhatsApp, WhatsApp calls would work best
9 for them, right? On Saturday afternoon, after we made the
10 decision to move from rescue to recovery, we had a discussion
11 with Mr. Ali and the plan on Saturday afternoon was to go to
12 visit each one of those families on Saturday afternoon at their
13 homes to be able to communicate that message. Mr. Ali agreed
14 that we go to his daughter-in-law's home firstly to be able to
15 deliver that message. And myself, Mr. Ali and one or two other
16 people on my team went to the home of Mr. Ali's daughter-in-
17 law to be able to deliver that message. The plan was for myself
18 and Mr. Ali to continue to visit the rest of the families that
19 afternoon.

20 Mr. Ali said that he would, you know, he wasn't going to visit the rest
21 of the families and I said, okay, well, Mr. Ali not going, we
22 have to find other ways to communicate. On the way back to
23 the Paria's office at Pointe-a-Pierre, we were informed that the
24 families were waiting, were, um, were at the, were at the car
25 park. When I got to the office on Saturday evening, we called
26 all the families individually and asked them to come into the
27 office so we could have a discussion with them on what was the

1 next move with regard to the incident. Families refused to enter
2 the office and that is where we opted for the WhatsApp call
3 using the numbers that was provided for us by those families as
4 the means of contact.

5 Q. Okay. At paragraph 10 of your witness statement, you said that
6 in February 2022 Paria employed 95 persons and retained 183
7 Kenson employees.

8 A. Yes.

9 Q. So, in February 2022, Kenson employees almost doubled the
10 amount of Paria employees?

11 A. As of that date, eh.

12 Q. Yes.

13 A. As of that date, yes.

14 Q. Right. Yeah. And, um, and at paragraph 13 you explained that
15 Paria deployed Kenson employees primarily in Paria's HSEQ
16 maintenance and operations department—

17 A. Yes.

18 Q. —where they were most required and as subordinates to Paria
19 officials?

20 A. Yes.

21 Q. That's correct?

22 A. That's correct.

23 Q. Now, you have been saying today that—and in your evidence,
24 that because LMCS did work for Petrotrin on several occasions,
25 similar work, that was an influencing factor that Paria regarded
26 them as being a competent contractor?

27 A. I want to be careful about what I said. For this particular job, I

1 said that, that LMCS did a similar job in 2020. Now they
2 have—and LMCS also had a track record of working with
3 Petrotrin, but I want to be careful that we don't mix up two
4 things.

5 Q. Okay but in—am I correct that in your witness statement—

6 A. Yes, yes, there—I have listed a number of jobs that they would
7 have worked on at Petrotrin.

8 Q. Yeah, yeah and both in respect of the work that was done for
9 Paria—

10 A. Correct.

11 Q. —and in respect of the work that was done for Petrotrin?

12 A. Yes, yes but I want to make that distinction also, yes.

13 Q. Okay. But you would agree with me—

14 A. Uh-huh.

15 Q. —that the, the, the institutional knowledge—

16 A. Uh-huh.

17 Q. —which the staff of Paria had—

18 A. Yes.

19 Q. —at the time in February 22—

20 A. Yes.

21 Q. —2022—

22 A. Yeah.

23 Q. —in respect of these kind of works—

24 A. Uh-huh.

25 Q. —were not comparable with the institutional knowledge that
26 the staff that Petrotrin had?

27 A. Well that is arguable because 80 per cent of the Kenson staff

1 were past Petrotrin employees. Right? There is a very high
2 percentage—

3 Q. At a—but of lower level workers?

4 A. I wouldn't say of lower levels. They occupy roles that are
5 fairly—they performed roles that are fairly senior in the
6 organization. In addition to that, the people at senior roles in
7 Paria are also Heritage/Petrotrin.

8 Q. But, am I correct that you did not work at Petrotrin?

9 A. I did not work at Petrotrin.

10 Q. As a matter of fact, your first appointment is with Paria?

11 A. That is correct.

12 Q. Correct. And what year was that?

13 A. Twenty nineteen.

14 Q. Twenty nineteen?

15 A. Yes.

16 Q. And prior to Paria what was your—what, what, what, what was
17 your occupation, if I may ask?

18 A. Prior to Paria I worked at Heritage for a short time. Before that
19 I was CEO at National Quarries and for all the years before that
20 I worked 24 years at BP and seven years at Methanex.

21 Q. Okay. Now, do you know a man called Imtiaz Ali who used to
22 work at Petrotrin?

23 A. Imtiaz Ali. Are you referring to Mr.—

24 Q. Kazim Ali's—

25 A. —Kazim Ali brother?

26 Q. —brother, yes.

27 A. I know of him, yes.

1 Q. And do you know he—well he was a former employee of
2 Petrotrin?

3 A. Yes.

4 Q. And, um, would you—according to him in his witness
5 statement he said he worked for Petrotrin for over 37 years?
6 Would you—

7 A. Well, probably. I wouldn't know the facts around that.

8 Q. You wouldn't know that?

9 A. No.

10 Q. But he retired in February 2018?

11 A. Yeah.

12 Q. And he was Petrotrin's Senior Manager Strategy and Business
13 Development and Advisor to Arlene Chow. Are you aware of
14 that?

15 A. To Arlene Chow?

16 Q. Uh-huh. Petrotrin's then CEO.

17 A. Arlene Chow?

18 Q. Yes.

19 A. He was sen—to Arl—I don't know that.

20 Q. You didn't know that?

21 A. No.

22 Q. Okay.

23 A. To Arlene Chow you're saying, eh? I, I—

24 Q. Yeah, yeah.

25 A. Okay. Possibly.

26 Q. Okay. Now, in his witness statement, which is at page 2926 of
27 the supplemental witness bundle—

1 A. Is it tabbed?

2 **Mr. Chairman:** Sixty-six.

3 **Mr. Mohammed:** Sixty-six. Okay, good. Thank you.

4 **Mr. Maharaj SC:** Paragraphs 17 and 18.

5 **Mr. Chairman:** Which paragraphs?

6 **Mr. Maharaj SC:** Paragraphs 17 and 18.

7 **Mr. Chairman:** Seventeen and 18.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Before I take you to—go ahead, just find it for me.

10 A. Okay.

11 Q. Paragraphs 17 and 18

12 A. Seventeen and 18?

13 Q. Yeah, one seven and one eight.

14 A. Okay, good.

15 Q. Um, are you aware that he accompanied Kazim Ali Sr. to
16 Paria's meeting on Sunday morning to discuss LMCS' rescue
17 plans?

18 A. Yes. Yes.

19 Q. Yes. Now, I want you to look at his paragraph 17 and 18—

20 A. Right.

21 Q. —which is at page 2929. And he was saying—I should start at
22 paragraph 16.

23 A. Paragraph 16.

24 Q. At 2928.

25 "It was now about midday and it was clear to me that
26 Paria was very reluctant to convene a rescue. After more
27 discussions, Paria said they wanted a written proposal of

1 the rescue plan that they could share with their subject
2 matter experts.”

3 And I want to refer you to this.

4 “All of this could have been done on Saturday the 26th of
5 February or even on Friday the 25th of February when
6 the rescue plan was developed so that Paria could have
7 come to a quick decision. Paria had the responsibility
8 and authority to assemble whatever resources they
9 needed urgently to review LMCS’ rescue plan. They did
10 nothing. Paria was presented with a viable rescue plan,
11 developed by LMCS and Conan Beddoe who was an
12 experienced and competent diver who was prepared to
13 enter the pipe. Rather than responding decisively Paria
14 did nothing. They vacillated even though lives were
15 imperilled.”

16 Would you agree with those statements or you disagree?

17 A. No. I disagree with those statements.

18 Q. Okay.

19 A. Let me tell you, I disagree with it in part. The fact is that we
20 did ask LMCS to come back with a plan on, on Sunday, and the
21 fact is LMCS—

22 **Examination By Mr. Chairman:**

23 Q. Which day, sorry?

24 A. On Sunday.

25 Q. On Sunday?

26 A. Yes, with a written plan. Right? That was when the request
27 was made.

1 Q. Sorry, I just want to be clear. You asked LMCS to provide you
2 with a written plan on Sunday?

3 A. Yes.

4 Q. Had you asked them to provide one before then?

5 A. We were always asking for a plan, Chairman. This was, this
6 was LMCS' second attempt at providing a plan that makes
7 sense.

8 Q. Right.

9 A. Not the first.

10 Q. All right.

11 A. Or not—maybe not the second maybe the third or fourth plan.

12 Q. It's important to me this.

13 A. Yes.

14 Q. So I want to understand. You're saying that you asked LMCS
15 to provide a written plan on Sunday?

16 A. Let me go back.

17 Q. You said—just a minute.

18 A. Yeah.

19 Q. You then said that was not the first one or that the—

20 A. Yes.

21 Q. —this was another plan.

22 A. Let me, let me go back.

23 Q. When was the first plan that you got from LMCS?

24 A. Well, outside of a few words, I have no plan—there's no—is
25 there a plan in evidence that I have not seen that LMCS has
26 presented?

27 Q. Right.

1 A. Is there a written plan or something I could say that LMCS
2 presented this plan? And in the absence of have—not having a
3 plan, written, articulated, drawn or any other imaginary, outside
4 of a few words, and a request to dive, the obvious thing to do
5 was—be to ask for a plan.

6 Q. Yes.

7 A. I didn't—I don't know how—

8 Q. All I'm asking—there's no need to get that—most of—I just
9 want to understand.

10 A. Yeah.

11 Q. When did you first ask LMCS to provide you with a plan?

12 A. I think from Friday afternoon we were asking for a plan.

13 Q. Friday afternoon?

14 A. Yes.

15 Q. Yeah. And who asked, please?

16 A. I guess that that would have been Collin at some stage or
17 Catherine at some stage. I personally didn't ask for a specific
18 plan until on Sunday.

19 Q. But is it your understanding and therefore your evidence—

20 A. It is my understanding, yes.

21 Q. Is it your understanding and therefore your evidence that Paria
22 or someone at Paria asked LMCS for a plan on—

23 A. That is my, that is—

24 Q. —on Friday afternoon?

25 A. That is my understanding.

26 Q. Yeah. All right, thank you. LMCS asked—so LMCS were
27 asked for a plan on Friday afternoon by Paria and you're not

1 able to say who it was that asked that, whether it's Ms.
2 Balkissoon—

3 A. It would either be Collin, Collin or Catherine would be one of
4 the—

5 Q. One or the other?

6 A. One or the other, all right?

7 Q. Either Collin Piper or Catherine Balkissoon. And is it your
8 case then that you were not provided with such a plan?

9 A. No plan ever reached to me—

10 Q. “No plan ever reached me.”

11 A. —from, from LMCS written—there were a few verbal
12 mutterings but no real plan.

13 Q. “No, no plan reached IMT or me”, is that right?

14 A. So far as I know that, that, that—those are the facts.

15 Q. And, and you said earlier not written, articulated or drawn
16 outside of a few words?

17 A. Yes.

18 Q. All right. Thank you very much.

19 **Mr. Chairman:** Yes, thank you, Mr. Maharaj. Sorry, I, I
20 interrupted you. You were asking—I've finished, thank you.

21 **Mr. Maharaj SC:** Much obliged.

22 **Mr. Chairman:** You were asking him whether or not he asked
23 for a plan.

24 **Mr. Maharaj SC:** Yes, there's one more thing I want to put to
25 him from what Mr. Ali said in his—

26 **Mr. Mohammed:** Yes.

27 **Mr. Maharaj SC:**—witness statement.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. Look at paragraph 28.

3 A. Paragraph 28?

4 Q. Twenty-eight at page 2930. He said:

5 "From my experience Paria did not treat the divers and
6 their families fairly in that Paria did not act quickly and
7 decisively when presented with a viable rescue plan with
8 a competent and experienced diver who was prepared to
9 undertake the rescue. In my experience, Petrotrin would
10 have never acted like Paria did."

11 You do not agree with that?

12 A. That's an opinion.

13 Q. Yeah, but you do not agree with that?

14 A. No.

15 Q. Okay.

16 **Mr. Maharaj SC:** I have no further questions for this witness.

17 **Mr. Chairman:** Thank you very much. Right. So some hands
18 went up. Do I take it that Mr. Hosein-Shah—have I got your
19 name right?

20 **Mr. Hosein-Shah:** Yes, Chair.

21 **Mr. Chairman:** I have? Well, that's a first. I can't hear
22 you—yes it's me because and/or Mr. Maharaj, right. Mr.
23 Hosein-Shah, yes, you have some questions, all right.

24 **Mr. Hosein-Shah:** Yes I do, Chair.

25 **Mr. Chairman:** Can I invite you to restrain yourself to such
26 that you're concluded within the half an hour please?

27 **Mr. Hosein-Shah:** Yes. I've been trying.

1 **Mr. Mohammed:** Chairman, is it okay if I face Mr. Shah?

2 **Mr. Chairman:** Entirely appropriate for you to face him.

3 **Mr. Mohammed:** Thank you.

4 **Mr. Chairman:** It's not a problem.

5 **Cross-Examination By Mr. Hosein-Shah:**

6 Q. Good afternoon, Mr. Mohammed.

7 A. Good afternoon, Sir.

8 Q. My name is Asif Hosein-Shah and I represent the Seamen and
9 Waterfront Workers Trade Union. I have a few questions for
10 you. I'm going to be as short as possible. Hopefully we can
11 have a good rapport together.

12 A. For sure.

13 Q. Now you are the head of the Management Committee at Paria?

14 A. Yes, yes.

15 Q. And in answer to certain questions from Mr. Maharaj—

16 A. Yes.

17 Q. —you said you did not find it necessary to seek expert
18 assistance in evaluating the tender of LMCS. I believe your
19 words were that you trusted their expert competence as a
20 contractor to bring forward the specific risks.

21 A. Yes.

22 Q. And you also said that you trusted them to bring their
23 expertise—to bring all the expertise through the contractor?

24 A. I want to be careful.

25 Q. Yes.

26 A. I not sure I said trusted. What I said was based on their track
27 record of having done the job safely a year—about a year ago.

1 So I don't want to bring the word trust into it because—you run
2 a business, right, so we work with track record, competence,
3 display of objectives, achieving objectives, so I just want to be
4 clear—

5 Q. Yes.

6 A. —make sure that that—

7 Q. Well, let me be—

8 A. —you're not paraphrasing me wrongly.

9 Q. Yeah. Let me be fair to you.

10 A. Right.

11 Q. So I'm specifically talking about the evaluation of LMCS'
12 tender.

13 A. Okay.

14 Q. Specifically the safety, the job safety analysis—

15 A. Yes.

16 Q. —and the emergency response plan.

17 A. Yes.

18 Q. And you said that you trust—well not trusted but you relied
19 upon—

20 A. Correct.

21 Q. —their competence?

22 A. Yes.

23 Q. Yeah? Now you also said that there are rules at Paria, and I
24 believe Mr. Maharaj took you through some of them, and that
25 there's also the practical application of those rules.

26 A. Yeah.

27 Q. Now I want to take you to the witness statement bundle—

1 A. Uh-huh.

2 Q. —this is the invitation to tender, at page 560.

3 A. Which, which, which one?

4 **Mr. Chairman:** You may not have it. It's core bundle
5 Volume—it's going to be provided to you. Maybe we'll clear
6 away some of the—that you have there.

7 **Mr. Mohammed:** Thank you.

8 **Mr. Chairman:** Keep your witness statement.

9 **Mr. Mohammed:** Yes.

10 **Mr. Chairman:** This is the scope of work that you're referring
11 to is it, Mr. Hosein-Shah?

12 **Mr. Hosein-Shah:** Yes. So within—

13 **Mr. Chairman:** Yes. Just a moment, just a moment, Mr.
14 Hosein-Shah. Let's just give an opportunity for some space to
15 be cleared.

16 **Mr. Hosein-Shah:** Sure.

17 **Mr. Chairman:** Right, lovely. Thank you very much. Yes.
18 Your question.

19 **Continued Cross-Examination By Hosein-Shah:**

20 Q. Yes so fair going to heading 6.3—

21 A. Six point three?

22 Q. —which deals with safety. And in particular we're looking at
23 3.3.8 and it reads: "The contractor". You're with me?

24 A. Just now; 6.3.8, yes.

25 Q. "The contractor is responsible for provision of the job
26 safety method statement, job hazard analysis and risk
27 assessment which will be reviewed by Paria's

1 representatives.”

2 So you agree that’s the rule?

3 A. That’s the rule.

4 Q. But that’s not necessarily how it was applied in that Paria did
5 not necessarily conduct a detailed review in trusting LMCS’
6 competence in drafting those documents?

7 A. I lost somewhere. Help me, sorry, if you could repeat, sorry?

8 Q. Sure.

9 A. I got lost somewhere.

10 Q. Sure. So the end of that clause—

11 A. Right.

12 Q. —ends with those documents that you see there listed—

13 A. Yes.

14 Q. —will be reviewed by Paria’s representatives?

15 A. Yes.

16 Q. And in terms of the review, that review you say did not include
17 any expert advice, correct?

18 A. What, what—all right give me a little—

19 Q. In terms of identifying the hazards, Sir.

20 A. Right. So, as I said, the way, the way we built the system or we
21 fashioned it, is that we would go for the contractor who would
22 bring specialized services to the facility. The development in
23 particular, the method statement would belong to the contractor
24 because they were the specialists and they would know what
25 are the job steps for executing that job.

26 Q. Right.

27 A. However, the risk assessment and the hazard analysis would be

1 joint between the Paria team and the contract team but at the,
2 at—remember at a—at the point of procurement, at the point of
3 the tenders committee, the full development of the risk analysis
4 and the hazard assessment is done once the contractor is
5 selected, they do a site visit, that's a process that continues to
6 run, right?

7 Q. Yes. But you, you trusted LMCS to identify all the hazards in
8 that—

9 A. We, we believe, we believe, based on the track record that
10 LMCS had that they were competent enough to identify the
11 hazards, yes.

12 Q. Good.

13 A. They had done the job, a very similar job not too long ago.

14 Q. Correct. So Paria did not undertake to identify the hazards, is
15 that correct?

16 A. Para did not undertake—Paria together, working with the
17 contractor over the period of the development of the project,
18 would have engaged with contractor—

19 Q. No I'm not talking about the tender, Sir.

20 A. Would have engaged—with the tender?

21 Q. Yeah. LMCS would not, would not be involved in evaluating
22 the tender. That's Paria.

23 A. But then the method statement, et cetera, would come fully
24 developed by the contractor at the tender stage, so Paria
25 wouldn't have a role at the tender stage.

26 Q. Correct. So you're saying that in evaluating the risk identified
27 by LMCS, Paria would not have done its own independent or it

1 would not have tried to identify those risks on its own accord?

2 A. In the method statement that was provided at the tender is what
3 you're saying?

4 Q. Well, the job safety analysis, the emergency response plan, all
5 the safety documents, Sir. The risk assessment.

6 A. At the, at the tender stage, at the tender stage, LMCS would
7 have presented Paria with a set of documents that would have
8 formed part of the package. Paria would have assessed those
9 documents based on what the pre-qualification was for that, for
10 that tender. I can't remember exactly what the pre-qualification
11 was, and that would be the assessment done at the tender stage.

12 Q. Correct.

13 A. Right?

14 Q. So that they would not have—and we're on the same page
15 here—

16 A. Okay.

17 Q. —so they would not have identified or sought to identify
18 independently the risks associated with the job? They would
19 have trusted the competence of LMCS. Is that true?

20 A. I would say that Paria would have assessed the package
21 presented to it at the tenders committee based, based on the
22 criteria that was set out by Paria.

23 Q. I see, based on the criteria?

24 A. Yes.

25 Q. Now, I want to take you to the witness statement of Mr.
26 Balkaran at page 1432 of the witness statement bundle.

27 A. This is the same witness statement bundle I'm looking at here?

1 Q. I'm not quite sure.

2 A. Is it tabbed?

3 **Mr. Chairman:** What page number are you asking for?

4 **Mr. Hosein-Shah:** One four three two.

5 **Mr. Mohammed:** Is it, is it tabbed?

6 **Mr. Chairman:** It's Volume IV of the witness statement
7 bundle. You probably had that removed. No it should be in the
8 same bundle as the one you're in, yes.

9 **Mr. Mohammed:** I see Volume II—

10 **Mr. Chairman:** One four three—

11 **Mr. Mohammed:** Nah this goes up to one zero two seven.

12 **Mr. Hosein-Shah:** Sorry? One four three two.

13 **Mr. Mohammed:** Nah this wouldn't be it. This has one zero
14 two seven.

15 **Mr. Hosein-Shah:** The tab should be 43, I believe.

16 **Mr. Mohammed:** The tab should be 43. No.

17 **Mr. Hosein-Shah:** Sorry, 42.

18 **Mr. Chairman:** No, I think 42 is what you mean, yes. It's the
19 statement, it's the statement immediately before your own in, in
20 your bundle. In the bundle.

21 **Mr. Mohammed:** Forty-three. Right.

22 **Mr. Hosein-Shah:** And we're looking at paragraph 28.

23 **Mr. Mohammed:** Twenty-eight? "Upon receipt"?

24 **Mr. Hosein-Shah:** Yes.

25 **Continued Cross-Examination By Mr. Hosein-Shah:**

26 Q. Now you see among other thing in that paragraph—

27 A. Uh-huh.

1 Q. —Mr. Balkaran in talking about evaluating the tender says that
2 he evaluated the suitability of the documents provided by
3 LMCS?

4 A. Uh-huh.

5 Q. You see that?

6 A. Yeah.

7 Q. Right. And now I want to take you to Mr. Archbald's witness
8 statement at page 1317 of the witness statement bundle.

9 A. One three one seven.

10 Q. Yes,

11 A. Is it tabbed?

12 Q. My version is tabbed. I'll try to see if I could tell you what—
13 36—

14 A. Thirty-six.

15 Q. —on my version.

16 A. Good.

17 **Mr. Chairman:** I'm sorry, you've lost me. I need to, um—

18 **Mr. Hosein-Shah:** Sure.

19 **Mr. Chairman:** I'm just looking at paragraph 28 of Mr.
20 Balkaran's statement, I've read that. Where else to do you
21 want me to go?

22 **Mr. Hosein-Shah:** Page 1317, the witness statement of
23 Randolph Archbald. Almost said Archbold.

24 **Mr. Mohammed:** Yes, 1317 I'm here.

25 **Continued Cross-Examination By Mr. Hosein-Shah:**

26 Q. Yes, so you're looking at paragraph 17.

27 A. Paragraph 17, yeah.

1 Q. Yes. So in assessing the tender submission by LMCS—

2 A. Uh-huh.

3 Q. —this is what Mr. Archbald says.

4 “In the instant case the department assessed the HSE
5 documents namely the ERP, risk assessment, job hazard
6 analysis, site specific safety plan, et cetera, which were
7 submitted by LMCS to Paria in relation to the 36 Sealine
8 riser repairs at berth number 6.”

9 A. Uh-huh.

10 Q. And then we go to the next page, paragraph 18. The
11 department’s objectives—

12 A. Hold on, hold on, hold on paragraph 18—17, 18 okay, yeah.

13 Q. With me?

14 A. Yes.

15 Q. “The department’s objectives in assessing said
16 documents were to ensure the following.”

17 So you see there you’re saying that they were assessing the
18 documents, yes? Before we go further.

19 A. Go ahead.

20 Q. “(1) That LMCS captured and properly identified all
21 credible scenarios, potential risks and hazards.”

22 You see that?

23 A. Yes.

24 Q. But they did not have the competence to do that?

25 A. That, that Paria’s what?

26 Q. Paria did not have the competence—from what you said earlier
27 to Mr. Maharaj—

1 A. Uh-huh.

2 Q. —they did not have the competence to ensure that LMCS
3 captured and properly identified all credible scenarios, potential
4 risks and hazards. Is that correct?

5 A. Just now.

6 Q. Sorry?

7 A. No I'm just reading it over one more time. [*Perusing*
8 *documents*] I mean, I just have to go back to the, to the process
9 that we worked, right? The credible scenario so that's specific
10 work, we would have—

11 Q. No, no we're looking at what Mr. Archibald said.

12 A. Uh-huh.

13 Q. I don't want you to put words in his mouth.

14 A. Uh-huh. He is saying he assessed those documents and in
15 assessing those documents first—

16 A. Uh-huh.

17 Q. —he tried to ensure, or the department, rather, tried to ensure
18 that LMCS captured and properly identified all credible
19 scenarios, potential risks and hazards, and my question to you is
20 they were not—your, your evidence is that they were not
21 competent to do so.

22 A. All credible risk scenarios. Well I don't think that the—the
23 issue we're talking about was a credible scenario that either us
24 or LMCS identified.

25 Q. But did they have the competence, Sir?

26 A. I think the credible scenarios is that the scenarios that we would
27 have all kind a spoken about earlier in the discussion. It was

1 not, it was not seen as a credible scenario by either us or
2 LMCS.

3 **Examination By Mr. Chairman:**

4 Q. Well, it wasn't seen at all, was it?

5 A. It wasn't seen at all.

6 Q. No, right. So the question of credibility doesn't come into it,
7 really? It wasn't spotted at all?

8 A. It wasn't spotted at all.

9 Q. That, with the benefit of hindsight—

10 A. Yes.

11 Q. —was a mistake—

12 A. Yes, it wasn't spotted.

13 Q. —on anyone's view—

14 A. Right.

15 Q. —that it was not identified as a credible risk?

16 A. It was not.

17 Q. And the only question that Mr. Hosein-Shah is asking you is,
18 um, as a matter of fact—

19 A. Uh-huh.

20 Q. —your company didn't, through its HSE department, did not
21 have the competence to have identified a credible risk outside
22 of what LMCS themselves had identified, they didn't, did they?

23 A. We didn't, we didn't identify a DP, yes, so I can't disagree.

24 Q. No. But if this is to have value, if what Mr. Archbald says is to
25 have value, the fact is they didn't have the competence to look
26 at LMCS' assessment of risk and say, "You're wrong. You've
27 missed something important." You didn't have the competence

1 to do that, did you?

2 A. I can't argue against that, okay.

3 Q. Sorry?

4 A. Yeah, yeah.

5 Q. That's right isn't it?

6 A. I will have to accept.

7 **Mr. Chairman:** All right. Does that identify your—

8 **Mr. Hosein-Shah:** Yes, yes, Chair, thank you.

9 **Continued Cross-Examination By Mr. Hosein-Shah:**

10 Q. And then he also says he had to ensure, the department had to
11 ensure that LMCS properly assessed those credible scenarios,
12 risks and hazards. But again, they did not have the competence
13 to do so, yes?

14 A. I can't argue against it.

15 Q. And then we don't necessarily need to go through the rest
16 because those are the two main ones.

17 A. Okay.

18 Q. I'm trying to save some time.

19 A. Okay.

20 Q. But you'll see paragraph 19 says that, upon that assessment
21 they found that the documents were satisfactory but they could
22 not, correct?

23 A. Based on the logic of the question, I can't argue against it.

24 Q. Thank you. Now do you think, during that assessment Mr.
25 Archbald talks about, that expert assistance or input would have
26 been invaluable?

27 A. I think I covered that already this morning and saying that's

1 something for consideration.

2 Q. Fair enough. And in your witness statement at paragraph 19—
3 so that's at page one four four five—

4 A. Yeah.

5 Q. —you talk about LMCS' past experience working for Paria.

6 A. Yes.

7 Q. And you identify that they worked two similar jobs—

8 A. Yes.

9 Q. —to the one that is the subject of this Enquiry?

10 A. Yes.

11 Q. Now, those jobs would have been performed in compliance
12 with Paria's permit to work system, yes?

13 A. Yes.

14 Q. And for those jobs, permits to work would have been issued?

15 A. Yes.

16 Q. It would have been issued from the start of the job and up to the
17 completion of the job, yes?

18 A. You mean different permits, right? Various permits would
19 have been issued—

20 Q. Yes.

21 A. —during that time?

22 Q. For the similar jobs.

23 A. Yes. Various permits would have been issued.

24 Q. Now, in those similar jobs, would, would they have also
25 involved the installation of a migration barrier?

26 A. I'm certain that the job in 2020 involved the installation of a
27 migration barrier, yeah.

1 Q. It would have been—and the job would have also involved the
2 removal of a migration barrier?

3 A. Correct.

4 Q. And that ought to have been captured in the permits to work for
5 that job or those jobs?

6 A. Correct.

7 Q. And in this Enquiry—

8 A. Uh-huh.

9 Q. —Paria says that LMCS breached the permit to work system
10 for this job?

11 A. Yes.

12 Q. Now, in evaluating the breach, did you consider how the former
13 jobs were completed, the methodology employed?

14 A. We didn't go—well, to be honest, I didn't go back to the former
15 job. What I went back to is the permits to install the plug. So
16 for this job specific permits were given for installation of the
17 plugs.

18 Q. Yes.

19 A. And on the particular permit for the job on that day, there was a
20 specific statement that said that those plugs were to remain in
21 place. That, that's absolutely clear.

22 **Examination By Mr. Chairman:**

23 Q. Where does it say that?

24 A. On, on the permit.

25 Q. No it doesn't.

26 **Mr. Hosein-Shah:** No it doesn't.

27 **Examination By Mr. Chairman:**

1 Q. Could we have the permit up, please, so, you know, you're not
2 expected to remember the exact wording of this.

3 A. Yes.

4 Q. You should have it in front of you.

5 A. Well, let's, let's put it—

6 Q. I agree it doesn't say anything about—

7 A. It mentioned migration barrier, eh, not plugs.

8 Q. Well, just a minute. I agree it doesn't say anything about the
9 plugs specifically. What I want to understand is, you're saying
10 that it specifically said not to remove them?

11 A. Come up, come up, come up. "Migration barriers to be used."

12 Q. Yes. Well they were being used. They were being used.
13 They'd been put in weeks before, or at least some days before,
14 so, what is it you're trying to say? I just need to follow what
15 you're saying.

16 A. When I, when I read this—

17 Q. Yes.

18 A. —let me tell you what my interpretation is—

19 Q. Yes.

20 A. —that during the execution of those activities outlined on the
21 permit—

22 Q. Yes.

23 A. —that that migration barrier was to remain in place until that
24 job was completed. That is what I read that—

25 Q. Right. That's what you read into it, is it?

26 A. Yes.

27 Q. You agree it doesn't say that?

1 A. It doesn't say it specifically.

2 Q. Well, when were they put in?

3 A. Er, I—

4 Q. Well I don't need the exact date from you. I don't expect you
5 to remember the exact date.

6 A. Yeah, about a—about a couple days before.

7 Q. It's some time before?

8 A. Yeah, yeah.

9 Q. So they were already in place?

10 A. Yes.

11 Q. Right. Once that hyperbaric chamber was in operation and
12 people was in that hyperbaric chamber—

13 Q. Yeah.

14 A. —those barriers were to be used.

15 Q. For what reason?

16 A. Remember, remember the reason that we did—the reason that
17 we would have discussed was two important things, right? One
18 is the issue of, um, fuel, er, the gas from the fuel or poisonous
19 or potential harmful gases from the fuel getting in into the
20 hyperbaric chamber. Two, that while they were welding or
21 welding were taking place, that we didn't have sparks or any
22 kind of hot liquid getting into the pipeline which probably still
23 had hydrocarbon. Three, like everything else you wouldn't
24 want pe—remember this is an open space, eh, a 30-inch open
25 space. You'd also have the migration to prevent tools people,
26 anything from tripping and falling into the space.

27 Once people was inside of that hyperbaric chamber and you had an

1 open 30-inch space, typically in industry all of those places are
2 closed, surrounded, barred. That's normal industry practice.
3 They don't leave a open 30-inch space where there's a
4 possibility for people to fall into while they working in an area.
5 That's, that's just standard industry practice.

6 Q. Right, I got you.

7 A. It is almost like leaving—Sir, it's almost like leaving a manhole
8 without a cover. You wouldn't, you wouldn't do it.

9 Q. No, I understand. So the migration barrier to be used, you
10 understand that sentence, if it is a sentence, you understand that
11 to mean that the migration barrier had to be put in place in order
12 to carry out works that were to take place on that—

13 A. Inside the same hyperbaric chamber, yes.

14 Q. Yes. But just so that I'm clear—

15 A. Yes.

16 Q. —on the 25th of February—

17 A. Yeah.

18 Q. —it was already in place?

19 A. Yes.

20 Q. Right. So it doesn't say anything about removing them or
21 putting them in place. They were already there. Is that right?

22 A. They were already there. That is correct.

23 Q. The, the—I mean, it's not as though—I just thought you were
24 trying to suggest for a moment, in answer to a question from
25 Mr. Hosein-Shah, that these migration barrier was not to be
26 removed and it specifically said that. It doesn't say that, does
27 it?

1 A. Doesn't specifically say that.

2 Q. No it doesn't. But so you say—

3 A. In those, in those specific words.

4 Q. No, it doesn't use those words. What it says is, "Migration
5 barrier to be used" under the heading "Requirements for
6 equipment isolation and clearance", and then the subheading,
7 "Cleared of process/hazardous materials. Answer: yes
8 migration barrier—

9 A. Yes.

10 Q. —to be used." Now I follow all of that.

11 A. Yes.

12 Q. And, I mean, and, you know, we've looked at this some
13 considerable length over the past few weeks.

14 A. Yes.

15 Q. What I understand from you is, is that you understood that to
16 mean that it should not be removed?

17 A. Correct. Once I had men—once I had—once there were men
18 inside of that chamber working and that chamber was
19 pressurized, and the potential for gases coming up into that
20 chamber, those migration barriers would be in place and the
21 second thing that was in place was the gas testing to ensure that
22 that environment remained breathable and free of contaminants.
23 So the migration barrier was the actual solid barrier and the gas
24 testing was the confirmation that that area was clear of
25 hazardous gases.

26 Q. You agree, don't you, that this document, this, this work permit,
27 says that the, that the chamber, as we understood it the

1 hyperbaric chamber, is to be removed?

2 A. The hyperbaric chamber is to be removed.

3 Q. Yes?.

4 A. At some point, yes.

5 Q. It says removed. Not about at some point this is the—

6 A. Right.

7 Q. —application for work—

8 A. Yeah, yeah, remove the Chamber.

9 Q. —on the 25th of February?

10 A. Right. “Remove chamber and blank top of the new riser”, yes.

11 Q. Right, so conduct—so that what it says is, is to remove and
12 install a 50-inch flange.

13 A. Yes.

14 Q. Remove and install a 30-inch riser pipe.

15 A. Yes.

16 Q. Remove a 30-inch solid blank.

17 A. Yeah.

18 Q. Conduct pressure test on flange weld.

19 A. Yes.

20 Q. Remove chamber and blank top of new riser.

21 A. That is correct.

22 Q. Now of all of those things weren't done on that day, were they?

23 A. No. The riser—the ri—we didn't get to the point where the
24 riser was removed. So the rise—sorry the, um, the chamber.
25 I'm sorry. Let me just recollect myself a bit. The chamber was
26 not removed on that day.

27 Q. No, it was removed the next day, but never mind about that.

1 The point is, what I'm asking is the specific tasks that were
2 appointed—

3 A. Right.

4 Q. —and completed by the applicant—

5 A. So what was supposed to happen—

6 Q. —is—

7 A. —based on the permit, is the chamber was supposed to be
8 depressured.

9 Q. Yes.

10 A. Men out of the chamber now. It's depressured, nobody's in the
11 chamber.

12 Q. You know, I understand how derigging the chamber would
13 work.

14 A. And then—

15 Q. What, what I want to understand from you—

16 A. Yes.

17 Q. —though, is that the migration barriers—

18 A. Yes.

19 Q. —that you've identified as being mentioned in this document,
20 which there are—

21 A. Yes.

22 Q. —those migration barriers to be used were to be used for the
23 purposes which you described?

24 A. Yes.

25 Q. Gases from the fuel, sparks getting into the pipe and other bits
26 and pieces from falling into the pipe which you didn't want to
27 happen, right?

1 A. Correct.

2 Q. I get that.

3 A. Right.

4 Q. Once that is no longer an issue, once that was no longer an
5 issue, there was no question of removal of the barrier, was
6 there?

7 A. Well—

8 Q. There was no issue because nobody had identified Delta P.

9 A. But—they didn't identify Delta P, however, the barrier was
10 supposed to remain in place until the chamber was removed
11 right,

12 Q. Why?

13 A. If—why?

14 Q. Yeah, why?

15 A. All right. So think about it like this, right? So we have men
16 working in that chamber, right, as I said the potential of gasses
17 coming up into the chamber. So once we have men working in
18 that chamber—

19 Q. No, no, once you've taken the chamber off, right, you—

20 A. Right. So once, once you take the chamber off, the Delta P
21 goes away. There's no pressure, pressure.

22 Q. No, no, no you're misunderstanding me.

23 A. Sorry.

24 Q. It's probably my fault. Once you've finished the job of work so
25 as to remove the chamber—

26 A. Right.

27 Q. —right, once,—whatever else needed to be done—

1 A. Right.

2 Q. —was done—

3 A. Right.

4 Q. —and you're going to remove the chamber—

5 A. Right.

6 Q. —why did you need to leave the plugs in?

7 A. The plugs—once the—once nobody was working inside the
8 chamber and the work was completed—

9 Q. Uh-huh.

10 A. —there would have been no reason to keep the plugs in, but the
11 plugs were to remain in until the chamber and the—and—was
12 removed.

13 Q. All right.

14 A. Why?

15 Q. Uh-huh, why?

16 A. Right.. And the reason why, the reason for that is, once the
17 chamber was removed, the potential for anybody working in an
18 enclosed environment, well the potential for gas ingress into
19 that environment would have now completely gone away.

20 Q. So you're saying that the plugs should not be removed because
21 of the potential for gas coming from the pipe into the chamber
22 while they were doing the plug removal?

23 A. Correct.

24 Q. I'm with you. All right.

25 A. And that gone, right.

26 Q. Umm.

27 A. And, and, okay. So I'd leave it there.

1 Q. So, when it says migration barrier to be used, that, in your mind
2 at any rate, meant in order to prevent any gas from—

3 A. That, that is correct.

4 Q. Umm.

5 A. And that, that was the risk that we identified.

6 Q. Okay. And would there have been any reason why you
7 couldn't, for example, remove the mechanical plug before
8 removing the pressure plug?

9 A. Typically I would say that those plugs we would move them
10 together. You wouldn't want to move the mechanical and leave
11 the only—in industry there's a standard called double block
12 complete, right, which part you always try to have two blocks
13 for gas ingress. So the mechanical block was a partial block
14 and your, your, your expanding block or your inflatable plug
15 was the solid seal.

16 Q. Got you.

17 A. Right? So once that remained there we had to have a double
18 block. That is the system the industry used—

19 Q. Uh-huh.

20 A. —to ensure people are not exposed to—

21 Q. All right.

22 A. —these risks.

23 Q. So when you see this on the work permit—

24 A. Yes.

25 Q. —under the heading “Cleared of process hazardous materials.
26 Answer yes. Migration barrier to be used”, that relates entirely
27 to the question of gas—

1 A. Gas and, yeah—

2 Q. —escaping from the—

3 A. —correct, and things falling into the pipeline.

4 Q. Not for the purposes of the safety of the people working in the
5 chamber?

6 A. Correct.

7 Q. And the fact that it says “Migration barrier to be used is not to
8 be—is not to mean anything other than that it is to be there for
9 the entirety of the time that the men are inside that chamber.

10 A. It means—

11 Q. The chamber—in your mind the chamber must come off first?

12 A. Yes. Chamber must come off first.

13 Q. Not because of a Delta P hazard?

14 A. Correct.

15 Q. But because of a gas hazard?

16 A. That is the—that is the risk that we identified, yes.

17 Q. Right. I see.

18 **Mr. Chairman:** Right. Er, I don’t know whether you’re going
19 to deal, Mr. Hosein-Shah, with the method of—

20 **Mr. Hosein-Shah:** Yeah.

21 **Mr. Chairman:**—work.

22 **Continued Cross-Examination By Mr. Hosein-Shah:**

23 Q. Now, previously to the Chair’s questions, we were talking
24 about the previous works conducted by LMCS.

25 A. Yes.

26 Q. And we were talking about whether you compared how those
27 works were done to this job?

1 A. Yeah.

2 Q. And what would have been—what was your response?

3 A. No, I said that, that I haven't done a detailed study of how the
4 previous jobs were done. I personally haven't done it.

5 Q. But you would agree that Paria's position is that LMCS in
6 executing this job or in executing the removal of the migration
7 barrier and the inflatable plug in the wrong order ultimately
8 resulted in the incident, the Delta P incident?

9 A. Yes. The chamber should have been depressurized and
10 removed—

11 Q. Yes.

12 A. —before those plugs were removed.

13 Q. Yes. Now, in looking at the previous scope of works or looking
14 at the previous permit to work—

15 A. Uh-huh.

16 Q. —were you able to identify how LMCS conducted the job
17 whether the—

18 A. No. As I said, I didn't look at that detail on the last jobs. I
19 didn't go into that level of inquiry—

20 Q. Okay.

21 A. —into the permits and the, and the exact work statements, et
22 cetera, of the last job.

23 Q. Do you think it would be important to compare how LMCS
24 conducted the previous jobs to this job in identifying exactly
25 how, where, or whether they got lucky in the past?

26 A. Yeah. I think there's value in doing that.

27 Q. It would show the differences—

1 A. Yeah.

2 Q. —especially if they removed the migration barrier at some later
3 time?

4 A. Yeah. Yes. There's some value in doing that, I would agree.

5 Q. Now, would you be in a position to share those previous
6 permits to work with the Commission?

7 A. If it is a request from the Commission, we will comply.

8 Q. Well, certainly, certainly we will, we will ask the Chair or the
9 Commission to consider, because there is some value in looking
10 at the previous completion of the jobs, similar jobs, and in
11 looking at this job, especially where an important aspect is
12 Paria's position—

13 A. Yes.

14 Q. —and LMCS essentially went into the wrong order.

15 A. Fair enough.

16 Q. Yeah? Are you able to tell me what is the relationship between
17 Paria and Heritage?

18 A. The relationship between Paria and Heritage?

19 Q. Yes.

20 A. Structurally, Paria and Heritage are both subsidiaries of TPHL,
21 so let's say we have a connection by being subsidiary of a
22 overarching governing body which is the TPHL Board.

23 Q. And does Heritage share certain expertise with Paria when
24 required?

25 A. If requested, I, I—there would be no hesitation with Heritage
26 sharing expertise with the Paria organization.

27 Q. And are you aware that Mr. Rolph Seales, a Kenson employee,

1 is attached to Heritage?

2 A. Yes.

3 Q. And he assisted Paria—

4 A. Yes.

5 Q. —with respect to the rescue and recovery?

6 A. Yes.

7 Q. Would you agree that if it is that Paria had a dearth or had a
8 vacuum of competence that they could reach out to Heritage
9 essentially and request assistance in the future?

10 A. Yeah. I think that's something that we, um, we have to
11 consider.

12 Q. Well there's a lot of things to consider. I want to take you to
13 paragraph 51 of your witness statement. That's at page 1451,
14 one four five one.

15 A. One four five one?

16 Q. Yeah. And I don't need you to read the entire paragraph.
17 Among other things, you say that diving into the pipeline was
18 unsafe.

19 A. Yes.

20 Q. And then you list various reasons why.

21 A. Yes.

22 Q. Yeah? And you base this on not knowing the condition of the
23 pipeline.

24 A. Yes.

25 Q. And that there was no plan or risk analysis. Now I'm not going
26 to go into the risk analysis part because learned Senior has, you
27 know, dealt with that but what I'm curious about, what were the

1 conditions that you were trying to ascertain.

2 A. The conditions?

3 Q. Yes.

4 A. The conditions really was—the number—what was in the
5 pipeline. Right? We know that that—we know that the
6 hyperbaric chamber would have had tools, chain blocks, knives,
7 construction equipment inside of the hyperbaric chamber. We
8 don't know exactly all that was inside the hyperbaric chamber.

9 A. Yes.

10 Q. We know—we, we know that the pipe at—you know, at that
11 time we believe that the pipe was filled with oil and we know
12 that there were sections of that pipe for sure that there were—
13 that it was completed—was completely I would say filled with,
14 with oil and hazardous material. We didn't, we didn't know at
15 the time whether the potential for a subsequent DP event could
16 take place. We had no idea whether the pipe was completely
17 filled, whether we had difference in levels at the various
18 vertical pieces, um, we didn't know exactly where the
19 blockages were and how people would navigate around them,
20 so those were some of the big issues that we were contem—we
21 didn't know exactly where the men were, how far they were in
22 the pipeline. We don't know exactly what was the condition of
23 the plug, where, where the plug was in the pipeline; a number
24 of, a number of things that we just didn't know.

25 Q. Would inside the pipeline contain other hazardous materials
26 besides oil?

27 A. We don't know. Remember that pipeline has not been in use

1 for a number of years so we just don't—

2 Q. Yeah.

3 A. —we just didn't know. We just didn't have that information.

4 Q. But you have the information that Christopher Boodram came
5 out and I want to take you to the ICT, ICT bundle—

6 A. Uh-huh.

7 Q. —of documents at page 1541.

8 A. Page 1541, this is bundle what?

9 Q. Not the witness statement bundle, the ICT bundle.

10 A. Core bundle.

11 Q. Too far. Yeah. So we're looking at the top of the page.
12 You're seeing 9.58 p.m.

13 A. Just now, hold on.

14 Q. Sorry.

15 **Mr. Chairman:** Just a minute.

16 **Continued Cross-Examination By Mr. Hosein-Shah:**

17 Q. Now you recall—sorry.

18 **Mr. Chairman:** Just a minute, please? [*Perusing documents*]
19 Page?

20 **Mr. Hosein-Shah:** One five four one.

21 **Mr. Chairman:** Yeah.

22 **Continued Cross-Examination By Mr. Hosein-Shah:**

23 Q. Now you recall a conversation which occurred in your presence
24 between the incident command team and Mr. Boodram?

25 A. Yes.

26 Q. And do you identify these scribbles, so you could read through
27 them, do you identify these scribbles as the contemporaneous

1 notes taken of that conversation so I can help you read it.

2 “Forty feet from the riser, I think. Two air pockets and
3 went down. Faizal couldn’t be found. Broken hand and
4 foot. Everyone tried to pull. Reach in an air pocket.
5 Only Fyzie answer. Another part with water. Fyzie had
6 tank on him. Couldn’t climb out the water at the top of
7 the flange. Felt two weld seams.”

8 A. Yeah.

9 Q. Does that accurately summarize the conversation that occurred
10 in your presence?

11 A. I can’t recall each and every point but, yes, some, some of it
12 resonates with me, yes, some of it resonates with me.

13 Q. And I want you to look at paragraph 66 of your witness
14 statement and that’s at page one four five four.

15 A. One four five four. Paragraph 66?

16 Q. Yes.

17 A. Uh-huh.

18 Q. You accept—now I’m looking at sub point four.

19 A. Yeah.

20 Q. “He crossed Blacks who was unresponsive.”

21 A. Yes.

22 Q. You accept that that statement appears nowhere in the
23 handwritten note, do you?

24 A. Yeah, well, it’s not there so it’s not there.

25 Q. Thank you. You would have had the information that both Mr.
26 Boodram and Mr. Kurban, M Boodram coming out of the
27 pipeline—

1 A. Uh-huh.

2 Q. —um, the information ought to have reached you that he said,
3 “The boys right behind me.” You recall that?

4 A. Yes, go ahead.

5 Q. And Mr. Kurban would have also come out of the pipeline.

6 A. Uh-huh.

7 Q. So that at least at that time with proper equipment—

8 A. Uh-huh.

9 Q. —a rescue may have been possible? Because when you speak
10 about what the camera is supposed to see, oil, knives, tanks,
11 gear, all those things would have either been navigated through
12 by Mr. Boodram or Mr. Kurban whatever limited space he went
13 into or whatever limited depth he went into, he would have
14 either come across it, but either way you had information that
15 Mr. Boodram would have crossed all of those obstacles if—
16 should they exist?

17 A. And probably also may have left some behind.

18 Q. Like what?

19 A. I don't know. Mr. Boodram, how did he come out? Did he
20 have tanks that he used? Did those tanks became deposited
21 along the line? I don't know. How—I don't know how many
22 tanks Mr. Boodram would have used to come out and what he
23 would have left in his wake coming out of the, of the pipeline.

24 Q. But you didn't seek to find out?

25 A. I disagree with that. I seek to find out using a method that was
26 safe without putting people lives at risk.

27 Q. And you think a camera would tell you whether a tank could

1 move?

2 A. I don't understand the question.

3 Q. You're saying that there may have been obstacles which would
4 have prevented movement. So I'm asking whether you're
5 suggesting or whether it is your position that a camera would
6 have identified unmovable obstacles like a tank or be able to
7 prove that it's unmovable or unnavigatable [*sic*].

8 A. What we had expected is that we would have been able to move
9 around the tanks, be able to identify exactly where they were
10 located, at least as a minimum identify where they were
11 located, identify where we had oil, where we had water,
12 identify where the men were so that we could have properly
13 risk assessed and understand the perils or the hazards that a
14 diver would meet entering that pipeline.

15 We know that the diver couldn't turn into the pipeline so you either
16 have to go headfirst or foot first. Not sure what direction he
17 would choose. Typically headfirst would always be pointing on
18 the way out, so how that diver would be going into the pipeline,
19 he would be backing into the pipeline. Wouldn't be—wouldn't
20 it be prudent for that diver who's going in without eyes into that
21 pipeline to have an idea where these obstacles were and what,
22 what—how he would likely deal with them when he meet
23 them?

24 Q. Any—

25 A. Wouldn't it be prudent—

26 Q. Hold on.

27 A. —for that diver who's owing into that pipeline—yeah.

1 Q. Hold on, hold on. And what are your diving qualifications, Sir?

2 A. I, I—look, listen, that’s just, that’s just thinking through it and
3 if you think through it you’ll probably come to the same
4 conclusion. It’s just thinking through.

5 Q. Well I’m not a diver so I wouldn’t try to.

6 A. Okay.

7 Q. Now I want to take you to Mr. Archbold’s statement again.

8 A. Yeah.

9 Q. Page one three two zero. Now this is Mr. Archbold seeking to
10 talk about a safe dive maintain—

11 A. What page, Sir?

12 Q. One three two zero at paragraph 37.

13 A. Par gaffe 37. One three two zero. Uh-huh, paragraph, 37 right?

14 Q. Yes. So he says:

15 “I believe it was unsafe to dive within the pipeline at that
16 time without a continuous air supply with a tank and a
17 tether. The rescue divers would at least needed a rope
18 with them and a supply of air. They would have needed
19 a tank to be on them as an emergency air supply in case
20 their regular air supply was interrupted. Air and a means
21 of communication and extraction were the three things
22 they needed for any rescue dive inside the pipeline to be
23 safe.”

24 Now what say you?

25 A. I say they probably needed that and also an understanding of
26 the risk that they would face going into the pipeline.

27 Q. Sure. And now, can we bring up the, er, I’m not sure whether it

1 made its way to a bundle but I believe Mr. Piper would have
2 supplied us with the standard operating procedures for confined
3 space rescue. I'm not quite sure whether it's in a bundle. It is?
4 So I want to go to 3.2.

5 A. Do I have it here?

6 Q. I'm not quite sure.

7 Q. Now we're looking at the confined—oh, sorry. [*Document*
8 *handed to Mr. Mohammed*] Let me know when you're with
9 me.

10 A. Yeah, I'm here. I'm with you.

11 Q. Now we're looking at the confined space entrant.

12 A. Uh-huh.

13 Q. Yeah? Now a suitably qualified diver—

14 A. Uh-huh.

15 Q. —ought to know the hazards associated with entering a
16 confined space?

17 A. Depends what his experience is. He could be suitably qualified
18 and never dive into a pipeline or a confined space.

19 Q. And are you aware what the training is in order to become a
20 commercial diver?

21 A. No.

22 Q. So you're not in a position to say?

23 A. Well I didn't say yes or no. I said it's a possibility that he
24 would not—would have never dived into a pipeline.

25 Q. Yeah. But these are Paria's—this is Paria's document.

26 A. About confined space.

27 Q. Well it's the closest thing we have. So we have, know the

1 hazards, and know how to use all required equipment. Do you
2 believe a commercial diver would know how to use the
3 required equipment?

4 A. [Pause]

5 Q. You can answer.

6 A. Just now. We have a situation—

7 Q. Wait, the question starts with, do you believe? I'd appreciate
8 whether you can answer the question then maybe—

9 A. Ask the question again, sorry?

10 Q. Sure. Would you agree that a commercial diver or commercial
11 divers would know how to use the required equipment for a
12 confined space?

13 A. Not necessarily.

14 Q. All right. And do you believe that they would be able to have a
15 means of communication with the attendant?

16 A. Do I?

17 Q. The attendant being the person tethering them or that person?

18 A. That they should have that to do anything in a confined space?

19 Q. Yeah; that they would be—they would be suitably trained in
20 how to communicate with the attendant.

21 A. It's probably part of their training, yes.

22 Q. And they would know how to be alert to hazardous conditions?

23 A. Not to—

24 Q. So if they go into the pipeline?

25 A. Not to ones that they were completely unaware of.

26 Q. Well, if they came up against something that they could not—
27 they decided they couldn't go further I'm sure they would

1 communicate, which is the point of the—

2 A. I want to be respectful, eh.

3 Q. Yes.

4 A. So the ifs and the mays—

5 Q. No I'm just taking you through the—

6 A. I'm just saying, I'm just saying that the ifs and the mays and the
7 should and the could and all that, and what you, what—the
8 objective is this, is putting a man into a pipeline where we are
9 unclear of all the hazards. Should I make that decision on he
10 may, he might? Is that a decision—those—are those the things
11 that I make a decision on to put a man's life at risk?

12 Q. And the—

13 A. Or do I, or do I have specific and clear understanding of the risk
14 under which I am going to subject this man to? Just give it
15 some thought.

16 Q. I mean the thought you need to give as well is that there were
17 commercial divers present.

18 A. Commercial—

19 Q. Hold, hold—

20 A. All right, let me stay quiet.

21 Q. There were commercial divers present, at least close to seven
22 o'clock. They were supported by two vessels with unlimited
23 supply of air. They were supported with the equipment, the
24 qualifications, the supervision. They would have been able,
25 had Paria maybe—

26 **Mr. Mootoo:** Is there a question?

27 **Mr. Hosein-Shah:** Fair enough.

1 **Continued Cross-Examination By Mr. Hosein-Shah:**

2 Q. But they were supported, do you agree? They had the
3 equipment.

4 A. Listen—

5 Q. No, no, did they have the equipment? It's either you know or
6 you don't know.

7 A. No a dive plan is more than the equipment.

8 Q. Did you try to get a dive plan from them?

9 A. I think I answered that earlier.

10 Q. No, you said LMCS. Did you try to get a dive plan from—

11 A. We attempted to get a dive plan—

12 Q. Hull?

13 A. —from other professional diving companies that were present
14 at Paria.

15 Q. Yeah, that was on Saturday. I talking about Friday. On Friday
16 7.00 p.m. or 8.00 p.m., did you attempt to get a dive plan from
17 the divers on site?

18 A. A dive plan, a dive plan, whatever dive plan was presented was
19 unacceptable.

20 Q. Was a dive plan presented?

21 A. All we had was some verbal mutterings of what that might look
22 like, but no clear plan.

23 Q. Did you communicate—I'm not talking about LMCS. I'm
24 talking about the other divers. Did you communicate with
25 them?

26 A. I personally did not communicate with them. I thought I'd
27 answer that already.

1 Q. Did anyone from the ICT communicate with them and seek to
2 get a plan from them on Friday?

3 A. My, my, my, my understanding—

4 **Mr. Chairman:** We have actually been through this. Pause
5 there.

6 **Mr. Mohammed:** Yeah, thanks.

7 **Mr. Chairman:** In fairness to you, we have actually covered
8 this ground already.

9 **Mr. Mohammed:** Yeah.

10 **Mr. Chairman:** I don't think we need to cover it again.

11 **Mr. Hosein-Shah:** Fair enough.

12 **Continued Cross-Examination By Mr. Hosein-Shah:**

13 Q. Now, when did Paria first consider the use of a waiver of
14 liability for persons who may want to dive into the pipeline?

15 A. I don't recall, um, maybe on Saturday. I'm not sure.

16 Q. And did Paria communicate to any of the other divers their
17 willingness to accept a waiver of liability?

18 A. No.

19 Q. Why?

20 A. You see, I thought I addressed that earlier on by saying this was
21 not only a question of liability, this was also a question of the
22 decision point in terms of what information do we need to have
23 so that we could send a man in and get him out safely with a
24 rescue plan.

25 **Mr. Chairman:** He put it as an ethical question. He suggested
26 it was a question not just of liability but of ethics.

27 **Continued Cross-Examination By Mr. Hosein-Shah:**

1 Q. Now, when did Paria consider the use of non-disclosure
2 agreements?

3 A. Non-disclosure agreements?

4 Q. Yes. If, if you need some help to refresh—I believe it's the—

5 **Mr. Chairman:** I need some help to understand the relevance.

6 **Mr. Hosein-Shah:** In Mr. Fuentes' new statement or the email
7 that was disclosed—

8 **Mr. Chairman:** Yes.

9 **Mr. Hosein-Shah:**—he makes reference to a non-disclosure
10 agreement.

11 **Mr. Chairman:** So—

12 **Mr. Hosein-Shah:** I just wanted to know when was that
13 considered and why was it considered.

14 **Mr. Chairman:** Why is it relevant to anything? Just tell me,
15 explain the relevance and I'll let you answer it.

16 **Mr. Hosein-Shah:** Sure; in terms, in terms of the ability for
17 persons to communicate freely and the limits of that non-
18 disclosure agreement.

19 **Mr. Chairman:** Relating to?

20 **Mr. Hosein-Shah:** The incident, in discussing it with others.

21 **Mr. Chairman:** Right. Non-disclosure as in preventing
22 anyone from being able to say anything about it after the event?

23 **Mr. Hosein-Shah:** Correct.

24 **Mr. Chairman:** All right, yes.

25 **Mr. Mohammed:** I, I can't, I can't recall.

26 **Examination By Mr. Chairman:**

27 Q. Did, first of all, Paria consider the question of non-disclosure

1 agreements to prevent people from being able to say anything
2 about what happened on this occasion? Was there any such
3 consideration by Paria?

4 A. There was some, there was consideration of non-disclosure
5 agreement and the use of cell phones at the recovery. What we
6 didn't want is to have—we wanted to respect the families and
7 that was the reason for it at that time.

8 Q. You didn't wanted to what.

9 A. We didn't want people to have cell phones and be free to
10 communicate information around the recovery and things—so
11 that would, that would have been somewhere around Monday
12 or Tuesday. That's why there was a recollection of the use of
13 non-disclosure agreements by Paria. That was—

14 Q. On staff or of everyone else?

15 A. Everyone else. Everyone. Staff, people who were attendants at
16 the, um—

17 Q. Because you used WhatsApp, didn't you, or some other text
18 communication between you?

19 A. It had to be authorized by the, by the ICT.

20 Q. All right.

21 **Mr. Chairman:** Yes.

22 **Continued Cross-Examination By Mr. Hosein-Shah:**

23 Q. Now I want to go to the supplemental witness statement bundle
24 at page three one five seven.

25 A. Three one five seven.

26 Q. This is Mr. Fuentes' new statement or email statement. You're
27 going to—

1 A. You have a, a have a tab on it?

2 Q. No, unfortunately. Eighty-four.

3 **Mr. Chairman:** Supplemental statement, are you? Which
4 one? Witness bundle? Page what?

5 **Mr. Hosein-Shah:** Three one five seven.

6 **Mr. Chairman:** Yes.

7 **Mr. Mohammed:** I have it here?

8 **Mr. Chairman:** It's behind Tab 83. It is Tab 84.

9 **Mr. Mohammed:** Tab 84?

10 **Mr. Chairman:** Yeah. You have the supplemental statement
11 there?

12 **Mr. Mohammed:** Yes, yes I have Tab 84.

13 **Mr. Chairman:** It's an email. Is that what you're referring to?

14 **Mr. Hosein-Shah:** Yes.

15 **Mr. Chairman:** The email?

16 **Mr. Hosein-Shah:** Yes. I believe this is the only statement we
17 have from Mr. Fuentes.

18 **Mr. Chairman:** Yes.

19 **Continued Cross-Examination By Mr. Hosein-Shah:**

20 Q. So look some ways down you'll see a sentence saying:

21 "I was asked to fill out the NDA document which I
22 complied with."

23 But there was no issue of cell phones this—

24 A. I told you what I could have recalled. I haven't seen this
25 statement until now.

26 Q. So you're unable to assist us with the purpose of requiring an
27 NDA from Mr. Fuentes or from anyone else?

1 A. I mean, well I think typically, typically, you know, incidents
2 like these you'd always want to make sure that information
3 isn't—or there's some— there is somehow what would I call it,
4 there is some caution with how, with how information is
5 shared.

6 Q. How many persons signed NDA agreements, are you able to
7 say?

8 A. I, I can't recall.

9 Q. Do you have a general number or you just don't know?

10 A. No I, I don't have a general number and I wouldn't hazard a
11 guess.

12 Q. Fair enough. Now I want to take you back to your witness
13 statement at paragraph 1441.

14 A. Just tab me along, nah, so, so I could be quick.

15 Q. Sorry?

16 A. You have the tab?

17 Q. Oh, um, it's your witness statement, er, you might have to help
18 me find the tab.

19 A. All right.

20 Q. I can't, I can't find it.

21 **Mr. Chairman:** Forty-three.

22 **Mr. Mohammed:** Forty-three, yes.

23 **Continued Cross-Examination By Mr. Hosein-Shah:**

24 Q. Right, so it's paragraph five.

25 A. Paragraph five.

26 Q. But I'm specifically going to page 1442. And you say as part
27 of your roles and responsibilities—

1 A. Establish clear—which one exactly, four, five, six?

2 Q. Yeah, I'm going to get there.

3 A. Okay.

4 Q. But you list out your roles and responsibilities.

5 A. Yes.

6 Q. And as part of your roles and responsibilities, you say you
7 champion a culture of continuous performance improvement
8 and learning environment.

9 A. Yeah.

10 Q. That's number 11. And at number seven—

11 A. Right.

12 Q. —you say you drive major transformations to increase safety,
13 environmental performance, reliability, quality, delivery and/or
14 financial performance. Yes?

15 A. Yes.

16 Q. Now did Paria prepare an investigation report, an incident
17 investigation report?

18 A. Paria prepared an investigation report, yes, an internal
19 investigation.

20 Q. Did you have a role in that—in the preparation of the report?

21 A. No.

22 Q. Did you review the contents of that report?

23 A. Yes.

24 Q. So I want to go to page one seven six five of the witness
25 statement bundle. But the report starts one seven four three.
26 Yeah?

27 A. One seven four three, right?

1 Q. That's where the report starts but we're going to firstly one
2 seven six three.

3 A. You don't have the tab number?

4 Q. Er, 59.

5 A. Fifty-nine, all right, thanks. Fifty-nine, okay, hold on. Tab 59 I
6 have here "Removal of top side cut off".

7 Q. So you should be seeing a number at the bottom there saying
8 1743.

9 A. Now—

10 Q. That would help you—

11 A. On 59 I have—

12 Q. This is Tab 59.

13 A. Nah, Tab 59, it don't have that on mine.

14 Q. Witness statement of Mark Rudder. You're seeing that when
15 you open Tab 59?

16 A. I—no, no I don't have the—I doh—I not seeing the
17 investigation.

18 Q. So perhaps someone could assist you.

19 **Mr. Chairman:** It's on screen.

20 **Continued Cross-Examination By Mr. Hosein-Shah:**

21 A. Okay, okay, okay, thanks.

22 Q. All right, so I just want to go quickly to page one seven four
23 three. And you recognize this as the incident report. Does it
24 look familiar?

25 A. Yeah, go ahead.

26 Q. Right, so we're going to one seven six three now. It starts off
27 with conclusion so you may have to go one further page. Yeah,

1 so you see the heading “Immediate/Direct Cause” and this is
2 Paria’s conclusions—

3 A. Yeah.

4 Q. —that the incident was caused by the unauthorized removal of
5 the mechanical plug and the inflatable plug.

6 A. Yeah.

7 Q. And you agreed with me earlier that it’s a useful exercise to see
8 how LMCS performed these services in the past. Now I want
9 to go to page one seven six five.

10 A. Same report?

11 Q. One seven six five. Yes. These are the recommendations.
12 After the entire investigative process by Paria, these are the
13 recommendations going forward. Do you agree with that?

14 A. These are the recommendations we listed, yes.

15 Q. So out of everything that happened, the recommendations that
16 Paria has is that Paria must conduct retraining for all
17 contractors in the permit to work procedure.

18 A. Sorry, sorry, yes.

19 Q. You see that?

20 A. Yeah.

21 Q. Do you agree with that?

22 A. Well, if you look at the, if we look at the core, what really
23 caused this incident to happen the single thing, the single thing
24 that happened that set this activity into motion, the critical
25 factor in this investigation was really the removal of the plugs.
26 If those plugs had remained in place and removed at the
27 appropriate time, this event would not have taken place.

1 **Examination By Mr. Chairman:**

2 Q. But that would have been by luck, wouldn't it?

3 A. Sorry?

4 Q. The point is is that no one identified Delta P as the issue. The
5 fact that the plugs remained in place, had they remained in
6 place, would have been by luck.

7 A. I wouldn't say it would have been by luck. It, it would—it did
8 not identify Delta P as a risk but it also—the plugs were in there
9 to also prevent other latent risk as probably described, which is
10 the ingress of gas [*Inaudible*]

11 Q. No, no I understand that.

12 A. You understand?

13 Q. I understand. You make—you made that clear.

14 A. No but you're right—in a way, yes.

15 Q. But the point is, is—and the point that's being made as I
16 understand it here is this, is that after all that has happened and
17 your own internal enquiry, but two recommendations as a result
18 emerge from that. I dare say that even during the course of
19 cross-examination today you would regard those two
20 recommendations as perhaps a little short of what might be
21 recommended in the future? Leave aside the question of any
22 thoroughness of your own internal enquiry, the question being
23 addressed here is that is the totality of what you identified or
24 what your firm identified as by way of recommendation and the
25 point I'm simply asking you is this, is that, had those plugs not
26 been removed of course it wouldn't have happened?

27 A. Yes.

1 Q. But the fact that they weren't removed was nothing to do with
2 identifying Delta P.

3 A. And that's correct.

4 Q. One of the recommendations that might have appeared on there
5 is recognizing Delta P.

6 A. I can't argue with that, Chairman.

7 Q. Right. So on any view there is at least one short of the
8 recommendations from your own report?

9 A. That's—I would accept that.

10 Q. Right.

11 **Mr. Chairman:** Mr.—

12 **Mr. Hosein-Shah:** I'm almost finished.

13 **Mr. Chairman:** Mr. Hosein-Shah, how much longer have you
14 got, can I ask please?

15 **Mr. Hosein-Shah:** Four more questions.

16 **Mr. Chairman:** Four more.

17 **Mr. Hosein-Shah:** Not including this one.

18 **Mr. Chairman:** All right, let's move along, then.

19 **Continued Cross-Examination By Mr. Hosein-Shah:**

20 Q. Yeah. Did Paria conduct an investigation into the recovery
21 aspect or the rescue aspect of this incident?

22 A. That, that process is, is ongoing. We haven't conducted a full
23 investigation into the rescue and recovery effort.

24 Q. And don't you consider that to be important in—

25 A. We, we know, we know that, we know that it is important.

26 Q. And is there a timeframe for the completion of that
27 investigation?

1 A. I haven't put a timeframe on it to date and a lot of the time and
2 effort was being spent preparing for this Commission of
3 Enquiry [*Inaudible*]

4 Q. And preparing that report?

5 A. And preparing what report?

6 Q. This incident report just stops to say this is liability. It doesn't
7 go on further to say anything else. Do you agree that you solely
8 investigate the incident but you have not looked, or at least in
9 terms of preparing this report, Paria has not even looked at their
10 own response and "how we could be better"?

11 A. And what I said is that those things would be looked at
12 thoroughly and a lot of effort went into preparing for this—for
13 the COE which we also have some lessons to learn from.

14 Q. Can you commit to a time frame for completing that exercise?

15 A. Well I can't commit to it today but if the, if the, if the
16 Commission so would like it in writing I will do that.

17 Q. Well I'll leave that—

18 **Mr. Chairman:** I suspect we'll have our report before you
19 have yours.

20 **Mr. Hosein-Shah:** I didn't want to say it.

21 **Continued Cross-Examination By Mr. Hosein-Shah:**

22 Q. Now what systems does Paria have in place to support the
23 families of these divers?

24 A. Paria was written by the attorneys for these families on the 21st
25 of March indicating that Paria desist and stop all
26 communications with the families.

27 Q. And is it that Paria was desirous of continuing the support to

1 families?

2 A. Paria is desirous of supporting the families, yes.

3 Q. And Mr. Boodram?

4 A. Paria supported Mr. Boodram with a, with, with a, with
5 counselling. We also—we also supported Mr. Boodram, was
6 going to support Mr. Boodram with an alternative to what he
7 suggested as the requirement for help, Sir, yes.

8 Q. And do you think the support provided by Paria was sufficient?

9 A. Do we think—do I think the support provided by Paria was
10 sufficient?

11 Q. Yes.

12 A. I would say yes. Paria was open to providing all the support
13 that it could have provided.

14 Q. And what was that support provided?

15 A. I mentioned some of it in the report. The, the—we thought that
16 immediately the issue of counselling would have been
17 important to get people through what would have been a very,
18 very tough time for the families.

19 Q. What about financial support?

20 A. We talked, we talked about providing people with a supply of
21 the necessities that they would need until they were able to
22 stand on their feet.

23 Q. That's not what you say in your statement.

24 A. What I said in the statement?

25 Q. Your statement at paragraph 93—

26 A. Uh-huh.

27 Q. —One four five nine on to one four six zero—

1 A. Uh-huh.

2 Q. —essentially says that you offered them support in the form of
3 purchase of groceries and Massy gift cards.

4 A. Those are the things that, those are the things that they would
5 need to keep them going.

6 Q. And do you think that's sufficient?

7 A. Huh?

8 Q. Do you think that would be sufficient?

9 A. Do I think that would be sufficient?

10 Q. Yes. Do you think—

11 A. Look I think, I think, I think it was, I think it was a start and we
12 were further—we were willing to engage with the families
13 further until we were put to a stop.

14 Q. Are you still going to engage the—

15 **Mr. Chairman:** I'm going to put an end to this now.

16 **Mr. Hosein-Shah:** Yeah.

17 **Mr. Chairman:** Thank you very much.

18 **Mr. Hosein-Shah:** Fair enough. Those are my questions.

19 **Mr. Chairman:** Interesting though it is, the fact is that's not
20 within the ambit of this Enquiry.

21 **Mr. Hosein-Shah:** Fair enough.

22 **Mr. Chairman:** And I think that's as far as I'm prepared to
23 permit you to ask questions.

24 **Mr. Hosein-Shah:** Those are my questions, Chair.

25 **Mr. Chairman:** Yes. Before you ask any questions, can I—
26 just one thing I wanted to correct.

27 **Examination By Mr. Chairman:**

1 Q. You had answered a question of mine a little while ago by
2 telling me that you understood the camera to go as far as 600
3 feet—

4 A. Yes.

5 Q. —into the pipeline.

6 A. Yes.

7 Q. And that in fact a total of 616 feet into the pipeline and that you
8 regarded as being, I'm paraphrasing what you said here but—so
9 please feel free to correct me—that the camera having gone that
10 far into the pipe it's difficult to imagine how any diver who
11 might have gone into the pipe could have gone any further and
12 found anything, all right? That I think is what you were saying
13 to me. Is that—am I—

14 A. I think it's a long distance for a diver to go into a pipe—

15 Q. That's halfway down the length of the pipe isn't it?

16 A. Yes.

17 Q. The difficulty with that is, I'm afraid, is that that length of
18 distance in which the camera went in was on the Wednesday
19 which was after three of the men had already been rescued, one
20 had come at of the pipe and three others had been recovered
21 from the pipe—

22 A. Yes.

23 Q. —dead?

24 A. Yes.

25 Q. So that doesn't really address the question that I was asking
26 you, and I've checked back in the records or at least I've had it
27 pointed out to me, which is what I thought at the time but didn't

1 have my finger on it, the depth to which the camera went prior
2 to anybody coming out of the pipe after Mr. Boodram was no
3 more than 200 feet into the pipe.

4 A. It couldn't get past the barriers, yes.

5 Q. Sorry?

6 A. Yes, that's correct.

7 Q. Yeah. Well 200 feet into the barrier is 70 feet down—

8 A. Uh-huh.

9 Q. —and 130 feet along isn't it? So only of the twelve hundred
10 feet—

11 A. Yeah.

12 Q. —that was underwater—

13 A. Yes.

14 Q. —and in a horizontal plane—

15 A. Yeah.

16 Q. —was in fact only about 130 feet that the camera went in—

17 A. Yeah.

18 Q. —prior to—

19 A. Yes.

20 Q. —the men being, as it were, extracted from the pipe?

21 A. That's, that's, that's about correct, yeah.

22 Q. That's the position, isn't it?

23 A. Yes.

24 Q. So even when you did finally get the total—get a camera into it
25 to be able to make an assessment, which I point out was at
26 quarter past 3.00 in the morning of the 26th—

27 A. Yeah.

1 Q. —of February, the next day, so the Saturday, early hours of
2 Saturday morning, it's a quarter past 3.00 that you first were
3 able to see no more than 130 feet along the length of the pipe?

4 A. Yes.

5 Q. Not 600 feet.

6 A. Well, that's correct.

7 Q. So that, so that the question as to the distance to which these
8 men might have been or what other objects might have been in
9 is only to the extent of 130 feet.

10 A. Yeah. The point I was trying to make, Chairman—

11 Q. Yes.

12 A. —is that the distance that the diver had to cover, that 600 and
13 whatever feet it was, right—

14 Q. Uh-huh.

15 A. —we wouldn't have known that from any other information
16 that we had prior.

17 Q. Well, you see, that's not quite right, is it?

18 A. Why?

19 Q. Because we've heard evidence that there was equipment on
20 board supply vessels and divers with the appropriate training, I
21 say appropriate training in commercial diving. I don't suppose
22 anybody's actually trained to dive in a pipe, but in any event,
23 divers who were prepared to go into pipe who had, um, airline
24 that would take them beyond 600 feet if joined together, and
25 had communications and had lights that were in a position to be
26 able to go into the pipeline.

27 Now, all I'm saying is this, that in your making the

1 assessment that you did, an unenviable task I'm sure but
2 nonetheless one which was your responsibility, the best that
3 you were able to achieve was seeing into the pipeline by a 130
4 feet at four or five o'clock in the morning.

5 A. Right.

6 Q. They were dead anyway, weren't they?

7 A. It's possible.

8 Q. Almost inevitable. We've already heard nobody undertook an
9 exercise to try and find out how much air might have been in
10 the pipe. Did you?

11 A. We haven't done a detailed exercise to be able to determine
12 what if any—

13 Q. Did you do a detailed exercise to work out how much fluid was
14 in the pipe?

15 A. No.

16 Q. Yet you knew, as a matter of fact, that there were at least two
17 places in that pipe with air?

18 A. We know that there were two places we find, I wouldn't say
19 with air but there were vapour spaces.

20 Q. Well they were able to breathe it?

21 A. For some time they would have a certain amount of oxygen for
22 some time—

23 Q. Yeah

24 A. —but those—but that space would be filled with H₂S and
25 other—

26 Q. All kinds of toxic gases, yeah.

27 A. —all kinds of toxic gases.

1 Q. Of course. Of course. But at best air, at worst some kind of
2 toxic gas but breathable.

3 A. At best, yeah.

4 Q. Correct?

5 A. Yes.

6 Q. No attempt was made to try and identify how much would be
7 needed per man per hour that sort of thing, was it?

8 A. No; and we didn't have the information to say how big those air
9 pockets were, what were the size of the air pockets.

10 Q. What you did have information of, though, was how much fluid
11 had been pumped out of the pipe?

12 A. Yeah, but remember the pipe was reflooded.

13 Q. No, of course, but you knew what had been taken out, didn't
14 you?

15 A. Yeah, but we didn't know how much actually went back in.
16 The pipe could have been completely flooded.

17 Q. Well, from what we know for sure is a considerable amount of
18 seawater must have got in—

19 A. Correct.

20 Q. —because it sucked these men in as well?

21 A. Correct.

22 Q. So, it must have sucked in seawater and you knew that they
23 were able—you could see into the pipe?

24 A. Yeah, well we know the pipe was filled to some point with
25 seawater.

26 Q. Yeah. It wasn't pure oil, was it?

27 A. No it wasn't pure oil at that time.

1 **Mr. Chairman:** All right, thank you. I just wanted to establish
2 that because I didn't want anyone to think that you had made
3 your decision on the basis that you'd sent a camera in 600 feet
4 because you hadn't. All right, thank you very much for that.
5 Now, Mr. Ramadhar. Yes. Now I understand your daughter's
6 here with you.

7 **Mr. Ramadhar:** Well first of all let me say thank you so much
8 for that kind indulgence.

9 **Mr. Chairman:** No, no, no. I'm please she's here. Maybe
10 she'll exercise some control of you. She's closer to you.

11 *[Laughter]*

12 **Mr. Ramadhar:** I think her mom sent her for that purpose
13 today.

14 **Mr. Peterson SC:** *[Inaudible]*

15 **Mr. Ramadhar:** Oh, thank you very much and I really do
16 believe her mom sent her today to, to try and, um—

17 **Mr. Chairman:** All right.

18 **Mr. Ramadhar:**—you know—

19 **Mr. Chairman:** I'm relying on, Mr. Ramadhar, for you to be
20 as swift as you can.

21 **Mr. Ramadhar:** As I always am, Sir.

22 **Mr. Chairman:** Yes.

23 **Mr. Ramadhar:** And this late in the evening I always have to
24 pay the penalty of the price—er, of time, so, I'm very painfully
25 aware of that, Sir.

26 **Cross-Examination By Mr. Ramadhar:**

27 Q. Good afternoon Sir, Mr. Mohammed.

1 A. Good afternoon, Mr. Ramadhar.

2 Q. Of course, on that day when you received this horrible news at
3 Paria you were on the way to a funeral, were you?

4 A. Yes.

5 Q. And you ultimately ended up presiding over four, isn't that
6 correct?

7 A. I won't answer that, Sir.

8 Q. You won't? No problem. You appreciate that you had the
9 authority and the resources not just of Paria but of the State, if
10 you chose to give a permission for rescue? You appreciate you
11 had that authority?

12 A. Yes.

13 Q. Right. And you, for whatever reason good or bad or
14 indifferent, chose not to give permission to do the rescue. You
15 agree with that?

16 A. Well let's get one fact straight.

17 Q. Let's get the answer.

18 A. No, I want to get a fact straight.

19 Q. Well you go right ahead, Sir. You're not in Paria. Understand
20 you're in the Commission of Enquiry, and, as God-like as you
21 believe you are you will answer the question, Sir.

22 **Mr. Peterson SC:** No, Sir; no, Sir. He started too early with
23 that. I tell you the burden you placed on his daughter is too
24 much to bear. No child should be given that burden, Sir.

25 **Mr. Ramadhar:** Well, as the children of the deceased of
26 course.

27 **Mr. Chairman:** Mr., Mr. Ramadhar.

1 **Mr. Ramadhar:** Yes. I withdraw and I shall move on for the
2 sake of time.

3 **Mr. Chairman:** It's only going to take longer if you do that.

4 **Mr. Ramadhar:** Mr. Peterson if he would interrupt less, of
5 course. Thank you.

6 **Continued Cross-Examination By Mr. Ramadhar:**

7 Q. So you appreciate that you did not give permission for rescue?
8 You agree with that?

9 A. I want to clear one fact up first.

10 **Mr. Chairman:** It works much better if you answer the
11 question first and then add your rider.

12 **Mr. Mohammed:** Okay. So

13 **Mr. Chairman:** Please. You would address yourself to the
14 question.

15 **Mr. Mohammed:** I'm sorry I'm sorry, Chairman, I'm sorry.

16 **Mr. Chairman:** Right.

17 **Continued Cross-Examination By Mr. Ramadhar:**

18 A. Good. No we did not give per—well, permission or we didn't
19 allow diving into the pipeline.

20 Q. In fact you prevented efforts?

21 A. I wouldn't say we prevented efforts. We didn't prevent efforts.
22 People continued to dive.

23 Q. Oh.

24 A. And let me get one thing straight.

25 Q. And don't point at me, you know, Sir, please.

26 A. All right. That's all right.

27 Q. Just leave that to others but I—

1 A. All right.

2 Q. —I knew from Mr. Maharaj you ever do that in a court or
3 anywhere else.

4 A. Okay.

5 Q. Yes. Yes. [*Crosstalk*] Carry on, please? We're waiting for
6 you.

7 A. I just want to address the first, the first question. That we bring,
8 we did bring bear to the incident the State through the coast
9 guard.

10 Q. Uh-huh. Yes.

11 A. All right? And the coast guard through their assessment also
12 agreed that—

13 Q. Listen—

14 A. —not to—

15 Q. I appreciate that. The coast guard will answer for themselves.
16 We're asking about you. You are the ultimate authority, the
17 General Manager. You had the authority and responsibility to
18 make decisions. Isn't that correct?

19 A. Yes.

20 Q. And the decision was made that no one should go into the pipe.
21 We've heard that many times before. You want to change that?

22 A. No.

23 Q. No? So, let us just move for one moment we're hearing about
24 recovery and we're hearing about rescue.

25 A. Uh-huh.

26 Q. And I'm grateful to my friend Mr. Small, Gerard Small, who
27 was so obvious and we dealt with before but I shall ask you

1 now. What efforts were made to sustain the lives of those who
2 were in the pipe while you came up with your plan for rescue?

3 A. [*Pause*]

4 Q. Zero, isn't it? Isn't it? Zero effort to sustain the lives while
5 you, while you got your cameras in and all the information you
6 could possibly want, no effort was made to sustain the lives of
7 the men. Isn't that accurate?

8 A. [*Pause*]

9 Q. It's a yes no or a big rider a big but. Which is it?

10 A. Look, I would answer that by saying that we were working as
11 quickly as we can to be able to develop a rescue plan—

12 Q. Uh-huh.

13 A. —to be able to rescue these—

14 Q. And could you tell us ad nauseam now what was the rescue
15 plan you ultimately had?

16 A. At the end of the day—

17 Q. Uh-huh.

18 A. —we were not—

19 Q. On which day? Which day we're talking about? We're talking
20 Friday.

21 A. All right at the end of—

22 Q. Which day?

23 A. All right, at the, at the end of Friday—

24 Q. Yeah.

25 A. —we were not able to significantly have the information to be
26 able to derisk but—

27 Q. Beautiful.

1 A. —so that we could have gotten—

2 Q. Right.

3 A. —a rescuer in and out of that pipeline.

4 Q. Excellent. Got you. Got you. Now remember His Ludship, the
5 Chairman—

6 A. Yes.

7 Q. —asked and you answered—

8 A. Yes.

9 Q. —the timeline which you anticipated that life will end—

10 A. Yeah.

11 Q. —for those who were in the pipe. Remind us what number
12 we're talking about?

13 A. I said at best probably six to 12 hours. That's a—

14 Q. Six to 12 hours. And that came about from what experience of
15 yours to determine six to 12 hours of life? What is your
16 experience that you had and your training to come up with that
17 six to 12 hours?

18 A. I mean the knowledge we were working with basically was that
19 there were possible air pockets within the line.

20 Q. Uh-huh.

21 A. Some air pockets in the line.

22 Q. A hope? A wish?

23 A. No, I think that's evidence from Mr. Boodram.

24 Q. A knowledge, beautiful. Uh-huh,

25 A. All right, that, that, that those existed.

26 Q. What was the size of air pocket?

27 A. We know—we, we didn't know. We also knew that there were

1 tanks—

2 Q. Uh-huh.

3 A. —inside of the, of the pipeline. We don't know exactly where
4 the tanks were.

5 Q. Right.

6 A. So if the tanks were close to the men they would have had
7 breathing air for some period of time.

8 Q. And you appreciate that tanks—the, the—at a maximum a
9 tank's air—and I'm no expert but, let—no more than two
10 hours?

11 A. Well it depends whether, whether the tanks were close to one
12 man—

13 Q. No, no I'm not on that.

14 A. —or they were separated.

15 Q. Forgive me. So that we may not understand—misunderstand
16 the questions, you'll give the answer to the question.

17 A. All right.

18 Q. Right. A tank at its maximum will, will, will endure life for
19 how long?

20 A. Well I don't know specifically, maybe two hours.

21 Q. Let's give it two.

22 A. Maybe less than that in an environment like that.

23 Q. Right. And what time this accident occurred?

24 A. The accident occurred at 1445 I believe.

25 Q. Give me in Trinidad time, nah man?

26 A. Two forty-five, 2.45.

27 Q. Two forty-five. Let's go to that so that the country will hear it;

1 2.45.

2 A. Yes.

3 Q. Yeah? And the six hours you started to think about started
4 from what time?

5 A. From the time the incident happened.

6 Q. Right, so that takes us to 8.45, starting with a six-hour lifeline,
7 correct?

8 A. Yeah.

9 Q. And that was of course with you knowing all that you could
10 have and not knowing what you did not know, so that a
11 timeline, so we say by nine o'clock you had great anxiety to
12 ensure either a rescue or sustenance, isn't it? At best?

13 A. Go ahead.

14 Q. No, no. Did you have anxiety to have a rescue or sustenance?

15 A. But, I mean—yes.

16 Q. Thank you. So, I'm hearing you speak with utter disrespect of
17 persons who had come and put their lives on the line possibly
18 about mutterings of a rescue mission? What does muttering
19 mean to you?

20 **Mr. Peterson SC:** Sir, that is not correct.

21 **Mr. Ramadhar:** Well let me correct it.

22 **Mr. Peterson SC:** No—

23 **Mr. Ramadhar:** You had mutterings—

24 **Mr. Peterson SC:** May I answer it, Mr. Ramadhar, please?

25 **Mr. Ramadhar:** I beg your pardon, Sir.

26 **Mr. Peterson SC:** The mutterings that the witness I
27 understand was speaking about was earlier with respect to the

1 LMCS people, not the persons who came and were putting their
2 life on the line. Mr. Ramadhar may want to address you in the
3 closing statement.

4 **Mr. Chairman:** I think that is true, that the ref—an
5 unfortunate use of the word I suspect but—

6 **Mr. Ramadhar:** Yeah.

7 **Mr. Chairman:**—the mutterings, as he put it, were in respect
8 of LMCS rather than anybody else.

9 **Mr. Ramadhar:** Of course.

10 **Continued Cross-Examination By Mr. Ramadhar:**

11 Q. And LMCS was speaking in those mutterings about exploring a
12 rescue effort, isn't it? As far as you are concerned, the little
13 regard you had for it, the mutterings was in relation to a rescue,
14 wasn't it?

15 A. A rescue that would endanger the lives of the rescuer because—

16 Q. We're coming to that because you had said the mutterings, you
17 didn't have in writing, correct? You didn't have a, a written
18 plan with risk assessment and so, isn't that correct?

19 A. That's correct.

20 Q. And you disregarded it because you wanted paper over—you
21 wanted form over substance?

22 A. I think, I think what I said is that—

23 Q. We heard what you said.

24 A. Okay good, so I don't need to repeat it.

25 Q. No you don't.

26 A. Okay, right.

27 Q. So we will hear you that you would have preferred by far to

1 have it in paper, on paper rather than to have it articulated like
2 we all do, and this is a matter of urgency but you want paper,
3 isn't it?

4 A. If I recall what I said properly I didn't say paper I said paper, a
5 plan, something that made sense.

6 Q. Yes.

7 A. Something that was verbalized in a way that had some kind
8 of—

9 Q. Verbalized. Now you move to verbalized.

10 A. And, or—but I said that.

11 **Mr. Peterson SC:** Sir I don't want to delay the, the, the—
12 because we all want to leave here this afternoon but if Mr.
13 Rajkumar, um, Mr. Ramadhar continues, we will be here for a
14 long, long time, once you want to finish this witness today.

15 **Mr. Ramadhar:** I shall move on, um—I shall move on.

16 **Mr. Peterson SC:** He never said he wanted everything in
17 paper. He said or a verbally articulated plan.

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. You wanted form over substance. Let's get that clear.

20 A. I didn't say that.

21 Q. I'm asking you whether you wanted form over substance.

22 **Mr. Chairman:** Mr. Ramadhar, by all means ask that question
23 in that way. What you can't do is describe it as though it were
24 what he had said because it isn't what he'd said.

25 **Mr. Ramadhar:** And I'm asking him. That's why I—

26 **Mr. Chairman:** Please—

27 **Mr. Ramadhar:**—keep it open.

1 **Mr. Chairman:**—when you frame your question you've got to
2 frame it in such a way—

3 **Mr. Ramadhar:** Of course.

4 **Mr. Chairman:**—you don't need me to tell you this.

5 **Mr. Ramadhar:** No.

6 **Mr. Chairman:** You know.

7 **Mr. Ramadhar:** Of course.

8 **Mr. Chairman:** Right. So please.

9 **Mr. Ramadhar:** Thank you.

10 **Mr. Chairman:** All right.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 Q. Now you've heard—once again you delegated a lot, a lot of, er,
13 the responsibilities to contractor and to applicants and so. You
14 agree with that, yeah?

15 A. Yes.

16 Q. You appreciate at the supreme commander, the General
17 Manager, you could delegate but you cannot abdicate? You
18 know the difference?

19 A. Yes.

20 Q. And you of course delegated the supervisory role for that day to
21 Kenson?

22 A. On the day of the incident?

23 Q. Yes.

24 A. Yes.

25 Q. Did you have any qualification check on the person that would
26 have been the supervisor?

27 A. Every person that we hire through Kenson we—it goes through

1 a process where that qualification is assessed by the people, the
2 technical and maintenance team as applicable for the role that
3 they would want—that they would have to undertake.

4 Q. Right. Right, we hear about the process. In the particular case
5 sitting as you are today, was any check made either before or
6 either from them to now as to the qualification of the supervisor
7 for that piece of work that Kenson had provided?

8 A. I can't say specifically that I did that but our process would
9 have allowed that to be—

10 Q. Forget about the process. You appreciate a supervisor must be
11 superior in knowledge?

12 A. I appreciate that a supervisor must be superior in knowledge?

13 Q. He could say what to do, what not to do, stop this, do this, yes?

14 A. I—

15 Q. He's imbued with authority?

16 A. But I thought we said that on the permit. I—

17 Q. You thought it was on the permit. I'm asking about the specific
18 supervisor on that day. He gave evidence here and we have the
19 record.

20 A. Uh-huh.

21 Q. Do you know whether that person was amply qualified to
22 supervise this work, yes or no?

23 A. I would say that if you are asking if the, if the supervisor had
24 specific experience with working on subsea pipeline, I would
25 say probably no to that.

26 Q. Thank you.

27 A. What I would say is the supervisor has experience in executing

1 mechanical works of a similar nature.

2 Q. Do you even know the name, do you even know the name of
3 the supervisor who was overseeing that you gave that
4 responsibility to on that day, yes or no?

5 A. I would say I can't recall it now but I'll recall before the—
6 before your session is out.

7 Q. But you appreciate that you had a catastrophic failure of all
8 your systems and procedures on that day?

9 A. What I know—

10 Q. Listen to my question—

11 A. —what—no, Sir.

12 Q. —and answer it so we could get moving. Do you appreciate
13 you had a catastrophic failure of your procedures—

14 A. No. No, the answer is, the answer is no.

15 Q. Oh thank you.

16 A. What, what I know—

17 Q. I heard you.

18 A. No, no, no.

19 Q. You had no failure—

20 **Mr. Chairman:** No, he's going to be allowed to an—if he
21 answers the question with a yes or no he is going to be
22 permitted to give his rider.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. Of course. Give your rider, Sir.

25 A. The rider is simple that on the permit there were specific
26 instructions to work to.

27 Q. Yes.

1 A. So the system didn't fail. People didn't adhere to what, the
2 work that was authorized in the way that it was authorized.

3 **Examination By Mr. Chairman:**

4 Q. In that regard, can I just ask you this, please?

5 A. Yes.

6 Q. As far as you are concerned—

7 A. Yes.

8 Q. —irrespective of whether there was Delta P or for whatever
9 other reason these barriers were in place—

10 A. Yes.

11 Q. —what should not have happened was either of these barriers
12 being removed—

13 A. Correct.

14 Q. —before the chamber—

15 A. Correct.

16 Q. —was, was decommissioned as it were?

17 A. Correct.

18 Q. As to—let me finish the question.

19 A. Correct.

20 Q. Because I'm just stating what—or we understand your evidence
21 to be. So it flows from that, doesn't it—

22 A. Yes.

23 Q. —that if the supervisor to which Mr. Ramadhar is referring
24 knew that for whatever reason those plugs should not be
25 removed prior to the removal of the hyperbaric chamber, he
26 would and should have stopped—

27 A. Stopped.

1 Q. —all work?

2 A. Yes.

3 Q. Is that right?

4 A. Yes.

5 Q. Do you recognize then that whatever level of supervision there
6 was, it was woefully inadequate in that they had failed to stop
7 the removal of those pipes, those plugs?

8 A. They would, they would not—so, in the course of work, all
9 right, there is a clear barrier that is written onto the permit,
10 right.

11 Q. There's a what, sorry?

12 A. A barrier. There's a, there's a specific request that the plugs to
13 be remained in use.

14 Q. Yes.

15 A. Correct?

16 Q. No, no you've pointed that out to me before?

17 A. Right, good, good, good. So if that—consider that these people
18 in hyperbaric chamber, they're working, they're not open, not
19 visible to everyone.

20 Q. But there's a camera, isn't there?

21 A. There's a camera, yes.

22 Q. And somebody's supposed to be monitoring their work?

23 A. The way that the work is conducted is that work is being
24 monitored by the LMCS and their supervisors and our people
25 would from time to time check in. But the fact is, if that plug
26 was to be removed against what was written on the permit, our
27 supervisor should be informed. Our supervisor should have

1 been informed that, “We are going to remove this plug.” It is
2 written in the permit that the plug is to be used. There is a
3 responsibility on the worker to work safe and I don’t want to
4 abdicate him from that responsibility.

5 Q. Explain to me because—I get that entirely, but clearly they
6 thought that they were entitled to remove it. They didn’t do it
7 for the fun of it. They did it because they thought it was—
8 whoever did it must have done it because they thought it was
9 appropriate to do, rightly or wrongly, right? We know that to
10 be the case?

11 A. Yeah.

12 Q. The fact is that you have a degree of supervision and a
13 responsibility of supervision over the works being conducted.
14 Do you agree with that or not?

15 A. I agree with that.

16 Q. Or do we have to go to the top?

17 A. I, no, no, no. I agree. You don’t have to go with it.

18 Q. You agree? Right. So—

19 A. I agree with it.

20 Q. —what Mr. Ramadhar is asking you in effect is this, isn’t it?

21 A. Yes.

22 Q. Is that given there is a responsibility to supervise—

23 A. Yeah.

24 Q. —I don’t agree with him that a supervisor needs to have more
25 experience that the person who is being supervised—

26 A. Right.

27 Q. —so long as he has the same amount of experience or at least

1 an experience of dealing with that particular—

2 A. Right.

3 Q. —issue, right? So, working on that premise so that the
4 supervisor understands what must and must not be done on a
5 particular occasion, um, help me about this, do you know how
6 long it would take to remove those two plugs?

7 A. I think the top plug, I mean, 20 minutes, there's a number of
8 bolts. It's just a matter of slackening some bolts and pulling it
9 out. Right?

10 Q. I will go with your 20 minutes. It might be a little more than
11 that.

12 A. Well, let's say—all right.

13 Q. We've heard other evidence, but never mind, you think 20
14 minutes.

15 A. And it's, it's—

16 Q. And then, and then the, um, the other plug?

17 A. The inflatable plug, I mean, I would have to hazard a guess
18 because we would be bleeding that through a small insect.

19 Q. Uh-huh.

20 A. Right? So, I don't know, maybe, maybe 15, 20 minutes for the
21 plug to lose enough friction if you want to slip.

22 Q. Which you [*Inaudible*]. Got you. All right. So either way
23 we're talking about a period of time, according to you, to
24 remove both plugs without hazard about 40 minutes?

25 A. I would say reasonably, yeah.

26 Q. Right. Would you be happy with your supervisor not observing
27 the work being conducted, bearing in mind how hazardous

1 you've told us it is, for a whole period of 40 minutes? Would
2 you be satisfied with that?

3 A. Would I be satisfied with that? [*Pause*] I'd probably I'd say
4 no.

5 Q. All right. So, um, if that is the case, one of the things that you
6 might have recommended at the end of your own report, other
7 than the two that you did, not you personally but your inquiry
8 might have said that the period of supervision where this sort of
9 hazardous work is being carried out should be no more than 10
10 minutes or 15 minutes or whatever period you think
11 appropriate, so that you're keeping an eye on the work that's
12 being done? Because the fact is, is that had that been done—

13 A. Yeah.

14 Q. —it would have been stopped, wouldn't it, should have been?

15 A. That, yeah, I think it would have been stopped.

16 Q. Right. That I think addresses Mr. Ramadhar's question about
17 the supervision that was being conducted of the men who were
18 carrying out this work who obviously thought that what they
19 were doing was okay, rightly or wrongly, we know wrongly but
20 fact is that that's what the position was. You've seen, haven't
21 you the, um, I hope we don't need to go to it, but you've seen
22 the method statement—

23 A. Yes.

24 Q. —that they prepared, haven't you? You know all about that. I
25 don't want to go over it again—

26 A. Yeah.

27 Q. —because we've already covered all of this—

1 A. Yes.

2 Q. —and the order of works that they say need to be done.

3 A. Yes.

4 Q. But the fact is that the degree of supervision was—fell short of
5 what you yourself would have expected.

6 A. Yeah. I'll argue that we could probably have been closer, yeah.
7 All right.

8 Q. Yes.

9 **Mr. Chairman:** Yes, thank you Mr. Ramadhar.

10 **Mr. Ramadhar:** Much obliged, Sir.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 Q. Now, could you tell Mr. Chairman and all of us between the
13 13th of February and the 25th of February, what other work
14 would have been conducted in or around the area of the riser 5
15 and 6?

16 A. I'm sorry, I don't—I wouldn't have that detail.

17 Q. Would you be able to ascertain that because it could be crucial
18 if there was other work that could have impacted upon the
19 conditions within the pipe between 5 and 6? You appreciate
20 that?

21 A. Once the Commission request it, we will, we will work towards
22 it.

23 Q. Thank you. Now, Sir, you gave an instruction for the coast
24 guard to basically take control—

25 A. Yes.

26 Q. —at the site.

27 A. Yes.

1 Q. And part of that taking of control was to protect Paria and
2 Kenson personnel?

3 A. Yes.

4 Q. From whom?

5 A. Well the reports we had, I mean, I could understand that the—

6 Q. Sir, I didn't ask for an essay. From whom? From whom?

7 A. What we thought were the LMCS employees at the time—

8 Q. Yes.

9 A. —because they were emotional and they were behaving, I
10 guess, in ways that the guys felt uncomfortable.

11 Q. Uncomfortable?

12 A. Yes.

13 Q. You think it was comfortable to have four men in a pipe and the
14 possibility of rescue was at hand?

15 A. Gosh, I—I already said that. I already said that.

16 Q. Yeah.

17 A. They would have been in a—I could understand, they were,
18 they were in a, in a really tough place. I could understand that.

19 Q. And also, you wanted the coast guard to basically execute your
20 instructions?

21 A. Yes.

22 Q. Right. And part of your instructions was to prevent diving into
23 the pipe, isn't it?

24 A. Yes.

25 **Mr. Ramadhar:** But at paragraph 55, My Lord, at 001452 and
26 I shall—

27 **Mr. Chairman:** I may be many things. One thing I—

1 **Mr. Ramadhar:** Sir, I beg your pardon.

2 **Mr. Chairman:**—I may not be is a Lord.

3 **Mr. Ramadhar:** Well I know the peerage is under scrutiny
4 now, um, anyhow—

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 Q. You, at that last line, indicated that the main focus was to
7 inspect the internal conditions of the line with assistance of the
8 video footage as night approaches. The divers stop diving on
9 their own accord.

10 A. Yes.

11 Q. This is your statement.

12 A. Well they would—

13 Q. Hold on—

14 A. Yeah.

15 Q. —so we'll get the question.

16 A. Yeah.

17 Q. Which diver told you that they stopped on their own accord?

18 A. Well, the fact is that the, the, er, the coast guard didn't stop
19 anybody.

20 Q. Or, you were there? You were present?

21 A. The information reaching—

22 Q. Listen to my—were you there?

23 A. I was at the—I was not on berth 6.

24 Q. Right.

25 A. But I was advised.

26 Q. So did you hear and see everything the coast guard did?

27 A. No. Is that a reasonable expectation that I would hear and see

1 every—

2 Q. Certainly not.

3 **Mr. Chairman:** It's not a reasonable expectation.

4 **Mr. Ramadhar:** And that is why I asked.

5 **Mr. Chairman:** That's not how the IMT works—

6 **Mr. Ramadhar:** No.

7 **Mr. Chairman:**—if it works at all, but the fact is that the, er—
8 he's entitled to receive report from whoever.

9 **Mr. Ramadhar:** Exactly.

10 **Mr. Chairman:** And your question is entirely apposite, to be
11 able to ask him, well, who did you hear it from? You weren't
12 there.

13 **Mr. Ramadhar:** Yes.

14 **Mr. Chairman:** We know you weren't there. So we can
15 ignore that bit, but we can—we, we are entitled to know from
16 whom you got heard that report.

17 **Mr. Mohammed:** That report came from Ms. Catherine at the
18 site and through Collin to myself.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Right. And you—so she spoke to the divers and confirmed that
21 they did so stop voluntarily? Is that what you're telling us?

22 A. That's the information that I have.

23 Q. That she spoke and they said, okay, we're voluntarily not going
24 in?

25 A. I don't know if they said in those exact words.

26 Q. Well what words? Because we have different, we have
27 different evidence.

1 A. All right.

2 Q. Okay. Now, Conan, you know the name Conan?

3 A. Yeah.

4 Q. He didn't belong to a diving company?

5 A. I, I don't know.

6 Q. No. You wanted to deal with companies?

7 A. I wanted to deal with professional organizations—

8 Q. Professional organizations?

9 A. —that have a track record of diving and operating across the
10 country doing jobs that resembled this in nature.

11 Q. And when did the first company arrived that was able and
12 willing?

13 A. I—sometime after 8.00, 9.00, I guess, somewhere round that
14 time.

15 Q. And which company was that?

16 A. I can't recall exactly which company it was.

17 Q. Wouldn't that be very important? Because you were waiting on
18 one of them to have arrived to facilitate a rescue?

19 A. Well I know, I know at least two were discussed and that was,
20 er—

21 Q. No, not about discussed. I'm talking about being on site.

22 A. Well I wouldn't know the exact time that they arrived, but—

23 Q. Well no I'm asking the name, Sir.

24 A. It was OTSL and Mitchell were the two companies that we had
25 discussions with.

26 Q. Right. Let's deal with OTSL.

27 A. Uh-huh.

1 Q. Approximately what time did they arrive?

2 A. I can't recall.

3 Q. And what was their position upon arrival?

4 A. When you say upon arrival?

5 Q. In terms of doing the rescue.

6 A. They, they met with our, they met with our, with the diving
7 supervisor we had at the time, Mr. Seales, and they were—they
8 shared the information that we had, including the video footage,
9 and they determined that the dive was too risky for them to
10 send their men in.

11 Q. So you had video footage around nineish?

12 A. We had some footage I believe around nineish, yes.

13 Q. Oh, oh—

14 A. Sorry at the time when they arrived, whether it was 9.00 or later
15 in the night I can't remember, but there was video footage that
16 they would have viewed on the site.

17 Q. Thank you. Now you spoke a lot about and you used the term,
18 you had used a term of art of the unknowns?

19 A. Unknowns.

20 Q. No according to your statement, U-N-K-N-O-W-S—unknowns.

21 A. Okay.

22 Q. Yeah? So you didn't know the conditions in the pipe—

23 A. Yeah.

24 Q. —In terms of whether there might have been another Delta P,
25 you agree?

26 A. Yeah. yes.

27 Q. You didn't know how much air there was. We've been through

1 this, so—

2 A. All right.

3 Q. —I want to speed it up, right?

4 A. Yeah, yeah, yes, yes.

5 Q. You didn't know a lot?

6 A. Yes.

7 Q. But what you did know after Christopher Boodram came out,
8 after having spent how many hours, two three hours in the pipe,
9 that he had survived, correct?

10 A. Yes.

11 Q. So the issue of vapour and toxins was mitigated that there was
12 air, men were breathing, correct.

13 A. Well Christopher Boodram survived and came through the pipe
14 with air tanks or with air in the pipeline? I'm not sure.

15 Q. You as the General Manager not sure that he came out with air
16 tanks or what with what? Sir, I am shocked and I'm giving you
17 the opportunity to revisit your answer. You are not sure
18 whether Christopher Boodram came out how?

19 A. They he would have had—he would have had to use air tanks to
20 come up out of the pipeline. That's the fact. He would have
21 had to use to be able to come through the flooded pipe of the
22 pipeline.

23 Q. Would have had. To this day, you paid any attention to the
24 public statements of Christopher Boodram? Yes or no?

25 A. Yes, I did pay attention to the public statements.

26 Q. Do you also learn that he had made a promise to his brothers in
27 the pipe to return for them?

1 A. I think that's public knowledge.

2 Q. Thank you. Now, you, shockingly and maybe I have it all
3 wrong, did not anticipate a Delta P in the works that would be
4 done?

5 A. No.

6 Q. But you yourself through your own words spoke about the air
7 chamber having a pressurized—and I'm paraphrasing here.

8 A. Yeah.

9 Q. —and that is what would keep the water out of the chamber,
10 isn't that correct?

11 A. Yes.

12 Q. What is that—what is this thing about Delta P? Isn't it a
13 differential of pressure?

14 A. Yes.

15 Q. And if you were, for instance, to cut off the compressor leading
16 into the chamber, what would happen?

17 A. The chamber would flood.

18 Q. And as a result of what, what's the scientific term for that Delta
19 P, huh?

20 A. It's a change in pressure, yeah.

21 Q. Yeah? Isn't that an obvious risk when one is underwater and
22 you have a pressurized chamber that Delta P was a live, in fact
23 not live but a death threat?

24 A. But there were also barriers to prevent.

25 Q. Yes we hear all of that.

26 A. Yes. But those are facts.

27 Q. But do you appreciate a hose, a compressor hose could burst

1 and cause a differential pressure and cause flooding and killing?

2 A. A compressor hose could burst, yes.

3 Q. Yes. So when you tell all of us that it was not even
4 contemplated that a Delta P, looking upon it now you realize
5 that that makes very little sense? Eh? Yes? I'll take it as yes.

6 A. All right, go ahead.

7 Q. Right. No, I'm going ahead of course. You talk about a plug.

8 A. Uh-huh.

9 Q. Correct?

10 A. Uh-huh.

11 Q. And a, what is the other barrier they put?

12 A. There were two plugs.

13 Q. Two plugs. That pipe, was there a draining of that pipe before
14 the work began?

15 A. I think that that—yeah.

16 Q. Right? You drain it and then you, what, you seal it at the other
17 end, correct?

18 A. At which end?

19 Q. Well there are two ends. It's a U-pipe, isn't it?

20 A. Yeah, but which end, which end you're talking about?

21 Q. You tell me. You're the boss. Was it sealed at both ends or no
22 end?

23 A. [*Pause*]

24 Q. Rock back and answer.

25 A. It was sealed at berth 5, uh-huh, with a flange and it was sealed
26 at berth 6 with the, with the, er—with, with both barriers, the—

27 Q. Beautiful.

1 A. —Inflatable plug and the mechanical plug.

2 Q. Right. So in that pipe what did you expect where both sides
3 were sealed? What was the contents within it, anything?

4 A. When you say the contents within, I don't understand.

5 Q. Contents, the contents of the pipe.

6 A. The contents of the pipe would have been the liquids that would
7 be in the pipeline.

8 Q. Right. Well so, so was it filled—was it an equilibrium reached
9 on both ends or was there not a vacuum in that pipe?

10 A. I don't know that there was a vacuum in the pipe.

11 Q. You don't know. Would that be part and parcel of pumping out
12 the pipe?

13 A. That pipe, a vacuum was created in the pipe?

14 Q. Yeah. I'm asking you. You're the expert.

15 A. It was pumped out. I'm not the expert, but, I mean, we could
16 think a lil bit.

17 Q. I beg your pardon.

18 A. It was a—the pipe would have been emptied at atmospheric
19 pressure, so, I don't see a vacuum being created at atmospheric
20 pressure. The pipe was emptied at—both sides opened at
21 atmospheric pressure. So, er, er—

22 Q. So as far as you were concerned—

23 A. —I can't, I can't, I can't rationalize a vacuum being created.

24 Q. Let's rationalize a bit more. As far as you were concerned that
25 pipe contained only water and possibly some oil?

26 A. Probably con—yeah, water and oil.

27 Q. Beautiful.

1 A. The pipe was [*Inaudible*], yeah.

2 Q. Could you tell us all of us—

3 A. Uh-huh.

4 Q. —that when you began the pumping out, the flushing out after
5 the men unfortunately had perished—

6 A. Uh-huh.

7 Q. —what was the volume of water and/or oil that you all pumped
8 out of that pipe to get the men's bodies?

9 A. Er—

10 Q. You didn't check that either?

11 A. if I have it correct I think it's 150, a hundred—over a hundred
12 barrels of oil.

13 Q. Uh-huh. And water?

14 A. And—well the water would have been the rest.

15 Q. Yeah, how much?

16 A. How much water came out?

17 Q. Yes. You wouldn't be interested in oil.

18 A. I, I don't think we measured the water.

19 Q. Well you see we, we, we would have thought any logical
20 scientific approach would have required us to know, after the
21 fact even—

22 A. Uh-huh.

23 Q. —what was in there. You agree with that? Yeah?

24 A. It's a perspective.

25 Q. Not a perspective.

26 **Examination By Mr. Chairman:**

27 Q. Excuse me, can I understand please? Are you saying that you

1 can say with a degree of certainty that a hundred barrels of oil
2 or thereabouts came out of the pipe but you don't know how
3 much water came out of the pipe? Is that right?

4 A. Well, we—yeah, yeah, yeah.

5 Q. So, do I understand you to say then that you separated the two?

6 A. Well what we would have done is that we would have started to
7 pump and the oil and water would have come first but once—
8 what we—

9 Q. No, what—sorry, the water would have come first?

10 A. Yeah. Once the oil started to come we would have captured it.

11 Q. Which, which end was the water coming out of berth 5 or 6?

12 A. Berth 6.

13 Q. So pumping in at 5?

14 A. Yeah.

15 Q. Out at 6?

16 A. Yes.

17 Q. So the same way out as they had come—

18 A. Yes.

19 Q. —gone in?

20 A. Yes.

21 Q. And so that the pumping is going on from 5?

22 A. Yes.

23 Q. Pushing the fluid in the pipe.

24 A. Yes.

25 Q. So first of all water, presumably mixed with all and other—

26 A. Yeah, it would always have a—

27 Q. —contaminants?

1 A. Yeah.

2 Q. Yes. And is it—am I to understand that that was—that wasn't
3 being pumped into the ocean was it?

4 A. No, no, no.

5 Q. So it must have been pumped into some place where you could
6 measure it?

7 A. It would have been pump back—it would have been pumped
8 back I believe into the pipeline. No, it wouldn't be pumped
9 back into the pipeline.

10 Q. Really? I mean, I would have thought the sooner you got
11 seawater out of the pipeline—

12 A. Yeah.

13 Q. —the better, isn't it?

14 A. Yeah, yeah.

15 Q. For obvious reasons.

16 A. Yeah.

17 Q. You got steel pipes. You don't want rusting, do you?

18 A. Some of that water would have gone into the sea and what
19 would have been—

20 Q. Some of that would have gone into the sea?

21 A. Yeah. What would have been contaminated—

22 Q. This water that was coming out of the pipe, that had been
23 sucked in—

24 A. Yeah.

25 Q. —was now being dumped in the ocean?

26 A. No, look, listen, they would—it, it would go back not as oil
27 film or—it wouldn't go back as dirty oil into the ocean. There

1 would be some assessment as what was possible and what we
2 had to collect what—

3 Q. Yes I understand that. But forgive me. You weren't making
4 that assessment while you were trying to pump bodies out of
5 that pipe? Surely you were just pumping this, this into some
6 sort of—

7 A. The fact is that if we had contaminants going into the sea we
8 would have had a spill and we didn't have—

9 Q. You'd have had a what?

10 A. A spill, an oil spill.

11 Q. No. All right. So, I—

12 A. Right? We didn't have an oil spill.

13 Q. So it must have gone into something? What Mr. Ramadhar is
14 asking you is—

15 A. Yeah.

16 Q. —could you measure how much was pumped out of the pipe?
17 And you said well a hundred barrels of oil but I just want to
18 understand—

19 A. Yeah.

20 Q. —what you're saying about this. I'm not sure where it's
21 actually leading, to be honest, but, I mean, I—it just concerned
22 me that you said a hundred barrels of oil came out and you
23 don't know how much water came out.

24 A. Yeah.

25 Q. All I want to try and understand is how did you get this stuff
26 out of there?

27 A. Well, maybe, maybe somebody knows but I don't know.

1 Q. Right. Well it—that's the answer to it—

2 A. Right.

3 Q. —isn't it, really? "I don't know"?

4 A. I really don't know.

5 **Mr. Chairman:** So there's your answer, Mr. Ramadhar.

6 **Mr. Ramadhar:** Thank you so much. He doesn't see about—
7 right.

8 **Continued Cross-Examination By Mr. Ramadhar:**

9 Q. But the buck stops with you? You appreciate you've said that?

10 A. Yes.

11 Q. Meaning that whatever happened on Paria's property—

12 A. Yes.

13 Q. —the responsibility rests with you?

14 A. I'll simply say yes.

15 Q. Right? Whether the failure of LMCS—

16 A. Yeah.

17 Q. —whether the failure of Kenson, whatever, the failure rests
18 with you?

19 A. Yes.

20 Q. Good. The responsibility is yours, correct, huh?

21 A. Yes. I, I think—

22 Q. That notwithstanding—

23 A. I think I said that earlier.

24 Q. Right, yeah. I just want to so that we're at idem. So that you
25 have indicated us to that there was a WhatsApp group created
26 with the families of the deceased. I'm asking.

27 **Mr. Chairman:** Sorry, I didn't hear what you—

1 **Continued Cross-Examination By Mr. Ramadhar:**

2 Q. A WhatsApp, a WhatsApp group, a group chat if I may call it
3 that.

4 **Mr. Peterson SC:** No, no, and Mr. Ramadhar has this ability
5 where he would say to the witness, um, you said so and so and
6 so and when he realize that there's some distortion I said, I am
7 asking, but he's not asking he's stating it hoping to get
8 acceptance and when he doesn't, he say I'm asking.

9 **Mr. Ramadhar:** You know, with all due—

10 **Mr. Peterson SC:** What he can do is to recall accurately the
11 evidence or closely to—close to accuracy and then put it to the
12 witness.

13 **Mr. Ramadhar:** Well, Mr. Peterson, I'm grateful for your
14 great guidance.

15 **Continued Cross-Examination By Mr. Ramadhar:**

16 Q. But was there a WhatsApp group chat created with the
17 deceased's families yes or no?

18 A. Yes there was a WhatsApp—

19 Q. Thank you.

20 A. —communication.

21 Q. So all the murkiness Mr. Gill—Mr. Peterson has, has been
22 cleared up.

23 **Mr. Peterson SC:** No, no. Mr. Ramadhar would have to
24 respect me even though it may be a challenge for him.

25 **Mr. Chairman:** [*Inaudible*]

26 **Mr. Peterson SC:** Yeah, but I never said—

27 **Mr. Chairman:** I know. I know.

1 **Mr. Peterson SC:** Yeah, but he can't do that, otherwise I
2 could respond in kind and then we'll have an open season
3 which I know you would not allow.

4 **Mr. Chairman:** Mr. Peterson, you understand with your great
5 experience that sometimes it's easier to let things go than it is to
6 challenge each and every one, simply because we'll be here
7 forever. Mr. Ramadhar has a certain style about him which
8 some like, some don't. I'm not going to pull him up every time
9 hay makes something which might be objectionable.

10 **Mr. Peterson SC:** [*Inaudible*] and he wouldn't like it, Sir.

11 **Mr. Chairman:** Well, all right, well that's a little harsh, but
12 never mind. He wouldn't have any clients if that were the case,
13 would he.

14 **Mr. Ramadhar:** Well, well, Sir—

15 **Mr. Chairman:** So, er, let's be clear. He does, so—

16 **Mr. Ramadhar:** I need to respond that the clients that Mr.
17 Peterson has, I could understand why—

18 **Mr. Chairman:** No, let's stop this now Mr. Ramadhar.

19 **Mr. Ramadhar:** Yes.

20 **Mr. Chairman:** You can carry on, but please.

21 **Mr. Ramadhar:** All the big boys—

22 **Mr. Chairman:** Just, just, just, please be—

23 **Mr. Ramadhar:** Big money.

24 **Mr. Chairman:**—circumspect—please be circumspect about
25 the way in which—

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. So, we move forward, we move forward Sir. We're talking

1 about the WhatsApp group chat or whatever you want to call it.
2 WhatsApp, to communicate with the families. They have a
3 record of the communication issued by Paria through the
4 WhatsApp group chat.

5 A. If there is a record.

6 Q. Yes.

7 A. I don't know if we have a record. I know that all the WhatsApp
8 messages related were submitted to the Commission.

9 Q. All of it?

10 **Mr. Chairman:** Well certainly I don't think I have seen
11 anything that resembles a group chat on WhatsApp with any of
12 the family whom you say that such a chat was created. I have
13 seen WhatsApp messages but nothing with—and I invite
14 correction but I certainly don't recall seeing any.

15 **Continued Cross-Examination By Mr. Ramadhar:**

16 Q. Would you endeavour to make available to all, the Commission
17 and all of us?

18 A. Whatever is there that we could make available we'll make
19 available, Mr. Ramadhar.

20 Q. You were at a press conference where reporters asked about
21 the—about—queried, queried whether the family had been
22 properly informed about the move from rescue to retrieval and
23 of course they were saying that nobody had told them. You've
24 heard that report, yeah?

25 A. Yes.

26 Q. And your Chairman said that that is not true. You heard that
27 coming from your Chairman?

1 A. Yeah. Look, what the commitment is, is I will recheck and if
2 there's any information that we need to—

3 Q. No, no you see because, because I want to know that the
4 families are saying one thing and your Chairman is saying that
5 what they're saying is not true. You know that's a serious
6 thing? You appreciate that, correct? So let's get that record
7 moving forward.

8 A. All right.

9 Q. Beautiful. Now, you spoke about you were the boss man, right,
10 the General Manager and you wanted to create a culture of
11 health and safety and so, isn't that accurate?

12 A. That's correct.

13 Q. And you appreciate when one falls ill or there's an accident on
14 your compound that obtaining as quick as possible medical
15 assistance is the highest priority, yeah?

16 A. Yes.

17 Q. Yes?

18 A. Yes.

19 Q. And not one of, of, er, keeping the status quo so that you could
20 make proper records and so for the sake of documenting it.
21 You appreciate that, correct?

22 A. Well, you need both.

23 Q. So what?

24 A. You need both. You need both.

25 Q. Yeah. Well which is the highest priority?

26 A. Well you want to take care of the person.

27 Q. Which will you sacrifice?

1 A. You want to take care of the—

2 Q. The first or the second?

3 A. You want to take care of the person first.

4 Q. Thank you. The name Shaquille Douglas rings a bell to you?

5 A. Yes.

6 Q. He died on the compound?

7 A. Yes.

8 Q. What time did he fall ill?

9 A. I mean—

10 Q. The culture, let's say the culture of Paria.

11 **Mr. Peterson SC:** Sir, what's the relevance of this?

12 **Mr. Ramadhar:** I will show the relevance, Mr. Chairman.

13 This is a young person and if he should answer the question the
14 culture would be obvious.

15 **Mr. Chairman:** I'm going to give a little more latitude to see
16 where it goes and then I'll stop it if I—

17 **Mr. Ramadhar:** Or, thank you very much.

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. Yeah. And let me remind you the 21st of October, 2022. Not
20 far ago, yeah? What time did this young man fall ill on your
21 compound?

22 A. Mr. Ramadhar, I did not come prepared with information to
23 answer questions.

24 Q. Well let me help you, around before ten o'clock. You want to
25 disagree with that? Because you, you participated in this,
26 didn't you? Yes? What time was he removed for medical
27 attention? [*Crosstalk*] Well, we're talking culture of HSE.

1 What time was he removed for medical attention?

2 A. As I said, Mr. Ramadhar, I am not prepared to answer those
3 questions.

4 Q. He was pronounced dead on site after one o'clock. You
5 remember that, though?

6 A. I know I was pronounced dead.

7 Q. Oh, thank you very much. Let's talk how the culture of health,
8 safety for workers. You appreciate every working man, woman
9 and whomever in this country that goes to work expect of their
10 employers some level offer care? Yes or no?

11 A. Yes I expect that.

12 Q. And immediate medical assistance if required should be
13 rendered?

14 A. But why you're making the assumption that immediate—

15 Q. Well, if he—we'll probably deal with that in another case
16 against you.

17 A. Well, well, so, so let's deal with that then.

18 Q. Yeah I'm asking you now as a matter of your culture that you
19 wish to—

20 **Mr. Peterson SC:** Mr. Chair, if Mr. Ramadhar is seeking to
21 use this opportunity to lay some groundwork for some action he
22 has up his sleeve—

23 **Mr. Ramadhar:** You see that sleezy approach that Mr.
24 Peterson is speaking to—

25 **Mr. Chairman:** All right, no, no, no. That's enough.

26 **Mr. Ramadhar:** Thank you. And I hope he knows that too.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. Yeah. So, there we go. That Conan, I'm bringing you back to
2 Conan, whom you had no interest in in terms of finding out,
3 you told my learned friend, as to his qualifications and/or
4 expertise, presented himself as a saviour, a rescuer, you know
5 that now, don't you, around 7.00 that evening?

6 A. Go ahead.

7 Q. No, I'm asking if you know that.

8 A. That what, that Mr. Conan presented himself as a potential
9 rescuer at 7.00?

10 Q. Yes.

11 A. I'm not sure about the time but I know that he did present
12 himself.

13 Q. Right. You also knew, from what you told us already on your
14 oath, that equipment was available from several sources at that
15 time?

16 A. Yes.

17 Q. Yes. You made no inquiry or caused any one of your agents or
18 servants to make enquiry as to the man's qualification and/or
19 expertise and his ability? Remembering there was a countdown
20 time now with men's lives literally on the line. Correct?

21 A. We had two elements here, Mr. Ramadhar.

22 Q. We got you.

23 A. We had—

24 Q. I'm asking a specific question whether you made any enquiry
25 or caused an enquiry to be made as to his capacity to save the
26 lives to paraphrase it.

27 A. I didn't specifically make an inquiry.

1 Q. Did you cause one to be made? You're the, you're the, the, the,
2 the, the, the General Manager. You had the authority. The
3 buck stops with you.

4 A. The information coming from the IMT at that time was the plan
5 wasn't a credible one and we were investigating alternative dive
6 options with other reliable companies.

7 Q. Yeah. Reliable companies that came late into the night, isn't it?
8 You remember you told us that?

9 A. Come later on, yes.

10 Q. Yeah. Now, how would one rescue those persons ultimately to
11 make sure that they were alive and well? Wouldn't it be to
12 retrieve them from within the pipe while they were still alive?
13 Seeing that you did no sustenance effort, it was retrieval of the
14 men while they were alive, isn't it?

15 A. It was always considered to retrieve the men. The issue had
16 always been the risk of the—

17 **Mr. Chairman:** Go closer to the microphone please?

18 **Mr. Mohammed:** Yeah.

19 **Mr. Chairman:** Just a little closer to the mike.

20 **Mr. Mohammed:** Sorry. I'm sorry.

21 **Mr. Chairman:** No, that's all right. Just couldn't quite hear
22 what you say.

23 **Mr. Mohammed:** Yeah.

24 **Mr. Chairman:** Especially when you turned away, which I
25 don't mind. I've got a bit—

26 **Mr. Mohammed:** Okay, I'm sorry.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 A. It was always about maintaining the, the life of the rescuer as he
2 went in to do this.

3 Q. Correct. As distinct from the certainty of death where there is
4 no rescue. You appreciate that? As you told us already, there
5 were toxic gases in there, right? You were fearful of knives?
6 You were fearful of pulleys and tanks, were you?

7 A. Yeah.

8 Q. Were you? Were you also fearful of crocodiles in there?

9 A. I was fearful of—

10 **Mr. Chairman:** Please.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 A. All right.

13 Q. No, the unknowns, the unknowns.

14 A. All right, let me just stay quiet. Okay.

15 Q. Yeah.

16 A. I don't think I need to answer that, Mr. Ramadhar.

17 Q. Well, you don't know.

18 **Mr. Chairman:** You don't need to answer that.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Yeah. We've seen some tears before, you see? So, the
21 unknowns, right, and the fear for the rescuer basically paralyzed
22 you until you had camera footage. You've told us that a
23 hundred times, correct?

24 A. Until we could have derisked—information to derisk the dive
25 into the pipeline.

26 Q. Right. Derisk.

27 A. Yes.

1 Q. What does that mean, to remove risk, mitigate risk?

2 A. Yes.

3 Q. Assuming you had your camera and it showed oil in the
4 pipeline—

5 A. Uh-huh.

6 Q. —and it showed water—

7 A. Uh-huh.

8 Q. —and it showed a tank—

9 A. Uh-huh.

10 Q. —would you have permitted a rescue? Yes or no?

11 A. I, I think understanding where the oil was, the tank was, the
12 method for rescuing the rescuer should the rescuer get into
13 trouble—

14 Q. Right.

15 A. —the approach that the rescuer would have on, on meeting the
16 men, where the men were in the pipeline—

17 Q. Uh-huh.

18 A. —there are a number of questions that needed to be answered
19 before we put somebody else life at risk.

20 Q. Excellent. Having got the information even at ten o'clock from
21 Christopher that he that he had passed two weld seams, we had
22 a better idea that maybe it's about within 150 feet of the bend,
23 yeah? Or you disregarded that without—as not credible,?

24 A. We didn't disregard it as not credible. Okay?

25 Q. So, not having disregarded it, he survived. He came out. He
26 said that at least Fyzie was right behind him. You appreciate
27 that?

1 A. Yes, he said that.

2 Q. Right? And your big fear then was that if you, if you permitted
3 or against your advice men went in there, that that would not
4 have been the ethical thing to do because you brought ethics
5 into this, so let's explore your level of ethics.

6 A. I don't understand the question.

7 Q. It's a very simple one.

8 A. What's the question?

9 Q. Ethically, you couldn't allow anybody to go into that pipe
10 because you didn't know all the risk factors. Is that accurate?

11 A. I, I think that's about correct, yes.

12 Q. You think every human being is entitled to your level of ethics?

13 A. If I think every human being is entitled to that level of ethics?

14 Q. To their own level of ethics?

15 A. Their own level of—I, I—

16 Q. Yeah. In other words, I as a man could make decisions for me.
17 It may be illegal, I pay the price for it, or it may be, as a good
18 Samaritan, do unto others as they do unto you and if it should
19 happen to you, I will, I will, I will come to your rescue.

20 A. Mr. Ramadhar—

21 Q. Yes, Sir.

22 A. —I have spent the day here listening, eh.

23 Q. You want to go home now?

24 A. No I don't want to go home. I, I—

25 Q. Mr. Kurban wished to have gone home.

26 A. I could go—I could go for as long as you'd like me to.

27 Q. And so will I, but the Chairman will not permit that so let's get

1 your answer.

2 A. Okay. Good. It's, it's passing strange—

3 Q. No, nothing is strange, you know.

4 A. No, hold on.

5 Q. All right. Give me your story.

6 A. It's, it's, it's passing strange that the level of documentation and
7 requirements for the job, the work permit, et cetera, to make a
8 determination so usefully and well presented, and then all on a
9 sudden I am supposed to be prepared to make a decision with
10 somebody saying, "I will dive in that pipeline with a piece a
11 rope and save a man", and I am—I have to make a decision
12 based on a plan that resembles that? Into a pipeline that we
13 don't know? We have no idea of what happened? How does
14 that, how does that, how does that—without a rescue plan for
15 the rescuer, I mean, it, how, how does that make any—I, I just,
16 I just don't understand.

17 Q. Clearly you don't, and that's the point. The rescuers know
18 more than you because you've told my learned friend you have
19 no diving experience or expertise. You agree with that?

20 A. Well I think if the rescuer—so if the rescuers had known more
21 than me they should have resented a very articulate plan.

22 Q. Or, so, they should come to you, correct? They're muttering it
23 to you and therefore you re—you didn't take it on. You wanted
24 it in, um, not to offend Mr. Peterson in some form of formality,
25 correct? We're waiting.

26 A. Obviously I would have liked to see something—

27 Q. You liked.

1 A. —that was accessible that makes sense and—

2 Q. And if you don't like it, let them die. Is that it? That's the
3 effect of the consequence of what you didn't do. Your ethics of
4 not permitting, in fact preventing someone like Conan,
5 unrelated, a brother in the water, willing to do because of his
6 experience, and as the young counsel on my left well put, if
7 they met a hindrance that they couldn't overcome it was open to
8 them to tug and be pulled back out. You appreciate that?

9 A. I, I, I would, I would continue to hold—I will continue to
10 remain where no credible rescue plan was bought for the
11 retrieval of those guys that allowed us to be able to do that
12 guaranteeing or knowing the safety of the rescuer would be
13 intact, regardless of how willing they were.

14 Q. You appreciate the ethics that you speak to is almost God-like
15 in its power?

16 A. They needed to have, they needed—we needed to have—

17 Q. Do you appreciate the ethics that you exercised is almost God-
18 like in its power in that you made a determination—

19 **Mr. Peterson SC:** Mr. Chairman, we have been over this.

20 Q. —for the death of four men?

21 **Mr. Peterson SC:** Mr. Chairman, I'm objecting.

22 **Mr. Ramadhar:** Let me hear you on this.

23 **Mr. Peterson SC:** No you wouldn't. The Chairman will hear
24 me. Mr. Chairman, we have ben over—we have been through
25 this over and over and over and it's 4.30. My friend is still to
26 go for 45 minutes. Are we going to restrain Mr. Ramadhar if
27 not curtail him? We have been through all of this over and over

1 and over.

2 **Mr. Chairman:** Mr. Ramadhar, he has a point.

3 **Mr. Ramadhar:** He has a point.

4 **Mr. Chairman:** How much longer?

5 **Mr. Ramadhar:** Not much.

6 **Mr. Chairman:** What's that?

7 **Mr. Ramadhar:** I too have a countdown timer.

8 **Mr. Chairman:** What's that mean?

9 **Mr. Ramadhar:** I shall—within the 10 minutes and it could be
10 less.

11 **Mr. Chairman:** Thank you.

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. You are still General Manager?

14 A. I—

15 Q. You're still the General Manager?

16 A. As of today, yes.

17 Q. You consider your handling of this incident excellent?

18 A. I consider that we handled the incident in a way that was
19 organized around the principle of minimizing risk to the
20 rescuers who would have had to go into that pipeline.

21 Q. Right, we, to offend Mr. Peterson we've heard that a thousand
22 times.

23 A. Well that's the fact. I mean—

24 Q. Right? I'm asking you now, do you consider that that was an
25 excellent approach?

26 A. I, I have already given my answer.

27 Q. No, I want your answer as whether it's excellent, poor, in need

1 of work or something along that grading.

2 **Mr. Mohammed:** Chairman, can I choose not to answer that
3 question?

4 **Mr. Ramadhar:** Of course.

5 **Mr. Mohammed:** Well, I'm not going to answer that question.

6 **Mr. Ramadhar:** Beautiful.

7 **Mr. Chairman:** I shall decide whether you answer a question
8 or not, but I think we have actually covered this ground, so—

9 **Mr. Ramadhar:** Yeah.

10 **Mr. Chairman:**—we can move on.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 Q. Right you—of course we've heard you now, you do not wish to
13 answer that question as to how you will grade yourself. Your
14 incident management team, who you clearly relied upon. how
15 do you grade them? You're the General Manager. You have to
16 grade and you have to know who has to go who has to stay,
17 what fixes we need and what we shall retain, who we shall
18 retain. How do you grade your IMT, your team?

19 A. Another question I am not prepared to answer at this time.

20 Q. Thank you.

21 **Mr. Chairman:** I'm going to ask you to answer it, please.

22 **Mr. Mohammed:** You'll ask me to answer the question,
23 Chairman?

24 **Mr. Chairman:** I think it's a reasonable question. You are the
25 Managing Director.

26 **Mr. Mohammed:** Well I would say that—

27 **Mr. Chairman:** You are in charge.

1 **Mr. Mohammed:** I would say that the—

2 **Mr. Chairman:** You sat there through the IMT.

3 **Mr. Ramadhar:** Have respect.

4 **Mr. Chairman:** Just—and I am going to ask you to answer
5 that question, please?

6 **Continued Cross-Examination By Mr. Ramadhar:**

7 A. Well, a request was made so I'll answer the question. I think
8 the incident command team did the best that they could have
9 done with the circumstances that was presented to them and in
10 fact I look at it from the perspective that they may have
11 preserved a life or two.

12 Q. Yeah? Give me the names.

13 A. Potential divers into that—

14 Q. Give me the names.

15 **Mr. Chairman:** We know who the names are, so—

16 **Mr. Ramadhar:** No, no, no of the lives he preserved.

17 **Mr. Chairman:** No, no the rescuer he said.

18 **Mr. Ramadhar:** Yes.

19 **Mr. Chairman:** Preserve the name of the rescuer whoever that
20 might have been. That is sufficient for my purposes.

21 **Mr. Ramadhar:** Unknown. We move forward a little bit.

22 **Examination By Mr. Chairman:**

23 Q. But what I do want to know is why there was a reluctance to
24 answer the question in the way that you did.

25 A. I just thought that—I mean, I don't know if it was appropriate
26 but I answered the question anyway.

27 Q. No, I appreciate that, but you said you didn't want to answer

1 the question, then after some thought you said you—they did
2 the best they could have done and you regarded them as having
3 saved the life of a rescuer.

4 A. Yes.

5 Q. Well, what was wrong with answering that question in the first
6 place?

7 A. Nothing, nothing. It's—

8 Q. Right, okay.

9 A. —there—nothing was wrong with answering the question.

10 Q. Mr. Ramadhar, yes.

11 A. And that's the truth.

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. Yeah, well, we'll deal with the truth. Now, your IMT team,
14 you came in to Paria in 2019. You met that team there or you
15 formed it?

16 A. Part of it I met and part of it we formed.

17 Q. Which part you, you, you met, Mr. Piper?

18 A. The incident commander, the HSE Manager.

19 Q. Of course.

20 A. Yes.

21 Q. Yeah. Did you, as the new incoming General Manager
22 ascertained the qualifications and competence for that role?

23 A. Well we all know that these guys had gone through—

24 Q. I didn't ask you that.

25 A. —training.

26 Q. I am asking you—

27 A. Yes.

1 Q. —whether as General Manager you confirmed—

2 A. Yes. We, we, we—

3 Q. —the qualifications and—yeah, you did?

4 A. We know that they had training in incident command situations,
5 yes.

6 Q. And when was the last training you ensued that your team had
7 to deal with incidents?

8 A. We haven't had training since I was there.

9 Q. And did you confirm when was the last training that any of
10 them had?

11 A. No.

12 Q. Did you ever have a psychometric or psychological test done of
13 these persons? You appreciate they need to be of very hardy
14 stuff to deal with crisis, yeah or no?

15 A. No, but I didn't know that that is a standard in the industry that
16 people who are put on an IMT need to have a psychometric test
17 done.

18 Q. So, how they get the job?

19 A. I don't know that that's a standard—

20 Q. So anybody who working there says me, me I want to be part of
21 it is good enough?

22 A. They would have gone through this in the training and
23 demonstrate their competence.

24 Q. Demonstrated competence, to you?

25 A. To the assessors who would have assessed them.

26 Q. And who were they?

27 A. I, I, I don't know the names of the—

1 Q. So in other words you made no effort to ascertain the
2 qualifications and competence of your team? Men and women
3 who will not wilt under pressure? That is what you require,
4 isn't it, with a sort of military approach that—decisive, risk
5 assessment in the moment and not a documentary procedure.
6 You appreciate that.

7 A. I'm listening.

8 Q. I'm not asking you if you appreciate that.

9 **Examination By Mr. Chairman:**

10 Q. No, no, no, no, no, no. You're going to answer the questions,
11 please? He's asked a perfectly reasonable question. You've
12 told us that none of these men or women had had any training
13 since you were there.

14 A. Yes.

15 Q. You joined, just remind us, the firm in 2019, is it?

16 A. Yes, 2019, yes.

17 Q. So in three years or so—

18 A. Yes.

19 Q. —no particular training had been conducted?

20 A. Yes.

21 Q. And you didn't check when they had previously been trained?

22 A. No, no.

23 Q. So you've no idea when was the last—have you asked since?

24 A. When last they were trained?

25 Q. Yes. Since this has happened, did you enquire of those who
26 were part of the IMT, "Look guys, when were you last trained?
27 When did you last go through a training exercise?"

1 A. I haven't enquired specifically, no. I asked if they were trained
2 but I didn't ask specifically when they were trained.

3 Q. Well, all right, well, I was trained in the law maybe 40 years
4 ago but that doesn't really help if you're simply asking the
5 question. You presumably weren't really interested just in their
6 training but when?

7 A. Yeah. No, I didn't ask when.

8 Q. So you don't ask at the time?

9 A. No.

10 Q. And you haven't asked since?

11 A. No, I haven't asked.

12 Q. And so can I ask you next, then, please, have you instigated any
13 additional training since?

14 A. Yes. We are reviewing a number of training sessions to be able
15 to select what we think is the best one for the IMT team.

16 Q. Do I take it that that means although you've looked at the
17 various different options, you haven't done it yet?

18 A. No, we haven't done it as yet, no.

19 Q. All right, okay. And can you tell us when it is planned that you
20 might do it?

21 A. It will be done before the first half of this year.

22 Q. All right.

23 **Continued Cross-Examination By Mr. Ramadhar:**

24 Q. You'll appreciate it's almost a year since this incident, yeah?

25 A. Yes.

26 Q. And as you told us today you have men on a high voltage work
27 right now today, correct?

1 A. Yes.

2 Q. And on a daily basis high danger endeavours?

3 A. Yes, but the IMT is practised.

4 Q. Yeah; and what happened on the 25th of February. They were
5 practised and four men died. Right? So that we understand
6 what you're saying, they're practised. Do you consider what
7 happened on the 25th a success for your IMT team? Whatever
8 your reasons?

9 A. Yeah.

10 Q. Good, bad or indifferent, do you consider it a success of your
11 IMT team in the execution of their sacred duty?

12 A. I would argue that—

13 Q. Don't argue, answer.

14 A. I said, as I said before, the IMT team did the best that they
15 could have done and I'm looking at it from the perspective that
16 they prevented what could have been more loss of lives by
17 sending people into that pipeline, and anyone say that people
18 would have been able to go into that pipeline and conduct that
19 rescue safely?

20 Q. Listen, you repeat that they did the best that they could do.
21 Was that the best that was available?

22 A. I think everybody's standing in that decision would probably
23 end up in the same—with the same decisions that we made.

24 Q. Really? What arrogance?

25 **Mr. Chairman:** Well, keep the comments for later, please?

26 **Mr. Ramadhar:** Thank you. Of course.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. So that you, not having assessed the true experience, the true
2 qualifications of your team, believed that others may have made
3 the same decisions? Is that accurate?

4 A. I believe so.

5 Q. You know the statement, do unto others as they have them do
6 unto you? Do you know that statement?

7 A. Yes.

8 Q. If the same circumstances were to arrive today—

9 A. Yes.

10 Q. —with your same team, would you allow what happened on the
11 25th of February, 2021 to recur—2022, to recur?

12 A. If, if you are asking me—

13 Q. I have asked—

14 A. Just to be clear, Mr. Ramadhar.

15 Q. Yes, certainly.

16 A. If you are asking me if today I would be prepared to send
17 people into a situation where I couldn't quantify the hazards
18 and I wasn't clear on them, my answer would probably still be
19 no.

20 *[Interruption]*

21 **Mr. Chairman:** Whoever that belongs to, please either leave
22 or switch it off.

23 **Mr. Ramadhar:** I think they're giving directions for him to
24 leave.

25 **Continued Cross-Examination By Mr. Ramadhar:**

26 Q. Sir, with all due respect, with all due respect, you understand
27 that there are mitigating factors for risk-taking, correct?

1 A. Go ahead, yes.

2 Q. Yes. And your fear was noxious gases, oil, yes? Tell me—I
3 will need to know quickly. I want to finish. Noxious gases in
4 the pipe, oil, water, possible—

5 A. Blockages.

6 Q. Huh?

7 A. Blockages, et cetera.

8 Q. Yeah, blockages.

9 A. Right.

10 Q. And the human being as you know, one, has the capacity to
11 assess situations and if it's too dangerous to back off, huh?

12 A. Human beings like you and I sit here probably watching the
13 tables at the desk but human beings going foot first in a dark
14 environment—

15 Q. Uh-huh.

16 A. —that is claustrophobic, that is filled with oil—

17 Q. Yeah.

18 A. —that they don't know what they're going to meet next—

19 Q. Uh-huh.

20 A. —that's a whole different scenario.

21 Q. And—

22 A. Going through, going through a bend in a pipe at 90 degrees—

23 Q. Uh-huh.

24 A. —to get into a horizontal section, crawling backwards into that
25 pipeline—

26 Q. Yeah.

27 A. —not knowing where the next person might be, that's a, that's a

1 whole different, that's a whole different—

2 Q. But Christopher—

3 **Examination By Mr. Chairman:**

4 Q. That, that is right isn't it, of course it is, a whole different
5 thing? But, you know I, I can't help but ask myself, as I'm sure
6 everybody has, of themselves, if it was my father or son in that
7 pipe I could not live with myself afterwards if I didn't try and
8 rescue them, and you would have had to shoot me to prevent
9 me. That, I suspect, is the sentiment of many people.

10 So that the question here really is ultimately was it—
11 were you, do you think, entitled to prevent someone from
12 seeking to rescue either someone who was very close to as a
13 close personal friend or a relative? Did that, at any stage, come
14 into the equation in your thinking before deciding whether to
15 bar anyone from entering the pipe?

16 A. It came into our thinking and the question was, in the same way
17 that you asked that question, would I be willing to send
18 somebody into a situation where you clearly have no idea what
19 the hazards are, because they don't have idea of how they
20 would be rescued if they were caught in that pipeline, would I
21 be, would I be willing to put another life at risk, knowing from
22 everything we know in the industry that most people who die in
23 confined spaces are the rescuers, would I be willing to take
24 that—would I, would I take that risk? That is at the heart of the
25 issue. That is at the heart of the issue.

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. Yeah. And you, you heard, maybe with some level of

1 condemnation when I used the word arrogant but let me ask you
2 this, that is your position, correct? As the boss man, the
3 General Manager, that was your position?

4 A. Well, you know, in, in some ways, in some ways, in some ways
5 coming out of this incident there probably is the need for some
6 standard, for some recognized code that the industry would
7 operate at. For this time in this instance we decided that we
8 wouldn't allow diving into the pipeline or we didn't want it
9 because of the risk. There may be another instance where
10 somebody is allowed to go into a hazardous situation and that
11 person dies and we could be sitting here already.

12 Q. Yeah.

13 A. But without—and, and Chairman, this is, this is at the heart of
14 the incident—without some code to be able to guide that
15 judgment.

16 **Examination By Mr. Chairman:**

17 Q. Yeah I, I follow that. I mean I—

18 A. Yes, as—

19 Q. —I mean, I obviously have been asking myself these questions
20 and ultimately we're going to have to make recommendations
21 and such like.

22 A. Yes.

23 Q. But I'm not sure that a code or a specific set of rules can cover
24 every situation that might arise where a hard decision has to be
25 made and, you know, you could be sitting here giving evidence
26 about why five people died in the pipe.

27 A. Correct.

1 Q. Because you allowed a rescuer to go in?

2 A. Correct.

3 Q. I get that. I do understand that. I also understand that it is
4 sometimes easier to say no.

5 A. I think the easier answer in this case was to say yes.

6 Q. Well—

7 A. I really believe that.

8 Q. Well I'm asking it.

9 A. I really believe the easy answer here was to say yes. Saying no
10 was the hardest thing that we could have done. Saying no was
11 the hardest thing that we could have done. The easy answer
12 was to say yes.

13 Q. Well I can see that too.

14 A. You know?

15 Q. Anyway, I mean, as I say I'm not sure that a set of rules or
16 procedures are necessarily going to help make the ultimate
17 decision about whether a person should or should not risk their
18 life to try and save others. The natural instinct of humankind is
19 to do just that, isn't it? Sometimes they die trying to save
20 someone's life and sometimes they don't.

21 A. I have, I have some more investigative work to do but there is
22 the OPITO system, I believe, in the UK—

23 Q. Yes.

24 A. —that addresses emergency response and the behaviour of
25 emergency responders, et cetera.

26 Q. Yes.

27 A. I think I'd like to spend some time looking at—

1 Q. I think that's to do with professional responders, first line
2 defenders, something like that.

3 A. Well, it's something, something that can provide some kind of
4 guideline.

5 Q. It's, it's, it's, it's something that we're going to have to wrestle
6 with in due course.

7 A. Yeah.

8 Q. Yes.

9 A. Ten months, I beg your pardon.

10 **Mr. Chairman:** I've passed the final questions to Mr.
11 Ramadhar because I've stopped for 5 minutes isn't it?

12 **Mr. Ramadhar:** Thank you, yes.

13 **Continued Cross-Examination By Mr. Ramadhar:**

14 Q. You saw a white board when you arrived at Paria, an update
15 board?

16 A. Yes.

17 Q. You know what confirmation bias is as a man who's widely
18 read?

19 A. Yes.

20 Q. What does it mean?

21 A. Well it means that you say something and you believe it—
22 you're biased to believing that that is an outcome.

23 Q. You saw a notation very early in the evening at 3.38 or
24 thereabout that the likelihood of survival effectively was very
25 slim? From early in the day Paria made that determination?
26 You saw that, didn't you?

27 A. Yes, yeah.

1 Q. That influenced you?

2 A. No.

3 Q. No. You didn't believe it?

4 A. No.

5 Q. But you moved as if the men dead already, until, until
6 Christopher came out?

7 A. I, um, I don't agree with that.

8 Q. That could help explain the failure of any meaningful effort
9 because even though Christopher came out you all were already
10 in the mindset that the men dead or could be written off as
11 dead?

12 A. I, I, I, I, I could—I would not—I would never say yes to that.

13 Q. Sir, I want to thank you for the time you've spent with us and I
14 heard you say something very interesting that you wished to
15 assist the families but that you were basically prevented from so
16 doing by, by, by lawyers?

17 A. Written notification, yes, by written notification.

18 Q. By written notification?

19 A. Yes.

20 Q. And did you make any effort to ascertain the conditions of these
21 families notwithstanding you couldn't communicate with them
22 or help them as to, you know, whether they had to put a
23 barbecue before Christmas to raise money for the children and
24 so?

25 A. I mean—

26 **Mr. Chairman:** I, I, I'm sorry. Sympathetic though I am to all
27 of those issues, I do not think that they are part of the remit of

1 this Enquiry.

2 **Mr. Ramadhar:** Thank you.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. So, Mr. Mohammed, the coast guard, were you ever informed
5 that they were there with guns?

6 A. No.

7 Q. You never knew that they had guns?

8 A. The coast guard, outside of what they would have come with as
9 normal I guess what would be their outfit, I, I, I didn't know the
10 coast guard came specifically with guns to—we invited the
11 coast guard to a rescue operation.

12 Q. Yeah, I didn't ask you whether they came specifically with
13 guns, but were you ever aware that they were there with
14 machine guns at all, or is it the first time you're hearing that
15 today?

16 A. I wasn't aware that they were there specifically armed with
17 machine guns.

18 Q. Yes.

19 A. But I would have expect them to be armed in some way.

20 Q. You expected them—

21 A. But not with—

22 Q. Hold on. You then—you're right, you expected them to be
23 armed in some way?

24 A. Yeah. They are coast guard. I expect them that they would
25 move with some amount of ammunition I expect.

26 Q. Oh, beautiful. And you knew that even before they arrived, that
27 coastguardsmen will be armed?

1 A. Yes, I expect that, yes.

2 Q. Yes. So that when you issued the edict that you wanted the
3 coast guard to protect Paria and Kenson personnel, you would
4 anticipate that they would do so bearing arms?

5 A. No. That was never an anticipation. A traffic cop in Trinidad
6 has an arm.

7 Q. Yeah.

8 A. I don't expect him to pull his arm out for somebody who break
9 a traffic light. I mean, that's just stretching it too far.

10 Q. So when you asked for the protection, to give protection to
11 personnels—listen to me. I'm not finished with my question,
12 Sir.

13 A. Go ahead.

14 Q. Yes. When you issued your edict, your instruction—

15 A. Go ahead, go ahead.

16 Q. Of course; not with your leave but with leave of the Chairman
17 yes, that they were to provide protection for Paria and Kenson
18 personnel you thought they were going to, um, throw water on
19 people or something or that they would use—and they're a
20 military arm of the State?

21 A. The presence, the authoritative figure is what I expected, that's
22 all. That is all.

23 Q. Trinidad and Tobago Police were called in at all in this matter?

24 A. No.

25 Q. Thank you. Paria had its own private security?

26 A. Yes.

27 Q. Provided by Kenson I understand?

1 A. No.

2 Q. No, not—sorry, sorry, sorry not Kenson.

3 A. Right.

4 Q. It's an internal force, is it?

5 A. We have a, we have a outsource source that we use.

6 Q. Outsource?

7 A. Yes.

8 Q. Did you require them to exercise protection over the—

9 A. No, we, we, we agree—

10 Q. Listen to my question. I haven't finished. I'm almost done.

11 A. I'm sorry.

12 Q. I'm almost done.

13 A. Okay.

14 Q. The line is just there.

15 A. I'm sorry.

16 Q. Yeah. Did you engage them, that is Paria security, to protect
17 personnel from Paria and Kenson?

18 A. No.

19 Q. You relied on the coast guard, yeah?

20 A. Yes.

21 **Mr. Ramadhar:** Mr. Chairman, if you'll just give me a few
22 seconds—

23 **Mr. Chairman:** Of course.

24 **Mr. Ramadhar:**—I think I will bring relief to Mr. Peterson
25 and others by taking my seat.

26 **Mr. Peterson SC:** [*Inaudible*]

27 **Mr. Chairman:** Is he upset at you, Mr. Peterson?

1 **Mr. Peterson SC:** They have many more names besides
2 Gilbert Peterson. It have Maharaj—

3 **Mr. Chairman:** Did you nearly say Gilbertson?

4 **Mr. Ramadhar:** Even my friend is confused in his own name.

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 Q. Yeah. So let's see what we have now. From what your
7 procedure, as you painfully told us all today, is that you allowed
8 the contractors to basically police themselves in the execution
9 of their jobs relying on their expertise?

10 A. In this particular case, what we were looking to hire is a
11 specialist contractor with the specialized expertise to be able to
12 execute this job. This contractor in particular had the
13 experience and they had executed very similar jobs very well in
14 the past.

15 Q. Right. And that they too, after this accident occurred, made
16 effort to rescue but you prevented them. Isn't that correct?

17 A. Prevented them?

18 Q. Yeah.

19 A. What we did was—

20 Q. Listen to my question. You prevented them. You say nobody
21 to dive again. You want to change that?

22 A. Listen—

23 Q. Yeah I'm listening.

24 A. —we never said nobody to dive again because we continued to
25 explore dive options to the, to the point where we brought in
26 additional divers. We got escort for additional divers to come
27 to support the LMCS efforts to the point where we supplied

1 oxygen to—for dives to take place. What has been the
2 continuous issue is that a credible dive plan never came forth.
3 It's as simple as that.

4 Q. And as we have the opportunity in this last minute, what would
5 have been a credible diving plan?

6 A. A diving plan that would have dealt with the issues.

7 Q. No, no don't give me generalizations. Mechanics, how would
8 you effect this credible diving plan that you would have
9 approved?

10 A. Look, we, we have walked through a process where those dive
11 plans were tested with expert—

12 Q. Could you answer the question? I'm being looked at
13 unfavourably here.

14 A. No, I say—

15 Q. Tell us now—

16 A. I don't think so, Mr. Ramadhar.

17 **Mr. Chairman:** It's part of the territory really, you know. I
18 mean, we have covered this territory. He's made it absolutely
19 clear, to me at any rate, that he was not prepared to countenance
20 any plan until he'd had a camera in that pipeline that gave him
21 all the information he wanted.

22 **Mr. Ramadhar:** Excellent; and I'm moving just a little bit
23 further than that.

24 **Continued Cross-Examination By Mr. Ramadhar:**

25 Q. So having had, assuming you had camera footage of blockage
26 and so what would have been the plan? You had robots to go
27 in?

1 A. At some point in time or at, at, at—we would have, my belief is
2 that with the right level of information—

3 Q. Uh-huh.

4 A. —probably would have been able to conduct a proper risk
5 assessment that give us the confidence to allow somebody to
6 get in, rescue and get out of that pipe safely.

7 Q. Right. We've heard that many times.

8 A. Well that is just the fact, and, and, and—

9 Q. Yeah, the fact, I'm asking you now that there being blockage,
10 there being oil, what would have been your plan knowing that
11 with the camera, assuming the camera give you bad news what
12 would have been the plan to rescue?

13 A. Well we had a number—remember we had a number of, we had
14 a number of, er, divers on site including Paria's.

15 Q. Right.

16 A. Paria's from Heritage.

17 Q. Yeah, so now that—

18 A. And the plans that would have come forth that would have been
19 tested making sense. It had to make sense, Mr. Ramadhar.

20 Q. Yeah, I want to make sense of what you're saying. My
21 question remains?

22 A. Uh-huh.

23 Q. Had you the very bad news would there have been a rescue
24 plan?

25 A. We would have tested that rescue plan with our—with the
26 people who were there—

27 Q. Yeah.

1 A. —and have it, and have it tested as being safe to be able to use.

2 Q. What would that plan have been? I'm sorry.

3 A. Well I'm, well I'm not, I'm not the expert in what—

4 Q. Clearly not.

5 A. —that diving plan should be.

6 Q. Clearly not. Clearly not.

7 **Mr. Ramadhar:** Thank you so much.

8 **Mr. Chairman:** All right, we're going to, um, take 5 minutes.

9 There's a couple of things I'd like to address counsel about, but
10 what I'd like is if the witness could—Mr. Mohammed, do take
11 a break, a comfort break for yourself.

12 **Examination By Mr. Chairman:**

13 Q. But can I ask you, you were asked a number of times about the
14 other diving teams—

15 A. Yes.

16 Q. —that you've contacted—

17 A. Yes.

18 Q. —or that the IMT did and I've just been working my way
19 through the, um, what is, what is, er, a schedule of events as
20 they unfolded.

21 A. Sure.

22 Q. We've been told that that was contemporaneous. Would you
23 expect that document to show when the divers, the different
24 divers arrived on site?

25 A. I not sure whether it would have been there in detail but I could
26 always get that from the date the—

27 Q. I mean there's reference made to Eastern Divers for example.

1 A. Yeah.

2 Q. Things like that and showed when they came, but—

3 A. I'm not too sure if all the times were recorded that they entered
4 the gate, but that is information that we could provide to the
5 Commission.

6 Q. Well, whether they entered the gate or—I mean, I presume that
7 they had to enter the gate unless they came by boat. What I'm
8 interested to know is, you've identified for us four dive
9 companies—

10 A. Yes.

11 Q. —that you contacted. I say you, I mean with the IMT.

12 A. Yeah, yeah, yeah.

13 Q. Hull Support Services, Offshore Technology Solutions,
14 Mitchell's Professional Diving Services and Eastern
15 Emergency Response Services.

16 A. Yes.

17 Q. They would be different [*Inaudible*]

18 A. Different types of rescue.

19 Q. Different types, two were certainly dive experts, if not all three
20 four, but they have different functions as well and I'd just like
21 to know really from you whether this document would help you
22 in identifying when the first of those four arrived on the scene
23 and when they told you they would arrive on scene? Do you
24 see what I mean?

25 A. Yes.

26 Q. There's a different isn't there?

27 A. Yes.

1 Q. You called them up and say, right, we need you up here now,
2 we've got this emergency, oh we're going to be three hours
3 before we get there.

4 A. Okay.

5 Q. You might discount them and then go to somebody else. Do
6 you see what I mean?

7 A. I understand, Sir.

8 Q. So I'd like to know, if you're able to do it now, if not I'm happy
9 to have it at some later point in time.

10 A. I wouldn't be able to do it now.

11 Q. I'd like to know when they were contacted. When, if they told
12 you—

13 A. All right.

14 Q. —how long they were likely to be?

15 A. Okay.

16 Q. And, lastly, when they actually arrived.

17 A. Okay.

18 Q. All right? So far as you're aware.

19 A. Okay.

20 Q. Right? We've got some evidence of this already but I'd like to
21 know from your perspective what you understood the position
22 to be, all right?

23 A. Okay.

24 Q. So I think that's quite a lot to do and you might prefer to do it—
25 provide it to me later this week.

26 A. For sure.

27 Q. It's probably better to do it that way rather than you trying to

1 wade your way through this—

2 A. Yes.

3 Q. —I mean, trying to work out bits of information without
4 providing the whole picture.

5 A. Yeah.

6 Q. Do you think you could do that for me?

7 A. Yes, we could do that.

8 Q. All right. I'll let you go now and take your comfort break.

9 A. Okay, great.

10 Q. So if you go with this lady here, if you take him first to—out,
11 right.

12 *[Mr. Mushtaq Mohammed leaves Enquiry room]*

13 **Mr. Chairman:** A couple of things I wanted to address
14 counsel about. First of all Mrs. Persaud Maraj, you asked for
15 permit to work and method statement in relation to the previous
16 incidents. Have I got this right? Was it, was it Mr.—

17 **Mrs. Persaud Maraj:** That's Mr. Hosein.

18 **Mr. Chairman:** Ah, Mr. Hosein-Shah, wasn't it? Forgive me,
19 Mr. Hosein-Shah. It was you I think who raise it, was it not,
20 um, the question of whether you could have the method
21 statement—was it the method statement and the permit to
22 work?

23 **Mr. Hosein-Shah:** Yes.

24 **Mr. Chairman:** In relation to the previous incident?

25 **Mr. Hosein-Shah:** In relation to the two previous jobs.

26 **Mr. Chairman:** In relation to previous works that had taken
27 place?

1 **Mr. Hosein-Shah:** Yeah.

2 **Mr. Chairman:** One in 2021?

3 **Mr. Hosein-Shah:** Twenty-twenty, and I don't believe the
4 witness in his witness statement was able to identify when.

5 **Mr. Chairman:** No, he doesn't. I think there were two he
6 said.

7 **Mr. Hosein-Shah:** Yes, two similar jobs.

8 **Mr. Chairman:** Yes. Certainly the one from 2020 might be
9 relevant. Is there any objection to my making an Order? I
10 thought we had a, I thought we had something in relation to
11 this. Right. [*Crosstalk*]

12 **Mr. Hosein-Shah:** We have the 2022 permits to work.

13 **Mr. Chairman:** I don't think we have the permits. I definitely
14 I don't think we have the permits to work. We may have the
15 method statement or something similar. All right, look, we'll
16 get to the bottom of it but is it your position that you would like
17 a copy of that if at all possible?

18 **Mr. Hosein-Shah:** Yes, preferably for both jobs, just for
19 comparative purposes.

20 **Mr. Chairman:** All right. We'll see what we can do. Is
21 there—seems your witness didn't have any particular objection
22 to it but you might want to consider whether or not that's
23 something that can be—

24 **Mr. Peterson SC:** We'll try to track it down, Sir, but also I
25 think LMCS may also have records of that job.

26 **Mr. Chairman:** Well I was going to come to them in a
27 moment but, I mean, if you've got anything you've got

1 information—

2 **Mr. Peterson SC:** Yeah, we will—we will—

3 **Mr. Chairman:**—that might be helpful. Don't overwhelm me
4 with a number of files this late—

5 **Mr. Peterson SC:** We'll do our best, Sir. We'll do our best.
6 There may be.

7 **Mr. Chairman:**—but, um, the core document.

8 **Mr. Peterson SC:** Depending on the job it may be multiple
9 permits to work because it only last seven days.

10 **Mr. Chairman:** Yes. Quite so, quite so.

11 **Mr. Peterson SC:** But we will endeavour to—

12 **Mr. Chairman:** And, um, yes, Mrs. Persaud-Maharaj really
13 why I was confusing you. I was going to ask you whether or
14 not you had such documents.

15 **Mrs. Persaud Maraj:** I do believe we had given in a
16 document, I can't recall clearly but, as a result of the
17 interrogation that we would have undertaken during the
18 interviews, that was one of the things that counsel had inquired
19 into—

20 **Mr. Chairman:** Yeah, I—

21 **Mrs. Persaud Maraj:**—and I do believe we had given what we
22 had.

23 **Mr. Chairman:** I think I've a feeling a method statement
24 exists for one of them.

25 **Mrs. Persaud Maraj:** Yeah, and it was a method statement.

26 **Mr. Chairman:** Whether there's a permit, I'm pretty sure
27 there isn't a work—permit to work—

1 **Mrs. Persaud Maraj:** No, LM—

2 **Mr. Chairman:**—because I, I haven't seen it.

3 **Mrs. Persaud Maraj:** And—sorry. But LMCS would not
4 have the permit to work. That would all be in Paria's
5 possession.

6 **Mr. Chairman:** Well wouldn't you have been given a copy of
7 it at the time?

8 **Mrs. Persaud Maraj:** No, copies aren't given to the
9 contractor.

10 **Mr. Chairman:** All right. That's interesting. They take it
11 away afterwards?

12 **Mrs. Persaud Maraj:** That's correct. In fact, we—the first
13 time we would have seen this, I would have seen this is when
14 there would have been disclosure.

15 **Mr. Chairman:** Okay, all right. Well, um, I'm not going to
16 make any Order about it now but if somebody could make some
17 inquiry, please, including my own team as to what might have
18 been disclosed, that would be helpful, thank you. The other
19 thing is, er, Mr. Ramadhar you raised the question of WhatsApp
20 and family messages. That group, I do regard that as relevant
21 and I would like to see if there are any, that group messages and
22 I'm pretty sure there aren't any that have been supplied.

23 **Mr. Peterson SC:** We would search for it, Sir, but I think the
24 witness' evidence before Mr. Ramadhar's cross-examination I
25 think his evidence was that they made WhatsApp calls because
26 the witnesses in the—gave their numbers to call them on
27 WhatsApp and I think that—

1 **Mr. Chairman:** That's certainly what he says in his statement.

2 **Mr. Peterson SC:** Yes.

3 **Mr. Chairman:** Um, that's when—

4 **Mr. Peterson SC:** Um, he said it, he said it here too but we'll
5 endeavour to see if there were texts—

6 **Mr. Chairman:** Yes.

7 **Mr. Peterson SC:**—WhatsApp messages.

8 **Mr. Chairman:** If there were any—

9 **Mr. Peterson SC:** Yes.

10 **Mr. Chairman:**—then I'd appreciate that because there's some
11 evidence to suggest that they heard by way of WhatsApp.

12 **Mr. Maharaj SC:** In this statement of Mr. Mushtaq
13 Mohammed at paragraph 93 at page 1460, he referred to a
14 WhatsApp group was formed by 3.00 p.m. that day the
15 Saturday and she thereafter communicated with the divers'
16 relatives.

17 **Mr. Chairman:** Right. And I've been handed a method
18 statement, yes, relating to 2018, is it? Twenty-twenty, yes,
19 2020. Project execution plan for repairs to SL36 risers topside
20 piping, so that's at 2898 in the supplemental witness statement
21 bundle, so if you could find it there is a permit to work in
22 relation or permits to work in relation to that I'd be grateful.
23 All right, thank you very much. Mr. Hosein, yes.

24 **Mr. Hosein-Shah:** Thank you, Chairman. While we're on the
25 topic I believe in the ICT typewritten log we were supposed to
26 get the expanded version of it because it cut off at a certain
27 point. I'm not sure whether that was actually provided.

1 **Mr. Chairman:** All right, this is something I mentioned I
2 think to Mr. Piper wasn't it? [*Crosstalk*] I'm told it's arrived.

3 **Mr. Peterson SC:** It's been uploaded.

4 **Mr. Chairman:** Right, thank you. Thank you very much. I
5 haven't seen it yet. I confess I've not noticed. There are a
6 number of additional documents in the supplemental bundle
7 that had been uploaded today.

8 **Mr. Peterson SC:** Before, Sir, before today. Some of my
9 colleagues not doing their homework, Sir.

10 **Mr. Chairman:** This was—[*Mr. Chairman confers with Ms.*
11 *Sinanan*] Right, it didn't arrive before Christmas and I confess
12 straight away I've not done any work about preparing for today,
13 since Christmas, so—

14 **Mr. Peterson SC:** If the Christmas does this to you, Sir, think
15 of what carnival will do to you.

16 **Mr. Chairman:** No, no, well, I am because of what it clearly
17 does to you. [*Laughter*]

18 **Mr. Peterson SC:** It does, Sir, it does.

19 **Mr. Chairman:** All right. We'll take 5 minutes. Everyone,
20 please, have a look at what you've got to ask, rule out that
21 which we have already covered please? All right? Thank you.

22 **5.07 p.m.:** *Enquiry suspended.*

23 **5.18 p.m.:** *Enquiry resumed.*

24 **Mr. Chairman:** Yes, thank you. Can we have the witness
25 please?

26 [*Mr. Mushtaq Mohammed re-enters enquiry room and sits at*
27 *witness table*]

1 **Mr. Chairman:** Okay, Mr. Mohammed, you're still on oath.
2 The final furlong, I hope. All right. I think Mr. Pegus has
3 some questions, is that right, Mr. Pegus?

4 **Mr. Pegus:** Yes, Mr. Chairman.

5 **Cross-Examination By Mr. Pegus:**

6 Q. Good afternoon, Mr. Mohammed.

7 A. Good afternoon, Sir.

8 Q. My name is Chase Pegus and I represent the interest of Kenson.

9 A. All right.

10 Q. Right. Now in answer to my friend Mr. Ramadhar—

11 A. Uh-huh.

12 Q. —you made reference to Paria delegating a supervisory role to
13 Kenson as it relates to the work that was going on—

14 A. Yes.

15 Q. —on berth 6.

16 A. Yes.

17 Q. Yes?

18 A. Yes.

19 Q. Right. Now, implicit in that reference or statement is not only
20 that Paria had an obligation to supervise, agree?

21 A. Yeah.

22 Q. You are saying Kenson had an obligation to supervise?

23 A. Yes.

24 Q. Good. Now, you as the General Manager of course would be
25 familiar with the scope of works which would have outlined the
26 obligations of Paria and Kenson?

27 A. In the contract you're talking about now?

1 Q. Yes.

2 A. Right. Yes.

3 Q. Good. Now, it's in evidence so I won't take you through—

4 A. Yes.

5 Q. —every single provision but you are aware, Sir, under the
6 contract, LMCS was supposed to provide full-time supervision
7 for the works that were being conducted?

8 A. Correct.

9 Q. Good. Let me take it one step further. Under those provisions,
10 there is no—under that contract, my apologies, there is no
11 provision which says that Paria was to supervise?

12 A. No. Paria was around quality assurance, delivery and a few
13 things like that if I my memory is correct.

14 Q. Good. Now, when you made the statement that Paria through
15 Kenson had to supervise, do you now want to reconsider that
16 statement?

17 A. Well when I made the statement, and I probably didn't say it
18 right, it was in the context of the contract that was agreed
19 between LMCS and Paria that the contract outlined clear roles
20 and accountabilities for both parties, right, so, so the
21 supervision in the context of the contract was around the things
22 that Paria had to do as far as the contract is concerned.

23 Q. Okay. I'm not too sure I'm following you and I just want, I just
24 wanted to make it clear—

25 A. Yes.

26 Q. —for my clients.

27 A. Right.

1 Q. Let me suggest to you that the Kenson personnel that you had
2 on site, they had no obligation to supervise. Let me suggest
3 that to you. Agree?

4 A. I'd have to go back to the contract, I sorry.

5 **Mr. Chairman:** Yeah, I think that might be more useful, Mr.
6 Pegus.

7 **Mr. Pegus:** Okay.

8 **Mr. Mohammed:** I'm sorry, I'm sorry just to help, might clear
9 up a lil bit.

10 **Continued Cross-Examination By Mr. Pegus:**

11 Q. Right, um, the contract can be found I'm looking at page 544 of
12 the witness statement bundle?

13 A. Five four four of the witness statement bundle.

14 Q. The witness statement bundle and I believe this is referred to in
15 the statement of Kazim Ali Sr.

16 **Mr. Chairman:** Do you mean 544 of the witness statement?

17 **Mr. Pegus:** Yes, the witness statement bundle.

18 **Mr. Chairman:** Whose statement is it?

19 **Mr. Pegus:** It's attached to the statement of Kazim Ali, Sr.

20 **Mr. Chairman:** Ah right.

21 **Mr. Pegus:** Yes.

22 **Mr. Chairman:** Page? Sorry, page what?

23 **Mr. Pegus:** It's at—it could be found at page 544.

24 **Mr. Chairman:** The scope of work?

25 **Mr. Pegus:** Yes.

26 **Continued Cross-Examination By Mr. Pegus:**

27 Q. Right. Now, Mr. Mohammed, before you review it, I have seen

1 several provisions in that document which placed an obligation
2 on LMCS to provide full-time supervision.

3 A. Or, correct.

4 Q. Good. I have not seen any provision which placed an
5 obligation on Paria to supervise.

6 A. I don't believe that there's an obligation for, how to say it, er,
7 for full-time supervision by, by, by Paria in the document.

8 **Mr. Chairman:** You're speaking away from the microphone.

9 **Mr. Mohammed:** I'm sorry, I'm sorry, I'm sorry, I'm sorry.

10 **Continued Cross-Examination By Mr. Pegus:**

11 A. Just repeat the question for me again, please?

12 Q. Okay. Just an observation. What I'm saying is—

13 A. Correct.

14 Q. —that I have seen several provisions which placed an
15 obligation on LMCS—

16 A. LMCS to supervise.

17 Q. Full-time supervision, right?

18 A. Full-time supervision of the work is what I was looking for. So
19 I don't, I don't, I don't recollect from the contract that there's
20 an obligation for Paria for full-time supervision on the project.

21 Q. Good. And, so we could go with your recollection for now?

22 A. Right.

23 Q. There's also no contractual provision that you're aware of
24 which placed an obligation on Kenson to provide full-time
25 supervision?

26 A. No there is no, there is no contractual provision in the contract
27 that placed full-time supervision with Kenson.

1 Q. Okay. Thank you very much. Now I just want to turn your
2 attention briefly to the permit to work procedure.

3 A. Uh-huh.

4 Q. I'm not on the work permit for the day in question.

5 A. Right.

6 Q. I'm on the permit to work procedure.

7 A. Right.

8 Q. Good. Now, the permit to work procedure, my apologies, in
9 case you need to refer to it, page 24 of the core bundle.

10 **Mr. Chairman:** It is Tab 4. It's called core bundle one one
11 Tab 4. And your favourite bundle. Could we take away some
12 of the bundles, unless anyone's going to necessarily—but just
13 take some of them away as it becomes too confusing. Leave his
14 witness statement. [*Document handed to Mr. Mohammed*] All
15 right, thank you. Thank you very much. It's Tab 4.

16 **Mr. Mohammed:** Yes, I'm on it.

17 **Continued Cross-Examination By Mr. Pegus:**

18 Q. Yes, Sir. Now, on the cover of that document it speaks to the
19 custodian being Randolph Archbald?

20 A. Yes.

21 Q. And the approving authority one Ms. Lisa Ali?

22 A. Yes.

23 Q. Right. Who developed this procedure?

24 A. I believe that the procedure was developed by Mr. Archbald.

25 Q. Right. Now, this procedure, this permit to work procedure—

26 A. Yes.

27 Q. —was this procedure tailored to the works that were being

1 conducted on berth 6 and berth 5, or was it a general document?

2 A. This is a document that is a general guide for work at Paria.

3 Q. Good. Right. Now, so, it's a general—

4 **Examination By Mr. Chairman:**

5 Q. Right, so just so that I understand what you're saying, you had
6 to comply with it in order to get a permit to work.

7 A. Yes.

8 Q. Right?

9 A. Yes.

10 **Continued Cross-Examination By Mr. Pegus:**

11 Q. Just to build on what it is you are saying, you are saying that
12 it's a general guide to be followed when work is being
13 conducted on Paria compound?

14 A. Yes, I just—yes.

15 Q. Good. Now, in this document that we have before us, it
16 basically lists obligations—

17 A. Yes.

18 Q. —which were placed on the different players?

19 A. Yes.

20 Q. So the applicant would have obligations—

21 A. Yes.

22 Q. —site authority would have obligations, et cetera?

23 A. Yes.

24 Q. Right. Now, these obligations, Sir, they were intended as a
25 general guideline only, yes?

26 A. They were intended as a—yes, so that the different people with
27 different roles would have an idea or they would have

1 guidelines around what their roles were in the execution of
2 work.

3 Q. Right. And, because the permit to work procedure provided a
4 general guideline, you would agree that it would have to be
5 tailored to the specific work that was being undertaken?

6 A. So you have two things that play here, right? So let me just see
7 if I could help with that, right? We have a contract that we
8 would have signed with a company who was going to perform
9 work at the site.

10 Q. Yes.

11 A. That contract has specific roles and obligations for the company
12 and the contractor.

13 Q. Yes.

14 A. Right? You have a permit to work system that is a general
15 guide for work on the facility.

16 Q. Yes.

17 A. Regardless of—and it may have different elements of different
18 contracts and how we contract.

19 Q. Maybe I'm not making myself clear.

20 A. Right, sorry.

21 Q. So we agree that the permit to work procedure provided general
22 guidelines?

23 A. Yes.

24 Q. Yes? Good. Right. Now, in order for the permit to work
25 procedure—

26 A. Yes.

27 Q. —to make sense—

1 A. Yes.

2 Q. —for subsea works—

3 A. Yes.

4 Q. —right? Those general guidelines—

5 A. Right.

6 Q. —either through practice or some other mechanism would have
7 to adapt in order to be utilized for the works that would be
8 conducted on the day in question.

9 A. What I would say and I—this is, this is how I see it, right? This
10 is my understanding of it, the general guidelines would
11 continue to exist, however, it would be organized with a way to
12 be able to meet the obligations of the contractual agreement
13 between Paria and the contracting company.

14 Q. Fair enough. Now, earlier in the day, um, in answer, to the
15 learned Chairman, he was pointing out to you a particular
16 provision under the permit to work procedure.

17 A. Yes.

18 Q. Right? Which concerns the applicant—

19 A. Yes.

20 Q. —5.1?

21 A. Yes.

22 Q. Right. And he put to you that it was ambiguous at best. You
23 recall that? You recall that question being put to you?

24 A. I just want to be clear, what he, what the Chairman—what my
25 understanding is of what the Chairman put to me as ambiguous
26 was a specific statement around migration barriers to remain in
27 place—

1 Q. Okay.

2 A. —us what I understand that, what I understand that to be.

3 **Examination By Mr. Chairman:**

4 Q. Well I think I put ambiguity on more than one occasion but
5 certainly in relation to the barriers I put ambiguity, but I did
6 suggest that when one reads the plain wording of what the
7 applicant is—

8 A. Right.

9 Q. —I had suggested to you the better person to put in that role
10 was—

11 A. The contractor.

12 Q. —um, was, in fact, the contractor and you agreed?

13 A. Yes.

14 Q. I then said to you it is at best ambiguous?

15 A. Okay.

16 Q. I didn't add at worst misleading but it could be regarded in that
17 way but certainly at best ambiguous if one were to read this
18 plain wording of that provision of your, um, of your—of the
19 works.

20 A. Thanks, thanks for the correction.

21 Q. Permit to work procedure.

22 **Mr. Chairman:** So that's what I put to him and I think he
23 agreed to that.

24 **Mr. Pegus:** Right.

25 **Mr. Chairman:** If you want to pursue it, you carry on.

26 **Continued Cross-Examination By Mr. Pegus:**

27 Q. Right. Now, I could be wrong but I'm just asking for

1 clarification, I sensed from what it is you were trying to say to
2 the Chairman, is, notwithstanding what you are seeing here in
3 black and white, in practice, something else took place?

4 A. Let me answer the question the way that I understand it. Right?
5 In practice, what I would have expected is that the competent
6 contractor that we hired to do the job would provide the
7 supervision over the job. Right? And if there were questions or
8 things on that work permit or the risk assessment that required
9 addressing, that that contractor would address that with the
10 operating company or with the area authority as a minimum.

11 Q. Right. So what I'm trying to get at is this. Earlier you agreed
12 that the permit to work procedure provided a general guideline.

13 A. Yes.

14 Q. Yes? Good. Now, in a case where the permit to work
15 procedure was not adhered to—

16 A. All right.

17 Q. —to the letter—

18 A. Yes.

19 Q. —all right, because in practice something else would happen?

20 A. Yeah.

21 Q. In an instance where it wasn't followed to the letter well then
22 you can't place fault on anyone, agreed?

23 A. Well I think it's, it's, it's a distinction between what's written
24 and how work actually takes place on a day-to-day basis using
25 what is written as a guideline. I don't think every single—the
26 practicalities may be sometimes a lil bit different from what is
27 completely written in the permit because it's people working,

1 eh.

2 Q. Now, is there—this is my question.

3 A. Uh-huh.

4 Q. Is there anything other than what you would say or what you
5 would have to say, sorry, operated in practice, is there anything
6 that the Commission could refer to to determine what was the
7 intention behind the permit to work procedure?

8 A. In Paria, what was the intention?

9 Q. No. When, when, when you agreed with the Chairman—

10 A. Right.

11 Q. —that clause 5.1 of the permit to work procedure—

12 A. Right.

13 Q. —parts of it were ambiguous?

14 A. Right.

15 Q. Right, and you were trying to say to him, “Well listen this is
16 what is written here.”

17 A. Right.

18 Q. But in practice—

19 A. Well, it was.

20 Q. —it might be tailored to suit—

21 A. Yeah.

22 Q. —right. My question is this. Apart from what is written here—

23 A. Uh-huh.

24 Q. —is there anything, other than what is written here that the
25 Commission could use to determine what was the intention
26 behind the permit to work procedure?

27 A. No, not that I know of.

1 Q. And if such a document I think don't exist, one of the things
2 that would assist would be to hear from the people who utilized
3 the permit to work procedure?

4 A. Yes.

5 Q. Or who familiar with it like yourself?

6 A. Yes.

7 Q. Agreed?

8 A. Yes.

9 Q. Right. Now, the permit to work procedure is not a contractual
10 document?

11 A. No.

12 Q. Good. And nothing in the permit to work procedure would
13 displace a contractual obligation that LMCS had?

14 A. No, not to my understanding.

15 **Mr. Chairman:** Can I have that question again?

16 **Continued Cross-Examination By Mr. Pegus:**

17 Q. Nothing—just for the Chairman's benefit—none of these
18 obligations which are outlined in the permit to work procedure
19 would displace a contractual obligation that LMCS had?

20 A. No. The—no.

21 Q. Just one final area for me. The part of the work that was being
22 done on the 25th of February, we agreed it concerned subsea
23 works, yes?

24 A. Yes.

25 Q. Right. And the maintenance technician that you had on site,
26 one of the maintenance technicians was one Mr.—

27 A. Mr. Houston Marjadsingh.

1 Q. —Houston—right.

2 A. Yes.

3 Q. A name that featured prominently in these proceedings, yes?

4 Good.

5 A. Forget Houston, boy. He mightn't like that too bad.

6 Q. Right. Now you would agree that based on the roles that were
7 given to Mr. Marjadsingh—

8 A. Yeah.

9 Q. —he didn't have to be on berth 6 for the duration of the works?

10 A. No.

11 Q. Good.

12 A. I haven't heard that.

13 Q. Right. And of course, based on Mr. Majardsingh's
14 qualification he was a maintenance technician?

15 A. Yes.

16 Q. Yes?

17 A. Yes.

18 Q. Good. Now you accept that Mr. Marjadsingh couldn't
19 supervise subsea works. You agree with that?

20 A. Maybe not supervise but provide oversight.

21 Q. Lovely. So we could accept that. He was there to provide
22 oversight, yes?

23 A. Yes.

24 Q. Right. His role really was to act as a liaison between the
25 contractor and Paria, yes?

26 A. And, and, and to ensure that the scope of work was done as
27 outlined in the permit.

1 Q. As outlined in the permit?

2 A. And, and, you know, to make sure that the requisite, um, rules
3 around safety and operations at the, um, of the work itself was
4 done in conjunction with the contract and—

5 Q. Right. Focusing on the work that was going on in the chamber,
6 the procedure that was utilized on the day in question, it
7 depended heavily on the LMCS personnel keeping him abreast
8 as to what was going on inside the chamber?

9 A. Yeah, and that would be the, and that would be the expectation
10 foremost work that goes on, that the contractor would keep the
11 technician abreast of what is next.

12 Q. Good. And that was Paria's expectation of what LMCS was
13 supposed to do, yes?

14 A. Correct, and, and—yeah.

15 Q. Okay. Thank you very much, Sir.

16 A. Okay.

17 **Mr. Chairman:** Just a moment. [*Writing*]

18 **Examination By Mr. Chairman:**

19 Q. Can I ask you please—

20 A. Me?

21 Q. —to have a look at the scope of work described as technical,
22 which is in our bundle at core bundle Volume II at page five
23 five eight Tab 19?

24 A. Right, just now.

25 Q. Do you have core bundle two?

26 A. I have Volume I here.

27 Q. Right. You will be provided with it.

1 A. Yes. [*Document handed to Mr. Mohammed*] Oh yeah, I have it
2 here.

3 Q. Right. So just so that I'm clear on what's happening here—

4 A. Yes, go ahead.

5 Q. —this is a scope of work put out by Paria?

6 A. Yes.

7 Q. This is what we want done.

8 A. Yes.

9 Q. This is supposed to set out what we regard as being our
10 responsibilities—

11 A. Yes.

12 Q. —in the contract and what we regard as being the contractor's
13 responsibilities.

14 A. Correct.

15 Q. And it does so at some length and we've done a lot of this
16 already—

17 A. Yes.

18 Q. —all right, so I don't want to belabour it but can I just take you
19 to a few of the paragraphs please?

20 A. Yes.

21 Q. Paragraph two general?

22 A. Paragraph two.

23 Q. Yes, general. Do you see that?

24 A. What page?

25 Q. It's at five six oh.

26 A. Five six zero, okay.

27 Q. Five six zero. It's paragraph two.

1 A. I have it here, general, yes.

2 Q. Right. And this says: "The successful contractor shall supply
3 all labour—

4 A. Yes.

5 Q. —materials, equipment, project engineering, supervision—

6 A. Yes.

7 Q. —inspection services, transportation, consumables, et cetera?

8 A. Yes.

9 Q. Et cetera. So here you're making it clear that the contractor
10 will have a responsibility for supervising the work.

11 A. Yes.

12 Q. Right? Can I ask you this?

13 A. Uh-huh.

14 Q. Given the hazardous nature of the work that we're dealing with
15 here—

16 A. Yes.

17 Q. —do you regard supervision by the contractor themselves as
18 opposed to you or some independent body—

19 A. Yeah.

20 Q. —a suitable way of dealing with what might be regarded with,
21 as you've told us, hazardous work?

22 A. Yeah, no.

23 Q. Not at the time but on reflection now?

24 A. On reflection, on reflection I would say that, um, lessons
25 learned from this, you know, would point to having some level
26 of, some level of—

27 Q. Independence?

1 A. —independent supervision I would say.

2 Q. Yeah, rather than the contractor themselves?

3 A. Yeah.

4 Q. Because what, if nothing else has been learned, if the contractor
5 gets it wrong then everybody's going to get it wrong?

6 A. Yes.

7 Q. Aren't they?

8 A. So, yes.

9 Q. If you're so totally dependent, as you've told us you were, on
10 their expertise, if they get something wrong, then it's simply
11 going to be perpetuated throughout, isn't it?

12 A. Yeah and I think, I think something like that we could, we
13 could, you know, determine the jobs that are high risk and—

14 Q. Yes.

15 A. —you know, consider an alternative.

16 Q. I mean, obviously, if you're cutting the grass and you get a
17 contractor you don't need someone to monitor that, do you?

18 A. Yes.

19 Q. You know, you can tell whether grass has been cut properly or
20 not.

21 A. Yes.

22 Q. But it does seem to me—

23 A. Yes.

24 Q. —and I know it does to Mr. Wilson as well—

25 A. Yes.

26 Q. —of some importance—

27 A. Yes.

1 Q. —that, as it were, say, well, yeah you supervise yourselves,
2 guys, you know get on with it, you know that kind of just
3 ignores the potential danger that might exist, doesn't it?

4 A. Fair enough.

5 Q. All right. So that's the first thing I wanted to ask. In the same
6 document, yes, if you go please to page five six five—

7 A. Five six five.

8 Q. —five six five, yes, 3.1.12—

9 A. Yeah, I have it.

10 Q. —you see there it deals with there—they're dealing with, it's
11 under the, so that you understand, it's under the subheading of
12 renewal of section of the 36 riser piping modified tie in bent
13 and so on?

14 A. Yes.

15 Q. And it says there at 3.1.12, in italics, so identified by you Paria,
16 note—

17 A. Yeah, yeah.

18 Q. —a video stream—

19 A. Yes.

20 Q. —to be provided topside—

21 A. Yeah.

22 Q. —during work activity—

23 A. Yeah.

24 Q. —for Paria's representative.

25 A. Yeah.

26 Q. Can you just tell me what you understand that to mean?

27 A. Right. What, what we understand—so typically when you do

1 these works, right, you'll want to learn from them if we could
2 improve them so these—so this video will—

3 Q. If you could what, sorry? Just go closer—

4 A. Sorry, when you, when you, er, when you do works like this
5 you'd also want to look for ways to improve how you do these
6 works. So typically those videos would be captured, Paria
7 would retain them and we could always go back and look at
8 those videos, if you have other jobs to do, what were some of
9 the things that we could improve, what, what are areas that we
10 didn't perform as well in where are the deficiencies that we
11 may have missed because—around the process of continued
12 improvement.

13 Q. Well, I raised it because it deals specifically with issues in this
14 particular instance.

15 A. Yes.

16 Q. Because we look at the sentence before that—

17 A. Yes.

18 Q. —under the same heading, it's describing the work to be done
19 isn't it, cut?

20 A. Yes.

21 Q. Insert migration barrier.

22 A. Yes.

23 Q. And install a 30-inch flange—

24 A. Yes.

25 Q. —on to the existing line. Inspection required for the flange
26 including root passes—

27 A. Yeah.

1 Q. —VT and hydrotest. That's the integrity of the weld itself is it
2 not?

3 A. Yeah. In my—I mean, we could take two views of this, eh.
4 One view was that the video stream would be provided for
5 continuous monitoring as we discussed, and there is a view,
6 which is the view that I probably more subscribe to in that that
7 video stream is provided as a record of the job done so that
8 Paria has that videoing of the job as—

9 Q. I understand what you mean, and I can see why that might be
10 useful for you.

11 A. Yes.

12 Q. But where you the company have added in italics—

13 A. Uh-huh.

14 Q. —in relation to that specific part of the job—

15 A. Yeah, I could understand.

16 Q. —re the cutting and the inserting of a migration barrier—

17 A. Yeah.

18 Q. —and installing new flange—

19 A. Yeah.

20 Q. —you've decided to add that specific paragraph in, a sentence
21 in in which it said provided topside?

22 A. Yes.

23 Q. Which rather suggests, doesn't it, that somebody's watching
24 this?

25 A. Yes.

26 Q. Do you follow for what I mean? If it was just for training
27 services later or improvement services later—

1 A. Yeah.

2 Q. —a little bit like when we get the telephone call you're being
3 recorded for training purposes, you know, I mean, the truth is
4 here looking at that—

5 A. Yeah.

6 Q. —it does rather suggest, doesn't it, that it's, it's up topside for
7 Paria's representative?

8 A. It's not—Chairman I, I, I know I, I could easily see how it
9 could be interpreted that way.

10 Q. So it's another ambiguity, isn't it?

11 A. Yeah. Yeah.

12 Q. Is it?

13 A. If you look at 3.1.11—

14 Q. Yes.

15 A. —also in italics, right?

16 Q. Yes.

17 A. Paria representative to review video of area and YouTube
18 report prior to approved cutting point.

19 Q. Right. So that they can look at it?

20 A. So they could look at it for this particular, for this particular
21 piece of scope that is t? take place, right.

22 Q. Yeah.

23 A. So maybe it kind a falls into 3.1.12.

24 Q. Yes. Well, I, I—it just seemed to me that that might have
25 suggested to the contractor that they got to provide this so that
26 what they're doing is being monitored otherwise why do you
27 need it to be provided topside?

1 A. Yeah. Well, I—my—

2 Q. Just video and you can give it to us after?

3 A. Yeah.

4 Q. If it needs reviewing? Do you follow what I mean?

5 A. Yeah.

6 Q. There's a difference. It's like the phone call, as I say, you make
7 and somebody is saying, you know, the bank is saying we're
8 recording this for training and monitoring purposes or some
9 other nonsense that they claim they're using it for, but I, I—the
10 point it seems to me is that on the face of that it looks doesn't
11 it—

12 A. Yes.

13 Q. —if, actually—

14 A. Yeah.

15 Q. —you know, someone's keeping an eye on you here?

16 A. Yeah. Chair it's a fair comment to make.

17 Q. All right. All right. All right, leaving that side for a minute in
18 support of what you say—

19 A. Yes.

20 Q. —you'll see that at 3.1.21—

21 A. Yes.

22 Q. —we'll move on just a little bit to be fair to you to bring that to
23 your attention, there you go, right at the top there—

24 A. Yes.

25 Q. —you see the contractor shall?

26 A. Yes.

27 Q. —supply the video footage during the subsea works.

1 A. Correct.

2 Q. Right? And then after that, and this video must form part of a
3 handover package.

4 A. Form part of the handover package. Correct.

5 Q. All right, so, in fairness to you it may be that it's for both
6 purposes.

7 A. Yes.

8 Q. Because I'm right and you're right?

9 A. Yes.

10 Q. Yes? All right. And then lastly this, please? If you go, and I
11 say lastly, go please next to, um, five seven zero, page five
12 seven zero?

13 A. Yes.

14 Q. Paragraph four.

15 A. Yeah. Paria's responsibility?

16 Q. Paria's responsibility.

17 A. Yeah.

18 Q. It's not very much by the look of it, if you'll forgive me for
19 saying so. In a document that's this long it's only got five
20 subparagraphs and that's it, but anyway be that as it may, what
21 it does say is this. 4.1, supply personnel for organizing all work
22 permits.

23 A. Yes.

24 Q. Right, and certificates, monitoring contractor's performance—

25 A. Yeah.

26 Q. —and work standards, approving work done by the contractor
27 and carrying out quality assurance audits.

1 A. Yeah.

2 Q. And that rather suggests to me that you're keeping an eye on
3 what they're doing?

4 A. Now I, I read that and I—let me just say what I—for I too, I'll
5 give you my interpretation, right?

6 Q. Uh-huh.

7 A. Right. Supply personnel for organizing work permits, that is to
8 get the work started and having things organized to get things
9 moving, right?

10 Q. Uh-huh.

11 A. Certificates, monitoring of contractor's performance, that's
12 regard to scope, timeliness, getting the job done, ensuring that
13 the contractor is delivering on the scope that he is requested to
14 deliver on, right?

15 Q. Uh-huh.

16 A. The work standard, approving work done and carrying out the
17 quality assurance tests, the work standard and the approval of
18 the work done is related to the quality assurance testing of the
19 welds and the installation that the contractor did, so that once
20 the contractor is finished we don't have to do rework or we
21 don't end up with a leak on the pipeline, so it's kind of focused
22 on the, on the quality pieces of the job so that—

23 Q. Well how could you monitor the contractor's performance if
24 you're not watching them?

25 A. Well, and I think that goes back to what we discussed earlier,
26 right, on there were specific activities where the issue of video
27 footage was particularly listed under, right?

1 Q. I follow that. That's not everything, is it?

2 A. It's not everything.

3 Q. No. And the video footage is often provided in a place where it
4 would be impossible for your representative to be there in the
5 habitat—

6 A. Correct.

7 Q. —watching what they're doing that's why you need a video—

8 A. Yeah.

9 Q. —to see what they're doing, because they're under water, aren't
10 they?

11 A. That's correct.

12 Q. But, I mean, I have taken from this that there is at least some
13 monitoring of the contractor's performance and this comes at
14 the very earliest stage—

15 A. Yeah.

16 Q. —of this whole arrangement, doesn't it?

17 A. Yeah. No, I mean, I wouldn't, I wouldn't, er, argue with the
18 fact that some monitoring is required, Chairman, I mean, you
19 know, you wouldn't want to conduct work where you were
20 completely absent.

21 Q. Quite. Mr. Pegus was particular anxious, I think, to ensure that
22 it wasn't full-time and I don't think anyone suggested it should
23 be full-time?

24 A. No, it wasn't, it wasn't full-time.

25 Q. And you agreed with me, I think, earlier that 40 minutes was
26 probably too long in gaps?

27 A. Probably there's, there's a look at check-in times, that could be

1 improved.

2 Q. Yeah, all right. And then I just want to take you next please to
3 Tab 20?

4 A. Tab 20.

5 Q. Tab 20, yes. It's not particularly anything that's in there but it's
6 just that this is a system that was operating. At page 598—

7 A. Yes.

8 Q. —is what's described as Paria Fuel Trading Company Limited
9 miscellaneous repairs and refurbishment works at the berths,
10 Addendum I and then a number of queries are raised by
11 contractors, aren't they?

12 A. Yes.

13 Q. And then answers given by Paria?

14 A. Yes.

15 Q. Do you see that? That's—

16 A. Yes.

17 Q. And that becomes part of the deal.

18 A. A part of the process, yes.

19 Q. Yeah. So, as you say, the process?

20 A. Yes.

21 Q. So if there's a query it can be put here—

22 A. That is—

23 Q. —from the contractor?

24 A. That is correct.

25 Q. Can you tell me, is there one the other way around?

26 A. A query from Paria?

27 Q. Yes.

1 A. Yes.

2 Q. Right. Where's that?

3 A. If Paria had a query it should form part of—

4 Q. It should form part of this as well?

5 A. Yes.

6 Q. So they didn't have a query—

7 A. Yeah.

8 Q. —then you're assuming they wouldn't have asked anything
9 there?

10 A. It's possible, yes.

11 Q. Yeah. All right. And so that takes care of that. Can I, um, just
12 remind you—again, I don't want to go through it because we've
13 done so ad nauseam, but I just want to be clear about the
14 document that is—yes. Just a second, please? Page in our
15 bundle Volume, core bundle Volume III is the method
16 statement.

17 A. Right.

18 Q. All right, so I don't want to—

19 A. Right.

20 Q. Have it by all means. I'm certainly not going to deny it to you,
21 but that method statement is, in effect, the response, is it not, to
22 the, to the document we've just been looking at, so they, they
23 say yes, we'd like, we'd like to contract with you, here's our
24 method for how we're going to do so?

25 A. Yeah.

26 Q. Have I got that right?

27 A. Yeah.

1 Q. Right. So it sets out the work that they're going to do and the
2 process by which they're going to do it?

3 A. Yes.

4 Q. Because, when I look at it, it says in subheadings, to load
5 equipment and material on to the barge. So that's the first thing
6 they've got to do.

7 A. Yeah.

8 Q. This is how we're going to it. This is your [*Inaudible*] which is
9 going to take place?

10 A. Yeah.

11 Q. Then the next heading is, to prepare a line for works?

12 A. Yeah.

13 Q. Get rid of all the oil that's in there, all of this stuff, then the next
14 heading is the installing and preparing of the hyperbaric
15 chamber?

16 A. Yes.

17 Q. And so on.

18 A. Yes.

19 Q. And so on?

20 A. Yes.

21 Q. Yeah? Now, again, I don't want to belabour it.

22 A. Right.

23 Q. But it sets out that process?

24 A. Yes.

25 Q. And it seemingly has, on its face at any rate, an order in which
26 thing are going to be done?

27 A. Yes.

1 Q. What is clear from that and what we've identified in the
2 evidence hitherto—

3 A. Yes.

4 Q. —is that at paragraphs 56 and 57 of that document—

5 A. Yes.

6 Q. —it says, to manually remove the migration barrier from the
7 line—

8 A. Yes.

9 Q. —and then manually deflate the line plug and remove it from
10 the line?

11 A. Yes.

12 Q. All right? Now that, according to this—

13 A. Yeah.

14 Q. —looks as though it's supposed to take place before the
15 removal of the hyperbaric chamber—

16 A. Right.

17 Q. —which you've again pointed out to us—

18 A. Yeah.

19 Q. —irrespective of Delta P—

20 A. Yeah.

21 Q. —should not happen?

22 A. Correct.

23 Q. One, to protect the integrity of the line, and, two to protect the
24 people working—

25 A. Yes.

26 Q. —in the chamber, yes?

27 A. Yes, yes.

1 Q. So, when you, you the firm, not you necessarily but when the
2 company receive this—

3 A. Yes.

4 Q. —and you have this procedure for batting ideas back and
5 forth—

6 A. Yeah.

7 Q. —didn't someone pick up on this and say, look, this must not
8 happen—

9 A. Yeah.

10 Q. —before you've take taken the hyperbaric chamber away?

11 A. I, I, I would say, Chairman, that it probably don't happen on the
12 reading of the method statement, right, but the method
13 statement is also not cast in stone. Things—

14 Q. Well, of course not.

15 A. Right. Things change day-to-day.

16 Q. Yes.

17 A. Right? Things happen before, after, and in work on a, on a, on
18 a facility, on a production facility, there are a number of
19 barriers to preventing accidents. So you have your risk
20 assessment, you have the permit to work, you have the method
21 statement, right? So somewhere along if one barrier is missed,
22 for example it was missed in the method statement, it's
23 expected that somewhere along the line—

24 Q. I couldn't agree more—

25 A. —it, it—

26 Q. —if I may say so.

27 A. —it would get picked up.

1 Q. I couldn't agree more. My concern is—

2 A. Yes.

3 Q. —is that as you've seen, I wrestle with the papers that are
4 regarded as the central core papers in this case.

5 A. Yes.

6 Q. If you look at it online, there are tens of thousands of pages.

7 A. Yes, huge.

8 Q. Exactly. And I simply mean to understand, is there a document
9 somewhere that recognizes that that there is wrong, right, that
10 order of work—

11 A. Yes.

12 Q. —should never take place in that order of work—

13 A. No.

14 Q. —other than the work permit that we've been looking at—

15 A. Correct.

16 Q. —in which we have a what I regard as a somewhat ambiguous
17 statement to use the barrier, but there's nothing, is there, that
18 says—

19 A. Yes. There's nothing that addressed it at this level of the
20 method statement.

21 Q. There's no email, there's no, er, there's no document, there's
22 nothing that seemingly points to do not remove—

23 A. Yes.

24 Q. —those barriers from the line—

25 A. Yes.

26 Q. —until you've taken the hyperbaric chamber off.

27 A. Yes.

1 Q. There isn't, is there?

2 A. No, no, there isn't.

3 Q. I mean, somewhere somebody should have been saying that,
4 shouldn't they?

5 A. Yeah. No, and I, yeah, and I haven't found it either so I'm—so,
6 I—you know, it's—

7 Q. All right. Okay. Well that's all I wanted to ask you.

8 A. Okay.

9 Q. Again, so that I understand how it works, there is a procedure
10 for you, Paria, to have been able to add as an addendum—

11 A. Yes.

12 Q. —look, this is—this order is wrong. It might not be what you
13 intended—

14 A. That—

15 Q. —but let's be quite clear about it, you're not supposed to do it?

16 A. Correct. That, that's, that's the process for work—

17 Q. Yes.

18 A. —where that engagement should take place and things like
19 these should be identified.

20 Q. Are you disappointed that it didn't?

21 A. Yes.

22 Q. Yeah. I suppose that's putting to mild a point at this point, isn't
23 there? All right, thank you very much.

24 **Mr. Chairman:** Next please we have Ms. Maraj is going to
25 ask you questions on behalf of LMCS.

26 **Cross-Examination By Mrs. Persaud Maraj:**

27 Q. Good afternoon, Mr., um, Mohammed.

1 A. Good afternoon.

2 Q. Kamini Persaud Maraj for—

3 A. Ms. Maraj, yes.

4 Q. —for LMCS?

5 A. Right yes.

6 Q. So this morning in your answer to Senior you said that the 2020
7 contract—

8 A. Right.

9 Q. —that was performed by LMCS—

10 A. Right.

11 Q. —had no material difference in type of risk and work to what
12 was being done in this contract bundle.

13 A. Yeah. My understanding at this time is that there's no major
14 material difference between what was done now and I spoke to
15 a few things, one is that it was a lil bit shallower—

16 Q. Right.

17 A. —the pipe cut was a lil bit shallower and there are a few other
18 small things—

19 Q. But—

20 A. —according to my recollection.

21 Q. Right. Correct. And your evidence is there. But there was one
22 my material difference in the manner in which the work was
23 done. Would it be true that on that project, the 2020 project,
24 you had an engineer assigned with the planner?

25 A. Did I have an engineer assigned—

26 Q. Yes.

27 A. —to the planner on the 20—

1 Q. Twenty.

2 A. —project?

3 Q. Yes. So you meaning Paria, huh. So I have before the
4 statement of—it's not the statement it's an interview—

5 A. All right.

6 Q. —which was done by the Commission with Mr. Terrence
7 Rampersadsingh.

8 A. Okay.

9 Q. Yes?

10 **Mrs. Persaud Maraj:** Might he be shown that? It's a separate
11 document. Page 5, yes.

12 **Mr. Chairman:** It's in the supplemental bundle, isn't it?

13 **Mrs. Persaud Maraj:** It's a separate document online.

14 **Mr. Chairman:** Transcript, transcript.

15 **Mrs. Persaud Maraj:** Transcript, yes.

16 **Mr. Chairman:** Right. I kept that separately, I think.

17 **Mrs. Persaud Maraj:** Yes.

18 **Mr. Chairman:** Yes, I don't have that with me now. Well I'll
19 look at the screen. Is it a large extract or it's something you
20 want to point out to him?

21 **Continued Cross-Examination By Mrs. Persaud Maraj:**

22 Q. Oh, I, I, I just want to confirm that Mr. Terrence
23 Rampersadsingh, who was also the planner—

24 A. Yeah.

25 Q. —in this project has confirmed that there was an engineer who
26 worked along with him?

27 A. That, that is a possibility, Ms. Maraj. I will have to confirm.

1 Q. Right.

2 **Mr. Chairman:** Now, that's what he says in his statement—

3 **Mrs. Persaud Maraj:** That's what he says in his—

4 **Mr. Chairman:**—to the Commission of Enquiry.

5 **Continued Cross-Examination By Mrs. Persaud Maraj:**

6 Q. That's what he said in his interview.

7 A. Ms. Persaud, if Mr. Rampersadsingh said that, he's probably,
8 um, correct.

9 Q. And what I can show you is he repeats the statement further in
10 the transcript.

11 A. If Mr. Rampersadsingh said that I wouldn't go against what he
12 said in the transcript.

13 **Mr. Chairman:** Right. We can proceed from there.

14 **Continued Cross-Examination By Mrs. Persaud Maraj:**

15 Q. And part of the responsibility of that engineer would have been
16 to counterbalance and/or to deal with all of LMCS' method
17 statements and the methodology that was employed in relation
18 to the work that was performed. That's correct?

19 A. The role of the, the role of the project engineer—

20 Q. Engineer.

21 A. Once there was a project engineer involved, I would, er—yes,
22 you're probably right that they would probably oversee and
23 provide some evidence to Mr. Rampersadsingh.

24 Q. Right. And to Mr. Rampersadsingh in relation to what LMCS
25 is performing?

26 A. Very likely.

27 Q. Right. And so that would take him into the arena of looking at

1 all of the method statements that would have been provided,
2 whatever they may have been, describing and dealing with all
3 of the actual works done, correct?

4 A. As I say, you know, if, if there was a project engineer he would
5 perform the role of a project engineer which would include
6 some of the things that you've outlined.

7 Q. Right. And now you would agree that that was the major and
8 most significant difference in relation to the personnel between
9 the projects in 2020 and 2021—22?

10 A. What—if Mr. Rampersadsingh points to the project engineer,
11 the supervision of this project would have fallen with Mr.
12 Rampersadsingh who's the planner and then up to the technical,
13 technical manager, the technical manager who would have
14 provided the project support that the project that took place in
15 2021 would have required.

16 Q. So you're essentially saying that it would have been a different
17 system altogether, a system of monitoring, a system of how the
18 works were being performed?

19 A. I think what I'm saying is that the role of the project engineer,
20 if the role of the project engineer existed in 2020, that there
21 would have been some incremental supervision above Mr.
22 Rampersadsingh or some incremental testing of things beyond
23 Mr. Rampersadsingh.

24 Q. Testing of what? Testing of the works of—

25 A. Testing of the, testing of the, testing of the—I cannot say
26 specifically what whether project engineer would test the scope,
27 would test the schedule, would test the cost. You know, I'm

1 not clear whether the project engineer would actually go into
2 the detailed method statements, et cetera.

3 Q. So let me ask you this very clearly.

4 A. All right.

5 Q. Why was there not a project engineer in this 2021/22 contract?

6 A. Well we had—

7 Q. Because clearly it's the same person performing the
8 functions—

9 A. Well—

10 Q. the same contractor.

11 A. Yeah. I can't specifically but what I could proffer is that we
12 have Terrence who would have had the experience of doing the
13 job. Back in 2020, he would have gained that experience. We
14 had a contractor who demonstrated that they could do this job
15 safely and efficiently and, er, you know, based on the track
16 record of both Mr. Rampersadsingh and the contractor, a
17 decision was—probably could have been made to deploy the
18 project engineer to where we believed that we had more risk. I
19 can't answer specifically because I don't know all the details
20 but it's how I would, um, you know, it's, it's, it's what I would
21 offer that could have happened.

22 Q. So you were part and parcel of the tenders committee, that's
23 correct?

24 A. Yes.

25 Q. All right. And there is the note to management tenders
26 committee that you have signed?

27 A. Yes.

1 Q. That's at page nine two eight of the core bundle.

2 **Mr. Chairman:** Nine two eight?

3 **Mrs. Persaud Maraj:** Nine two eight.

4 **Mr. Mohammed:** Just now, huh. I haven't found it yet.

5 **Mr. Chairman:** Tab 22.

6 **Mr. Mohammed:** Tab 22. Tab 21. Tab 22, yes.

7 **Continued Cross-Examination By Mrs. Persaud Maraj:**

8 Q. Right. So I would like to take you quickly to just a few points.

9 A. All right.

10 Q. Right? At your summary at page nine two eight you say this.

11 "LMCS submitted the only technically compliant valid
12 proposal with a suitable method statement and schedule
13 which satisfies all the requirements of the scope of
14 work."

15 A. Uh-huh.

16 Q. "Also, LMCS has demonstrated in their prior
17 performance that they have the required—

18 A. Correct.

19 Q. —management and resources competencies to satisfy the
20 contract requirements."

21 A. Right.

22 Q. You see that?

23 A. Yes.

24 Q. Right. You would accept therefore that nowhere there in your
25 summary you've said or placed as an expression in black and
26 white that they were a specialized expert in the area so that they
27 were considered favourably. You would accept that? That is

1 not one of the considerations that you've placed there? You're
2 now saying that.

3 A. But I think, I think the words infer that they would have been
4 an expert and they were able to execute and have knowledge
5 and the ability to execute such a contract and they had
6 demonstrated performance track record.

7 Q. Required. Now these are your words. I'm going back to them.
8 Your words—

9 A. Uh-huh.

10 Q. —from the report, and if you go to page nine three two of that
11 document you will see your signature approved by Mushtaq
12 Mohammed?

13 A. Right.

14 Q. Yeah? And your words in this report says, "Prior performance
15 they have the required management and resource
16 competencies—

17 A. Yeah.

18 Q. —to satisfy the contract requirement."

19 A. So it's, I mean, I don't know—is that a difference, though, by
20 assessing that they're specialized? I mean this is what—

21 Q. You are saying to this Commission and you have put in your
22 evidence and you have repeated it on numerous occasions today
23 that they were specialized expertise.

24 A. I see them as specialized expertise. They've done the job, they
25 have a track record of getting the job done.

26 Q. And then so you will accept that—Sir, you will accept that
27 those words that you have put to the Commission for its

1 consideration does not form part and parcel of the document
2 that you've produced as to the basis on which they are hired or
3 has been awarded the contract?

4 A. Well, well, it isn't written here. I accept it isn't written here.

5 Q. Okay.

6 **Examination By Mr. Chairman:**

7 Q. I mean, the fact is you didn't have an option at that stage, did
8 you? You wanted the work done relatively urgently, as I think
9 the evidence suggests that you did, um, they were the only
10 people who were compliant?

11 A. But it didn't mean that I would hire an incompetent contractor
12 either. Right? So—

13 Q. No, I appreciate that—

14 A. So, so—

15 Q. —but you don't have anything to measure it against?

16 A. As I said, what, what we used as the basic measure was the
17 track record and the ability to be able to perform the job safely.

18 Q. Yes. But what you ended up with was the only compliant
19 applicant?

20 A. And sometimes that happens in the procurement process.

21 Q. So what would you have done if they weren't—they didn't
22 satisfy?

23 A. We wouldn't have done the job. We'd have—we put—we'll
24 probably have to go out and re-tender.

25 Q. Yeah. Thank you.

26 A. We wouldn't have done the job.

27 **Continued Cross-Examination By Mrs. Persaud Maraj:**

1 Q. I'd like to take you to Volume I of the core bundle.

2 A. Volume I of the core bundle.

3 Q. Yes. At page 29. And this is in respect of the permit to work
4 system that we have looked at.

5 A. Yes.

6 Q. Now this morning, and you can correct me but you've—when
7 Senior, Mr. Maharaj, questioned you in relation to 5.2 at page
8 29, you gave the impression that a competent person is equated
9 to or means the contractor. Do you recall that or is that
10 incorrect?

11 A. The, the competent person—

12 Q. You called LMCS the competent contractor if I recall the, the—

13 A. Yeah, yeah they are the competent contrac—in this case, yes,
14 they were the competent contractor, yes.

15 Q. Right. So what I'd like to do is to just take you through what
16 competent person means as per your document.

17 A. All right.

18 Q. Paria's document, right? It says:

19 "A competent person in Paria's permit to work system is
20 an individual who has the required training, knowledge,
21 experience and qualifications to identify the hazards and
22 to developed effective precautions for high hazard
23 activities such as hot work, confined space entry and
24 electrical works."

25 A. Yes.

26 Q. Now my question to you is—

27 A. Uh-huh.

1 Q. —is a competent person being described only in relation to—
2 well, it may not be an exhaustive list but a list of these kinds of
3 work, hot work, confined space entry and electrical works?

4 A. What, what these works would identify, some of the actual high
5 risk work that we do on the side site, right, so, on a site where
6 we store 2 million barrels of fuel, you know hot work is a very
7 critical thing, all right, so we want hot work to be effectively
8 managed. Confined spaces is a risk throughout the industry.
9 Electrical works is also high risk.

10 Maybe, maybe what, what could be added here, if I was
11 to take a second look at this, would be working from heights.
12 Those are the critical activities that we do where persons could
13 be seriously hurt or, or—

14 Q. Right.

15 A. Yes?

16 Q. And in other words a competent person is somebody who is
17 able to deal with these kinds of, of high risks?

18 A. Correct.

19 Q. All right. I—from the—so let's call this the philosophy upon
20 which your permit to work, the actual permit to work is based.
21 Would that be correct?

22 A. If the permit to work is designed to ensure that work is
23 conducted safely, so, all right let's take that from there
24 because—

25 Q. Right. I would like to take you to the actual permit, the hot
26 works certificate.

27 **Mr. Chairman:** Before you do that.

1 **Mrs. Persaud Maraj:** Yes.

2 **Examination By Mr. Chairman:**

3 Q. Can I just be clear about this?

4 A. Yes.

5 Q. Are you saying that the competent person who I understand to
6 be the area authority—

7 A. Uh-huh.

8 Q. —is LMCS?

9 A. The competent person is the person who is executing the job,
10 right? The competent person in Paria's permit to work system
11 is an individual who was the required training, knowledge—

12 Q. No, no. No, no. I need to be quite clear about this.

13 A. Uh-huh.

14 Q. Is the competent person LMCS or somebody from Paria?

15 A. The LM—the competent person is the person or the contracting
16 company or the entity that Paria determines to be competent to
17 execute that job. So, for example, if Paria was using one of its
18 technicians to execute a pump repair, all right, that person
19 would have to be the competent person, they would have to
20 know how to repair the pump. If Paria was using a contractor
21 to do electrical works—

22 Q. Yeah.

23 A. —right, then that—the competence would reside in the person
24 who is going to—the person or the entity who's going to
25 execute the work.

26 Q. All right. So, as far as you're concerned, the competent person
27 and the area authority for this particular project was LMCS?

1 A. The competent person—so we have the competent person, we
2 have the site authority and we have the, the site area authority
3 right?

4 Q. Well the area authority is, as I understand it, the competent
5 person?

6 A. All right. The area authority is responsible for ensuring that the
7 conditions required for safe conduct of the job are maintained
8 or that the permitted activities are promptly stopped if there are
9 any changes or violations of any of the prescribed conditions,
10 right? That is the area authority.

11 Q. No, no I understand. I can read it too. I, I, I—

12 A. Then I'm missing something there. Sorry.

13 Q. —forgive me if I'm sounding a little impatient. It's a long day.
14 But I just want to understand from you, please—

15 A. Uh-huh.

16 Q. —who you regarded as the competent person?

17 A. LMCS in this case.

18 Q. LMCS, right. And you think that's right, do you?

19 A. I believe that's right.

20 Q. That it should be LMCS?

21 A. It should be LMCS.

22 Q. All right. Well—

23 A. I already admitted that Paria didn't have the competence to
24 execute the job.

25 Q. No, no I follow that.

26 A. Yeah.

27 Q. But I'm going to leave it to Ms.—

1 **Examination By Commissioner Wilson:**

2 Q. Mr. Mohammed, just one second. I'd just to invite you to go
3 back to 5.2:

4 "Competent persons are appointed by the terminal
5 operations manager or technical and maintenance
6 manager after they've undergone the required training
7 and assessments."

8 With that narrative, you still view LMCS as the competent
9 people, persons or authority?

10 A. Just now, huh.

11 **Examination By Mr. Chairman:**

12 Q. Second paragraph of 5.2. Competent persons are appointed by.
13 The second sentence of paragraph two.

14 "Competent persons are appointed by terminal operations
15 manager or technical and maintenance manager after
16 they've undergone the required training and
17 assessments."

18 So are you saying that it is LMCS—

19 A. Just now, eh, just—so I'll be clear here. Just now. I too
20 starting to get a little bit tired. [*Perusing document*] And I
21 think this, this was specifically designed for competent persons
22 executing work within the Paria organization, so Paria or its
23 affiliate or Paria with the Kenson people who are performing,
24 so there are two types of work that we do, right? There's
25 routine maintenance work where we have a maintenance crew
26 or maintenance team that would do the routine work, repair the
27 pump, grease the valves, right?

1 Q. Cut the grass.

2 A. Cut the grass—well, no, we actually contract that out. Right?

3 But, let—there, there are people who—

4 Q. All I want to know is who you thought the—

5 A. LMCS.

6 Q. As far as you're concerned, LMCS, notwithstanding you've
7 been point—pointed out to you by—

8 A. Yes, LMCS would be the competent—

9 Q. You still regarded LMCS as the competent person?

10 A. I can't have it both ways. I can't say Paria has the competent
11 person and then hire a contractor.

12 Q. They actually weren't, because you've told us they weren't.

13 A. Yeah.

14 Q. But, um, they should have been.

15 A. Should have had some level of understand—well, yeah.

16 Q. I mean, this is written in such a way as to suggest that the
17 competent person—

18 A. Yes.

19 Q. —as Mr. Wilson's pointed out to you, is, is—should be from,
20 from Paria or Kenson or whoever else you want to appoint, but
21 it's not the contractor, is it?

22 A. I, I see it a little differently but I can't, I can't, er, walk away
23 from Mr. Wilson's point.

24 Q. Again, at best ambiguous?

25 A. Not in my, not in my mind.

26 Q. Not in your mind?

27 A. No.

1 Q. Well doing your best to apply your mind to it now, do you not
2 think that that is at best ambiguous? Reading that, isn't it
3 somebody from your organization?

4 A. Yeah, reading the letter of it, I would say yes.

5 **Continued Cross-Examination By Mrs. Persaud Maraj:**

6 Q. Well if I may—

7 A. Uh-huh.

8 Q. —right, I'll invite you to look at the bullet point number two
9 which comes just after what we just read, yeah? Right at 5.2.
10 We're looking at bullet point number two so it says:

11 "The competent person shall identify any deficiencies in
12 the equipment and method statement for the job and the
13 potential adverse consequences."

14 So essentially what you're saying is that LMCS is unto itself is
15 own monitoring agent?

16 A. Yes, I—I think we made that—

17 Q. Its own independent person unto itself if that makes sense?

18 A. I, I, yeah, think we covered that earlier and, you know, I think
19 there's a, there's a recognition of a second check or a third
20 check in the system that, would, er—

21 Q. So then this is somebody other than? Meaning—

22 A. Well I won't say somebody other than.

23 Q. Meaning—

24 A. There's, there's—

25 Q. Meaning a project manager—

26 A. There is—

27 Q. —a project engineer?

1 A. There is, there is some assurance that I would say that could be
2 done.

3 Q. Could it also mean a project engineer?

4 A. It could be a project engineer. Depends on what the work is,
5 right? Depends on what, what is the, the requirements of the
6 work at the time.

7 Q. Right.

8 **Mr. Chairman:** Sorry, I think Mr. Wilson has another
9 question but can I, can I just—

10 **Examination By Mr. Chairman:**

11 Q. Looking at this document as a whole, which is the permit to
12 work procedure—

13 A. Yeah.

14 Q. —that you said that is your procedure—

15 A. Yes.

16 Q. —this is not LMCS or anybody else this is your procedure.

17 A. Yes.

18 Q. This is what you expect—

19 A. Yes.

20 Q. —of those who are coming on site in order for them to be able
21 to be permitted to do the work—

22 A. Yes.

23 Q. —you set out purpose, scope, authority and then you set out
24 what the roles and responsibilities are, there's an applicant,
25 there is a competent person, there is a site authority, there is an
26 area authority—

27 A. Yes.

1 Q. —there is a senior area authority and there's a contractor
2 official.

3 A. Yes.

4 Q. The only person, can I suggest, that features in that that could
5 be the contractor is—

6 A. Is LMCS.

7 Q. —is the contractor official?

8 A. Yeah.

9 Q. All of the other roles are roles either you undertake or you
10 appoint someone else to undertake on your behalf. Do you
11 agree?

12 A. Yeah.

13 Q. I know you're not given to easily agreeing to anything that's
14 suggested to you, but please take a moment—

15 A. No, no, no.

16 Q. —have a look at it and being sure—

17 A. Yes.

18 Q. —because this is quite important as far as we're concerned.

19 A. No, I listening. I'm listening, yes.

20 Q. I for my part, as Mr. Maharaj ventured into this earlier in
21 dealing with the question of who were the contractor, the
22 competent person is, I asked you after Mr. Maharaj asked you
23 about the applicant again about that, and all of these different
24 authorities, these different responsibilities are said to be, are
25 they not, those persons who are part and parcel of Paria or its
26 appointees, other than the contractor official who's specifically
27 identified and given particular roles. That's right, isn't it?

1 A. Yeah, that's right.

2 Q. So in pursuing the point being made just a moment ago by Ms.
3 Persaud Maraj—

4 A. Maraj, yes.

5 Q. —she identifies, not unreasonably, the bullet points that are set
6 out underneath what the competent person is supposed to do.

7 A. Fair enough.

8 Q. Well, the one she's identified is that that person is supposed to
9 identify any deficiencies in equipment or method statement for
10 the job?

11 A. Yes.

12 Q. In other words, you can't have the fox looking after the
13 henhouse, could you?

14 A. Fair enough.

15 Q. You know? You need somebody who's going to be completely
16 independent.

17 A. Yeah.

18 Q. Who's going to look at the method statement for the job and the
19 potential adverse consequences, identify any deficiencies—

20 A. Yeah.

21 Q. —and so on, and, and that person's got to come from your firm,
22 hasn't it?

23 A. Yeah.

24 Q. Isn't it?

25 A. Okay. Yeah.

26 Q. There wasn't anyone, was there, doing that?

27 A. Well, as I said, the—as I said earlier the, the—there wasn't

1 anyone from a particular appointment, but the process of the
2 exchanges between the contractor and the company with
3 regards to developing the risk assessment and the method—
4 well not the method statement but the risk assessment
5 identifying the risk with the job is where we expected those
6 gaps to be filled.

7 Q. You see, what Ms. Persaud Maraj was asking you is whether in
8 the previous job there was an engineer—

9 A. And, and, and—

10 Q. —who might have had at least oversight of some of those
11 responsibilities.

12 A. And I, I—no I didn't argue with that position. If, if there was
13 there was.

14 Q. All right. Well I'm not going to belabour it either.

15 A. Yeah, okay.

16 Q. I'll leave it for Ms. Persaud Maraj.

17 **Mr. Chairman:** I think Mr. Wilson might have a question for
18 you.

19 **Examination By Commissioner Wilson:**

20 Q. Yeah, Mr. Mohammed, one other thing, under your line of
21 inquiry by Mr. Pegus, Pegasus—

22 A. Uh-huh.

23 **Mr. Chairman:** Pegus.

24 **Examination By Commissioner Wilson:**

25 Q. Pegus, sorry, apologies. I'm learning from you. *[Laughter]*
26 Um, if I understood it correctly, he was trying to make a
27 delineation from the contract—

1 A. Yeah.

2 Q. —from the permit to work procedure.

3 A. Yes.

4 Q. What I want to invite you to consider, because what I heard was
5 although looking at 5.2 I don't think—well, a delineation could
6 be made but not as I heard it, in terms of the contract is the
7 contract but the permit to work is really how you control the
8 work, so it is using words like shall and when you use words
9 like shall, it can stand alone from the contract so that people are
10 to adhere to it and it's not merely a guideline. Is that a fair
11 statement?

12 A. The permit to work is not a contractual document, yes, but the
13 objective of that permit to work is that people are guided and
14 shall follow the permit to work as it is outlined.

15 Q. Yes, and shall statements—

16 A. Yes.

17 Q. —are different from should.

18 A. Yes.

19 Q. But shall holds a lot of weight in terms of what personnel are
20 supposed to do or executing the work or controlled work?

21 A. Yeah. And, and—yeah.

22 **Commissioner Wilson:** Thank you.

23 **Continued Cross-Examination By Mrs. Persaud Maraj:**

24 Q. Mr. Piper, I'd like to ask you to turn to page—Mr. Mohammed,
25 my apologies. Might you turn to page 1452 of your witness
26 statement—

27 A. Fourteen.

1 Q. —at paragraphs 53 and 54.

2 A. Of my witness statement?

3 Q. Of your witness statement which you dealt with earlier today,
4 1452?

5 A. Which paragraph?

6 Q. Paragraphs 53 and 54.

7 A. Fifty-three and 54?

8 Q. Yes. This is where you spoke to the expectation of the
9 TTCG—

10 A. Yeah.

11 Q. —in relation to a development and implementation of a plan.

12 A. Yes.

13 Q. All right. Could you give us a time frame as to that
14 expectation?

15 A. You for, for what, 53, 54?

16 Q. For that statement, yes, for the statement that you've made
17 there.

18 A. I think the timeline that I mentioned before as, you know, that,
19 that would have had to happen within the first six hours of the
20 incident.

21 Q. No, not in relation to when it had to have happened, in relation
22 to your expectation that the TTCG would, in collaboration with
23 Paria, develop and implement a plan for rescue?

24 A. You mean reasonably taking—

25 **Mr. Chairman:** I think it would be helpful if you looked at
26 paragraph 67.

27 **Continued Cross-Examination By Mrs. Persaud Maraj:**

1 A. I also would say was supposed to be by midnight.

2 Q. By that night?

3 A. By midnight, by midnight.

4 Q. By midnight. So that would have been outside of the time
5 frame that you just said, the six hours?

6 A. Six hours from the time the incident occurred, it's—probably
7 be a bit outside that, yes. I said 6 to 12 hours if I remember
8 correctly.

9 Q. Yes, I did hear that.

10 A. Yes.

11 Q. Now, in relation to the request for the cameras—

12 A. Uh-huh.

13 Q. —I know the Chair has asked you to produce the timing of the
14 experts but in relation to the timing of the request for the
15 cameras—

16 A. Uh-huh.

17 Q. —did you at that point in time that you expected the TTCG to
18 assist you with the formulation of a planned rescue, did you at
19 that point in time contemplated the condition of the pipeline to
20 the extent that you have said here today whereas you needed
21 that camera footage?

22 A. Yeah I—it was, it was always part of the discussion. I think we
23 had the first push rod camera on site by about half past 7.00,
24 right? It was always the intention to be able to gather as much
25 information as we could have about the pipeline to inform an
26 effective rescue plan.

27 Q. And the incident happening at 2.00—2.00—

1 A. Quarter to 3.00.

2 Q. Quarter to—no, it's 2.00—

3 A. Fourteen forty-five is what I believe.

4 Q. Okay. The incident happening around that time—

5 A. Yeah.

6 Q. —er, when was the first time the personnel with camera, the
7 equipment on camera contacted? Could you tell?

8 A. Almost, almost, almost immediately. Just a—maybe within the
9 first hour, hour and a half of the, of the incident I believe that
10 we contacted PIPS I believe was the company to supply, um,
11 the push rod camera.

12 Q. And—

13 **Examination By Mr. Chairman:**

14 Q. Before or post Boodram? Sorry it was my show of hands.
15 Before Mr. Boodram emerged from the pipe or after Mr.
16 Boodram emerged from the pipe? Just so you have a timeline
17 in your mind—

18 A. Yeah, yeah.

19 Q. —2.45 approximately—

20 A. Two forty-five—

21 Q. —when the incident first happened.

22 A. —3.45, 4.45.

23 Q. Mr. Boodram didn't come out from the pipe until about 5.30.

24 A. Yeah.

25 Q. Your log—

26 A. Yeah.

27 Q. —is available.

1 A. Right.

2 Q. I'm not sure it helps particularly but—

3 A. Yes, yes, the log had the time that the camera arrived which
4 was 1930 which was 7.30, right?

5 Q. Yeah, um—

6 A. Seven thirty, 6.30, 5.30, I'll probably say maybe two hours
7 before the camera would have arrived that we would have made
8 that request reasonably thinking. Nineteen thirty is when the
9 camera arrived, right?

10 Q. Well at 1930—your log shows it's at page one five seven three,
11 which is the supplemental core bundle, ICT bundle Volume II.
12 One five seven three. And you can see there at 1937—

13 A. Right.

14 Q. —ROV Subsea Sevens boat with two ROVs was leaving
15 Chaguaramas, I've probably said that completely wrong, but
16 anyway Chaguaramas and can arrive on site in two hours. Is
17 that what you're referring to?

18 A. Just now, eh, hold on. Hold on. [*Pause*] Line crawlers
19 cameras on site and [*Inaudible*] 1937—

20 Q. Sorry, you've got to speak into the microphone.

21 A. I'm sorry. I'm sorry.

22 Q. Yeah, that's all right.

23 A. Nineteen thirty-seven, right?

24 Q. Nineteen thirty-seven, yeah.

25 A. Right. Line crawlers cameras already on site and deployed.

26 Q. Yeah?

27 A. All right? So I have the time that it was deployed so I am

1 making a judgment or giving a judgment that I feel that that
2 would have been ordered about two hours before it was actually
3 deployed. So that would be half past 6.00, half past 5.00 was
4 probably when that call was made to have the cameras on site.

5 Q. All right.

6 A. To have it mobilized and deployed would take about two hours.

7 Q. After Mr. Boodram came out of the pipe?

8 A. Mr. Boodram came out of the pipe at 1736, so somewhere just
9 around that time—

10 Q. Five, 5.30ish?

11 A. Yeah, some, something around—somewhere around that time.

12 Q. So it's after Mr. Boodram came out of the pipe that you made a
13 request for cameras?

14 A. If I—probably it will line up with something like that, yes.
15 Based on—and this is just, as I say, my back calculation, eh? It
16 would be—I could get the actual data.

17 Q. Yeah, well I've asked you to do a little exercise.

18 A. Yeah, yeah, so I'll do that exercise, right?

19 Q. I mean, you're going through it and I'm grateful for it.

20 A. So this is just my assessment. I could be wrong.

21 **Mr. Chairman:** There you go, Ms. Persaud Maraj.

22 **Mrs. Persaud Maraj:** Moving on.

23 **Continued Cross-Examination By Mrs. Persaud Maraj:**

24 Q. I'd like to ask you about the camera that was sent in at around
25 midnight—

26 A. All right.

27 Q. —and thereafter. You recall from the top of your head how far

1 into the horizontal it had—

2 A. From the top of my head I, I think it's—

3 Q. It's over a hundred feet?

4 A. I think it's probably, yeah, maybe over a hundred feet, yeah.

5 Q. All right. I'd like to take you to the transcript of Mr. Collin
6 Piper.

7 A. Okay.

8 Q. Yes? Because he gave an explanation before the Commission
9 at page 99 of the transcript of Mr. Piper, where he speaks about
10 the crawler. Right. So, he says here in relation to cross-
11 examination by Senior, he said:

12 "The crawler was put down?

13 Yes, Sir 220 feet into the pipe.

14 With tanks and plugs from berth 6 side yellow, round
15 white. You see that?

16 Yes, yes, yes, Sir."

17 And he goes on to where he was explaining that. Right.

18 "So what actually happened is this. As they were
19 feeding—and they were feeding it apparently they had
20 some rotation on and they were feeding it, they actually
21 did not go 220 feet. The hose, the line, the connection
22 was actually turning on itself. So the crawler didn't
23 actually go in 220 feet. That is my understanding."

24 A. If it's in Collin's statement Collin would be the best, the best
25 person to provide that information.

26 Q. All right. But my question to you is—

27 A. Uh-huh.

1 Q. —was there a calibration certificate from—in relation or
2 whatever may be the certificate in relation to the equipment that
3 was used, the crawler that was used, that Paria, um, received?

4 A. I'm sorry I don't have that level of detail. I can't, I can't
5 answer that question.

6 Q. So you won't be able to say what the—

7 A. No, no, no, no. It's something we could check but I can't
8 answer that off my memory or my recollection now.

9 Q. You would appreciate that the machinery, the equipment that
10 you're using must be able to give you proper information?

11 A. And I, I agree with—I wouldn't argue with that.

12 Q. Right, okay. I would like to take you to Mr. Collin's, um—
13 right on Mr. Collin's transcript at page 100. This is where he
14 was referred to by Senior once again to page 1544 of the ICT
15 record and we can go to the record itself. So there is a little
16 mark there if you can see it on screen?

17 A. Uh-huh.

18 Q. And it speaks to business continuity.

19 A. Right.

20 Q. You see that?

21 A. Yeah.

22 Q. Two twenty-two p.m.—2.30 p.m., sorry. And it says recovery
23 not rescued. Under, directly under. Do you see that?

24 A. 2.30 p.m. That's Collin's, that's Collin's, that's not—that's
25 Collin's statement, Collin's—

26 Q. No, no so this is the ICT record—

27 A. Uh-huh.

1 Q. —that was produced by Paria.

2 A. Uh-huh.

3 Q. And these are notes I wouldn't be able to tell, you should say or
4 you may be able to say who is the author of these notes.
5 They're supposed to be contemporaneous notes. Would that be
6 correct?

7 A. That's 2.30 p.m. on which day though?

8 Q. Again, I wouldn't be able to assist you. You need to assist us.

9 A. Look, I wouldn't.

10 **Mr. Chairman:** Right, that's not Friday so it's either Saturday
11 or Sunday.

12 **Mr. Mohammed:** Si it has to be Saturday—yeah.

13 **Mrs. Persaud Maraj:** Yeah.

14 **Continued Cross-Examination By Mrs. Persaud Maraj:**

15 Q. But in relation questioning in relation to this aspect—

16 A. A huh.

17 Q. —what Mr. Piper's responses were to Senior was that this is not
18 in respect of berth 6. This was continuity of work elsewhere.

19 A. I, like I lost. Forgive me. I, I—

20 Q. The word business continuity, yeah? We're looking at that
21 notation and trying to make sense and have an understanding of
22 it.

23 A. Business continuity.

24 Q. Right.

25 A. I mean, I probably would offer an explanation but I don't want
26 to go off what Collin was—

27 Q. Well that's fair.

1 A. —intending that to mean.

2 Q. You can give us an explanation to that if you may if you have
3 that knowledge to offer?

4 **Mr. Chairman:** If you can.

5 **Mr. Mohammed:** If I—

6 **Mr. Chairman:** If you can.

7 **Mr. Mohammed:** I would give you what my understanding is
8 rather than my explanation, right? My understanding is that
9 we, we would have had—Paria is, Paria is in the business of
10 keeping the country fuelled, right? That's, that's what we do.
11 And my understanding of something like business continuity
12 would be if there were, if there were—and I can't see how this
13 is part of Collin's statement because the business continuity
14 side was assigned to our commercial manager to be able to
15 ensure that we keep product coming in and we're able to keep
16 the country fuelled during the period of the incident, so, I mean
17 that's the only explanation. I have nothing else to offer on this
18 particular statement.

19 **Mrs. Persaud Maraj:** All right, that's fair.

20 **Continued Cross-Examination By Mrs. Persaud Maraj:**

21 Q. On Saturday—

22 A. Yeah.

23 Q. —the 26th of February, 2022—

24 A. All right.

25 Q. —could you just remind us of the time that you came onto
26 Paria's compound?

27 A. Saturday?

1 Q. Saturday 26th?

2 A. Probably sometime early in the morning between 7.00 and 8.00.

3 On Saturday morning right?

4 Q. Yes?

5 A. Saturday morning, the 26th, yeah.

6 Q. The evidence of Kazim Ali Sr.—

7 A. Right.

8 Q. —is that he was in front of Paria—

9 A. Uh-huh.

10 Q. —to gain entrance—

11 A. Uh-huh.

12 Q. —on to the shipping for the purposes of physically being
13 present for a meeting in relation to rescue efforts.

14 A. Uh-huh.

15 Q. Yeah. Were you aware of that?

16 A. I'm not, I'm not aware of Mr. Kazim Ali's evidence statement.

17 Q. You may not be aware of his statement but were you aware of
18 the fact that he was at the premises from about 6.00 a.m.
19 awaiting entry?

20 A. I don't know exactly when Mr. Kazim Ali came on Saturday
21 morning. I don't know exactly when Mr. Kazim Ali came on
22 Saturday morning.

23 Q. You were aware that he was on the compound that day?

24 A. But I saw him, I saw him when—shortly after I got there or
25 when I got there, I know I passed Mr. Kazim Ali on Saturday
26 morning. From what time he was there, I don't know.

27 Q. All right. And you're aware that he requested a meeting with

1 you?

2 A. On Saturday morning?

3 Q. On Saturday?

4 A. No.

5 Q. You're aware that he had and in fact had a meeting with Ms.
6 Catherine Balkissoon?

7 A. As I said I'm not aware of Kazim's statement but I know no
8 request—

9 Q. No I'm not asking about you about the statement now. I'm just
10 asking you if you're aware of the fact that he had a meeting
11 with Ms. Catherine Balkissoon on Saturday.

12 A. Yeah, I think I could vaguely remember that Catherine
13 mentioned that they had a discussion on Saturday morning.

14 Q. All right. And were you aware that the purpose of that meeting
15 was in relation to rescue efforts for these four workers?

16 A. I don't know what was the context of the meeting.

17 Q. So the context and the contents of that meeting was never
18 conveyed to you? Is that what you're saying?

19 A. Let me ask this simple question, right?

20 Q. I'm sorry, Sir.

21 A. So, I keep on hearing about this plan and there is nothing that,
22 that I have or have seen or has been presented to the committee
23 or the COE about this plan. Where, where, where is, where
24 is—so, Mr. Kazim Ali went home on Friday night, he came
25 back on Saturday morning with a plan to say Catherine we
26 should do this, that, or here is it, we've thought it out and this—
27 where is that? Where is that?

1 Q. You're asking—

2 A. That's, that's, that's that's—

3 Q. You're asking me a question in relation to—

4 A. Yeah, I am trying—

5 Q. —the integrity of the plan that LMCS—

6 A. I am trying—I am trying to—

7 Q. —would have had?

8 **Mr. Chairman:** All right.

9 **Mr. Mohammed:** I'm trying to understand where—

10 **Examination By Mr. Chairman:**

11 Q. I understand what you're saying. You've seen no plan?

12 A. No.

13 Q. It's not been presented to you?

14 A. No.

15 Q. That's your position. That's what you've said—

16 A. That is my position.

17 Q. —to Mr. Maharaj earlier on.

18 **Continued Cross-Examination By Mrs. Persaud Maraj:**

19 Q. And, and, perhaps, but, would you not agree that it was part and
20 parcel of your responsibility to be able to question whatever
21 plans and mutters that you—however you put them and
22 however you think it to be from the contractor that was present
23 at site from the time of the incident?

24 A. I would have tested whatever plans that would have come to me
25 through the ITC through the ICT, through the incident
26 command team. They, they—the incident command team is the
27 team that is in control of evaluating, testing, you know, and,

1 and I would say almost to the point where the ICT would
2 approve plans and would test with me. I, I wouldn't be in a
3 position to be going above the ICT to test plans specifically
4 with anybody who bought a plan. So the information that
5 would have come to me would have come through the ICT.

6 Q. Well I'm not asking you about the testing of a plan. I'm asking
7 about the fact that whatever you call them, if you don't want to
8 say that they're plans that's fine you can say they're not plans
9 they're mutters or they're simple whatever you would like to
10 call them, whatever the category whatever is the terminology
11 you wish to have, right? Would you accept that part and parcel
12 of the responsibility of the IMT, right, would have been to
13 investigate those mutters and utterances and plans that the
14 personnel would have formulated on site, competent personnel?

15 A. Look, those—any, any, any, any plans or any discussion of
16 plans for rescue that came through the IMT would have, Collin
17 would have probably discussed those with myself and there
18 were—there was no plan that came to the ICT or to myself that
19 gave us the confidence—

20 **Mr. Chairman:** Right, well, we're not getting any further.

21 **Mr. Mohammed:** And I, and I think I covered that already.

22 **Mr. Chairman:** Okay, I'm going to ask you to stop because,
23 um, we've been through this. You've been asked if there was a
24 plan. You told us there wasn't any plan.

25 **Continued Cross-Examination By Mrs. Persaud Maraj:**

26 A. Yeah.

27 Q. You've told us that you did not contact anybody from, er, er,

1 that we—at on the site LMCS?

2 A. Yeah.

3 Q. You've told us that you didn't pursue any particular plan with
4 Mr. Beddoe or anyone else. You've made that clear. The
5 witness its quite clear about it. He says he was never presented
6 with any kind of plan.

7 **Mrs. Persaud Maraj:** Certainly.

8 **Mr. Chairman:** The most he got was some mutterings as he
9 put it.

10 **Mrs. Persaud Maraj:** As he puts it.

11 **Mr. Chairman:** That's, that's what you—and that's what
12 you're saying, isn't it?

13 **Mr. Mohammed:** Yeah.

14 **Mr. Chairman:** Yeah, all right. That's where he is, so, I don't
15 think asking him the same question again bearing in mind we're
16 about quarter to 7.00 in the evening.

17 **Mrs. Persaud Maraj:** I accept same. It seems that brings me
18 to the end of my questioning, please. I don't believe I have any
19 other thing.

20 **Mr. Chairman:** So you can now, um—it's very late I made
21 clear that I would let this witness be concluded today. I don't
22 know what you've got—

23 **Mr. Peterson SC:** We'll be able to do that, Sir. I have—

24 **Mr. Chairman:** Now, I have all of four questions, it may be
25 three.

26 **Mr. Chairman:** Please proceed.

27 **Mr. Peterson SC:** Thank you, Sir.

1 **Examination By Mr. Peterson SC:**

2 Q. Mr. Mohammed, good after—good night. The, um—
3 [Laughter] The evidence before this Commission is that, um,
4 LMCS personnel, that's the evidence, had been uncooperative
5 when—at berth 6 when Mrs. Balkissoon was seeking to
6 communicate with them. Did that come to your attention?

7 A. Yes.

8 Q. All right. And if so, when?

9 A. It came—so, it came to my attention early in the night
10 somewhere I would say between 6.30, 7.30.

11 Q. Yes. Uncooperative was the description in the evidence.

12 A. Yes.

13 Q. All right. Secondly, in your testimony early this morning, you
14 said this, or words to the effect, that it was Paria's responsibility
15 to clear the line, to clear the line sufficiently to create an area
16 for the working on the pipe. Based on the evidence in this
17 Enquiry, is that an error? Is that an area of your evidence you
18 maintain that it was Paria's responsibility to blow out, to blow
19 down the line or clear the line?

20 **Mr. Peterson SC:** Mr. Chairman, you could—to help the
21 witness if we could go to page 000659 of the core bundle? That
22 sets out the responsibilities

23 **Mr. Chairman:** What is the document we're looking at? I
24 don't recognize that.

25 **Mr. Peterson SC:** The method statement in the—

26 **Mr. Chairman:** Right.

27 **Mr. Peterson SC:**—core bundle page six five nine.

1 **Mr. Mohammed:** You could put it up on the screen?

2 **Mr. Peterson SC:** Or another option is Addendum I page five
3 nine eight?

4 **Mr. Chairman:** Six five nine is fine and that's the procedure
5 for the removal of the line content between berths 5 and 6.

6 **Mr. Peterson SC:** Yes.

7 **Mr. Chairman:** That's the paragraph you're referring to, isn't
8 it?

9 **Mr. Peterson SC:** Yes.

10 **Mr. Chairman:** Do you see that, Mr. Mohammed?

11 **Mr. Mohammed:** Yes. Yes. And this is the contract between
12 LMCS and Paria.

13 **Mr. Chairman:** Yes.

14 **Mr. Peterson SC:** Yes.

15 **Continued Examination By Mr. Peterson SC:**

16 Q. So, whose responsibility it was to clear the line—

17 A. Yes.

18 Q. —of the contents?

19 A. Well then, well then it would be—if it is written in the contract
20 then the contractor would have the responsibility.

21 **Mr. Chairman:** It's uncontroversial that it was your
22 responsibility.

23 **Mr. Mohammed:** It was on the contract.

24 **Mr. Peterson SC:** Yes. And another reference to the record,
25 Mr. Chairman, is Addendum I, page five nine eight in response
26 to the query, the question by LMCS as to who.

27 **Mr. Chairman:** In the Addendum we referred to earlier?

1 **Mr. Peterson SC:** Yes. So that's clear. And finally, I wish to
2 just refer to the supplemental bundle page 3158 to 3159.

3 **Mr. Chairman:** Supplemental core bundle? What's the
4 document?

5 **Mr. Peterson SC:** It's with respect to the NDA. [*Crosstalk*]
6 Supplemental witness statement bundle, Sir, page 3158.

7 **Mr. Chairman:** I'm going to look at it on the screen and make
8 a note. Yes. Now I see it, I recognize it.

9 **Continued Examination By Mr. Peterson SC:**

10 Q. You were being asked earlier by Mr. Shah, Hosein-Shah, with
11 respect to the—only calling on Mr. Fuentes to sign a NDA and
12 the spirit of that question came over as if Paria was seeking to
13 suppress some evidence by requesting Mr. Fuentes to sign an
14 NDA which is a non-disclosed or non-disclosable agreement.

15 A. Yes.

16 Q. Could you look at 3160? Could you—3160? And it's an email
17 from Ms. Joanne Sinanansingh from Paria to Mr. Yearwood,
18 Mr. Paul Yearwood—

19 A. Yeah.

20 Q. —and it says this:

21 “Dear Paul, following your confirmation that LMCS
22 Limited granted permission to Paria to disclose their
23 information, please see attached NDA prepared for Mr.
24 Krishna Fuentes.”

25 A. Right.

26 Q. Do you understand this and its clear language—

27 A. Yes.

1 Q. —to be that Paria was requesting Mr. Fuentes to sign a non-
2 disclosed agreement because they were handing over—

3 A. Information.

4 Q. —information from LMCS—

5 A. Yes.

6 Q. —that was entrusted to Paria?

7 A. Yes.

8 Q. Not that Paria was trying to suppress—

9 A. Yes.

10 Q. —anything? Do you understand that and you agree with that—
11 my interpretation of that email?

12 A. Yes.

13 Q. Yes. I know it has been a long day.

14 **Mr. Peterson SC:** Thank you, Mr. Chairman. That's it.

15 **Mr. Chairman:** Thank you for your brevity.

16 **Mr. Peterson SC:** Yes, Mr. Chairman.

17 **Mr. Chairman:** I think Mr. Wilson has two questions. And
18 you have three so we'll let Mr. Wilson go first and then, um, I
19 don't know, you might cover one—

20 **Mr. Peterson SC:** My four were, in fact four, eh.

21 **Examination By Commissioner Wilson:**

22 Q. Mr. Mohammed, I'd be asking you two questions. I'm going to
23 try to be brief. Throughout the course of the day I've heard you
24 reference industry practice and stuff, and, based on that I
25 recognize that you hold an absolute position on the cause and/or
26 the responsibility for this unfortunate incident citing several
27 industry practices or best practices and stuff. Given that, can

1 you alert me to the root cause analysis methodology in industry
2 that you employed to come to that conclusion and/or any team
3 that put in a report to you?

4 A. The, er, er—sorry, sorry, the—if you go back to the incident
5 report I think the method used is on the incident report that was
6 done on the incident. I can't, I can't recall it now but we would
7 either use five whys or tap root or one of those methodologies.

8 Q. Uh-huh.

9 A. I, I don't have exactly in my mind what was the specific tool
10 used—

11 Q. No problem.

12 A. —in that report.

13 Q. And why I brought that up was, of course, because of the
14 findings and the recommendations of the report, it's a lil
15 lacklustre if you will, using a quality type root cause analysis
16 because I found that you, you know, you have some very tight
17 positions of which you're holding so I was kind a interested in
18 that.

19 A. Yes.

20 Q. So, wouldn't spend time on that. The second thing we spoke
21 about the track record in the procurement process.

22 A. The track record of the contractor?

23 Q. The contractor, track record of the contractor. So I wanted to
24 find out the track record being considered in the procurement
25 process if—let me back it up, sorry. Are you aware of an
26 incident that happened in Paria as it related to the contractor
27 five months previous where there was someone injured?

1 A. Yes.

2 Q. And OSHA, um—

3 A. Yes.

4 Q. Right. How is the weighting on safety culture or HSEQ—

5 A. Right.

6 Q. —in the procurement process given that there was a prohibition
7 put by a body just five months prior?

8 A. This, this, if I recollect, this contract was awarded before that
9 incident.

10 Q. Okay.

11 A. Right? It was awarded before the incident. The impact was
12 [Inaudible]—

13 Q. Yes.

14 A. —and we have made several changes coming out of the
15 prohibition notice and the request by the OSH. I think that's
16 submitted as evidence.

17 Q. Okay, thank you for that. I'll take that. But how much
18 weighting is based on safety culture and HSEQ?

19 A. So we have modified our procurement process that—

20 Q. Before the modification, how much weighting was put on the
21 culture—

22 A. Before the, before the modifications? I would say it would
23 always have weighting and the weighting would be heavy and
24 as the procurement process one of the things that we used was
25 the STOW verification for contractor because if you have
26 serious incidents then you could debarred—

27 Q. Yes.

1 A. —from being a member of STOW, right.

2 Q. Yes.

3 A. So we used the STOW accreditation, if I want to call it that.

4 Q. Which is a minimum standard.

5 A. Which is minimum standard, right. Since that now we have
6 moved on and said, look, you need to provide us with three as a
7 history.

8 Q. Yes, so I'm not on the—where you moved on.

9 A. Right. So that was what was used at the time of the—

10 Q. Yeah.

11 A. —of the incident to ensure the component of those safety
12 culture, high risk work, we thought STOW was an independent
13 verification of the contractor's safety culture and their
14 performance.

15 Q. But since you have an awareness of STOW and that
16 membership could be rescinded—

17 A. Yeah.

18 Q. —although the contractor was awarded—

19 A. Yeah.

20 Q. —prior to the incident—

21 A. Yeah.

22 Q. —you couldn't go back as an organization and revisit—

23 A. Yeah.

24 Q. —since, since that?

25 A. We, we could have gone back and revisited and this would
26 always be a question in my mind, right?

27 Q. Uh-huh.

1 A. We choose to work with the contractor.

2 Q. Right, fair enough.

3 A. We choose to work with the contractor and, I mean, that
4 evidence is not coming out here. The contractor is not saying it
5 but I personally spent a huge amount of time—

6 Q. No problem.

7 A. —working with that contractor around their safety
8 performance.

9 Q. And I hope I'm phrasing this question correctly but in listening
10 to all the enquiries—

11 A. Yes.

12 Q. —I didn't really hear anything that came out powerfully around
13 the commercials, so I'd ask the question directly. Was LMCS
14 the lowest bidder?

15 A. No well we didn't open the—once LMCS—once there were no
16 other technically compliant bidders—

17 Q. Uh-huh.

18 A. —the only commercials we would have opened would have
19 been LMCS.

20 Q. What determined technically compliant especially if you didn't
21 have the competence to determine that?

22 A. Based, based—look, based—whether we had the competence,
23 based on what we had at lined as the thing that would measure
24 were technical competence and the way that was assessed by
25 the technical team, if no, if no other company was able to cross
26 the technical hurdle, then we wouldn't look at, at the prices of
27 the other contractors.

1 Q. Yes. So—

2 A. Whether was—whether LMCS was—what was important for
3 the job was the competence not so much the price.

4 Q. Uh-huh. So I hope I'm not beating a dead horse here but, um,
5 since that you're on the committee—

6 A. Yeah.

7 Q. —what were the technical components that were you all were
8 looking at that just said LMCS you are the guys?

9 A. Right. So—all right. So, I mean, we had a debate on this on
10 the committee. Right? The main thing was they had done the
11 job before, they have a track record, they know the
12 infrastructure. LMCS has been working with Paria/Petrotrin for
13 a very long time. All right? And we would have expected that
14 they would have experience, understand the infrastructure, how
15 the infrastructure work. Remember this is a line that has been
16 dormant for a very long time, all right, so one, one of the
17 advantage was that they knew the systems, they knew the
18 pipelines, they worked on the pipeline before, right?

19 Q. Okay. All right, I'll take it as—because you—

20 A. Yes.

21 Q. —they had them as one, um—

22 A. Yeah.

23 Q. —one technical bidder, but I just want to go one more question.

24 A. Yeah.

25 Q. I heard also heard you mention ICS, incident command system.

26 A. Yeah.

27 Q. And under the inquiry by Mr. Ramadhar I know he asked you

1 how you team performed and stuff.

2 A. Yeah.

3 Q. But I'm not even going to ask you the question because what
4 I'm—my opinion from my experience with the ICS system, I
5 haven't seen the components of an ICS as ICS advertise really
6 executed, and where I want to go with that is, under your roles
7 and responsibilities of HSEQ—

8 A. Right.

9 Q. —and more into the events of Saturday morning, Mr. Piper
10 your incident commander—

11 A. Yes.

12 Q. —well, I'm, I'm getting from your testimony today you worked
13 closely with—

14 A. Yes.

15 Q. —during the incident, he left the command centre at about 0300
16 in the morning?

17 A. Yes.

18 Q. Your onsite commander, Catherine Balkissoon who Mr. Piper
19 indicated that was your OP section chief, I don't know how that
20 works under the ICS, left at 0600 Saturday morning and I was
21 unable to get from Mr. Piper powerfully—

22 A. Uh-huh.

23 Q. —any sort of handovers when—and you yourself departed
24 about 5.00 and came back at about 0700.

25 A. Yes.

26 Q. What I'm not getting powerfully coming out of this from 0300
27 to 0600, because I don't view you as a member of the ICT—

1 A. Good.

2 Q. —um, how was the incident being managed past that? Was it
3 that there was a mentality that we no longer have to manage the
4 incident?

5 A. The, the, the handover, the handover for incident commander
6 was done with Mr. Michael Wei on, on Saturday morning. Mr.
7 Michael Wei continued to hold the incident command role
8 while Collin Piper was out.

9 Q. According to Mr. Wei he was the logistics section chief.

10 A. He, he—that—when—so he, when Collin left, right this is my
11 recollection and understanding—

12 Q. Uh-huh.

13 A. —Collin would have passed the incident command role to
14 Michael Wei. Michael Wei would have passed the logistics
15 section chief to Mr. Prakash, um—

16 Q. No problem.

17 A. Right. I just said just the names kind a slipped with me a lil bit
18 but there was, there was—that was a discussion we had before
19 we left on Saturday morning, that we needed to rest and we
20 needed to get people who would hold that position—

21 Q. Uh-huh.

22 A. —until we returned to the, to the command centre.

23 Q. And under the ICS this handover was done using the ICS
24 forms?

25 A. It was done using the ICS forms in a verbal discussion on the
26 handover, so we had the ICS forms. These were the targets that
27 we were aiming for today. This is the equipment that we need.

1 Where we were with each objective and where the equipment
2 was and what the continuing action would be.

3 Q. But was it on a handover form?

4 A. It wasn't on a, it wasn't on a handover form.

5 Q. So it—again it didn't really function like an ICS then?

6 A. It was on the—the forms that we were continuing to fill out.

7 Q. And I'd end it here, so by the time you had your onsite
8 commander or your OPS section chief, whoever Ms.
9 Balkissoon was—

10 A. Yeah.

11 Q. —how was the site being managed for continual and/or a
12 protracted response?

13 A. Yeah, there would, there would have been a handover with
14 somebody as—on site commander of section chief.

15 Q. Okay.

16 A. Right? Who that person name is now I can't recall but there's
17 that—that—I know that the handovers went from one person to
18 the next and said, look, this is the team that we're going to
19 leave in place while we just get cleaned up and come back to
20 work.

21 Q. Well, well thus fast far at the Commission we can't see anyone
22 past 0600, so I'd end it here. What sort of activities, not the
23 handover—

24 A. Yes.

25 Q. —but once the handover was done—

26 A. Right.

27 Q. —what sort of activities were being carried out ensuring the

1 continuous—

2 A. The activities at that time was really around the dry, the dry, the
3 dry rescue option.

4 Q. Okay?.

5 A. Right? And we were mobilizing pumps, making decisions
6 around removing the hyperbaric chamber and things like that
7 during that period of time. So if you look through the log you
8 would see when the pumps arrived on site.

9 Q. Yes, I saw that, thank you.

10 **Commissioner Wilson:** Okay, thank you.

11 **Mr. Mohammed:** Okay.

12 **Mr. Maharaj SC:** Mr. Chairman, I'd be very quick. I just
13 want to point out to the witness and ask him about the
14 competent person.

15 **Further Examination By Mr. Maharaj SC:**

16 Q. If you look at 6.2 at page 33 of core bundle one under the
17 heading "Authorization Certification of PTW Signatories" you
18 would see that nominees for the position of a competent person
19 as submitted by the line manager of Paria.

20 A. Yeah.

21 Q. And there's a training course.

22 A. Yeah.

23 Q. Are you with me 6.2 page 33?

24 A. Just now, huh. Page 34.

25 Q. It's core bundle one. Page 33.

26 A. Yeah, yeah I'm getting there. I'm getting there. Page 33. I'm
27 on page—

1 Q. I think you're looking at the wrong bundle.

2 A. This is Volume II.

3 Q. It's core bundle—

4 **Mr. Chairman:** Could he look at it on the screen just so that
5 we move along.

6 **Mr. Mohammed:** Yeah, go ahead, go ahead. I'd look at it on
7 the screen. Yeah.

8 **Mr. Chairman:** Just for, just for this short part perhaps.

9 **Continued Further Examination By Mr. Maharaj SC:**

10 Q. Six point two?

11 A. Uh-huh.

12 Q. Read it. You see it?

13 A. Nominees for the role of applicant?

14 Q. Yes.

15 **Mr. Chairman:** Bring the microphone in front of you.

16 A. "Nominees for the role of applicant?"

17 Q. Yes.

18 A. "Competent person, site authority, area authority may be
19 submitted—

20 Q. By the—

21 A. —right. Training may be arranged and conducted for—that's,
22 that's the part you're referring to?

23 Q. Yes, yes.

24 A. Yes.

25 Q. So the, so the competent person—

26 A. Yeah.

27 Q. —is submitted—those nominees are submitted by this

1 department, the line manager—

2 A. Yes.

3 Q. —and they will have to undergo a training?

4 A. Yes.

5 Q. So—

6 A. My understanding of that training is—and Mr. Randy Archbald
7 will probably bring a lot more clarity to this. That would be
8 training in the use of the permit to work system and all the
9 processes—

10 Q. Yes, and it would be a Paria person?

11 A. Who is getting the training?

12 Q. Yes.

13 A. Well it would be both Paria person and the contractors as well.
14 Remember we take everybody through—

15 Q. No, no Mr. Mohammed.

16 A. I'm misunderstanding something?

17 Q. If you look down below, contractor official, there's a different
18 rule for contractor official to be trained?

19 A. But they our all trained in the permit to work system, right?

20 Q. Yes, but one is a contractor official who becomes a—

21 A. Right.

22 Q. —a, a competent person, but you have to go through a training.

23 A. Yes.

24 Q. LMCS didn't go through any training to become a competent
25 person and to get a certificate. Anyhow, can I take you also to
26 5.4?

27 A. Five point four.

1 Q. Page 31.

2 A. Yeah.

3 Q. “The area authority is a facility owner who audits the
4 precautions conditions laid out in the safety certificate by
5 the competent person to ensure that they are adequate for
6 job taking into consideration simultaneous activities on
7 the facility.”

8 So would you not agree that this shows that the competent
9 person is trained and is a Paria individual?

10 A. The area authority is the facility who audits
11 precautions/conditions laid out in the safety certificate by the
12 competent person to ensure that they are adequate for the job,
13 taking into consideration for permits—

14 Q. Because the area authority is Paria?

15 A. Yeah, the area authority is Paria, yes.

16 Q. Okay, can I also point you to—in respect of the answer to Mr.
17 Pegus—

18 A. Uh-huh.

19 Q. —you gave the impression that these permit to work rules are
20 like guidelines. Can you take you to 5.0 at page 28? And if
21 you look at the second paragraph, “Before the work can be
22 started, all the requirements—

23 A. Yes.

24 Q. —of the permit to work system—

25 A. Yes.

26 Q. —must be followed.”

27 A. Yes.

1 Q. So they're mandatory requirements?

2 A. Yes but not, but not contractual requirements.

3 Q. Yes, we know it's not contractual requirements.

4 A. Right. Yes.

5 Q. But anyhow, but under the, under the, under the, um—at page
6 557, under the contractor obligations—

7 A. All right, it had to come by the permit to work system, right?

8 Q. Sorry?

9 A. No, go ahead. Sorry, my mistake.

10 Q. Right. Let—no, you just answered about not contractual
11 requirements, right?

12 A. Yes.

13 Q. But under the—under the—look at witness bundle Volume II
14 page five five seven under the contractor's responsibility—

15 A. Uh-huh.

16 Q. —at 5.12, “to maintain permits to execute the entire job the
17 contractor shall become familiar and conform to Paria's permit
18 to work procedure—

19 A. Yes.

20 Q. —at his own expense, any limitations, provisions”, so the
21 contract require the contractor require the contractor to conform
22 to the permit to work rules, not so?

23 A. [*Nodding*]

24 Q. I have no further questions.

25 A. Yeah, all right, good. Thanks.

26 **Examination By Mr. Chairman:**

27 Q. I think we can safely say it's not part of the contract

1 itself.

2 A. Correct.

3 Q. But, in order to—

4 A. You have to follow the rules of the permit to work.

5 Q. In order to get, win the contract in the first place you have to
6 agree—

7 A. Correct.

8 Q. —to comply with the procedures?

9 A. All right, yes.

10 Q. All right. Fine.

11 **Mr. Chairman:** Well, look, I want to express my gratitude,
12 and I know Mr. Wilson's, for your fortitude this evening.
13 Thank you. We are now past seven o'clock. I shall not be so
14 rash as to, um, suggest that we all sit regardless next time. I
15 hope no one felt disadvantaged. If they do please let me know.

16 I want to thank you also, if I may, Mr. Mohammed, for
17 being with us all day. It's not easy, I'm sure, but I'm grateful
18 for that. Unfortunately we're starting at nine o'clock tomorrow
19 morning because we've got quite a lot to get through. I think
20 the quid pro quo is I expect us to finish around lunchtime on
21 Friday so I hope that that will meet people's natural inclination
22 not to be here by 9.00 but that's what we're going to do, nine
23 o'clock tomorrow, please, when I think we'll hear from Mr.
24 Archbald first of all. [*Crosstalk*] Yearwood sorry, not
25 Archbald. Mr. Yearwood, yes.

26 Thank you very much indeed. That's the business for
27 today. Please don't wait on me. I've got to collect up my

1 papers and sort them out, so thanks much. Thanks again, Mr.
2 Mohammed. You're free to go.

3 **7.12 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 12**

2 **9.03 a.m.:** *Enquiry* Commenced.

3 **Mr. Chairman:** Good morning, everybody. So we had a
4 small issue this morning with electricity and water. I see we
5 now have the electrics back, but I'm afraid that the air-
6 conditioning hasn't quite kicked in yet. If it becomes stifling,
7 we'll see what can be done. I'm told that it's being sorted, so
8 hopefully the sooner, the better.

9 Can I raise two matters I mentioned yesterday, just so
10 that we are clear what's going to happen in the future. First of
11 all, Mr. Peterson, are you able to give me some sort of
12 assurance about the date upon which the hyperbaric chamber is
13 going to come out of the water? You'd appreciate that the week
14 that I've earmarked for the two days that we might need is a
15 week in which there is a great demand on services in this
16 country, certainly in Port of Spain, because of the reasons you
17 identified yesterday.

18 So I'm reluctant to put the country to expense and/or
19 myself out of having to leave wherever it is I happen to be to
20 come here if that is simply not going to happen. So I'd like—
21 I'm not asking you for the reassurance now, but for some point
22 to reassure us, please, that that is what's going to happen. At
23 the moment, we've got tentative bookings made, but I'd be
24 grateful if by, perhaps, tomorrow, you can let me know what
25 has or has not—

26 **Mr. Peterson SC:** By the break we should be able to confirm
27 it, Sir, because the contractor had reconfirmed, because we

1 were trying to get him to do it earlier.

2 **Mr. Chairman:** Right. Now, I understand that. I'd be
3 grateful for that. Thank you very much. The second thing is
4 this: Can I have from everybody, please—I see Mr. Ramadhar
5 is not here at the moment, but I'd like some sort of estimate of
6 how long you think you are going to take. How much time you
7 would like, should I say, to address this Commission on
8 Wednesday, Thursday, and Friday of next week. So can you
9 please—as I say, Mr. Ramadhar is not here but his assistant is.
10 Are you Mr. Roopnarine?

11 **Mr. Trebouhansingh:** Pleasant good morning, Mr. Chairman.
12 My name is Ved Trebouhansingh.

13 **Mr. Chairman:** Right, okay. And are you able to help me?

14 **Mr. Trebouhansingh:** Yes, please, if I may. Based on Mr.
15 Ramadhar's estimation, perhaps around one hour or less,
16 hopefully, for closing would be sufficient.

17 **Mr. Chairman:** Thank you. Who else? Mr. Pegus?

18 **Mr. Pegus:** Good morning, Mr. Chairman. My issues are very
19 narrow issues, so I don't think that it would exceed 25 minutes,
20 half an hour.

21 **Mr. Chairman:** Half an hour. Thank you very much. Who is
22 going to address me from the Seamen Workers' Waterfront
23 Trade Union? Will it be you, Ms. Alfonso?

24 **Ms. Alfonso:** Yes. Good morning, Chairman. Yes, indeed.

25 **Mr. Chairman:** Right. How long do you anticipate?

26 **Ms. Alfonso:** I'll say an hour and 10 minutes.

27 **Mr. Chairman:** I'll call that an hour. Cut the 10 minutes off,

1 if you would, please.

2 **Ms. Alfonso:** I will do my endeavour best, Mr. Chairman.

3 **Mr. Chairman:** Right. And then, is there anybody else who is
4 seeking to address the Commission? No. No. Good. All right.
5 Mr. Peterson?

6 **Mr. Peterson SC:** Mr. Chairman, could we give that to you by
7 in the morning, opening of business?

8 **Mr. Chairman:** Could you give it to me by the end of today?

9 **Mr. Peterson SC:** We'll try. If I am to address, it would be
10 shorter; if Mr. Mootoo, he tends to be very—

11 **Mr. Chairman:** Long do you say, or young?

12 **Mr. Peterson SC:** Very protracted.

13 **Mr. Chairman:** More protracted. Right. Well, I'll leave that
14 for you to work out between you. I had in mind that you might
15 each be—you and Ms. Kamini Persaud Maraj, an hour to two
16 each. I'm prepared to agree to that.

17 **Mr. Peterson SC:** That doesn't sound far off, Sir.

18 **Mr. Chairman:** But I would need some persuading as to why
19 you'd want more than two hours.

20 **Ms. Persaud Maraj:** I would have been indicating to Mr.
21 Chair that that is the time period I'm looking at as well.

22 **Mr. Chairman:** Couple of hours?

23 **Ms. Persaud Maraj:** Within one to two hours.

24 **Mr. Chairman:** Right. Do you think, Mr. Peterson, that that is
25 a realistic estimate, just so that we have some—

26 **Mr. Peterson SC:** It sounds realistic, Sir.

27 **Mr. Chairman:** Yes. I mean, if it's going to go way beyond

1 that—

2 **Mr. Peterson SC:** No, no, no.

3 **Mr. Chairman:** I would be surprised. All right. So I'm going
4 to give—if I make the allowance that each other party will have
5 up to an hour, I shan't seek to cut anybody off if they stick to
6 that. I might become a little unhappy if it goes beyond the hour
7 for everyone else, but for the two principal teams as I see them,
8 up to two hours. That will all give us plenty of time. I'm told
9 by counsel, Mr. Maharaj, that he's likely to be a couple of hours
10 as well. That does mean that we're likely to have a shorter day
11 on the final Friday of next week. So that would be very helpful
12 to know that that's his position.

13 Thank you very much. We are, I think, ready to start, are
14 we not, Mr. Maharaj? Good.

15 **Mr. Maharaj SC:** Our first witness this morning is Mr. Paul
16 Yearwood, and the summary of that witness would be done by
17 Mr. Ronnie Bissessar, Mr. Chairman.

18 **Mr. Chairman:** Thank you.

19 *[Mr. Paul Yearwood sworn]*

20 **Mr. Yearwood:** I, Paul Yearwood, solemnly swear that the
21 evidence I shall give to this Commission in this case shall be
22 the truth, the whole truth, and nothing but the truth.

23 **Mr. Chairman:** Yes. Do sit down, Mr. Yearwood. The water
24 is there for your benefit. You'll need to move a little closer to
25 that microphone so we can hear you clearly.

26 **Mr. Yearwood:** No problem.

27 **Mr. Chairman:** All right. Thank you for coming. Mr.

1 Bissessar is going to give a summary of your evidence. All
2 right?

3 **Mr. Yearwood:** Okay. No problem.

4 **Mr. Chairman:** You've provided us with a statement. He's
5 going to summarize it. Please listen carefully, and if it's an
6 accurate summary you'll tell us at the end. All right?

7 **Mr. Yearwood:** All right. No problem.

8 **Mr. Chairman:** That will serve as your evidence-in-chief, and
9 then we will have a number of questions. I think Mr. Maharaj
10 has a number of questions for you, and then the others may
11 also. All right?

12 **Mr. Yearwood:** Okay. No problem.

13 **Mr. Chairman:** So make yourself comfortable and listen
14 carefully to what Mr. Bissessar has to say. Thank you very
15 much.

16 **Mr. Bissessar:** Thank you, Chair.

17 Mr. Paul Yearwood was Paria's Health and Safety
18 Executive (HSE) Coordinator, reporting to Randolph Archbald.
19 Mr. Yearwood had upwards of 13 years' experience in HSE
20 Operations and has held the position at Paria since January
21 2019. He says that several Kenson HSE specialists reported to
22 him.

23 Mr. Yearwood provided a witness statement dated 16th
24 August, 2022, to the Commission, which is at WB1299, but
25 declined to be interviewed by Counsel to the Commission. Mr.
26 Yearwood's role as HSE Coordinator required him to develop
27 and coordinate the implementation of a company-wide health,

1 safety, security, and environment (HSSE) Management System.

2 In June 2021, prior to the award of the contract to LMCS,
3 Mr. Yearwood assigned Kenson's, Mr. Ryan Nanton, HSE
4 Specialist, to be part of an internal team to review LMCS'
5 method statement, risk assessment, and emergency response
6 plan. Mr. Yearwood said that the purpose of the review was to
7 ensure that LMCS understood what it was contracted to do, that
8 it had identified the safety risks associated with the job, and that
9 it had developed a plan to manage those risks.

10 Mr. Yearwood explains, however, that because the works
11 being executed by LMCS were highly specialized in nature and
12 were not of the kind which Paria had the competence or
13 experience to execute, Paria necessarily relied on LMCS'
14 specialist expertise to identify the relevant safety risks.

15 Mr. Yearwood underscored that he was not involved in
16 the review process and that Mr. Ryan Nanton from Kenson was
17 the HSE person designated for that purpose. He says that Mr.
18 Nanton did not raise any issues with him concerning LMCS'
19 documents warranting his, that is to say, Mr. Yearwood's,
20 intervention.

21 Mr. Yearwood further explained that during LMCS'
22 execution of the works, he also assigned Mr. Andrew Dopson,
23 HSE Technician, to make periodic visits to the site and to
24 provide HSE oversight. Mr. Dopson's role was to support the
25 maintenance technician assigned to the job to ensure that it was
26 being done in accordance with the permit to work (PTW)
27 documents, and the risk assessment.

1 Immediately following the incident on 25th February,
2 2022, Paria's ICS emergency response plan, the ERP, was
3 triggered, which Mr. Yearwood says was different from LMCS'
4 ERP, and Mr. Yearwood's role in the ICS was to act as HSE
5 Officer. So that until he handed over to Mr. Piper, Mr.
6 Yearwood activated and mobilized the ICS and convened the
7 ICT.

8 Mr. Yearwood then described the ICT activities and says
9 that the ICT's response from its experts on Friday 25th
10 December, 2022, was that they were reluctant to enter the
11 pipeline to attempt to rescue the divers due to safety concerns.

12 Mr. Yearwood said that in convening the ICT he
13 requested that a record be made of the events as and when they
14 were recurring, and that Mr. Nigel Sandiford, Kenson's HSE
15 Technician, was performing the role of scribe before the arrival
16 of Ms. Shelly Maharaj. He recalls receiving information that an
17 LMCS rescue team was on site and had entered the habitat but
18 saw no one inside.

19 Mr. Yearwood also said that prior to his arrival at the
20 Incident Command Post, the ICP, at about 3.59 p.m., he
21 requested certain persons to contact Kazim Ali Sr. to send a
22 representative from LMCS to join the ICT. He said he called
23 Kazim Ali Sr. himself at about 4.50 p.m. who told him that he
24 would arrange to have an LMCS representative at the ICP. Mr.
25 Yearwood says he never heard further from Mr. Kazim Ali Sr.
26 in that regard, and to his knowledge, no one from LMCS made
27 themselves available to join the ICT, or to assist the ICT, nor

1 did Kazim Ali Sr. at any time discuss the rescue plan.

2 At about 4.55 p.m. on Friday, 25th February, 2022, Mr.
3 Yearwood apprised Mr. Collin Piper, Incident Commander, of
4 his efforts in relation to the incident up to that point. Mr.
5 Yearwood said he observed Christopher Boodram being
6 brought onshore and Mr. Boodram was able to communicate
7 with people onsite.

8 Mr. Yearwood also describes the events on Sunday 27th
9 February, 2022, at two meetings convened with LMCS. The
10 first was a morning meeting with Collin Piper, Michael Wei,
11 Kazim Ali Sr., Andrew Farah, Conan Beddoe, and himself, that
12 is to say Paul Yearwood, when LMCS proposed that Conan
13 Beddoe be permitted to dive into the pipeline to remove three
14 scuba tanks which were obstructing the progress of the camera.
15 He said that LMCS presented no method statement, risk
16 assessment, dive plan, emergency response plan, or other
17 documents, nor could they provide specifics or details, and
18 Collin Piper requested LMCS to submit documents including
19 an emergency response plan in the event that Conan Beddoe got
20 into difficulty. The meeting was then postponed to later that
21 afternoon at 4.49 p.m.

22 Mr. Yearwood said he received documents from LMCS
23 in support of its proposal at about 2.20 p.m. and he submitted
24 LMCS' method statement, risk assessment, and emergency
25 response plan to the ICT, the dive experts, and Lt Hargreaves of
26 the TTCG for their assessment.

27 He recalls that at the 4.49 p.m. meeting, he, Collin Piper,

1 Mushtaq Mohammed were present for Paria; Imtiaz Ali and
2 Hasib Ali for LMCS; Arlene Chow, Patricia King, and Rawle
3 Arneaud for Heritage; together with Rolph Seales, Dive Expert,
4 Krishna Fuentes, another dive expert, and Lt Hargreaves of the
5 TTCG. Mr. Yearwood explains that at the meeting, all parties,
6 save for LMCS, raised questions and concerns about the
7 documents presented by LMCS and the experts advised that
8 LMCS still did not demonstrate that the proposed exercise
9 could be conducted safely. Finally, that Mushtaq Mohammed
10 then decided that Paria would urgently explore other options
11 having regard to the risks involved in LMCS' proposal.

12 Mr. Yearwood, do you agree that what I have presented
13 is a fair and accurate summary of your witness statement dated
14 16th August, 2022?

15 **Mr. Yearwood:** I agree that it is a fair and accurate statement.

16 **Mr. Bissessar:** Thank you.

17 **Mr. Chairman:** Thank you, Mr. Yearwood. What's going to
18 happen now is Mr. Maharaj is going to ask you some questions
19 on behalf of the Enquiry. All right?

20 **Examination By Mr. Maharaj SC:**

21 Q. Good morning, Mr. Yearwood.

22 A. Good morning.

23 Q. Would you agree, therefore, that before this contract was
24 awarded to LMCS, Paria employed a review process of the
25 method statement, the risk assessment, and the emergency
26 response plan which were submitted by LMCS?

27 A. No. The documents from LMCS would have been submitted as

1 part of the tender. And when it was awarded, then that review
2 process would have taken place.

3 Q. So the contract was awarded before the review was done?

4 A. Yes. The review that I am speaking of with my team would
5 have been involved, this was done after the contract was
6 awarded.

7 Q. So are you telling us that Paria awarded the contract without
8 first reviewing the method statement, risk assessment, and
9 emergency response plan?

10 A. I don't know if anybody in the tenders group would have
11 reviewed it, but this final review is before execution, so, um,
12 dah is what I am aware of.

13 Q. I just want to get it clear. So as far as you are concerned and as
14 far as you know, before the contract was signed by LMCS and
15 between LMCS and Paria, between Paria and LMCS, the risk
16 assessment, and the method statement, and the emergency
17 response plan was not reviewed by Paria?

18 A. So I wouldn't have been involved in that stage of any tender
19 process, so I wouldn't know if someone reviewed it.

20 Q. Oh, I see. But what you do know that Paria had a review
21 process of the method statement, risk assessment, and the
22 emergency response plan?

23 A. Yes, I do know that; and that is before execution.

24 Q. And you were part of that in the sense that you know that Mr.
25 Ryan Nanton was assigned by Paria to assist in that review?

26 A. Yes.

27 Q. Okay. And what was your position at Paria at the time?

1 A. So my position at the time would have been HSE Coordinator,
2 and I would have a team of people who I work with, one of
3 which is Mr. Ryan Nanton.

4 Q. Right. So the purpose of the review by Paria and in the process
5 you were involved in with Mr. Nanton, right, was for Paria to
6 determine whether the method statement, risk assessment, and
7 emergency response plan was acceptable to Paria?

8 A. Yes.

9 Q. Yes. And one of the purposes of that review was for Paria to be
10 satisfied that all the risk associated with the works were
11 identified?

12 A. Well, Paria would have to be satisfied that the contractor would
13 have presented the risk to us. So there are different people on
14 that team with different disciplines and they would all look at
15 what is presented with regard to their specific discipline.

16 Q. But as far as you know as the officer there involved with Paria,
17 and you were involved in having this review process done,
18 would you not agree with me that Paria wanted to be satisfied
19 that all the risks which were associated with the works were
20 identified?

21 A. Yes. The purpose of the review is to ensure that the risks are
22 highlighted.

23 Q. Would you speak a little louder?

24 A. A little louder? Sorry.

25 **Mr. Chairman:** Can you move a little bit closer to that mike?
26 Pull it towards you if that helps. Exactly—and speak into it so
27 that we can all hear you.

1 **Mr. Yearwood:** Okay. We're okay here now?

2 **Mr. Chairman:** Yes.

3 **Mr. Yearwood:** All right, no problem. Sorry about that.

4 So Paria would have wanted LMCS to do a few things in
5 that review. One of the things is they would have presented
6 their methodology as well as the risk that they would
7 understand as part of the execution of the job. The other
8 members of the team would be the HSE Department or
9 Operations Department and our Technical and Maintenance
10 Department. Each one of these members have a specific
11 function. So the HSE person on the team who would have been
12 Mr. Nanton, would look at the occupational safety and health
13 risk, and he would look for gaps in that respect. We also have
14 the technical team and operations team to bring forward
15 information within that review about the risk associated with
16 Paria.

17 So the parties work together in the team to come up with
18 a satisfactory document. So it's satisfactory to all the parties
19 there including the contractor.

20 **Examination By Mr. Chairman:**

21 Q. Right. Can I just understand that? These different teams all
22 have their own interest and expertise?

23 A. Right. So there's one team and the team has these people.

24 Q. Right. You said there's HSE?

25 A. There's HSE.

26 Q. There's technical?

27 A. Technical.

1 Q. And—

2 A. Operations.

3 Q. Operations. Right. Each bring different things to the table. All
4 right?

5 A. Each brings different competence. So it's analogous to doing a
6 risk assessment. But what would have happened, the meeting is
7 now virtual. Right. So there's that meeting of everybody to do
8 the—

9 Q. Yeah, yeah. It doesn't matter if you're sitting in a room like we
10 are now or whether you're doing it on a screen; and we all
11 experienced that with Covid, and so on.

12 A. Correct.

13 Q. But the representative of each of those teams are all present in
14 one meeting?

15 A. In one meeting.

16 Q. Right. And that's part of the review process—

17 A. That is part of the review process.

18 Q. —of the submission that has already been contracted with
19 Paria?

20 A. Yes. So what would happen is if any of the members of the
21 team are unsatisfied with regard to something specific to their
22 discipline, then the modification is made at that point before the
23 execution of the job.

24 Q. But I think what Mr. Maharaj was after, and what I want to
25 know is, are we at a point where the contract had already been
26 awarded?

27 A. Yes.

1 Q. Right. So this review with these different departments takes
2 place after the contract has been awarded?

3 A. Yes.

4 Q. To iron out issues that might arise from each different
5 department?

6 A. Correct.

7 Q. Ultimately, you as health and safety would presumably be able
8 to say, well, you know, whatever you want to do, Mr.
9 Technical, you can't have that because there is an issue here
10 with health and safety.

11 A. Yes.

12 Q. Let us sort that out first or last, yes?

13 A. Yes.

14 **Mr. Chairman:** Right. I'm with you. Thank you.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. So after this review process was done, was Paria satisfied with
17 the review?

18 A. Well, the team would have been satisfied as a whole.

19 Q. The team would have been satisfied. And that team is the
20 Internal Multi-Departmental Team of Paria?

21 A. Well, the team includes the contractor as well.

22 Q. As well as the contractors?

23 A. As well as the contractor.

24 Q. So both Paria and LMCS worked together and they were
25 satisfied with the review?

26 A. And they were satisfied.

27 Q. And, therefore, the works could have then proceeded?

1 A. Yes. So then you proceed to the permitting process and the
2 works were allowed to go ahead.

3 **Examination By Mr. Chairman:**

4 Q. Right. Do you at that point, when you are having this meeting,
5 does each of these parties have in front of them the method
6 statement as put forward by LMCS?

7 A. Right. So what would happen they will usually send emails
8 with it prior to the meeting as well as the document will
9 actually be presented at the meeting and gone through step by
10 step.

11 Q. Right. One of the documents that you would be reviewing, that
12 the team would be reviewing, is the method statement.

13 A. Yes.

14 **Mr. Chairman:** Right. Yes, thank you.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. The method statement, and the risk assessment, and the
17 emergency response plan?

18 A. Yes.

19 Q. And that was reviewed by the team which included both Paria
20 representatives and LMCS?

21 A. Yes.

22 Q. And at the end of the day, it was found acceptable and the
23 works could have proceeded?

24 A. Yes.

25 Q. Now—

26 **Examination By Mr. Chairman:**

27 Q. Sorry, again. Is this documented? Is this meeting minuted,

1 documented in any way? You say, right, you know, you're
2 HSE or one part of this, and you say, well, look, I'm unhappy
3 with X. So is that then documented? How you're then going to
4 deal with X?

5 A. Well, what would happen coming out of the meeting, if there
6 are any changes to be made, then the documents—there are no
7 minutes as such. However, the document would be amended
8 and resubmitted and persons would say that they are okay with
9 it.

10 Q. The document, let's say we're dealing with the method
11 statement at this stage—and I appreciate Mr. Maharaj asked
12 you about all three particular documents. Dealing with the
13 method statement at this stage, you got the method statement in
14 front of you, whether it's on screen or a physical copy of it, and
15 each of you are going through this and identifying issues that
16 might arise. Yes?

17 A. Yes.

18 Q. And if there are to be changes made, is there a new method
19 statement drafted which incorporates those changes?

20 A. Yes. It's basically an addendum.

21 Q. An addendum?

22 A. So the necessary changes would be made and the document is
23 resubmitted as per the discussion in the particular meeting.

24 **Mr. Chairman:** I don't know if you'll come to this, Mr.
25 Maharaj, but I just wanted to see—

26 **Mr. Maharaj SC:** Sure, sure.

27 **Examination By Mr. Chairman:**

1 Q. Because the method statement that I've got is described as
2 revi—116, Revision 0. Does that mean that is the original
3 document unamended or is there some further document?

4 A. So I am not sure if—

5 **Mr. Chairman:** Can we just have that up on the screen,
6 please, 1048?

7 **Mr. Yearwood:** I'm not sure if during that particular meeting
8 there was a requirement to make any changes to the original
9 method statement.

10 **Examination By Mr. Chairman:**

11 Q. You see the document on the screen?

12 A. Yes.

13 Q. It's LMCS' document. Right? So this is what they described
14 as their method statement for carrying out the works. All right?

15 A. Correct.

16 Q. And then it's given a number, 116. I'm assuming that that's a
17 particular job that they've allocated a number to, or you have.
18 It doesn't matter. But, you see, after that it says, "Revision 0"?

19 A. Yes.

20 Q. In such a document, if this had been revised, would it have
21 Revision 1, or 2, or something like that?

22 A. If proper document control is taking place, yes.

23 Q. If proper document control is there; obviously, subject to, you
24 know, typos or whatever.

25 A. Correct.

26 Q. But this—we've been proceeding on the basis that this
27 document is the final version of the method statement?

1 A. So it is possible that during the review none of the parties
2 would have suggested any change to the method statement.

3 Q. Right.

4 A. So if that happens it remains as—

5 Q. If there's no changes, everyone's happy?

6 A. If there are no changes, everybody is happy.

7 **Mr. Chairman:** Right, okay. Thank you.

8 Sorry, Mr. Maharaj.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. As a matter of fact, you said in your witness—

11 **Mr. Peterson SC:** Mr. Chairman, just by way of assistance—I
12 don't want this to go down as any objection, but with respect to
13 that area, you may want to recall Mr. Kazim Ali Sr.'s evidence
14 with respect to what is in the parenthesis. He did make a
15 comment about that. I don't know if you recall it, but you may
16 want to factor that in.

17 **Mr. Chairman:** He did, indeed. Yes. Thank you for that.
18 Yes.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. As a matter of fact, you said at paragraph 9 of your witness
21 statement that:

22 "Mr. Nanton did not raise any queries with me
23 concerning the documents that warranted my intervention."

24 A. Correct.

25 Q. So as far as you can recall, there were no queries raised by Mr.
26 Nanton in respect of the documents?

27 A. No, he had no queries about the—

1 Q. And Mr. Nanton was the representative of Paria?

2 A. Yes.

3 Q. Now, this Mr. Nanton, Mr. Ryan Nanton, is he still employed at
4 Paria?

5 A. Yes, he is.

6 Q. Do you know what are his qualifications?

7 A. I can't say offhand.

8 Q. You said he's an HSE Specialist. You have stated that because
9 that is the designation he has?

10 A. That's his designation. So there's a job description and there
11 are requirements for the different positions.

12 Q. But you cannot assist us with his qualifications?

13 A. Well, I know he would have some—he would have at least a
14 Bachelor's in the health and safety discipline.

15 Q. You know that as a fact?

16 A. I didn't hire him.

17 Q. Sorry?

18 A. So he's employed through Kenson.

19 Q. Sorry?

20 A. He's employed through Kenson, so they may be able to give
21 you better details. But that is—

22 Q. No, I want to know whether from your personal knowledge if
23 you know that he has any Degree?

24 A. Yes, I know personally that he has a degree.

25 Q. Do you know in what—what degree?

26 A. I know it's in health and safety. I'm not exactly sure what's the
27 full name.

1 Q. Okay. And how long has he been working at Paria?

2 A. Probably a little more than two years.

3 Q. More than two years. Is there any reason why in your witness
4 statement you did not exhibit his qualifications or his—well,
5 anything to show that he's an HSE specialist?

6 A. I would have wrote the witness statement as best as I could.
7 I'm not familiar with writing many witness statements, but I'm
8 here to clarify anything that you would like to know.

9 Q. Okay, okay, okay. So did you satisfy yourself that Mr. Nanton
10 had the competence to identify the hazards in these documents?

11 A. Yes, I am satisfied that he has the competence to identify
12 apparent occupational, safety, and health hazards.

13 Q. What are your qualifications?

14 A. My qualifications; I also have a BSc in Environmental
15 Management, Chemistry, OSH, MBA, ICS trained.

16 Q. And your experience? How long you have been doing this
17 work?

18 A. Thirteen years.

19 Q. Thirteen years; okay. So—but you would agree with me that
20 nowhere in these documents, method statements or any of the
21 documents which he raised no queries about, was there a hazard
22 of Delta P identified?

23 A. No, it was not identified.

24 **Examination By Mr. Chairman:**

25 Q. Can I ask why was Mr. Nanton assigned this particular task?

26 A. It is a task assigned to him as part of his job function. So this
27 review is not only for this particular job. This is a regular part

1 of the process at Paria. So there are several views of several
2 jobs on a daily basis, and this is part of the job that he performs
3 normally.

4 Q. No, I follow that. But, I mean, on any view, this was an
5 unusual scope of work. How often do you replace risers under
6 the water?

7 A. Not very often.

8 Q. No. On any view, it was an unusual scope of work?

9 A. Correct.

10 Q. Right. It had with it inevitable hazards?

11 A. Yes.

12 Q. Because it was both unusual and dangerous?

13 A. Yes.

14 Q. Why was it thought necessary to assign somebody other than
15 the people that actually work for Paria to do that job? Mr.
16 Nanton I mean.

17 A. Well, Mr. Nanton works for Paria through Kenson.

18 Q. Yeah, but he's not a Paria employee, is he? Are you more
19 experienced than Mr. Nanton?

20 A. Yes, I'll be more experienced than Mr. Nanton.

21 Q. You are more experienced. You've been doing it longer?

22 A. I've been doing it longer.

23 Q. And you may well have better qualifications?

24 A. I would suppose so.

25 Q. He was operating under your authority?

26 A. Yes.

27 Q. Why didn't you do it?

1 A. At the time, I made the decision to assign the task to Mr.
2 Nanton based on my experience with working with him. So I
3 would have done several of these types of reviews with him and
4 I would have been satisfied that he would be able to play his
5 role on that team successfully.

6 Q. I'm not criticizing that. I just wanted to be clear that you didn't
7 appoint Mr. Nanton to do it because he had greater knowledge
8 of this type of work or was more experienced than you were.
9 You know? There was no reason, from what you're saying,
10 why you appointed him, because he had a greater ability to do
11 the job than you did?

12 A. No, I didn't appoint him—

13 Q. That's not the reason?

14 A. No.

15 Q. You just did it because, well, he's available so let's get him to
16 do it?

17 A. Well, it's part of his regular job duties and I assigned that task
18 to him.

19 **Mr. Chairman:** Thank you.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. But Mr. Nanton, although he was Kenson, supplied by Kenson,
22 he was working at Paria as a Paria employee?

23 A. Yes.

24 Q. So he was part of Paria's establishment or staff as you were a
25 part of Paria's establishment?

26 A. Yes.

27 Q. But if it is that Mr. Nanton had his expertise and you had the

1 expertise, how would you—I don't understand you saying in
2 your witness statement at paragraph 7 that Paria did not have
3 the competence or experience to execute the job. And if they
4 didn't have the competence and experience to execute the job,
5 how could they have the competence and experience to review
6 the works for the job?

7 A. So as I would have indicated before, the team comprises of
8 different persons. Mr. Nanton's role is—on that team, is to
9 identify the apparent occupational, and health and safety risks.
10 There are some specialist risks, as we would know, that he
11 would not be competent to review.

12 Q. But you also said here in your witness statement at paragraph 7:
13 “Paria necessarily relied on the specialist expertise of
14 contractors such as LMCS to identify the relevant safety
15 risks.”

16 If you are saying that you had the qualification, you had
17 experience, and you had more qualifications and experience
18 than Mr. Nanton, and Mr. Nanton had the qualification and
19 experience, then why would Paria have to rely on LMCS to
20 identify the relevant safety risks?

21 A. No problem. So let me try and clarify it for you. The
22 contractor understands the risk of the task he is going to
23 perform, but he is going to do it in Paria. So there will be risks
24 associated with Paria that may interact with his task. So the
25 reason for forming the team is so that the contractor brings his
26 knowledge about the task he is about to execute and the Paria
27 personnel could bring their knowledge about the hazards

1 associated with Paria to ensure that the document is completed
2 in that manner.

3 **Examination By Mr. Chairman:**

4 Q. So it's not really a review of what they say the risks are. What
5 you're doing is to look at it from Paria's point of view and say,
6 well, what are the risks to Paria and its employees?

7 A. Well, what the persons from Paria would generally bring is they
8 will say to the contractor these are the risks that we are
9 exposing you to, because you're going to work here. Right?
10 The contractor will bring their knowledge about the actual task
11 that is going to be executed. So when you combine it, the
12 intention is to get that document that covers all the risks
13 associated with the work.

14 Q. Well, all the risks that have been identified by either them or
15 you, and/or both?

16 A. Correct.

17 Q. Right. But because you say they're a specialist firm, you relied
18 on their specialism, and you're not in a position to review a risk
19 associated with that specialism?

20 A. So because they are a specialist firm, we would expect that they
21 would present the risk associated with the task.

22 Q. Yeah. But if they're wrong, you're going to be wrong too,
23 because you can't review it.

24 A. No.

25 Q. I understand that. Don't misunderstand me. I'm not criticizing
26 you. I'm just looking at it from a corporate point of view.

27 A. No problem.

1 Q. The policy is that where a specialist, as you characterized, firm
2 is being employed to do the job, they identify the risks and
3 you're not in a position to be able to review those risks because
4 you simply don't have the expertise?

5 A. That's a fair statement.

6 Q. Right. Sorry?

7 A. That's a fair statement.

8 Q. Right. It follows from that, that given the hazardous nature and
9 unusual nature of these works, there was an option to employ
10 someone who did have that expertise.

11 A. The option does exist.

12 Q. And I appreciate it's not within your remit, but nonetheless,
13 somebody must have considered or should have considered
14 whether or not to employ outside contractors to review it?

15 A. I mean, it wasn't considered at the time, and this is the process
16 which we have followed for this job and several other jobs.

17 Q. No, I follow that. I do understand that, and I could appreciate
18 that there are, inevitably, costs involved. But where you're
19 dealing with a particularly hazardous situation, and one which
20 you have little or no knowledge of, that would be one example
21 in which your firm might have employed some contractor to do
22 the task that you are unable to do.

23 A. As I said, it's something that could have been considered.

24 Q. Right. It wasn't?

25 A. It wasn't in this case.

26 **Mr. Chairman:** Thank you.

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. All right, Mr. Yearwood. Let's go to another aspect of your
2 evidence—the incident itself. Right?

3 A. No problem.

4 Q. At paragraphs 22, 23, and 24 of your witness statement you
5 made the point that Kazim Ali Sr. and LMCS did not accept the
6 request for one of the representatives to join the ICT, and did
7 not provide Paria with any rescue plan for the missing divers.

8 You recall saying that?

9 A. Yeah, I'm seeing it. So this would be in the early phase of the
10 rescue.

11 Q. Yes, yes, yes.

12 A. That's correct.

13 Q. Were you aware that there were several of LMCS
14 representatives at berth 6 from the time the incident occurred up
15 to Sunday, 27th February?

16 A. Yes.

17 Q. Yes. And were you aware that Ms. Catherine Balkissoon, a
18 member of the ICT, were on site at berth 6 together with other
19 Paria personnel on Friday, 25th February?

20 A. All right. So just to clarify No. 22 on this statement, it's in
21 chronological order, so it doesn't refer to the entire day of the
22 25th. This is in the first three hours that this refers to, so I
23 would have tried to write it in a chronological order. So this is
24 me before handing over to Mr. Piper. So at that time, I made
25 the request, and before I handed over to Mr. Piper, no one from
26 LMCS made themselves available to the ICT.

27 Q. Okay. At paragraph 24 you said:

1 “At no point did Mr. Kazim Ali Sr. or LMCS discuss
2 with me or provide me with their rescue plan, if any, for
3 the missing divers.”

4 A. Right. So as I said, the statement is written in chronological
5 order. So—

6 Q. So you are saying up to what time, then?

7 A. So this is before I would have handed over to Mr. Collin Piper.

8 Q. And what time you handed over to Mr. Piper, around?

9 A. You could call on the statement. It’s in the statement.

10 Q. I’m not seeing it. Oh, at 4.55?

11 A. At 4.55.

12 Q. Yes, okay, okay.

13 A. So this is before 4.55.

14 Q. Okay. And what? You were not involved at all after that?

15 A. Yes, I would have been involved, but as I said, the statement is
16 written in a chronological order so that particular paragraph
17 refers to my request before the handover when I would have
18 been trying to get the correct people into the ICT.

19 Q. You were a member of the ICT?

20 A. Yes.

21 Q. Yes. And so, would you not agree that the ICT would have
22 known, and you would have known that Ms. Catherine
23 Balkissoon was at berth 6 in contact with LMCS personnel?

24 A. Yes.

25 Q. Yes. And you would have been aware that Ms. Balkissoon
26 would have obtained information from the LMCS personnel?

27 A. Ms. Balkissoon would have relayed any information to the

1 Incident Commander in her role. Well, after I handed over to
2 Mr. Piper, I would have reverted to the position of HSE Officer
3 on the Incident Command Team.

4 Q. But as a member of the ICT, you knew Ms. Balkissoon, as you
5 said, was there at berth 6. Okay?

6 A. Yes.

7 Q. And you would agree with me that the ICT had access, through
8 Ms. Balkissoon, to get any information they wanted to know
9 from the LMCS person at berth 6?

10 A. I really can't answer for Ms. Balkissoon. I could—

11 Q. No, I'm asking you to answer as a member of the ICT. You
12 were at the ICT meetings?

13 A. I would have been at ICT meetings.

14 Q. Sorry?

15 A. Yes.

16 Q. And you know that the ICT was in contact with persons trying
17 to get information?

18 A. Yes.

19 Q. And as a member of the ICT, you know Balkissoon was at berth
20 6. Didn't the members of the ICT would have known that
21 Catherine Balkissoon was at berth 6?

22 A. Yes.

23 Q. So the question I'm asking you, that the ICT would have had
24 available to it if it wanted information from Ms. Balkissoon as
25 to what was happening at berth 6 to get information from
26 Catherine Balkissoon?

27 A. They would have been able to get information from her.

1 Q. Yes, yes. And did you—did the ICT have information from
2 Catherine Balkissoon that the LMCS persons at berth 6 were
3 trying to implement a rescue plan?

4 A. On the evening of the 25th after the handover, I wouldn't know
5 that.

6 Q. But you hand over, but you were still a member of the ICT,
7 functioning as the ICT?

8 A. So as I said, my role would have been the role of the HSE or
9 the Safety Officer on the ICS structure. So my role is now
10 different from the operations or the planning section chief, or so
11 forth. My role is focused more on dealing with the safety
12 aspects around everything. So I would have been involved
13 more in ensuring that there would have been adequate medical
14 facilities at the triage area for anybody coming out of the
15 situation. So on that evening after my handover, that is where
16 my focus would have been.

17 Q. So you didn't know what was happening at the ICT?

18 A. I would have some information, but I wouldn't be privy to all
19 the information because of the task I would have been assigned.

20 Q. Were you at the ICT at any time when the ICT was making any
21 efforts to contact Catherine Balkissoon to find out what was
22 happening at berth 6 with the LMCS representatives?

23 A. No.

24 Q. No.

25 **Examination By Mr. Chairman:**

26 Q. Mr. Yearwood, were you in the same room at all times—

27 A. No, I wouldn't have been in the same room at all times. I

1 would have been assigned the responsibility just after the
2 handover and just after they would have heard the knocking. I
3 would have taken my team to the launch landing to ensure that
4 they were ready to receive persons.

5 Q. Your team?

6 A. My team.

7 Q. HSE personnel?

8 A. My HSE personnel.

9 Q. Right. So to be fair to you, whilst you were a member of the
10 IMT, you weren't there all the time?

11 A. No, I would not have been there all the time.

12 Q. Because you had specific tasks that take you outside of that
13 room?

14 A. Correct.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. Okay. At paragraph 30 of your witness statement you said that
17 you observed Christopher Boodram being brought onshore
18 accompanied by Andrew Dopson.

19 "I saw him being aided and handed over to the ...
20 ambulance. Mr. Boodram was able to communicate with
21 people onsite and use a cell phone to contact a person
22 whom he identified as his wife."

23 Correct?

24 A. Yes.

25 Q. And Mr. Boodram has told us at page 51 of the transcript when
26 he gave evidence on the 22nd November, lines one to six and
27 he stated when he came out of the pipe he was focused and he

1 was debriefed and that Paria could have gotten everything they
2 needed from him. The question I want to ask you: Christopher
3 Boodram, from what you saw, as you said, was able to
4 communicate, was able to talk and he was conscious.

5 A. Yes, he was able to communicate, and he was conscious.

6 Q. And that you could have spoken to him and get information
7 from him?

8 A. I could have gotten some information from him.

9 Q. In other words, if you had instructions from the ICT to talk to
10 Boodram to find out what was the conditions in the pipeline,
11 you could have spoken to him?

12 A. I did speak to him.

13 Q. You did speak to him. Did you ask him the condition in the
14 pipeline?

15 A. No.

16 Q. Did the ICT give you any instructions to find out from him any
17 information?

18 A. No, but just to clarify, that is an oddly specific question.

19 Q. Sorry?

20 A. That's an oddly specific question to ask at that juncture.

21 Q. Oddly?

22 A. I don't know how to put it. Leh mih kinda clarify the situation.
23 So Mr. Boodram is coming off a vessel and we have the triage
24 area set up to receive him. So at this point in time, our main
25 focus is his wellbeing. There's nobody there who could tell
26 you that Mr. Boodram is out of the woods.

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. He's what?

2 A. He's out of the woods. We can't tell his medical condition.
3 We can't say if he has internal injuries, or anything that he
4 could further succumb to. So the transition between that vessel
5 and him being in an ambulance leaving is about five minutes.
6 So the conversation at that time is limited. We don't know if
7 Mr. Boodram has sustained possibly life-threatening injuries.

8 Q. The bends, for example.

9 A. For example.

10 Q. He's been at 60 or 70 feet below sea level for the last two and a
11 half hours?

12 A. Correct. So the focus at that triage area is to get Mr. Boodram
13 to seek medical attention. So the conversation at that point in
14 time is limited. I know Mr. Boodram. I would have asked him
15 if he's all right, and I would have asked him what happened. At
16 that time he would have said to me in layman's terms, "We got
17 sucked into the pipeline", and he would have expressed his
18 wish that we would go back for the rest of the fellas.

19 At this time also, he's receiving questions from the
20 medical staff there who are attending to him. So they are
21 asking him medical-based question. So this is a four- to five-
22 minute gap. So—and that's why I say it's oddly specific that
23 somebody would be able at that transition period to ask him
24 about conditions in the pipeline.

25 Q. I could understand that. I could understand that. But you were
26 saying that you were concerned with the wellbeing of Mr.
27 Boodram?

1 A. Yes.

2 Q. But weren't you also—were you not also concerned about the
3 wellbeing of the other persons who were in the pipeline?

4 A. Of course, I was.

5 Q. And as a member of the ICT, wouldn't you have wanted to get
6 information from Mr. Boodram as to whether these persons
7 could be rescued, the condition in the pipeline, or anything like
8 that?

9 A. As I said, within the activity of putting Mr. Boodram on a
10 stretcher, putting on neck braces, administering oxygen, the
11 medical staff asking him different medical-based questions, I
12 would have asked him what happened. Right? I would not
13 have asked him the specific question, "Mr. Boodram, what are
14 the conditions in the pipeline?"

15 Q. You see, Mr. Yearwood, why I'm asking you that is that the
16 ICT members who have given evidence in this matter have
17 spent a lot of hours trying to get a video footage of what was in
18 the pipeline.

19 A. I understand that.

20 Q. And they were saying, well, they had to get that to see the
21 conditions in the pipeline before they considered: were any
22 rescue efforts could have been taken to send men in the
23 pipeline. So that is why I'm asking you, well, if you on your
24 own initiative did not do it—you would have communicated to
25 anyone that Mr. Boodram came out?

26 A. I would have been told that Mr. Boodram came out and that is
27 when I proceeded to the triage area.

1 Q. Right. So when, as far as you knew, the ICT knew that Mr.
2 Boodram came out? Around what time? How long after Mr.
3 Boodram came out, you think that the ICT knew, as a member
4 of the ICT?

5 A. Probably a couple minutes.

6 Q. A couple minutes. During those couple minutes, did they tell
7 you or are you aware of any steps taken by the ICT for either
8 you to go with Mr. Boodram in the ambulance to talk to Mr.
9 Boodram to get any information from Mr. Boodram?

10 A. So I would have asked for one of my team to accompany Mr.
11 Boodram in the ambulance.

12 Q. So did you ask for one of your team?

13 A. Yes, I did ask that question.

14 Q. And for what purpose?

15 A. So the—as we said, the primary purpose at that point in time is
16 to ensure that Mr. Boodram receives the best medical care.

17 Q. Yes. So Mr. Boodram is going to the hospital.

18 A. Correct. So I want one of my guys to go with him.

19 Q. Just to go with him? Not to ask him any questions?

20 A. Well, the person at that point in time would be able to get
21 information.

22 Q. Well, who was the person you asked to go with him?

23 A. I didn't ask anybody specifically to go with him. I would have
24 asked the attendants from GMRTT to allow one of my persons
25 to go with him.

26 Q. But did you do that?

27 A. Yes, I did.

1 Q. And did someone went with him?

2 A. No, no one went with him. The persons from GMRTT
3 indicated it's not their policy at that time to allow anybody to
4 go in the back of the ambulance with him.

5 Q. But as a man involved in safety—and this is your job for 13
6 years, you said, right?

7 A. Um-hmm.

8 Q. One diver came out of the pipeline.

9 A. Right.

10 Q. Four divers inside the pipeline. You would have known then—
11 there and then—that if you had to have a rescue of these men in
12 the pipeline it had to be done quickly.

13 A. Well, at that time I didn't know where the men were.

14 Q. At that time you didn't know where the men were?

15 A. I knew that Mr. Boodram came out a pipeline. I didn't know if
16 all the divers came up at the same time. I didn't know—

17 Q. No, but didn't you just tell us that Mr. Boodram told you—

18 A. Right. So he said to go back for them.

19 Q. Yes. Go back for them, well, where?

20 A. Well, I don't know.

21 Q. When he told you go back for them—

22 A. What I'm saying is, I do not know exactly what he meant when
23 he said go back for them.

24 Q. But did you ask him what he meant?

25 A. As I indicated, the situation at that time is a limited time
26 window with a lot of activity and we would have asked Mr.
27 Boodram what we could, given the circumstances.

1 **Examination By Mr. Chairman:**

2 Q. Just before you leave this topic, can I ask you, first of all,
3 you're saying that the ambulance staff told you when you made
4 the request for someone to accompany Mr. Boodram to the
5 hospital that it was not their policy?

6 A. They told me it was not permitted. I would have investigated—

7 Q. You said not their policy. Which is it? Not their policy or not
8 permitted?

9 A. I was not permitted to send somebody with him.

10 Q. Not permitted. I should scratch out "not their policy"?

11 A. You can scratch out that.

12 Q. Right. I'll scratch that out. Not permitted. They were not
13 permitted. Did they say why?

14 A. They didn't say why at that point in time. As I said, the
15 circumstance is dynamic, but I would have found out why later
16 on, and the reason was, at that time, we're still going through
17 Covid.

18 Q. Covid.

19 A. So that is why they were not allowing persons to go to the back
20 of the ambulance.

21 Q. So let me understand this. This man has come out of the pipe
22 after several hours of being in it. He is brought out by other
23 divers?

24 A. Yes.

25 Q. Held in the hyperbaric chamber for a little while because of the
26 bends?

27 A. Correct.

1 Q. He's then transported from there onto the—

2 A. No, there was no hyperbaric chamber there.

3 Q. Sorry?

4 A. Well, I don't know if they held him because of the bends.

5 Q. Whether they did or not, we've heard evidence about it. Either
6 way he was held in the hyperbaric chamber for a while for
7 whatever reason. All right? He's held there by other divers.

8 A. Correct.

9 Q. And then brought to the surface and on to the berth. Correct?

10 A. Correct.

11 Q. He's then taken from there onto a boat?

12 A. Correct.

13 Q. And transported by boat to the jetty?

14 A. Correct.

15 Q. All of that takes time, and he's with other people who were
16 trying to save his life?

17 A. Yes.

18 Q. Right. He's now on the boat. He gets to the jetty, and at the
19 jetty he's met by ambulance staff from the hospital, and by you,
20 and others. Correct?

21 A. Yes.

22 Q. He's then put on—five minutes whilst waiting there and then
23 he's put onto the ambulance. And at that point, you're being
24 told he cannot have someone accompany him because of Covid
25 regulations?

26 A. Well dah is wha' I would have found out after.

27 Q. You didn't understand it was Covid regulations at the time?

1 A. I didn't understand it was Covid.

2 Q. You subsequently discovered that he was not allowed to have
3 anybody else in the ambulance with him, because it was Covid
4 regulation not to?

5 A. Yes.

6 Q. Right. In any event, because you were not told—can I take it
7 you didn't ask why you were not permitted to have someone
8 accompany him in the ambulance?

9 A. I didn't ask the question. As it was a split-second decision and
10 I really wanted him to—

11 Q. No, no, I'm not criticizing that. I understand that this is a
12 dynamic situation, all rather suddenly.

13 A. As I said, you really want to get this guy to seek medical
14 attention.

15 Q. Yes. I get that. But he's alive. There are four other people in
16 the pipe who are not, perhaps, and what's important is, is for
17 you and the IMT to know as much as you possibly can about
18 the other four. Isn't it?

19 A. Yes.

20 Q. I mean, hallelujah, this man has managed to crawl out under his
21 own free will and through tremendous effort to get out of the
22 pipe. That's what he's done, isn't it? You knew that?

23 A. Yes.

24 Q. And the fact is that he was best placed, as Mr. Maharaj was
25 asking you, to tell you, the IMT, the conditions in that pipe.

26 A. Well, I believe he would have—what he told me is to go back
27 for the others.

1 Q. Right. So pausing there for a moment. If he's saying to you—I
2 think he was saying—we know; we've heard evidence that he's
3 saying, "Fyzie is right behind me". You know who Fyzie is?

4 A. Yes.

5 Q. Right. "Fyzie is right behind me; go back and get him; go and
6 get him." Was he saying to you that the others were alive and
7 in the pipe?

8 A. He didn't use the words "alive" at that point in time, but he
9 expressed, we need to go back for them.

10 Q. Right. So he didn't say to you they're actually alive. Did you
11 ask him?

12 A. I didn't ask that specific question. But I would assume that if
13 he's telling me to go back for them that—

14 Q. You assumed they were alive?

15 A. That they're alive.

16 Q. Right. So you knew or believed at that point in time that he's
17 got out of his own free will and that there are others in there,
18 and they're alive?

19 A. Yes.

20 Q. You also understood how important it would be to discover as
21 much as you possibly can, about the conditions?

22 A. So as I said before, when he said go back, at this point in time I
23 am at the landing. I don't know if all the divers came out the
24 pipeline and they're still in chamber. So when he says go back
25 for them, I don't know if he means go back in the pipeline—

26 Q. Maybe they all just came out together?

27 A. Maybe they all just came out together.

1 Q. All right.

2 A. So the focus for me at that point in time is to ensure that I have
3 enough medical assistance at that landing to cater for whatever
4 eventuality may come.

5 Q. Is it realistic, though, Mr. Yearwood, if they'd all came out the
6 same time that he would be the only one on the boat coming to
7 the shore?

8 A. Well, as I say, I didn't understand fully the circumstances; the
9 details are coming. So they may have been just at the surface;
10 they may be—but I would have been preparing to receive other
11 persons coming in.

12 Q. Anyway, nobody went with him in the ambulance?

13 A. Nobody went with him in the ambulance.

14 **Mr. Chairman:** Thank you. Mr. Maharaj.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. Mr. Yearwood, but according to you, he told you go back for
17 them?

18 A. Yes.

19 Q. Where you thought the others were?

20 A. They could have been in the hyperbaric chamber. They could
21 have been just in the pipeline.

22 Q. But did you go back for them?

23 A. It wasn't my role at that point in time.

24 Q. Did you take steps to go back for them in the hyperbaric
25 chamber?

26 A. Sir, at the point in time—

27 Q. Did you take steps for them to go back in the hyperbaric

1 chamber?

2 A. Sir, at the point in time, I was assigned to do a specific duty.
3 For persons who understand the Incident Command system,
4 you play your role in that specific system.

5 Q. But here it is you are a member of the ICT. One man comes
6 out and he tells you go back for them. So what? Did you
7 communicate—did you try to find out where they were?

8 A. So what I would have done, I would have relayed all the
9 information that I would have gotten from Mr. Boodram at that
10 point in time to the members of the ICT including the Incident
11 Commander.

12 Q. You are the Safety Officer of Paria?

13 A. I'm the Safety Officer on the ICT.

14 **Examination By Mr. Chairman:**

15 Q. Could you help me with this? There's a record kept of the
16 events that were taking place in the—I keep calling it IMT or
17 ICT—it's the same thing. It's interchangeable. Right?

18 A. Yes.

19 Q. In the Command Centre there's a record being kept?

20 A. Yes.

21 Q. You understood there was a record being kept when you were
22 in charge of the first three hours or so, before Mr. Piper arrived?

23 A. Yes.

24 Q. That record is supposed to reflect all the major events that take
25 place, is it not?

26 A. Yes.

27 Q. So you're relaying the information that you had direct from Mr.

1 Boodram back to the ICT?

2 A. Yes.

3 Q. It should have been recorded, shouldn't it?

4 A. It should have been recorded.

5 Q. Yeah, it isn't. Or at least what you've been telling us, isn't.

6 That's a flaw, isn't it, in the system that was being adopted by

7 the ICT, that it doesn't record your telling the ICT precisely

8 what you had learned from Mr. Boodram? Because that's quite

9 important, isn't it?

10 A. Yes, it is.

11 Q. I mean, you're an HSE Officer of many years' experience.

12 Having what albeit limited information that you did, that was

13 something that they needed to know, which is why you were

14 telling them?

15 A. Yes.

16 Q. And it's something which ought to have been recorded—on any

17 view, ought to have been recorded?

18 A. I agree.

19 Q. I appreciate you weren't there so you can't say why. You can

20 look at it if you wish, but it's clearly the case. None of this is

21 being recorded in the ICT. You don't know why?

22 A. I wouldn't know why. I would have relayed the information as

23 I got it.

24 Q. When did you first discover that the reason why nobody was

25 allowed to accompany Mr. Boodram back to the hospital was

26 because of Covid restrictions?

27 A. Sometime later.

1 Q. How many hours later?

2 A. Not hours later; days later after the incident.

3 Q. Days later?

4 A. Yeah.

5 **Mr. Chairman:** All right. Thank you.

6 **Continued Examination By Mr. Maharaj SC:**

7 Q. Could you tell us—well, what was the purpose of you wanting
8 someone to go with Mr. Boodram?

9 A. I wanted someone to go with Mr. Boodram to ensure that he got
10 the best medical care. If there were any troubles or any
11 assistance that we could render to him, that person will be able
12 to relay that request directly to me.

13 Q. So it was not to get any information from Mr. Boodram as to
14 where the other men were or what were the conditions of the
15 pipeline or anything like that?

16 A. So I would have been in communication with that person, and if
17 Mr. Boodram was able to give that information, we would have
18 gotten it.

19 Q. But, as you said, he was conscious?

20 A. He was conscious.

21 Q. He was talking?

22 A. He was talking.

23 Q. I'm asking you as a safety officer on the spot on that day, you
24 wanted someone to go with Mr. Boodram—did you want
25 someone to go with Mr. Boodram to get information from Mr.
26 Boodram about the pipeline?

27 A. The person would have gotten information about the incident if

1 they went.

2 Q. Did you want them to get that information?

3 A. Of course, I wanted them to get as much information as
4 possible.

5 Q. Did you tell the ICT that you wanted to get that information and
6 they prevented you from sending someone?

7 A. The ICT did not prevent me from sending anyone.

8 Q. No, no, no. Did you inform the ICT that you wanted someone
9 to go with Mr. Boodram and that you were prevented from
10 sending someone to go with Mr. Boodram?

11 A. I informed the ICT that no one accompanied Mr. Boodram.

12 Q. Did you tell them that you wanted to get information from Mr.
13 Boodram?

14 A. I told them that no one accompanied Mr. Boodram.

15 **Mr. Maharaj SC:** No further questions.

16 **Examination By Mr. Chairman:**

17 Q. I do. Why didn't you send somebody in a car behind the
18 ambulance? If you couldn't go in the ambulance, at least
19 follow it. I mean, if your primary purpose was to ensure the
20 wellbeing of Mr. Boodram rather than getting information, then
21 it really didn't matter whether you were in the ambulance or
22 following it, did it?

23 A. No, it didn't.

24 Q. Right. So why didn't you send someone to follow the
25 ambulance?

26 A. So I would have—as I said, I would have relayed the
27 information to the ICT, and then I go back to my role.

1 Q. Yes, your role, as you told us—forgive me. Your role as you
2 told us was to focus on the wellbeing of those who were to be
3 rescued, if they were ever to be rescued?

4 A. Correct.

5 Q. That was your focus.

6 A. Correct.

7 Q. Your focus changed after you handed over to Mr. Piper. So
8 using that focus, did you not think the wellbeing of Mr.
9 Boodram was primary concern, and if you weren't allowed in
10 the ambulance, to follow him?

11 A. I would expect that I would have relayed the information to the
12 ICT, and they would have made necessary arrangements to
13 have someone go to the hospital.

14 Q. Whose job was it to do that?

15 A. At the end of the day, the decisions are made by the Incident
16 Commander.

17 Q. Is it Health and Safety Executive's job to do that?

18 A. No.

19 Q. No? Whose job is it then?

20 A. It was my job at the time to give the ICT as much information
21 for them to make a decision.

22 Q. It's not just information, though, is it? Surely, there's some
23 action to be done as well.

24 A. Yes. I would expect that the action would have taken place.

25 Q. You would have expected it. But who was going to do it? Who
26 was physically going to do? Somebody, one of your staff
27 would have to get in a car and follow the ambulance, wouldn't

1 they?

2 A. Yes.

3 Q. Right. Well, who then? Was it going to be you?

4 A. No, it wasn't going to be me.

5 Q. Right. It was going to be somebody else on your team?

6 A. Yes.

7 Q. Who was present? Who would have been present?

8 A. Yes.

9 Q. Right. And who would have told that person on your team to
10 follow the ambulance?

11 A. The instruction would have come from the Incident Command
12 Team.

13 Q. Not to you?

14 A. Not through me.

15 Q. So the Incident Command Team would have decided somebody
16 on your staff would have to follow the ambulance in their car?

17 A. Well, within the ICS structure, the Incident Command gives me
18 instructions, and I would—

19 Q. You're not allowed to take any initiative?

20 A. I can take initiative.

21 Q. You can?

22 A. Yes.

23 Q. Right. But when you asked, because you were so concerned,
24 for one of your team to go with the ambulance, why on earth
25 didn't you just say to that person, whoever it was going to be,
26 "Look, they won't let you go in the ambulance, but follow
27 them"?

1 A. I didn't make that decision at that time.

2 Q. No, clearly you didn't. But I want to know—and I do want to
3 know why that was not pursued either by you or the IMT?

4 A. As I said, the focus at that time at the triage area was to receive
5 more persons.

6 Q. You mean you thought they would all just come out
7 themselves?

8 A. I wasn't sure at that point in time where they were.

9 **Mr. Chairman:** Yeah. Thank you.

10 Right. Are there any other questions from anybody else?
11 Just one moment, please. I just want to make sure that there's
12 nothing myself I wanted to ask Mr. Yearwood to help me with.

13 All right. I think I've covered everything I want. Yes. Is there
14 anybody—before I ask, is anyone else going to be asking
15 questions or is it—yes. All right. Well, we'll hear, first of all,
16 from Ms. Alfonso, please. She's from the Trade Union.

17 **Cross-Examination By Ms. Alfonso:**

18 Q. Good morning, Mr. Yearwood.

19 A. Good morning.

20 Q. My name is Nyree Alfonso. I represent the interest of the
21 SWWTU, and I just have a few questions. Quite a few of the
22 questions that I wanted to ask have been asked by either the
23 Chairman or learned Senior, Mr. Maharaj.

24 Mr. Yearwood, I just want to carry you back to where the
25 Chairman just left you in terms of his questioning, and I won't
26 berate the point. You've been very clear as to, you know, your
27 priority when Mr. Boodram was in the triage area. Just clarify

1 for us. Aside from the medical personnel who may have been
2 asking him questions about, you know, his medical condition as
3 far as he knew it to be, he was also able to, I gather, borrow a
4 cell phone from somebody and have a conversation with his
5 wife?

6 A. I observed him using a cell phone while he was still on the
7 vessel.

8 Q. Okay, while he was still on the vessel? And in your witness
9 statement, you referred to he was speaking to his wife. So you
10 had to be close to him.

11 A. Well, I could hear.

12 Q. You could hear. Oh, so you were very close to him?

13 A. Well, close enough to hear.

14 Q. Okay, close enough to hear. He has—he's lucid. There's
15 medical personnel there but he's having another conversation?

16 A. Well, he's not having a conversation. He is talking to someone.
17 I wouldn't say that it was a conversation. I remember him
18 coming down. I remember him thanking Jesus. He's speaking
19 to somebody who he say is his wife. He's saying ah coming; ah
20 coming home; ah coming home. Thank Jesus. So it's not
21 really as if they are having a conversation.

22 Q. Just for my edification, Mr. Yearwood, what would you classify
23 that exchange to be?

24 A. I would classify it as somebody who just came out a difficult
25 situation and they are expressing their thanks and trying to
26 connect with someone.

27 Q. And he's speaking with somebody on a telephone?

1 A. He's speaking with somebody on a telephone.

2 Q. Okay. So he wasn't having a conversation. He was speaking?

3 A. He was speaking. You used the word, "A lucid conversation".

4 I wouldn't say—it's not a conversation as if we are having here.

5 Q. Well, thank you for that, Mr. Yearwood?

6 A. No problem.

7 Q. I would endeavour to be lucid. Mr. Yearwood, I said that—a
8 number of questions have been asked on this point, so I'll leave
9 you with that point. I would just ask you if you would agree
10 that—

11 *[Cell phone vibrating]*

12 **Mr. Chairman:** Somebody's phone is vibrating on a desk
13 somewhere.

14 **Ms. Alfonso:** Sorry. That appears to be me.

15 **Mr. Chairman:** Is that you?

16 **Ms. Alfonso:** Yes, guilty. I beg your pardon, Chairman. I
17 have it on silent, but it is vibrating.

18 **Continued Cross-Examination By Ms. Alfonso:**

19 Q. Mr. Yearwood, you wouldn't agree that in-between that
20 conversation, thanking God, and go back for the fellas, but you
21 didn't know where the fellas were you could, you know, slip in
22 a little question about where he came from or where the other
23 persons that you knew to be somewhere else other than the
24 hyperbaric chamber?

25 A. As I would have indicated, I did slip in that question, and the
26 question I asked him is what happened.

27 Q. And he simply responded, what? Remind me. What did he

1 say?

2 A. He would have indicated that they were in the pipeline and then
3 he indicated that he wanted persons to go back for them.

4 Q. So you knew—so, Mr. Yearwood, thank you for that. So you
5 knew, Mr. Yearwood, that the persons, the remaining divers
6 which would be four, were in the pipeline. You didn't think
7 they were on the surface as you said before. You didn't think
8 that they were in the hyperbaric chamber as you said before?

9 A. As I said, I would not be sure where the persons were. I don't
10 know if all the men came out at the same time. I don't know
11 where they exactly are. I'm speaking to somebody who's being
12 very repetitive, who would have been showing a great deal of
13 emotion at that point in time, and what he would have told me
14 is go back for them.

15 Q. But he told you go back for them and he would have added
16 "and they were in the pipeline" at some point in time in what he
17 was saying, since it's not a conversation; in what he was saying.

18 A. Right. So he did mention a pipeline as I said.

19 Q. And you would have known which pipeline was involved in the
20 works that were being conducted. Yes, Mr. Yearwood?

21 A. Yes.

22 Q. Thank you for that, Mr. Yearwood. Mr. Yearwood, just for my
23 clarification because I'm sure I got it wrong when I read your
24 witness statement. You would have said in answer to Mr.
25 Maharaj's questions earlier this morning that your department,
26 the persons that reported to you in your department, became
27 involved in the health and safety aspects of this contract after

1 the tender was awarded. Did you say that?

2 A. Yes.

3 Q. Okay. I want to carry you to paragraph 6 of your witness
4 statement, please, on page 1301. Could you read—you're able
5 to read that, Mr. Yearwood?

6 A. In or around June 20.

7 Q. Okay, let me help you out. I'm sorry. My bad. Second line.
8 What does that line start with? Second line in paragraph 6?

9 A. A specialist contractor to conduct certain subsea work on
10 Paria's 36 sealine riser at berth No. 6 following the tender
11 process.

12 Q. Prior to LMCS being awarded the tender, I assigned Mr. Ryan
13 Nanton, HSE Specialist (Kenson) to be part of the internal
14 multi-dimensional team to review the method statement, risk
15 assessment, emergency response plan.

16 **Mr. Chairman:** Multi-departmental.

17 **Ms. Alfonso:** I beg your pardon.

18 **Cross-Examination By Ms. Alfonso:**

19 Q. You see that sentence, Mr. Yearwood?

20 A. Yes, Ma'am.

21 Q. Okay. So would it be correct, Mr. Yearwood, now that you see
22 this part of paragraph 6, that Mr. Nanton was part of the process
23 of reviewing these documents that are detailed here prior to the
24 award?

25 A. No, that is not so. The documents would have been submitted
26 prior to the award and Mr. Nanton would have been on that
27 team after.

1 Q. Okay. So when it—so that, what is here in your witness
2 statement is incorrect, then?

3 A. Yes.

4 Q. It is. So what is more correct is what you said this morning?

5 A. Yes.

6 Q. I see. That your department didn't become involved till after
7 the award of the contract?

8 A. No.

9 **Examination By Mr. Chairman:**

10 Q. So that should say instead of prior to LMCS being awarded the
11 tender, you would say after LMCS were awarded the tender?

12 A. Correct. What it should say is that they reviewed the
13 documents that were submitted in the tender.

14 Q. Sorry, I didn't catch the last of—

15 A. Yes, so it would be after.

16 Q. So if I changed the word in your statement which says prior to
17 LMCS being awarded the tender to after LMCS were awarded
18 the tender, I assign Mr. Nanton, HSE Specialist, et cetera. Yes?

19 A. That will be correct.

20 **Ms. Alfonso:** Thank you, Mr. Chairman.

21 **Continued Cross-Examination By Ms. Alfonso:**

22 Q. Mr. Yearwood, aside from Mr. Nanton, you also assigned Mr.
23 Dopson?

24 A. Yes, I would have.

25 Q. Okay. And Mr. Dopson, you assigned to have some oversight
26 on behalf of your department?

27 A. I specifically assigned him to be the competent person with

1 regards to the hot work activities taking place on the site.

2 Q. Okay. Let me carry you to paragraph 10 of your witness
3 statement which is page 1302. Have you read it, Mr.
4 Yearwood?

5 A. Yes, I have.

6 Q. Thank you. Mr. Yearwood, could you tell me whether this is an
7 accurate representation of what Mr. Dopson was detailed to do
8 by yourself?

9 A. Yes.

10 Q. Okay.

11 A. So in his function as the competent person with regards to hot
12 work, he would have to make periodic visits to the site and
13 provide HSE oversight.

14 Q. Only for hot works, Mr. Yearwood?

15 A. Yes, Ma'am.

16 Q. Is that what it said there? You said this is your witness
17 statement; you wrote it. Is that what it said there?

18 A. It says that he would make periodic visits to the site and
19 provide HSE oversight.

20 Q. Okay. So that would include monitoring the job?

21 A. Yes, he would also do some monitoring of the job.

22 Q. He will do some monitoring of the jobs. So he will be
23 monitoring to see whether, you know, safe practices which are
24 in the tender, which are in the contractors' document, which are
25 in accordance with Paria's policies and procedures are being
26 followed. Yes?

27 A. I would expect him to provide oversight with regards to what

1 was to be done basis the permit to work.

2 Q. I see. Now, Mr. Yearwood, is it that you—

3 **Mr. Chairman:** Sorry. Before you move away from that—

4 **Examination By Mr. Chairman:**

5 Q. Can I just understand what you're saying about that paragraph?

6 You say you assigned Mr. Dopson, whom we've heard from,
7 make periodic visits to the site and provide some oversight,
8 HSE oversight?

9 A. Yes.

10 Q. His role was to support the maintenance technician assigned to
11 the job. Do you know who that was?

12 A. No, I don't know who that was on the particular day.

13 Q. No. The Maintenance Technician was—the man who was on
14 the site at the time, Kirt Scott, yes. Is that Kirt Scott?

15 A. No.

16 Q. Not him? I got it wrong. Who was it?

17 A. It would most likely be Mr. Houston Marjadsingh.

18 Q. Marjadsingh. And he was the Maintenance Technician
19 assigned to the job. Yes?

20 A. Yes.

21 Q. Did you understand that Mr. Kirt Scott was also assigned to the
22 job?

23 A. I don't know if he was assigned to the job.

24 Q. All right, you don't know. Anyway, so this Mr. Dopson, his
25 role was to support the Maintenance Technician, which is
26 Marjadsingh?

27 A. Yes.

1 Q. —assigned to the job to ensure that it was being done in
2 accordance with the risk assessment. Yes?

3 A. Yes.

4 Q. And the permit to work documentation?

5 A. Correct.

6 Q. So his job—as I understand it then, there were three people
7 whose task it was—I appreciate then that Mr. Scott was there
8 but we do—Scott, Mr. Marjadsingh, and Mr. Dopson, whose
9 roles it was to have some oversight of the work being done,
10 which included the permit to work?

11 A. Yes.

12 Q. And is it your understanding that if they were to stray from that
13 they should stop the work?

14 A. Yes.

15 **Mr. Chairman:** Thank you. Thank you very much.

16 **Ms. Alfonso:** Thank you, Mr. Chairman.

17 **Continued Cross-Examination By Ms. Alfonso:**

18 Q. Mr. Yearwood, is it that you live close to the location where the
19 ICT was—well, the compound of Paria?

20 A. Fairly close.

21 Q. Okay. So that you activated the ICT?

22 A. I would have contacted Mr. Piper and I would have been given
23 the instruction to activate the ICT, yes.

24 Q. Okay. But you activate it because you were close by
25 physically?

26 A. Yes, physically.

27 Q. Okay. So one of the people that you called aside from your

1 immediate superior—which is Mr. Archbald, yes?

2 A. Yes.

3 Q. Okay. You called somebody called Shelly Maharaj?

4 A. Yes.

5 Q. Okay. And you called Ms. Maharaj to act in what capacity?

6 A. I would have called her to specifically log events and data.

7 Q. Okay. For the ICT?

8 A. For the ICT.

9 Q. I see. Now, we've received some documents from Paria which
10 are in handwriting. Is it that Ms. Maharaj recorded certain
11 things in handwriting in the ICT while you were there?

12 A. Right. So, initially, I would have asked one of the technicians
13 to start recording on a whiteboard, and subsequent to that, Ms.
14 Maharaj would have arrived.

15 Q. And how did she record what was transpiring or telephone calls
16 or information being received by the ICT?

17 A. She may have written it down.

18 Q. Did you see her write it down?

19 A. No, I did not see her write it down.

20 Q. Okay. But you asked her to record things?

21 A. I asked her to record things.

22 Q. But you can't say if she recorded anything?

23 A. She would have arrived after I would have handed over to Mr.
24 Piper.

25 Q. I see.

26 A. Or somewhere within that vicinity.

27 Q. Are you able to assist at all whether she was handwriting things

1 on—well, as you say, on the whiteboard, in a piece of paper, in
2 a notepad, on a computer? Are you able to say?

3 A. So what I do know is the technician that I assigned before she
4 arrived, was writing everything on a whiteboard to allow
5 persons coming into that room to be able to easily see the
6 sequence of events that we would have recorded. She would
7 have come in some time later, and I wouldn't know how she
8 was recording at that point in time.

9 Q. Okay.

10 **Ms. Alfonso:** Could the witness be shown 1541 of the
11 supplemental core bundle—the corrected version?

12 **Mr. Chairman:** It might be helpful if he starts at 1538,
13 because I think there are photographs of the whiteboard.

14 **Ms. Alfonso:** Thank you for that, Mr. Chairman.

15 **Examination By Mr. Chairman:**

16 Q. You see that? Mr. Yearwood, does that look like the images
17 you're speaking of on the whiteboard? That's the first one,
18 which is a notepad. Forgive me. Then you go to the next page,
19 1539, and then 1540. These are screens. I don't know if it's a
20 whiteboard or a screen. It looks like a whiteboard to me. Just
21 identify whether or not that is or is not what you're talking
22 about?

23 A. No, this is not what I'm speaking about.

24 **Mr. Chairman:** It's not. Very well. Thank you.

25 **Continued Cross-Examination By Ms. Alfonso:**

26 Q. So the technician you referred to, you recall his name?

27 A. Yes.

1 Q. What's his name?

2 A. Nigel Sandiford.

3 Q. Nigel Sandiford. So did Nigel write these?

4 A. No. The colour of the pen he was using—not the pen, the
5 marker—was an orange colour.

6 Q. Well, if I follow—I'm not one, um, a techy person at all. This
7 looks like some sort of—like a photograph; I don't know, taken
8 with a cell phone and reproduced, you know.

9 **Mr. Chairman:** Go back to 1538. Go back to 1538, let's just
10 see where we are with these documents. Right?

11 **Examination By Mr. Chairman:**

12 Q. And do you see on the top left hand corner of 1538, it seems to
13 say "Nigel". I can't read the next word.

14 A. That is Nigel Bachoo.

15 Q. A different person?

16 A. Different person.

17 **Continued Cross-Examination By Ms. Alfonso:**

18 Q. And you don't think that Nigel Sandiford wrote these things?

19 A. No, Nigel Sandiford wasn't writing in a book. He was writing
20 on a whiteboard.

21 **Examination By Mr. Chairman:**

22 Q. Just on the whiteboard?

23 A. Just on the whiteboard.

24 Q. Right. And that's not what we see on the next page. Go over to
25 the next page, please. Not that?

26 A. No, it's not that.

27 Q. And not on the next page either?

1 A. No. What he would have been recording would have been
2 events, resources as they come in, and personnel coming in at
3 that point in time.

4 **Mr. Chairman:** All right. Thank you very much. I just
5 wanted to establish what they were, because I didn't understand
6 it either. Thank you very much.

7 **Ms. Alfonso:** Thank you. And I myself, I'm just trying to
8 ascertain.

9 **Continued Cross-Examination By Ms. Alfonso:**

10 Q. If we go to 1541 or 1542, any of those—well, that's a double
11 page—are you able to assist us with who wrote those things?

12 A. I don't know who would have written these things.

13 Q. Okay. Well, thank you for that. Now, Mr. Yearwood, I note in
14 your witness statement, I think it's paragraph 24, you say that
15 Kazim Ali Sr. did not provide you with any—with their rescue
16 plan, LMCS' rescue plan. You recall saying that?

17 A. Yes.

18 Q. Okay. Now, Mr. Yearwood, assuming that you are talking
19 about what? Something oral? Something in writing?

20 A. At this point in time, this is the first three hours. I would not
21 have expected anything in writing at that point in time. I would
22 expect that what would have been in writing would have been
23 the initial rescue plan detailing the ERP for the job and if they
24 had any modification to that, that would be a verbal
25 conversation, really. At that point in time, I wouldn't have
26 really attempted to interrupt LMCS in any way. So the reason
27 why we wanted somebody in the ICT was to figure out what

1 happened, firstly, because they were working there, and to see
2 if they would require any assistance from Paria to aid in the
3 rescue effort.

4 Q. So, Mr. Yearwood, I know—and I won't belabour it because
5 my learned Senior, Mr. Maharaj, would have traversed that
6 area. You were calling somebody. You wanted somebody
7 from LMCS to attend to the ICT?

8 A. Yes.

9 Q. As a representative of the Company?

10 A. Correct.

11 Q. And you complained to some extent that, you know, nobody
12 volunteered themselves or nobody was sent as a representative?

13 A. Well, I didn't complain; that's what happened.

14 Q. I'm just saying it from your witness statement. But, as I said,
15 that's not an issue I'm interested in. What I'm interested in is,
16 if you had received, whether orally—okay. Let me just deal
17 with what you just said. Thank you for that. You said you
18 were looking for some sort of modification on an existing
19 rescue plan? Did I understand that right?

20 A. Well, there would be a rescue plan for the job within the ERP—
21 granted the scenario, that may have been modified—but no plan
22 was made available to me.

23 Q. Okay. Would it be correct, Mr. Yearwood, that the emergency
24 response plan that you referred to would not have, or did not
25 contain any—what shall I say—any potential scenario, any
26 scenario by which one, four, five divers would find themselves
27 inside of the pipe?

1 A. Correct. But at that point in time, the focus was not inside the
2 pipe. This is the very early stages where the focus was still
3 very much in and around the pipe. So the search was there.

4 Q. Oh, I see.

5 A. So the real care to go inside the pipe was really after Mr.
6 Boodram came out. So I wouldn't have—what I wanted from
7 them is what their rescue plan is and what they are doing, and
8 what happened in the incident.

9 Q. And, Mr. Yearwood, I want to carry you back to what you said
10 earlier in your witness statement in respect to something else:
11 that Paria did not have the expertise or the experience, I
12 suppose, and expertise, basically to—I don't want to say
13 micromanage—okay, second-guess or to review or to, you
14 know, in any way challenge what LMCS had said with respect
15 to the actual tender and the contents of the tender. If you
16 received a rescue plan as you say, were you or are you in a
17 position or could you have been in a position at that time to
18 review it, or analyse it, or critique it in any way, evaluate it, any
19 of those things? You personally?

20 A. Yes.

21 Q. Yes?

22 A. Between me and my team. So what would happen is we have
23 the method, we have the risk assessment, and then we have the
24 ERP. If the risk assessment does not pick up the risk, then the
25 ERP doesn't cater for it. So if somebody says to me there's a
26 risk that these guys could enter the pipeline through a Delta P,
27 then you develop an ERP along those lines and that could be

1 evaluated by Paria.

2 Q. So somebody in your team—you yourself, Mr. Yearwood, or
3 somebody in the HSE Department?

4 A. I could do it.

5 Q. Okay. So you yourself are able to analyse and evaluate a rescue
6 plan surrounding—which largely would be a diving operation.
7 You yourself, because you are a senior person in the HSE—
8 much more senior than Mr. Dopson and Mr.—I've lost track of
9 the other one—Mr. Dopson and Mr. Nanton. That was the
10 other one.

11 A. No, I wouldn't say specifically for a diving operation.

12 Q. Okay. So even if a plan was provided to you, you would not—
13 unlike what you say in your witness statement at 24, you
14 yourself would not be able to sign off on it, to agree to it or
15 disagree with it, as the case may be?

16 A. It depends on the rescue plan. It may be very straightforward;
17 that they enter the water—

18 Q. But you're not a diver yourself?

19 A. I'm not a diver myself.

20 Q. You know anything tethering, and umbilicals, and surface air,
21 and helmets, and so on? You know anything like that?

22 A. No, but we could get the information.

23 Q. You could get the information. So when you were reviewing
24 the tender documents after the award, as you now clarified, you
25 could have gotten, as you say, the information; you could have
26 gotten the expertise to review the emergency plan, amongst
27 other things, when you got those document. Yes?

1 A. If it was necessary.

2 Q. You didn't think it was necessary at the time?

3 A. I said the documents were reviewed. LMCS had produced
4 several rescue plans for many diving operations, and they
5 would be similar in nature, and based on that we would have
6 determined it to be suitable and sufficient.

7 Q. With the benefit of hindsight, Mr. Yearwood, which is always
8 20/20 or better, do you think that that was a course of action
9 that Paria should have adopted to be able to rigorously test the
10 rescue plans that were presented?

11 A. Well, coming out of this incident, it is something that would be
12 considered.

13 Q. It is something that would be considered?

14 A. Yes.

15 Q. To your knowledge, Mr. Yearwood, is there any change in
16 policies, or procedures, or safety—in your department—I can't
17 ask you overall—in your department, that reflects taking into
18 account what happened in this incident?

19 A. Yes, changes have been made.

20 Q. Changes have been made. I'll take that, Mr. Yearwood.

21 **Mr. Chairman:** I won't.

22 **Examination By Mr. Chairman:**

23 Q. I'd like to know what changes, please?

24 A. Specific to rescue plans and diving?

25 Q. So changes that have been made—I'm going to make a note.
26 Changes that have been made by Paria HSE following the
27 incident.

1 A. No problem. Right. So we would have done extensive
2 retraining with regards to the permit to work system.

3 Q. Right. Extensive retraining on permit to work system. Yes?

4 A. We would have issued Terms of Reference for the development
5 of ERP.

6 Q. Sorry, you have to speak a little louder.

7 A. We would have developed a Terms of Reference for the
8 development of ERPs and issued it to all contractors.

9 Q. Terms of Reference for ERPs, emergency rescue plans. Yes?

10 A. We would have had the process of the review being more
11 rigorous.

12 Q. The review more rigorous. Yes. That's the review you spoke
13 of earlier with the team coming together?

14 A. Correct.

15 Q. Various different departments?

16 A. Correct.

17 Q. More rigorous in which way? Considering having an
18 independent person review the application in the event that if
19 something as serious or as hazardous as this particular job, or as
20 unusual as this job?

21 A. So we would have specifically considered diving, and it's not
22 specific to the HSE Department but to the entire Paria. And we
23 have had subsequent dives.

24 Q. Diving?

25 A. Where we have engaged specialists to look at the documents.

26 Q. Specialist have looked at the documents subsequently?

27 A. Subsequent.

1 Q. So where you've employed divers subsequently, you've had
2 specialist look at what the dive plan—

3 A. Yes.

4 Q. Have they considered the question of Delta P?

5 A. We haven't had any diving activity under chamber or anything
6 like that. It would be in the open ocean in and around things.
7 So Delta P wouldn't have come up, but we have chosen to
8 engage persons to look at these documents.

9 Q. Right. So, I mean, I asked you this earlier on, whether or not an
10 option was to have independent experts review a particular
11 project, given that it was an unusual and hazardous one. And
12 you said that that was an option.

13 A. That is an option.

14 Q. What you're saying is that now that option is actually being
15 taken up?

16 A. It has been considered as an option for diving.

17 Q. Has it been used?

18 A. It has been used.

19 Q. Right.

20 A. We have engaged Mr. Fuentes.

21 Q. Mr. Fuentes?

22 A. Yeah.

23 Q. Right. So experts—

24 A. And at least one occasion went diving.

25 Q. One occasion have been used to assess the dive plan. Yes?

26 A. Yes.

27 Q. And safety?

1 A. Safety.

2 Q. All right. Anything else?

3 A. I'll leave it there for now.

4 Q. Well, all right. You might leave it there for now. But, I mean,
5 is that what has been done post this incident?

6 A. That is what has been done.

7 Q. Is there anything else that I need to know about? You will
8 appreciate that the position for us is that we're going to have to
9 make recommendations to ensure this sort of thing doesn't ever,
10 ever happen again.

11 A. Yes, I understand.

12 Q. And for us to be able to do that, I want to know at this stage
13 whether or not you, your Company, have made any—taken any
14 action to change that which they did on the last occasion?

15 A. So those would be the major actions for now.

16 Q. Right. For example, has there been any drills of the IMT after
17 this event?

18 A. No, there haven't been any drills.

19 Q. Has there been any change of personnel on the IMT following
20 this event?

21 A. No.

22 Q. So if this were to happen again, the same IMT would be
23 convened. Correct?

24 A. Yes.

25 Q. Utilizing the same people; utilizing the same procedures?

26 A. Yes.

27 **Mr. Chairman:** Thank you. Thank you, Ms. Alfonso.

1 **Ms. Alfonso:** Thank you, Mr. Chairman.

2 **Continued Cross-Examination By Ms. Alfonso:**

3 Q. Just remind me. Did you say Mr. Fuentes was the diver that
4 you would have retained?

5 A. Yes. So I'm aware of at least one occasion where we had
6 diving operations, and we would have retained Mr. Fuentes to
7 look at the documentation.

8 Q. Okay. Mr. Yearwood, do you know whether there is diving
9 expertise available through Heritage?

10 A. Yes.

11 Q. So heritage has—I don't know if it's a dive team or, a dive
12 department, or diving personnel. You may know better than
13 myself. Do you know that to be the case?

14 A. I would know of at least one person who was recommended
15 during the incident as a dive expert.

16 Q. Would that be Mr. Rolph Seales?

17 A. Yes.

18 Q. Okay. So you know that he's employed with Heritage and you
19 know that there's some relationship between Paria and
20 Heritage?

21 A. Yes.

22 Q. Okay. So Mr. Seales or anybody else who is in his department
23 would be available to Paria on request—a sister or brother
24 companies. Yes?

25 A. I believe if the request is made.

26 Q. Okay. So a request could be made, though, as far as you know?

27 A. Yes, it could be made.

1 Q. Okay. And, certainly, a request was made of Mr. Seales on the
2 25th February. You're aware of that?

3 A. Yes.

4 Q. Right. So that Mr. Seales was somebody who could be on tap,
5 as they say, if so required, if so requested? I'm using your
6 words.

7 A. I don't know what the response to the request would be.

8 Q. Okay. But a request could be made?

9 A. But a request could be made.

10 Q. Okay. Thank you for that.

11 **Examination By Mr. Chairman:**

12 Q. Would that be entirely independent? If you wanted an
13 independent person to review the dive plan, would employing
14 someone by Heritage be regarded by the population, generally,
15 as being entirely independent?

16 **Ms. Alfonso:** Certainly when the tender came in, Mr.
17 Chairman. And if you lack that expertise—

18 **Mr. Chairman:** You're talking about now, though, aren't we?

19 **Ms. Alfonso:** Oh, no, no, no. I'm actually talking about the
20 time the tender came in and it was being evaluated, and so on.
21 That expertise didn't have to be outsourced too far.

22 **Mr. Chairman:** All right. I follow.

23 **Continued Cross-Examination By Ms. Alfonso:**

24 Q. And I understand if I'm—I may be incorrect—that Mr. Seales
25 is also a Kenson employee.

26 A. Not exactly sure if he's a Kenson employee.

27 Q. Okay. Well, he's a witness to come and we can always ask him

1 that, but I believe so. I'm just trying to establish that to say—
2 that expertise, aside from Mr. Fuentes and any other
3 independent person, would be available if you requested it?

4 A. I know the request could be made. I don't know how Mr.
5 Seales is occupied.

6 Q. Okay. Fair enough. Now, I'm taking you back—the telephone
7 call that—I think it's Shan Balkissoon?

8 A. Yes.

9 Q. Shan Balkissoon is one of your two employees who is
10 dispatched to the San Fernando General Hospital, somewhat
11 belatedly to speak to Mr. Boodram. Yes?

12 A. Yes.

13 Q. Okay. So that telephone call that we've heard that comes in
14 about ten o'clock in the night, came in on your phone?

15 A. Yes, it did.

16 Q. So Shan Balkissoon called you on your cell phone and you
17 were able to put it on speaker phone, which I presume he did as
18 well, so that both sides could hear each other. Yes?

19 A. Yes.

20 Q. The Paria ICT members who were present and Shan Balkissoon
21 and the other gentleman's whose name escapes me, and Mr.
22 Boodram?

23 A. Yes.

24 Q. Okay. So if I take you to 15—page 1541 of the same ICT
25 bundle, and that was a note that you saw previously, and I was
26 trying to get from you if you knew who had recorded that note,
27 and these documents were provided to us by Paria. So we don't

1 know who made those notes, but I'll ask that you look at the
2 notes and tell me if, from your recollection, that represents, in a
3 summary way, in a bullet point form, what Mr. Boodram would
4 have said in the conversation or some of the things that he
5 would have said in the conversation?

6 A. Yes, it does.

7 Q. Okay. And that is accurate?

8 A. That is accurate.

9 Q. Thank you very much for that. So if I take you to paragraph 34
10 of your witness statement, Mr. Yearwood, if you could just read
11 the six points that are numbered under paragraph 34 for me,
12 please?

13 A. He was sucked into the pipe.

14 Q. No, no, you can read it to yourself, Mr. Yearwood. Thank you.

15 A. Sorry.

16 Q. Read it to yourself.

17 A. Yes.

18 Q. Okay. So you will see that this contains information that is not
19 recorded in the handwritten note that we just showed you on
20 page 1541?

21 A. Yes.

22 Q. So, for instance—and I'll just point you out to “Blacks was a
23 body and he crossed over him.” That wasn't in the handwritten
24 note?

25 A. No.

26 Q. So that—I think this note was made contemporaneously while
27 the conversation was going on, and you were right there. Your

1 phone was being used?

2 A. Yes.

3 Q. The call came in to you?

4 A. Yes.

5 Q. Right. So Mr. Boodram, at about ten o'clock, is giving you
6 some information which would have been useful earlier, but he
7 was still giving you some information?

8 A. Yes, he is.

9 Q. He's telling you how many air pockets; he's telling you how
10 many weld seals he passed, and so on. You would agree?

11 A. Yes.

12 Q. So you had some information there. And that information
13 didn't include somebody was a body?

14 A. In the previous note, no.

15 Q. Okay. Right. But you have said the handwritten is accurate.
16 So I would leave it that the handwritten version is accurate.

17 Now, in paragraph 35 of your witness statement, you see
18 that the response from the experts were that they were reluctant
19 to enter the pipeline to attempt to rescue the divers due to safety
20 concerns. So let me ask you a few questions on that. Could
21 you tell us who the experts were that you're referring to?

22 A. Paria would have engaged several dive companies to look at the
23 situation with the information that we had and make a
24 determination if a rescue could be done and how it could be
25 done.

26 Q. Okay. Could you provide us with the names of those experts?

27 **Mr. Chairman:** Don't have all of this? We've got all of this.

1 **Ms. Alfonso:** No, there's something we don't have, Mr.
2 Chairman. So if you'd indulge me for just a question or two?

3 **Mr. Chairman:** Well, ask him that. Ask him that.

4 **Ms. Alfonso:** Okay.

5 **Continued Cross-Examination By Ms. Alfonso:**

6 Q. So would one of those dive places been Eastern—Eastern
7 Divers?

8 A. I believe so.

9 Q. Good. Did Eastern Divers or Eastern Emergency Response
10 Service attend on the ICT?

11 A. Could you clarify what you mean attend?

12 Q. Okay. Did they have input with the ICT? Did they call? Did
13 they come in personally on the Friday night?

14 A. I know there were several dive companies. I can't remember if
15 they actually came in. I don't know if—

16 Q. Okay.

17 A. —any evidence here would say that they came in.

18 Q. Okay. Let me ask you directly. Did Eastern Emergency
19 Response Services or Eastern Divers as I've seen
20 interchangeably, did they say, "We can't do the rescue"?
21 Refuse?

22 A. I really can't recall which company said what. What I do recall
23 is generally the companies that were engaged were reluctant to
24 enter the pipeline, and they were concerned about safety.

25 Q. Mr.—I'm trying to abide by the Chairman's direction. You
26 recall a company called OTSL?

27 A. Yes.

1 Q. Okay. You recall anybody in OTSL saying that they're not—
2 they're refusing to dive? It is unsafe to dive on Friday—on
3 Friday night? Let me clarify. That's my error. On Friday
4 night, do you recall anybody from OTSL relaying to the ICT
5 team that they were refusing to conduct a rescue, or undertake a
6 rescue, or participate in a rescue?

7 A. I can't remember any specific person.

8 **Mr. Chairman:** I'm going to stop this now, because I've
9 asked Mr. Mushtaq Mohammed to provide us with certain facts
10 which he said he would undertake to do, and I think this would
11 cover all of that.

12 **Ms. Alfonso:** Thank you, Mr. Chairman. That will be all my
13 questions, Mr. Chairman. Thank you.

14 **Mr. Chairman:** Thank you. Right. Somebody else had their
15 hand up at the back. You did tell me your name and you'll not
16 be surprised that I've completely forgotten it, so forgive me.

17 **Mr. Trebouhansingh:** That's quite all right, Mr. Chairman.
18 My name is Ved Trebouhansingh. I instruct Mr. Prakash
19 Ramadhar.

20 **Mr. Chairman:** Oh, right, you're responsible. Sorry.

21 **Mr. Trebouhansingh:** Indeed, I accept full accountability.

22 **Mr. Chairman:** That slipped out. I didn't mean it to. All
23 right. Please ask the questions. Introduce yourself to the
24 witness and tell him who you're asking questions on behalf of.
25 All right?

26 **Mr. Trebouhansingh:** Indeed, please, Mr. Chairman.

27 **Cross-Examination By Mr. Trebouhansingh:**

1 Q. Good morning, Mr. Yearwood.

2 A. Good morning.

3 Q. My name is Ved Trebouhansingh. I instruct Mr. Prakash
4 Ramadhar who represents the interests of the deceased family,
5 deceased Mr. Fyzal Kurban, and also the daughter of Mr. Yusuf
6 Henry, that is Aaliyah Henry. I have a few questions
7 concerning your role upon being notified that there was an
8 incident at berth 6. Particularly, when you were notified that
9 there was an incident, you would agree that you stepped into
10 the role as being the senior person at Paria for implementing a
11 response, an emergency response to the incident?

12 A. I would have been asked by the Incident Commander to set up
13 the ICT at that point in time.

14 Q. So by that fact, you would have been the person who was
15 responsible for implementing a response, an immediate
16 response, for an incident that you were notified of?

17 A. The person immediately responsible would be the contractor
18 who has an ERP—

19 **Mr. Chairman:** Make sure you're speaking into that
20 microphone. Move it slightly to your left, that way it will be—
21 then as you turn you'll still be in—

22 **Mr. Yearwood:** Thank you so much, Chairman.

23 **Continued Cross-Examination By Mr. Trebouhansingh:**

24 A. So the contractor is responsible for initiating the response.
25 Because of the nature of the response, the ICT was convened.

26 Q. When you say because of the nature of the response, what
27 response are you speaking of?

1 A. Well, because of the nature of the incident—it's a major
2 incident.

3 Q. So, therefore, you are responding to the incident?

4 A. Yes.

5 Q. And you were responsible for responding to the incident?

6 A. The contractor is responsible for the initial response.

7 Q. Please clarify whether you were responding to the incident or
8 the contractor's response?

9 A. I'm responding to the incident.

10 Q. And, therefore, you were responsible for your response?

11 A. Well, Paria will—

12 Q. It's a simple yes or no, in this regard.

13 A. Paria would respond to any incident on their compound.

14 Q. Of course. And I note in your witness statement, it even sets
15 out clearly in paragraph 5, subsection 11 where you would
16 agree that your role is also to assist in the management of
17 emergency response?

18 A. Yes.

19 Q. Now, can you recall what time exactly this happened, that you
20 stepped into this role?

21 A. As soon as I got the call.

22 Q. And do you recall what time that would have been?

23 A. It would be in the statement.

24 Q. And at that time, how long were you in that role for?

25 A. About two hours or so.

26 Q. And within that two hours, at any point in time did you consider
27 that it was important to ascertain what the conditions were in

1 the pipeline during this time?

2 A. At that time, nobody was sure that the persons were in the
3 pipeline.

4 Q. I'm asking you: did you consider what were the conditions
5 within the pipeline during this time?

6 A. As I said, that was not the major consideration at that point in
7 time. We hadn't ascertained that anybody was in the pipeline
8 during those first hours.

9 Q. Did you consider it to be a possibility?

10 A. At that point in time, no.

11 Q. And during this time, what were the possibilities you
12 considered to have occurred?

13 A. The major possibility that we would have considered is for
14 some reason, water would have entered the chamber and would
15 have washed the persons out of the chamber. The information
16 that we got at the start of the incident is that a splash was seen
17 on the camera.

18 Q. And that would have been the only possibility, or did you
19 consider anything else?

20 A. Well, we would make considerations based on the information
21 given to us, and that is why we would have asked for somebody
22 from LMCS to join the ICT so we will get more information.
23 At that point in time, we would not have been aware that any
24 plug was being removed. So really and truly, getting into the
25 pipeline wasn't really the major consideration at that time.

26 Q. And during this two-hour period whilst you were responding to
27 an emergency, were any further steps taken apart from what

1 you stated in your statement to formulate a response to figure
2 out what were the other possibilities? Were there any further
3 steps you took apart from—in your statement within paragraphs
4 12—15, sorry, you recited certain steps you took. Now,
5 paragraph 15 subsection 1 refers to you “Activated and
6 mobilized the ICS for the purpose of initiating a coordinated
7 emergency response”. Of course, at that point in time or around
8 this period, did you consider any further steps apart from what
9 you have set out in this paragraph?

10 A. Is this the paragraph he is referring to?

11 Q. No that isn't—paragraph 15.

12 **Mr. Chairman:** I think you should have a look at the whole of
13 this. Do you have in front of you a bundle—witness
14 statements? It should be behind tab 35. And if you go to page
15 1303, little numbers right at the bottom of the page, 1303, and
16 then you'll see at the top of that page paragraph 15. And then
17 you will see what you set out there as being the things that you
18 did once you were appointed. Just take a look at it, then you
19 can answer Mr. Trebouhansingh's question. Perhaps you
20 would repeat it.

21 **Mr. Trebouhansingh:** Yes, please.

22 **Continued Cross-Examination By Mr. Trebouhansingh:**

23 Q. So, I think the—

24 A. Yes.

25 Q. —I think the, the actions continue unto the next page as well.

26 A. Yes.

27 A. I think that that, that is what was done.

1 Q. So therefore, you are saying that there were no further steps
2 taken as it concerns the possibilities, in your mind, as to what
3 could have happened, nothing further?

4 A. Well that, that's why we would have contacted LMCS to get
5 that information there.

6 Q. And my question to you, Mr. Yearwood, is that during this
7 time, two hours have passed since an accident, an incident
8 occurred. Would you not agree that time is of the essence to act
9 as soon as possible to take steps?

10 A. Yes.

11 Q. And during this time, of course, I, I can ask this question in a
12 two-fold manner if perhaps at that time firstly, or even now in
13 hindsight, do you think that more could have been done during
14 this time?

15 A. Well, the, the, the actions during a emergency are based on the
16 information that you receive. So if more information was
17 received, maybe more could have been done.

18 Q. So based on the information received, you did all that you could
19 have done?

20 A. I did what I could have done with the information I had at the
21 time.

22 Q. Can you tell me what time—at what time did you consider that
23 determining the conditions within the pipeline were of
24 relevance to the ICT?

25 A. That would be after Mr. Boodram would have come out the
26 pipeline.

27 Q. So therefore you are saying that an estimate now of over three

1 hours have since passed since the incident and the first time that
2 considerations of the conditions within the pipe only arose at
3 that time?

4 A. Yes.

5 Q. Not prior?

6 A. Yes.

7 Q. Mr. Yearwood, in your witness statement again, particularly in
8 paragraph five, your duties are set out. One of those duties
9 include to ensure compliance with statutory standards and the
10 company's policies and procedures. So I can assume, and
11 correct me if I'm wrong, that you are familiar with the
12 Occupational Health and Safety Act of Trinidad and Tobago?

13 A. Yes.

14 Q. And, of course, as part of your role you would agree that you
15 are required to report an incident of this nature as soon as it
16 occurs, as soon as is reasonably possible of course for you to
17 report this to the Occupational Health and Safety Agency?

18 A. Yes. We usually have a 24-hour period to report.

19 Q. Do you recall doing this within this timeline?

20 A. I would have been trying to—placing all my efforts to have
21 these persons rescued.

22 Q. So therefore the answer is you did not make that contact?

23 A. The contact would have been made within the stipulated period
24 outlined by the law.

25 Q. And in relation to this contact that you made, what was the
26 response that you received?

27 A. I never said I made the contact. The contact—

1 Q. Do you recall who made that contact?

2 A. No.

3 Q. Are you familiar with—you are aware that the contact was
4 made?

5 A. Yes.

6 Q. Within the stipulated time frame?

7 A. Yes.

8 Q. But you're unaware of who made it and the particulars of that
9 contact?

10 A. I know it was—we would have been given advice that the
11 contact need to be made and the—during the course of the
12 incident we would have had communication with, with—

13 Q. Now you would agree that this area falls within your roles and
14 duties?

15 A. No.

16 Q. No?

17 A. But for the incident for the purpose of the ICT we have
18 different roles which may be different or separate and apart
19 from your substantive functions. So, within that, there's a
20 liaison officer on that organizational chart.

21 Q. Who would be that liaison officer?

22 A. I think it may be Mr. Archibald.

23 Q. And you cannot say whether he made contact and what was the
24 response from the Occupational Health and Safety Agency?

25 Q. Well the con—all I could say is the contact was made and I
26 don't know what their response at that time would have been.

27 Q. Did you, or were you privy to any steps taken by Paria to

1 preserve the scene of the incident after it occurred?

2 A. Yes. The incident site would have been cordoned after the
3 incident.

4 Q. Would have been coned? What does that mean?

5 A. It would have been barricaded and so forth after the incident.

6 Q. Were there any further steps taken to preserve the scene of the
7 incident after it occurred, anything further?

8 A. No, when, when you say after it occurred, after all the days,
9 after the first day?

10 Q. Immediately after the incident and thereafter.

11 A. Well, immediately after the incident occurred, we wouldn't be
12 in a mode to preserve anything. We are still in the mode where
13 we are looking to rescue people. After the incident, um, we
14 would have engaged the same Occupational Safety and Health
15 Authority, they would have—certain items would have been
16 handed over directly to them. It would have been documented
17 and photographed and handed over to them and the site itself
18 would have been barricaded.

19 Q. Thank you very much, Mr. Yearwood. I have no further
20 questions.

21 **Mr. Chairman:** Okay, thank you. Mr. Pegus?

22 **Mr. Pegus:** I have no questions for this witness, Mr.
23 Chairman.

24 **Mr. Chairman:** Thank you very much. Ms. Persaud Maraj?

25 **Mrs. Persaud Maraj:** I do have a few questions.

26 **Cross-Examination By Mrs. Persaud Maraj:**

27 Q. Good morning, Mr. Yearwood. My name is Kamini Persaud

1 Maraj and I'm representing LMCS. I would like you to clarify
2 something that is in your witness statement at paragraph 16.

3 **Mr. Chairman:** Sixteen?

4 **Mrs. Persaud Maraj:** Sixteen, one six, that's at page 1303.

5 **Continued Cross-Examination By Mrs. Persaud Maraj:**

6 Q. I'd like you to look at number five. Now, paragraph 16 you're
7 saying these are the key personnel that you would have
8 contacted and informed them of the incident?

9 A. Yes.

10 Q. Yeah? Now at five in particular you mentioned Collin Piper,
11 Paria Terminal Operations Manager at about 3.53 p.m. and then
12 you have, "who had already been notified of the incident prior
13 to my call."

14 A. Yes.

15 Q. My clarification is, is that the—you—at 3.53 p.m., that was the
16 first call that you would have made, you would have made to
17 Mr. Piper?

18 A. Yes.

19 Q. All right. So, I know you said in an answer to my learned
20 friend in relation to the time that the incident command, ICT,
21 was commissioned, it was—it's in your statement, correct?

22 A. Yes.

23 Q. All right. So, at your paragraph—well, that very paragraph you
24 said you spoke to Mr. Randolph Archibald, that's at number
25 one at about 3.12 p.m. That's correct?

26 A. Yes.

27 Q. And you would have first received—now paragraph 11,

1 paragraph 11, you said at 3.06 p.m. you would have been
2 informed of the incident?

3 A. Yes.

4 Q. Right. What I'm trying to establish is, with you activating the
5 incident command being that the in—being that the incident
6 commander was Mr. Piper, how did that remit went into your
7 charge? What was that process? Because it's not clear from
8 your evidence here what or how that came to be. Could you
9 explain that to us?

10 A. And so during the phone call he would have asked me
11 formally—

12 Q. Who?

13 A. Mr. Piper would have asked me formally to set up the incident
14 command.

15 Q. So that would have been at 3.53 p.m.?

16 A. Yes.

17 Q. All right. And you arrived at Paria's incident command centre
18 around 4.00 p.m.?

19 A. Correct.

20 Q. Or thereabout, right?

21 A. Correct.

22 Q. Yeah, it's somewhere in your statement. All right.

23 A. Right, so, notwithstanding that, before this I would have guys
24 on the team and we would have started to get guys to the site
25 and do certain things within the remit of the HSE department.
26 However, at 3.53 the formal request was made to initiate the—
27 to me, to have the incident command set up and that is what I

1 would have done.

2 Q. All right. I would like to take you to the board that you have
3 mentioned earlier in relation to what you had commissioned at
4 the incident command centre.

5 **Mr. Chairman:** Sorry, I'm sorry to interrupt. Can I just be
6 clear?

7 **Examination By Mr. Chairman:**

8 Q. Prior to 3.53 there was no incident command centre?

9 A. No.

10 Q. No IMT?

11 A. Well the members of the IMT would have been made aware but
12 I formally would have made that formal call to get the IMT and
13 that command centre prepared.

14 Q. Yeah, well Mr. Piper was the fifth person you called. And I
15 just want to understand, you knew he was going to be the head
16 of the IMT?

17 A. Yes.

18 Q. You didn't know where he was?

19 A. No.

20 Q. He might have been there for all you knew?

21 A. Correct.

22 Q. Right. In any event he was the fifth person you called and there
23 was no IMT until you spoke to him, and then he requested you
24 to set one up?

25 A. No. There would have been no physical IMT. I, I would
26 presume that all the members would have been engaged in
27 some way.

1 Q. Well, I don't understand that. I mean, you first find out about it
2 just after three o'clock as you've just been asked. You make a
3 number of calls which you set out in your statement. What I'm
4 interested to know is surely primary amongst all of that was to
5 set up the IMT?

6 A. Yes.

7 Q. Yet you waited until 3.53 before you spoke to the person who's
8 supposed to be the head of it?

9 A. Well, Mr. Piper could have asked anyone to set up the IMT.

10 Q. Anybody could have—anything could have happened. You're
11 HSE. What was happening before, between when you first
12 were told at 3.06 and you being asked to set up the IMT at 3.53,
13 nearly an hour later?

14 A. Information was being gathered, um, persons from the HSE
15 department would have been sent to the location.

16 Q. Well, did you know that?

17 A. Yes. I would have been engaging with Mr. Dopson and other
18 persons at that time.

19 Q. Okay, the first person you called, which I entirely understand, is
20 Mr. Archbald?

21 A. Yes.

22 Q. Who is your immediate superior, isn't he?

23 A. Correct.

24 Q. Right. And so you called him within six minutes or so of
25 having been told of the incident, all right?

26 A. Correct.

27 Q. And then after him, you—it's nearly 20 minutes before you

1 speak to Mr. Donawa?

2 A. Correct.

3 Q. Well what—first, before that happens, what did Mr. Archbald
4 say to you?

5 A. I can't remember the exact details of the conversation.

6 Q. No, did he say, well, set up the IMT, you know, let's get
7 moving here? This has happened now some time ago?

8 A. Yeah. So we would have had some discussion about the
9 incident, um, and we would have started to make contact with
10 our guys on the ground.

11 Q. Well the next person you called was Mr. Donawa, 20 odd
12 minutes later?

13 A. So I had to make contact with my guys via analogue radio and
14 give instructions.

15 Q. All right. So these calls that you've logged in your statement
16 are telephone calls?

17 A. These calls are telephone calls.

18 Q. Rather than using your radio?

19 A. Correct, because there would have been—

20 Q. Did you actually use your radio?

21 A. Yes.

22 Q. Well, none of that is in here so who did you speak to?

23 A. So it's very hard to verbatively write down every
24 communication via—

25 Q. No I understand that, but you could give us an overall view.
26 You say—

27 A. So whatever—

1 Q. So, once you were told—

2 A. Right.

3 Q. —just a moment, once you were told, Mr. Yearwood, look
4 there's been this terrible incident these guys have gone
5 missing—

6 A. Correct.

7 Q. —four or five of them that were in the habitat, they've just gone
8 missing, your immediate response to that was presumably that
9 they were in the ocean somewhere—

10 A. Correct.

11 Q. —and needed rescuing?

12 A. Correct.

13 Q. So you speak to your immediate boss within a few minutes,
14 that's fine, and then what happens? You get on the radio and
15 do what?

16 A. So I'm giving instructions to my guys.

17 Q. You keep saying that, to my guys. I don't understand what that
18 means.

19 A. I asked my team to go to the site of the incident to get more
20 information.

21 Q. Right.

22 A. I would have asked them to start to prepare in terms of the
23 ambulance service and to set up that triage. I would have asked
24 them to get information for me from the operations person, so
25 this is going back and forward, um—

26 Q. And this is all on the radio, is it?

27 A. This is all on the radio.

1 Q. Right. What's the range of your radio?

2 A. I could talk to my team in Paria right now.

3 Q. It's countrywide?

4 A. So it's countrywide.

5 Q. Right. So you're using the radio, you're getting your guys, as
6 you put it, to make various arrangements contacting—

7 A. Correct.

8 Q. —ambulance service and so on, right?

9 A. Correct.

10 Q. Okay. And you're making your way to the—

11 A. And I'm making my way to—

12 Q. Right. And so when you've logged here the phone calls that
13 you've made, have you—where have you got that from?

14 A. This is from my phone.

15 Q. So you looked at your phone subsequently—

16 A. Yes.

17 Q. —when writing this statement?

18 A. When writing this I would have looked at my phone and seen
19 the exact—

20 Q. Who you called and when?

21 A. —who I called and when.

22 **Mr. Chairman:** All right, thank you. Thank you.

23 **Continued Cross-Examination By Mrs. Persaud Maraj:**

24 Q. Mr. Yearwood, I would like to take you to the—

25 **Mr. Chairman:** I'm sorry, Mrs. Maraj, I've just seen the time.
26 How long do you think you have?

27 **Mrs. Persaud Maraj:** Mr. Chair, I just have a few questions.

1 **Mr. Chairman:** Well why don't we—

2 **Mrs. Persaud Maraj:** [*Inaudible*] at—no, um, perhaps about
3 10 minutes, if so much.

4 **Mrs. Persaud Maraj:** And may I ask Mr. Peterson do you
5 have any questions?

6 **Mr. Peterson SC:** No.

7 **Mr. Chairman:** No.

8 **Mr. Peterson SC:** No, Mr. Chairman.

9 **Mr. Chairman:** It's probably preferable if you use up your 10
10 minutes and then we'll take a break and that way you'll be able
11 to go, all right?

12 **Mr. Yearwood:** Thank you.

13 **Mr. Chairman:** All right, let's do that.

14 **Continued Cross-Examination By Mrs. Persaud Maraj:**

15 Q. Right. So Mr. Yearwood, I'd like to take you to a picture that's
16 at page nine three five of the witness statement bundle. You
17 weren't—no, next page. Right. So you mentioned earlier in
18 your evidence that there was and there was an orange colour
19 marker being used for the timelines that you would have
20 commissioned?

21 A. Yes.

22 Q. Would this be what you were referring to?

23 A. Yes.

24 Q. All right. In this log of events, the information being fed was
25 taken from various persons?

26 A. Yes.

27 Q. All right. At 1548, it says, "HSE personnel S. Balkissoon

1 reported chances of survival as slim.”

2 A. Yes.

3 Q. Yes?

4 A. I seeing that there.

5 Q. And you were made aware of the information as it was coming,
6 you just said that to the Chairman?

7 A. Well, this is a statement, so this log is everything—we’re trying
8 to get everything that comes out from the radio and that was
9 said.

10 Q. That was said. So when you would have spoken to Mr. Piper at
11 1553, your conversation with him, you would have already
12 gotten this information?

13 A. This, this would have been logged, correct.

14 Q. Right.

15 **Mr. Chairman:** I’m sorry I’m just struggling to find my copy
16 of this just—because I’d like to follow this. Where are we at?
17 This is in—

18 **Mrs. Persaud Maraj:** We are at page 935 of the witness
19 statement bundle.

20 **Mr. Chairman:** Yeah. That’s Volume II, I think. Nine thirty-
21 six? Nine thirty-five. Yeah. Yes, my copy is illegible, that’s
22 why I can’t read it at all.

23 **Mrs. Persaud Maraj:** Same with me too, Mr. Chair. So I’m
24 looking at it from the computer.

25 **Mr. Chairman:** Right. So let me just take—make a note that
26 page nine three five witness bundle to orange, yes. Sorry, I’m
27 going to ask you to start back again if you would please?

1 **Mrs. Persaud Maraj:** Right.

2 **Continued Cross-Examination By Mrs. Persaud Maraj:**

3 Q. So my question to Mr. Yearwood was the time that this
4 annotation is given, this, this log has been made, that HSE
5 personnel reports that the chances of survival are slim. It would
6 have been at 1548 which was prior to his conversation with Mr.
7 Collin Piper. And he answered—

8 A. Yes.

9 Q. —yes.

10 A. So this is a log of everything that is said on the radio.

11 Q. Yes.

12 A. The HSE personnel would have heard one of the divers make
13 that statement and they would have reported it. Right? So—
14 and it would be logged at the time it was reported.

15 Q. Right. And my question to you was that this information was
16 received by you prior to your conversation with Mr. Piper?

17 A. The, the times here are accurate so that's how the timeline.

18 Q. Right. Okay. Did you discuss this bit of information with Mr.
19 Piper in your conversation?

20 A. Specifically, no.

21 Q. At the time that these information would have been coming to
22 you and your conversation with Mr. Piper at around—at 3.53
23 p.m., you were the de facto, let's say, incident commander, yes?

24 A. Yes.

25 Q. And part and parcel of being the de facto incident commander
26 is that your concern with what has happened to the persons who
27 were gone missing?

1 A. Yes.

2 Q. Yes? And this would have been pertinent and relevant
3 information in relation to what efforts you are to make
4 thereafter in relation to these missing persons?

5 A. Well, this is information as it was said. As I would have said
6 before, the technician at that time, he would have heard this
7 statement made by one of the divers after going into the
8 chamber. So, the instruction to Mr. Sandiford at this point in
9 time is, whatever you hear just write it down. Right? So what
10 he heard is what he wrote down.

11 Q. Mr. Yearwood, can you be specific? One of the divers at the
12 site you're saying that you would have heard this from. Who is
13 that diver that would have given this information?

14 A. I would have believed at the point in time we were trying to
15 communicate with Mr. Farah to get somebody into the ICT and
16 that is the statement that was made.

17 Q. So it is your evidence that Mr. Farah made the assessment or
18 made the statement that these men, the chances of survival of
19 these men is slim?

20 A. It is my evidence that Mr. Ramkissoo would have reported
21 that.

22 Q. So you're not aware of who would have given this statement or
23 caused this assessment to be made?

24 A. Which is why I initially said one of the divers.

25 Q. No, are you aware? Are you sure? You're giving evidence.
26 This is, this is for consideration. We are dealing with at this
27 point in time lives and we're dealing with the assessment and

1 the process by which, as the de facto incident commander,
2 you're employing to respond to an incident.

3 A. I don't know what your question is.

4 Q. The question is, the information that you're saying that you've
5 gotten, how did you treat with it and from whom? Did you
6 verify it? You're saying it's just that they heard so it was just
7 by the way information, it made no difference, this is just a log,
8 you were just creating a log for—and I'm saying a lot of things
9 here I would like you to—

10 **Mr. Chairman:** I would like a question and answer.

11 **Mr. Yearwood:** I don't know what going on.

12 **Continued Cross-Examination By Mrs. Persaud Maraj:**

13 Q. My question is, how did you treat with this information that
14 was spewed and placed on the log—

15 A. The—

16 Q. —as the incident, de facto incident commander?

17 A. It was placed on the log and we continued to attempt to engage
18 LMCS to have somebody come to the IMT so that we could get
19 information that we would have sure would—we would be sure
20 that it was credible. As I said, that was a statement that was
21 relayed and it would have been documented as such.

22 Q. All right. And you spoke to Mr. Kazim Ali you said?

23 A. Yes I did.

24 Q. And that would have been around you said 4.50 p.m.?

25 A. Yes.

26 Q. Right. So that would have been some hours after you would
27 have gotten that initial assessment logged?

1 A. Correct.

2 Q. Right. And, you requested that he send persons to the shipping
3 building?

4 A. Correct.

5 Q. All right. Did you inform him at any point in time that there
6 was an incident command centre that was now—or team that
7 was now in place?

8 A. Yes.

9 Q. My instructions are that that never happened./

10 A. Well, he might be wrong.

11 Q. That's your answer to it?

12 A. I would have informed him to come to shipping building at the
13 incident command post.

14 Q. All right. And we also have on evidence, and this is also my
15 instructions, that Mr. Andrew Farah was, in fact, on his way to
16 the shipping building, but then, at that point in time Mr.
17 Boodram was, um—well, there was noise to which he returned
18 at the berth to deal with.

19 A. So after I handed over to Mr. Piper—

20 Q. Yeah.

21 A. —we were finally able to get Mr. Farah to, to, to proceed to
22 land.

23 Q. All right. So, you're aware of that. It's just that your statement
24 has nothing acknowledging the fact that Mr. Farah was on his
25 way to the shipping building?

26 A. Well he was on his way, as I said after I would have handed
27 over to Mr. Piper.

1 Q. Right.

2 A. At the time, when I was trying to get him to come, he seemed to
3 be in some distress. Um, the guys would have reported that he
4 was kind a lying on the berth.

5 Q. And you were—you were there? You observed that?

6 A. That, that is what was reported, Ma'am.

7 Q. And that's the report you received. Okay. I'd like to revisit
8 something that you spoke about this morning to Mr. Maharaj.
9 You said that part and parcel of the procedure that was engaged
10 in relation to the assessment of the, or the review, sorry, of the
11 method statement to the JHA was that there was a meeting of
12 both Paria personnel and LMCS.

13 A. Correct.

14 Q. Correct? When did that meeting actually take place?

15 A. I don't have the exact date.

16 Q. It's not in your evidence. That was the first time I heard of it.

17 A. Correct. I don't have the exact date.

18 Q. You don't have the exact date. My instructions are that that—
19 there was never any meeting. What say you?

20 A. I say that there was a meeting.

21 Q. Sorry?

22 A. I say that there was a meeting.

23 Q. There was a meeting. My instructions are in fact that the
24 mechanism and procedure by which the review was done was
25 LMCS was asked to email their documents to Mr. Terrence
26 Rampersadsingh and then those documents, meaning the
27 method statements and the JHAs and other accompanying

1 documents would have been reviewed, however it was
2 reviewed by your team, and then the approval of it notified to
3 LMCS. What say you?

4 A. So that's not the process that we used at Paria.

5 Q. Is that—say that again, sorry?

6 A. That's not the process employed by Paria.

7 Q. Okay. You say that's not the process employed. I'm asking
8 you what, in fact, happened.

9 A. There would have been a meeting.

10 Q. Sorry?

11 A. There would have been a meeting.

12 Q. There would have been a meeting?

13 A. Yes.

14 Q. So you've moved from there was a meeting so—to there would
15 have been a meeting?

16 A. There was a meeting.

17 Q. There was a meeting. All right. I would like to—in relation to
18 what my instructions are and what I've just put to you, I would
19 like to take you to an email trail that is at page two nine two
20 four of the witness statement bundle.

21 **Mr. Chairman:** Which number?

22 **Mrs. Persaud Maraj:** Two—

23 **Mr. Chairman:** I don't think we have witness statements that
24 go up to 2924.

25 **Mrs. Persaud Maraj:** I—it's 2924. This is the supplemental.

26 **Mr. Chairman:** Ah.

27 **Mrs. Persaud Maraj:** Yes. Right.

1 **Continued Cross-Examination By Mrs. Persaud Maraj:**

2 Q. I would actually like you to scroll to two nine two five. So the
3 email is actually in reverse order. Yes?

4 [*Document handed to Mr. Yearwood*]

5 **Mr. Chairman:** Right. Which part do you want to go to?

6 **Continued Cross-Examination By Mrs. Persaud Maraj:**

7 Q. So I would like—Mr. Yearwood, I would like to look at the
8 entire email trail starting at page two nine two five and you
9 would see that the first email and the date is actually on the
10 page two nine—

11 **Mr. Chairman:** Yes, it's the page before—

12 **Mrs. Persaud Maraj:** Yes.

13 **Mr. Chairman:**—starts the, the—at the bottom of the page two
14 nine two four.

15 **Mrs. Persaud Maraj:** Two four, correct.

16 **Mr. Chairman:** There's an email from Mr. Kazim Ali dated
17 the 4th of January, 2022 at 22 minutes past 1.00. Subject
18 installing subsea slip-on flange at 36SL berth 6. To Terrence
19 Rampersadsingh and it says, "See attached documents for the
20 above captioned job. They are method statement, job safety
21 analysis, lift plans", et cetera. The job here is to perform the
22 work of replacing the leaking section of SL36 riser. Et cetera.
23 These works will follow reduction of, yes. And then there's a
24 reply. You don't need any more than that, do you?

25 **Mrs. Persaud Maraj:** No.

26 **Mr. Chairman:** Then there's a reply of—back on page two
27 nine two four. Do you see that, Mr. Yearwood?

1 **Mr. Yearwood:** Yes.

2 **Mr. Chairman:** Yeah and the reply, “Good day”, this is from
3 Mr. Kazim Ali again, January the 4th, now 359, “Good day.
4 See attached documents for captioned job.”

5 **Mr. Yearwood:** So I’m seeing that there’s a review.

6 **Mrs. Persaud Maraj:** Yes.

7 **Continued Cross-Examination By Mrs. Persaud Maraj:**

8 Q. And then if we go higher—

9 A. So I believe this review—

10 Q. —on the email.

11 A. So I believe this review—

12 Q. Right.

13 A. —may have been, as you indicated there would have been the
14 meeting. If anything need to be reviewed it would have been
15 reviewed and—

16 **Mr. Chairman:** Sorry you’ve got to speak a little bit louder
17 because I’m not hearing you.

18 **Continued Cross-Examination By Mrs. Persaud Maraj:**

19 A. Right, so I’m seeing—I’m actually seeing that you, you said
20 there’s a review but there’s a Rev one to the method statement
21 so I would presume that the meeting would have been held
22 before this review would have been made. There must be a
23 basis for the review.

24 **Examination By Mr. Chairman:**

25 Q. We’re still on the 4th of January?

26 A. Correct.

27 Q. It’s now 20 past 4.00 in the afternoon and—from Mr.

1 Rampersadsingh sent to Mr. Ryan Nanton. That's one of your
2 men, isn't it?

3 A. Correct.

4 Q. In which he says: "Please review respective attachments. MS
5 was reviewed, updated, and is acceptable. Regards Terrence."

6 A. Correct.

7 Q. From Kazim Ali then, below that, we can see he's replied. But,
8 what's being asked is whether or not there was a meeting which
9 involved the contractor.

10 A. So the meeting that I'm speaking about would have been held
11 before this Review One of the method statement. I assume that
12 there may have been changes and this is the last line there is for
13 the guys to look at what was changed and say that they're okay
14 with it.

15 Q. Well it says here the MS was reviewed, updated and is
16 acceptable. The only one we've got, the only one I've seen is
17 the one that we've got that I showed you earlier on.

18 A. So, so we're seeing that there's a—some review on document.

19 [*Crosstalk with Mr. Maharaj*]

20 **Mr. Chairman:** Yes. The one that's attached to the permit to
21 work. [*Crosstalk with Mr. Maharaj*] But it's unchanged from
22 the previous.

23 **Mr. Maharaj SC:** It's revision zero.

24 **Mr. Chairman:** Revision zero. Yeah, exactly.

25 **Mr. Peterson SC:** That's the point I was making in—

26 **Mr. Chairman:** Earlier when we asked Mr. Kazim Ali about
27 it, yeah.

1 **Mr. Peterson SC:** Yes because Mr. Kazim Ali without
2 prompting, without prompting when it came up on the screen,
3 he said yes, 116, but he said there's a problem there. That
4 record is wrong because in the brackets where revision zero it's
5 supposed to have a number he said because he said it was
6 reviewed and I mean it wasn't a point of contention because—

7 **Mr. Chairman:** I don't think so.

8 **Mr. Peterson SC:** Yes.

9 **Mr. Chairman:** I think it—what we agreed that that was the
10 one that was ultimately being used—

11 **Mr. Peterson SC:** Yes but—

12 **Mr. Chairman:**—as the method statement.

13 **Mr. Peterson SC:**—as the revised final one.

14 **Mr. Chairman:** Yes.

15 **Mr. Peterson SC:** And I didn't challenge him on it because it
16 was understandable it was used.

17 **Mr. Chairman:** Quite.

18 **Examination By Mr. Chairman:**

19 Q. So, so, whether it's a typo or whatever it doesn't really matter.
20 We ended up with the same document. So the one that we
21 referred you to, that I referred you to earlier is the one that was
22 used as the method statement. I mean, the fact that it's written
23 here that it was really doesn't really matter because we are all
24 agreed there is the only that one that was ultimately used for the
25 purposes of the works.

26 A. Correct.

27 Q. I think the issue here is, really, the question that's being put to

1 you is that there was never a formal meeting which involved the
2 contractor, because you told me earlier on, and Mr. Maharaj,
3 that there is a review process which involves various different
4 departments—

5 A. Correct.

6 Q. —at Paria. You told us HSE, which is yours, technical and
7 operations and then momentarily you shortly after that added
8 the contractor was also represented. You remember saying
9 that?

10 A. Correct.

11 Q. So it's been put to you now that the contractor was never at that
12 meeting. Now do you think that might be the case, that in this
13 instance the contractor never did attend the meeting? It was
14 reviewed by your three departments without the contractor.

15 A. The information I had is that there was a meeting, um, and
16 that's the information I have.

17 Q. Yeah. Well that information is reliant entirely, is it not, on your
18 memory?

19 A. Yes.

20 Q. There is not a note, a minute, a email, a text message or any
21 other written document which identifies the persons who were
22 present at that review process?

23 A. No.

24 Q. I mean are you even able to tell us who, from the contractor,
25 attended?

26 A. I wouldn't, I wouldn't be part of the meeting.

27 Q. Are you able to tell us who from the technical department

1 attended?

2 A. No.

3 Q. Or the operations department?

4 A. No.

5 Q. No. So, we're entirely reliant on your best recollection from
6 the better part of what, nine months ago, nearly a year ago, as to
7 who was present, and that this meeting took place, is that right?

8 A. Yes.

9 Q. Okay. But do you think that there is a prospect that what's
10 being suggested to you might be right, that on this occasion the
11 contractor didn't attend?

12 A. It would be very odd. Um, this is a standard process that we
13 use for all—

14 Q. I know, but we've been going through years of oddness,
15 haven't we, with the COVID. I mean somebody might have
16 died but for some fairly narrow-minded view of the COVID
17 regulations, and then a person not being allowed to get into an
18 ambulance, so, it seems to me having a meeting which
19 involved, a personal meeting which involved the contractor,
20 unless you're saying it might have happened by a video?

21 A. All the meetings are—

22 Q. Were by video?

23 A. —by video.

24 Q. Right.

25 A. So all are Teams meetings.

26 Q. So, so—but all you can say is, to the best of your recollection, it
27 involved the contractor?

1 A. Yes, that's the—

2 Q. And that's the normal procedure?

3 A. That's the normal procedure for it, yes.

4 Q. But you're not able to—could you have ruled out the prospect
5 of it happening without the contractor?

6 A. I wouldn't like to say, yes.

7 Q. You wouldn't like to say, not that you wouldn't? But, um,
8 could you rule it out nonetheless?

9 A. No, I wouldn't be able to completely rule it out.

10 Q. You wouldn't be able to completely rule out?

11 **Mr. Chairman:** Does that deal with your point as best as you
12 were able?

13 **Mrs. Persaud Maraj:** Certainly.

14 **Mr. Chairman:** This is as far as you can take it with—

15 **Mrs. Persaud Maraj:** That's as far as I can take it with Mr.
16 Yearwood.

17 **Mr. Chairman:** Is there anything else?

18 **Continued Cross-Examination By Mr. Trebouhansingh:**

19 Q. Just one thing I'd like to confirm from you. You were never
20 part and parcel of the award of contract process, were you?

21 A. No.

22 Q. With anything to do with the, the content of the contractual
23 terms between Paria and LMCS?

24 A. No.

25 Q. All right.

26 **Mrs. Persaud Maraj:** That's it. Thank you.

27 **Mr. Chairman:** Right, thank you very much. Just before we

1 move on, there's one other thing I need to ask.

2 **Examination By Mr. Chairman:**

3 Q. The note that—in orange writing that was photographed on to
4 the board, I do now recall having seen it before. And the
5 position is this. Is that what is in that note is actually replicated
6 on page 1572. So whoever was writing the note on your behalf
7 entered it into the log that we have on one five seven two. I
8 think but for a couple of very minor words that are of no
9 consequence.

10 **Mr. Chairman:** [*To Mrs. Persaud Maraj*] It is a replication of
11 what's in that—on that page that you drew our attention to. It
12 is the same—

13 **Mrs. Persaud Maraj:** It is the same—

14 **Mr. Chairman:**—as what we see on this log here. I'm not
15 asking you to take it through. I've done it myself so I know it's
16 accurate.

17 **Mr. Yearwood:** No problem.

18 **Mr. Chairman:** Thank you very much. All right, and do you
19 still have no questions or is there anything you'd like to ask,
20 Mr. Peterson?

21 **Mr. Peterson SC:** We have nothing, Sir.

22 **Mr. Chairman:** Nothing to ask, but I think, Mr. Maharaj,
23 you—

24 **Mr. Maharaj SC:** I just wanted to point out to the—to you,
25 Mr. Chairman, that at paragraph nine of his witness statement
26 he said, "I was not involved in the review process in any
27 material way because, as mentioned above, Mr. Nanton was the

1 person. So he was really not at the meeting.

2 **Mr. Chairman:** Ah, right.

3 **Examination By Mr. Chairman:**

4 Q. Is that right? I've misunderstood. You were not at the meeting
5 at all?

6 A. No. That's what I've said.

7 Q. All right.

8 A. That's why I've said. I assigned someone.

9 Q. Then I have misunderstood. Thank you for that. I was about to
10 take a dim view of the fact that you couldn't recall, but the fact
11 is you weren't at this meeting at all?

12 A. No, I assigned somebody to the—

13 Q. So Mr. Nanton was at the meeting?

14 A. Yes.

15 Q. And he would be better able to tell us if there's anybody from
16 LMCS that was at the meeting?

17 A. Correct.

18 Q. You are saying you would have expected someone from LMCS
19 to be at the meeting?

20 A. That is the normal process, yes.

21 Q. That's the normal process, but because you were not actually
22 yourself at the meeting you can't say whether there was or not?

23 A. It's my information that it occurred, so—

24 Q. Sorry?

25 A. It's my information that it occurred, so—

26 Q. Yes. Well you're reliant, are you, on Mr. Nanton telling you
27 so?

1 A. Yes.

2 **Mr. Chairman:** Anything arising? I'm sorry, Mr. Wilson has
3 a question.

4 **Examination By Commissioner Wilson:**

5 Q. Good day, Mr. Yearwood.

6 A. Good day.

7 Q. Just saying on the topic of that meeting, what is that meeting in
8 service of, when you get, um, um, your multiple—your
9 departments and you invite the contractor to discuss the job,
10 what is, what is that meeting in service of?

11 A. Yes, so, it, it is there to, to, to, to bridge the gap between Paria,
12 um, letting the contractor know what their risks are and the
13 contractor letting Paria know what their risks are.

14 Q. I like the phrase you used, bridge the gap. What sort of
15 documents come out of those types of meetings?

16 A. The documents that come out of those meetings are the
17 revisions of the documents being reviewed.

18 Q. Now since you used the term bridge the gap, are you familiar
19 with the term bridging documents? I heard a list of your whole
20 qualifications so—

21 A. Yes.

22 Q. In this case and/or any other cases, is it the practice of Paria to
23 utilize bridging documents?

24 A. No. It's the practice at this time to review the documents as to
25 the guidance of the team.

26 Q. So how do you effectively bridge the gap if you don't use a
27 bridging document and/or equivalent?

1 A. I understand what you're saying. It's something that will be
2 considered.

3 **Mr. Chairman:** Please don't let your voice drop. I can't hear
4 what you're saying, sorry.

5 **Mr. Yearwood:** Sorry about that.

6 **Examination BY Commissioner Wilson:**

7 Q. So you said it's been considered so I want to go back to some
8 of your earlier testimony here where you said that
9 improvements have been made to some of your processes, and,
10 I mean, I asked it of some of your colleagues but I understand
11 you're more of an end user of it so I'll put it to you again. What
12 were the industry type processes like lessons learned,
13 continuous improvement, agility, used to come to those lessons
14 that you're now employing at Paria?

15 A. There would have been some consideration of the incident, um,
16 there would have been an extensive intensive engagement of the
17 regulatory bodies after and some of those would have come out
18 of that process. So they would have done a full—OSHA would
19 have done a full audit on the site on all our processes and so
20 forth. So some of those things would have come out of that.
21 There's also an internal investigation into the incident, so these
22 things are what would have triggered that.

23 Q. Okay. So as an HSE practitioner you're just solely depending
24 or solely dependent upon the incident report generated by Paria
25 to drive the lessons learned, because, what I'm not hearing
26 powerfully or not seeing powerfully and/or not getting from
27 Paria powerfully are any known industry processes that would

1 adequately, robustly capture lessons where they can be
2 implemented, interrogated going forward.

3 All I just hearing is, you know, we did A, B, C, D, but there's nothing
4 that I'm convinced, and it's quite relevant for the Chairman and
5 I when we're considering our recommendations, I don't want to
6 do dual work so I'm quite keen, especially in your capacity as
7 an HSE professional, what methodologies were employed to get
8 that.

9 A. So we would—we haven't formally gone through, um, any
10 specific methodology.

11 Q. Okay.

12 A. Right?

13 Q. Thank you. Right.

14 **Mr. Chairman:** Well we can ask Mr. Archbald who would be
15 next, so let's take a break. We've been going for a little while.
16 Let's take 15 minutes then please and then we'll have Mr.
17 Archbald. Thank you very much.

18 **11.47 a.m.:** *Enquiry suspended.*

19 **12.07 p.m.:** *Enquiry resumed.*

20 **Mr. Chairman:** Thank you. Right, Mr. Archbald, I believe.
21 Oh, Mr. Maharaj will be quite useful too.

22 *[Mr. Archbald and Mr. Maharaj enter enquiry room]*

23 *[Mr. Randolph Archbald sworn]*

24 **Mr. Chairman:** Yes, Mr. Archbald is it?

25 **Mr. Archbald:** Yes.

26 **Mr. Chairman:** The oath will be administered now.

27 *[Mr. Randolph Archbald sworn]*

1 **Mr. Archbald:** I, Randolph Archbald, solemnly swear that the
2 evidence I shall give to this Commission in this case shall be
3 the truth, the whole truth and nothing but the truth.

4 **Mr. Chairman:** Yes, Mr. Archbald, thank you for coming.
5 Make yourself comfortable. The water is there for your use.
6 What's going to happen is a summary of your evidence will be
7 given first of all by Ms. Maharaj. Please listen carefully to that
8 summary and hopefully you'll agree that it is accurate. If not,
9 tell me and we'll proceed from there.

10 After that, Mr. Maharaj will have some questions for you, and
11 then others may or may not, as the case may be. All right? So
12 listen carefully to Ms. Maharaj who is going to summarize your
13 evidence into. All right.

14 Can I, just before you do that, I've just been handed a further
15 supplement to your statement dated today, and that is your
16 statement. It's five paragraphs. That has now, I believe, been
17 posted on the website. It's only just been brought to my
18 attention, so, anybody who hasn't you can access it on the
19 website now. Thank you very much.

20 **Mr. Peterson SC:** That was just to formally account for the
21 emails that were disclosed and used earlier in the earlier
22 sessions.

23 **Mr. Chairman:** Lovely. Thank you very much.

24 **Mr. Peterson SC:** Just to cover it by way of evidence.

25 **Mr. Chairman:** All right, thank you. Yes. Ms. Maharaj.

26 **Ms. Maharaj:** Mr. Archbald declined to be interviewed by the
27 Commission but he provided a witness statement to the

1 Commission dated the 16th of August, 2022 which is at page
2 1312 of the witness statement bundle Volume IV, and, as
3 indicated he also provided a supplemental witness statement
4 today which is on the website. The following is a summary of
5 his first witness statement.

6 Mr. Archbald is the HSEQ lead at Paria. The HSEQ
7 department is guided by the HSE requirement for contractors
8 which is at the core bundle 12, page 12, the HSE orientation
9 procedure, which is at the core bundle page 11, the permit to
10 work procedure which is at the core bundle page 24, various
11 emergency response plans which is—which can be found at the
12 core bundle pages 39 to 90, and procedures in incident
13 reporting procedure effective 1st December, 2019 which can be
14 found at the core bundle page 101.

15 The HSEQ department monitors the work being done on
16 the site to determine the level of compliance with Paria's permit
17 to work procedure and other company standards and procedure.
18 Mr. Archbald was involved in the development of the permit to
19 work procedure and this procedure was developed to provide a
20 formal documented process for controlling risk associated with
21 certain work activities such as contractors and maintenance
22 works.

23 Without a permit to work being generated, no work can
24 be undertaken by a contractor. The procedure which is separate
25 and apart from a job risk assessment intended to, among other
26 thing, one, establish the requirements for identifying critical
27 information on jobs such as the nature and extent of the work to

1 be done, the exact location of the job, the equipment to be used,
2 the hazards involved and the precautions to be taken, ensure
3 that work is not carried out unless there is proper authorization,
4 clearly identify high hazard work and requirements and the
5 requirements or precautions to be followed, and establish
6 monitoring and auditing requirements for permit jobs.

7 The HSEQ department, independent of the permit to
8 work system, monitor the works being done by LMCS at berth
9 No. 6 through Paria's HSSE technicians who generated shift,
10 technicians daily logs and daily activity reports which was
11 submitted to Mr. Archbold and Mr. Yearwood. See for instance
12 core bundle pages 1021 to 1022. The HSEQ department
13 assessed the HSE documents submitted by LMCS in relation to
14 the 36 Sealine riser repairs at berth No. 6 and found them
15 satisfactory.

16 Those HSE documents included the emergency response plan,
17 risk assessment, job hazard analysis, site specific safety plan
18 and COVID 19 safe work practices.

19 Mr. Archbold first heard about the incident through Mr.
20 Yearwood at about 3.12 p.m. on Friday, 25th February. He was
21 also informed that whilst the men were conducting the works, a
22 splash was observed on the monitor showing the works. LMCS
23 dive supervisor Andrew Farah went into the chamber and
24 reported there was no one in the chamber. Mr. Archbold
25 informed OSHA the Ministry of Energy and Energy Industries
26 and the Trinidad and Tobago Fire Service of the incident and
27 requested support.

1 Upon Mr. Archbald's arrival at the incident command
2 post, the incident command team was already activated and
3 comprised Mr. Collin Piper as incident commander, Mr.
4 Archbald as planning section chief, Mr. Michael Wei as
5 logistics section chief, Catherine Balkissoon as operations
6 section chief, Paul Yearwood as HSSE or safety officer, and
7 Nerissa Feveck as information officer. Mr. Archbald obtained
8 an update on the status of the incident response and was
9 informed that the incident command team was then gathering
10 information about the incident and reaching out to various
11 agencies and parties for assistance, coordinating sutures
12 [*Phonetic*] and discussing rescue options.

13 At about 5.30 p.m. Mr. Archbald gave instructions for a
14 triage station to be set up with ambulances, oxygen, emergency
15 technicians and at around 5.45 p.m. Mr. Piper informed Mr.
16 Archbald that one of the five divers were rescued. Mr.
17 Archbald stated that he contacted Mr. Mark Rudder, Director at
18 the Ministry of Energy and Energy Industries, and informed
19 him that the diver was found in the chamber and that help
20 would be needed to extract the other divers believed to be in the
21 riser. Mr. Rudder advised that the coast guard should be
22 contacted, however Mr. Archbald informed him that the coast
23 guard was already engaged and other options were being
24 sought.

25 Mr. Archbald also spoke to the coast guard's Lieutenant
26 Hargreaves regarding assistance to rescue persons but was
27 advised that the coast guard did not have the equipment and

1 crew on site to do such a rescue as they came prepared to look
2 for persons in the open water.

3 Around 6.24 p.m., Mr. Archbald spoke to Commander
4 Maharaj of the coast guard who informed him that the coast
5 guard Interceptor, the vessel engaged in conducting an open
6 water such for the missing divers must return to Staubles Bay to
7 retrieve a coast guard dive crew and equipment to possibly
8 attempt a search and rescue exercise within the pipeline. Mr.
9 Archbald was advised that the coast guard crew had already left
10 for Staubles Bay.

11 The incident command team subsequently made contact
12 with diving experts and companies including Eastern Divers
13 Company Limited, Hull Support Services and Offshore
14 Technology Solutions Limited to provide assistance with search
15 and rescue efforts within the pipeline. It came to the attention
16 of the incident command team that persons were diving into the
17 pipeline in the wake of Mr. Boodram's rescue.

18 Mr. Archbald, based on his qualifications, knowledge
19 and experience in occupational health and safety advised the
20 incident commander that diving into the pipeline was not safe.
21 Furthermore, when he spoke to Mr. Dion Lawrence of OSHA,
22 Mr. Lawrence asked in a disapproving tone whether Paria was
23 allowing rescue divers to dive into the pipeline. Mr. Archbald
24 believed that it was unsafe to dive within the pipeline at the
25 time without a continuous air supply, with a tank and tether.
26 He stated that the divers would at least need a rope with them, a
27 supply of air and a tank to be on them as an emergency air

1 supply in case their regular air supply was interrupted.

2 Also, to his knowledge, LMCS did not discuss with or
3 present the incident command team with any rescue plan. The
4 incident command team agreed with Mr. Archbald and the
5 incident commander, Mr. Piper, made a decision based on the
6 information and advice received that further diving into the
7 pipeline should be suspended until it could be determined that it
8 was safe to do so. The decision was communicated to LMCS
9 employees at berth 6 at about 7.00 p.m., however, to Mr.
10 Archbald's knowledge, no attempt was made to enforce the
11 decision or physically interfere with LMCS' diving into the
12 pipeline. To the best of his knowledge, LMCS personnel
13 continued to do so.

14 At around 7.00 p.m. Mr. Archbald made arrangements
15 with Survival Systems Limited to provide filled air tanks to
16 LMCS as Mr. Archbald was informed that LMCS were running
17 out of compressed air. Mr. Archbald asked Kenson EMTs,
18 Nigel Bachew and Shan Balkissoon to go and interview
19 Christopher Boodram at the San Fernando General Hospital to
20 get information to assist with the rescue efforts. They arrived at
21 the hospital at 9.00 p.m. and about 9.58 p.m. they called and the
22 incident command team was able to speak with Christopher
23 Boodram on the phone.

24 Mr. Archbald stated that the coast guard crew returned at
25 around 11.00 p.m. and were informed of the information
26 obtained from Mr. Boodram, however, Lieutenant Hargreaves
27 advised that the coast guard would not be able to attempt a

1 rescue into the pipeline and it was too high risk and there were
2 too many unknowns. At approximately 1.37 a.m. on Saturday,
3 26th February, Eastern Divers, after visiting berth 6 to obtain
4 information, returned to the ICT and advised Mr. Archbald that
5 they were returning to their base to obtain the necessary
6 equipment for a possible rescue attempt.

7 At about 2.04 a.m., Mr. Archbald was advised that
8 Christopher Boodram was in a stable condition and that he
9 should undergo decompression treatments. Mr. Archbald says
10 that a hyperbaric chamber was at the time being—was at the
11 time being supplied with air from the compressor and there was
12 a risk that the compressor and the back-up compressor would
13 eventually fail. A 30-inch spool piece was therefore installed
14 on top of the riser to which a chamber was attached to berth 6
15 as it was felt that this would mitigate against compressor failure
16 and allow rescue divers to enter from on top rather than from
17 the chamber.

18 Mr. Archbald stated that a crawler was sent down
19 through the riser at berth 6 and reached a distance on 45 feet
20 along the horizontal portion of the line but could not progress
21 any further. He was informed that Hull Support Services and
22 OTSL advised that they would not be able to dive into the
23 pipeline to attempt a rescue. At around 8.11 a.m. on Saturday,
24 Mr. Archbald made arrangements for Christopher Boodram to
25 be taken to a Hull Support Services Limited facility at La Brea
26 to receive decompression treatment, however, there was a
27 subsequent change in his treatment plan by Mr. Boodram's

1 doctor.

2 Kazim Ali came to the incident command team on 26th
3 February. He wanted to send a diver down at berth No. 5,
4 however Mr. Archbald stated that a dip which is a device used
5 to show the presence of water, showed that the entire riser at
6 berth No. 6 was filled with water and that at berth No. 5 the
7 pipeline contained hydrocarbons and the riser was empty. This,
8 he stated, meant that the pipeline was blocked possibly with the
9 inflatable plug. Mr. Kazim Ali Sr.'s idea therefore was not
10 feasible and was not included in the incident command teams
11 forward plan.

12 Mr. Archbald also said that Mr. Kazim Ali Sr. informed
13 the incident command team that he knew a diver who would be
14 willing to go into the pipeline but he was not available until
15 Sunday. Mr. Archbald discussed the plan with him and Mr. Ali
16 Sr. advised that the diver would enter the pipeline first, feet first
17 and try to remove the obstructions in the pipeline which
18 prevented the progress of the crawler. At the end of the
19 discussions, Mr. Archbald states that Mr. Kazim Ali Sr. said, "I
20 am a practical man. My son is no more. This is now a
21 recovery."

22 No one from LMCS ever discussed with or presented to
23 the ICT any rescue plan for the missing divers as the only
24 discussion Kazim Ali Sr. had with Mr. Archbald was about
25 having a diver enter the pipeline from above to remove the
26 diving equipment, gear and other obstructions in the pipeline.
27 However, Mr. Archbald indicates that despite what Mr. Ali Sr.

1 said to him, no decision was taken at that time that Paria's
2 rescue operations would cease and move instead into recovery,
3 into the recovery phase.

4 The incident command team continued in conjunction
5 with the assistance of diving experts to try to develop a plan for
6 rescuing the missing divers. Mr. Archbald says that several
7 rescue options were considered by the ICT. This included the
8 option of cutting a test hole and inserting a camera to determine
9 the exact location of the divers, and the option of cutting a riser
10 to allow for access of a competent and willing diver, but both
11 options were deemed to be too risky and would have taken too
12 long to execute.

13 By Saturday evening, none of the diving companies
14 contacted by Paria were willing to attempt a rescue. The
15 incident command team then determined that the most practical
16 rescue plan at that time was to get to the divers by pumping the
17 water down from berth No. 6 riser. This would possibly have
18 introduced air into the pipeline. The ICTs forward plan at 5.37
19 p.m. on Saturday, 26th of February was as follows. First
20 remove the hyperbaric chamber, then install booms at berth No.
21 6 to collect any oil from the pipeline, pump down the water
22 from the riser at berth 6, inspect the pipeline with a crawler.

23 At 11.00 p.m. on Saturday, Mr. Archbald renewed
24 discussions with Eastern Divers. He says he pleaded with them
25 to attempt a rescue. However, ultimately they refused because
26 they thought the risk to their personnel was too high. At about
27 7.00 a.m. on Sunday, February 27th, Mr. Archbald indicated

1 that he contacted Mr. Kazim Ali Sr. in an attempt to get the
2 diver who Mr. Ali Sr. said would be available on Sunday and
3 discussed with him the possibility of attempting a rescue by
4 pumping down the water at No. 6.

5 Despite Kazim Ali Sr. indicating that he would get back
6 to Mr. Archbald, he never did. Mr. Archbald left the incident
7 command post at about 8.00 a.m. on Sunday and when he
8 returned at 3.00 p.m. the incident command team had taken a
9 decision to transition from rescue to recovery operations.

10 In his supplemental witness statement, Mr. Archbald
11 exhibits a thread of February 2022 emails between himself and
12 Mr. Ahmad Ali of LMCS. In paragraphs four and five of that
13 supplemental witness statement he states as follows.

14 “The email tread concerns an incident which occurred at
15 Paria on February 17th, 2022 where LMCS Limited
16 mobilized their barge to commence works on the job
17 which is the subject of the Commission prior to the
18 issuance of any permit to work by Paria. This incident
19 caused the suspension of the job by Paria and an
20 investigation into the incident to be launched by LMCS
21 Limited for Paria’s review.

22 The email thread contains an email sent on
23 February 17th, 2022 where I asked Mr. Ahmad Ali
24 several questions targeted towards the prevention of a
25 reoccurrence of a similar incident and his responses by
26 mail sent to me on February 18th. In his response to my
27 third question as to whether a self-check or checklist

1 system would be implemented, Mr. Ahmad Ali indicated,
2 among other things, that LMCS Limited felt that the
3 permit itself already served as the most powerful control
4 document in the existing system and it would be of little
5 value to add another form recapping the same
6 requirements as were already documented.”

7 Mr. Archibald, is this a correct summary of both your
8 first and supplemental witness statements?

9 **Mr. Archibald:** Yes.

10 **Ms. Maharaj:** Thank you.

11 **Mr. Chairman:** Right. Thank you for that. Mr. Maharaj I
12 think you have some questions.

13 **Examination By Mr. Maharaj SC:**

14 Q. Good afternoon, Mr. Archibald.

15 A. Good afternoon.

16 Q. At paragraphs 17 and 18 and 19 of your witness statement, you
17 gave evidence of the review—[*Document handed to Mr.*
18 *Archibald*—17, 18 and 19—the review and assessment which
19 was made by your department of the LMCS emergency
20 response plan, risk assessment, the job hazard analysis, site
21 specific safety plan and you stated that upon that review your
22 department found that the LMCS documents were satisfactory.
23 Is that correct?

24 A. Yes, Sir.

25 Q. And I want you to—I want to refer you to paragraphs 85 and 86
26 of Michael Wei’s witness statement which is at page 1286
27 Volume IV of the witness bundle in which he stated, if you just

1 look at it?

2 **Mr. Chairman:** Just a moment, yeah, you'll find it behind Tab
3 34. Yeah.

4 **Mr. Archbald:** Got it.

5 **Mr. Chairman:** Which paragraph again Mr.—

6 **Mr. Maharaj SC:** It's paragraphs 85 and 86 at pages 1286 and
7 1287.

8 **Mr. Chairman:** All right.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. In which he said that the accident was in respect of a Delta P
11 situation.

12 A. Yes, Sir.

13 Q. Right. And that was the cause the accident, correct? Would
14 you agree with me that in none of those documents which Paria
15 reviewed and approved was the—a latent Delta P hazard
16 identified as a risk?

17 A. Reviewed and accepted, um, rather than approved.

18 Q. Accepted?.

19 A. Yeah. Thanks. As far as I could remember, Delta P was never
20 mentioned or the—

21 Q. Delta P was never mentioned. Before this accident occurred, in
22 respect of a latent Delta P hazard, would I be correct to say that
23 you did not consider that these works would have had an active
24 Delta P situation?

25 A. You would be correct.

26 Q. I would be correct.

27 A. The contractor and LMCS did not raise Delta P to us as a

1 potential risk, and, that is correct, I did not consider it.

2 Q. Do you consider that persons in your department had the
3 necessary qualifications and experience to identify a Delta P
4 hazard situation?

5 A. No. I could explain a little bit more?

6 Q. Yeah.

7 A. Okay. So the—in the HSE department within Paria we work
8 within the oil and gas industry and the risks and the hazards and
9 threats that we're more accustomed with would be related to oil
10 and gas. So, for a diving activity, it would not be normal unless
11 somebody is—has worked somewhere else before, from, in that
12 industry and is working with us, it would not be normal for
13 someone to have that knowledge or that competence or
14 certification, and that is the case.

15 Q. And that is the case. So, would it be correct to say that, as far
16 as you were concerned in that department, you never envisaged
17 that any time that Paria was doing these works this kind of
18 works, there would have been a Delta P hazard?

19 A. That is correct. For this type of work, we never considered that
20 as a risk. It was never introduced to us, at least I could say I did
21 not think about it.

22 Q. You did not think about it.

23 A. That is a fact.

24 Q. And as far as—how long are you with Paria?

25 A. Its inception in December—

26 Q. Twenty nineteen?

27 A. —2018.

1 Q. Eighteen?

2 A. Yeah, so it's four years now.

3 Q. And as far as you're concerned, from what you know, Paria
4 didn't consider that or your department didn't consider it?

5 A. I, I really don't know if I can answer that question.

6 Q. Okay. Fair enough. Fair enough. Mr. Paul Yearwood who is
7 one of your officers—

8 A. Yes, he works with me, yeah.

9 Q. —he told us in his evidence that at paragraph seven of his
10 witness statement at page 1301, I'll read it to you, he said that
11 Paria did not have the competence and experience to execute
12 these works.

13 A. Paragraph seven?

14 Q. Yes. Last three lines.

15 "Because the works which were to be executed by LMCS
16 were highly specialized in nature and were not of a kind
17 which Paria had the competence or experience to execute
18 and Paria necessarily relied on the specialist expertise of
19 contractors such as LMCS."

20 A. Okay. I see it.

21 Q. Would you agree with that?

22 A. Yes. Yes.

23 Q. Well—

24 A. I would agree.

25 Q. You would agree?

26 A. Yeah.

27 Q. Something that has troubled me in this matter a lot and I

1 wonder if you could help me. If Paria did not have the
2 competence and experience to execute these works, how could
3 Paria have reviewed these documents from LMCS to accept
4 them to give the go-ahead to do these works?

5 A. Okay. How could Paria have done this?

6 Q. Yes. If, if, if, for example, you and your department do not
7 have the skill, the experience, the competence to review and
8 assess the works for the works to proceed and your officers
9 have been saying, and Paria has been saying, it did not have
10 that experience and competence, but yet it is asking to review
11 the works with its staff and give the go-ahead to do the works,
12 how, how—it makes me feel that something is not right.

13 A. Okay. So, it—

14 Q. Am I wrong?

15 A. Well let me give the answer.

16 Q. Yes.

17 A. And, um, the decision on whether you're right or wrong
18 would—

19 Q. Okay.

20 A. —would still be up for you to decide. The, um, the risks appear
21 in two basic areas, two basic forms, functional risks and
22 situational risks, situational being geographic or it could be
23 condition. So the functional risks are related to the job. So, for
24 example, if a contractor is building scaffolding in Paria and he
25 builds it in Port of Spain or wherever, it's his function. That's
26 the functional risks associated with the job. So he's the expert
27 and he understands those risks. The situational risk or the

1 geographic risks belong to Paria. That's our facility. We
2 understand those risks, so when we hire a contractor, he brings
3 to us the functional risks associated with the job.

4 He is the expert, he is doing the job, so he tells us, "This
5 is my method of doing the job and this are—these are the risks
6 associated with the job." And then we say to him, "Well this is
7 our facility and these are the risks associated with our facility",
8 and the two supposed to come together for the job to be
9 executed safely.

10 So in doing the risk assessment review or the JHA review
11 as in this particular case, our role was to introduce or inform the
12 contractor these are the facility risks. We have oil and we have,
13 um, hydrocarbon here, and this is the depth and that sort of
14 thing. These are the activities that we have taking place at this
15 point in time, and we inform him of that. We also are informed
16 of the functional risks associated with the job by him, and we
17 are also informed of the controls that he intends to implement to
18 manage those risks. And to a certain extent as well, once we
19 are able to, if there are any risks that are obvious to us that, um,
20 that relates to his job function, and it often happens that we are
21 able to, we introduce that to him as well if he missed out on
22 those.

23 Q. Mr. Archbald, the functional risks—

24 A. Yes.

25 Q. —must be associated with the situational risks because the
26 situational risk is at Paria, the site is at Paria, the works are
27 being done at Paria, Paria is the site authority. So the

1 functional risks are connected with the situational risks. So if
2 you're assessing risks, you would be assessing risks in order to
3 determine whether an accident can occur, people can get injured
4 or people can die. So if you are assessing risk for works to go
5 ahead on Paria's site, you want to ensure that these works can
6 go ahead safely without any injury or death to anyone. Am I
7 not correct?

8 A. That is exactly it and the—and I want to say again that the
9 contractor brings to Paria, in the case of a specialist contractor,
10 the, the functional risks that we may not be aware of and the,
11 and the company, Paria, brings to the contractor the facility
12 risks. So they come together to be able to get the job done
13 safely.

14 Q. But Paria is authorizing works which, if done, and proper risks
15 are not considered, can cause the death or injury to individuals.
16 Without Paria approving those documents, the works wouldn't
17 happen. So, did Paria consider that it had a duty of care? Did
18 your—in doing this, did you consider you had a duty of care to
19 ensure that the risks were properly assessed?

20 A. Paria has a duty of care as the occupier, the owner of the
21 facility. There's requirement under the OSH Act to do certain
22 things. The employer, which is LMCS in this case, has a
23 responsibility to provide a suitable and sufficient risk
24 assessment for the activities. The occupier is informed by the
25 employer about the functional risks.

26 Q. So, Mr. Archbald, are you telling us, I just want to understand
27 it, are you telling us that far as Paria was concerned in doing

1 this review and assessment, Paria did not have a duty to ensure
2 that the works which were being done and being authorized by
3 Paria were done safely and done in a way in which no one
4 would get injured and no one can die?

5 A. I would say in my opinion, that Paria should ensure, so far as is
6 reasonably practicable, that the risks are presented and
7 mitigated.

8 **Mr. Chairman:** Just a minute, Mr. Maharaj. [*Writing*] Thank
9 you.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. You had, um, you had an input in the permit to work rules, not
12 so?

13 A. Yes, Sir.

14 Q. And you're very familiar with them?

15 A. Yes.

16 Q. The applicant for this job was Paria?

17 A. For the job with the hyperbaric chamber the applicant was Mr.
18 Houston Marjadsingh, a Kenson employee contracted by Paria.

19 Q. Marjadsingh?

20 A. A representative of Paria, yes.

21 Q. So Mr. Marjadsingh was representing Paria?

22 A. Yes, Sir.

23 Q. So in substance Paria was the applicant? LMCS was not the
24 applicant?

25 A. LMCS was not the applicant?

26 Q. Who was the applicant?

27 A. Houston Marjadsingh was the applicant.

1 Q. All right. So he was the applicant representing Paria?

2 A. Yes, Sir.

3 Q. Right. I want to take you to the rules. It's at Volume I of the
4 core bundle, page 28.

5 A. [*Document handed to Mr. Archbald*]

6 Q. Now the applicant is Mr. Marjadsingh representing Paria. Look
7 at 5.1 on page 28.

8 A. Yes.

9 Q. "The applicant"—that is Mr. Marjadsingh representing
10 Paria—"must have the necessary competence to execute
11 the job or to supervise the execution of the job."

12 So these rules envisaged that either Mr. Marjadsingh
13 representing Paria would have had the competence to execute
14 the job or to supervise the execution of the job?

15 A. That is correct, yes, Sir.

16 Q. But you have told us that Paria didn't have that competence.

17 A. That Paria—yeah, I had told you I agree with all statement
18 that—

19 Q. You remember I, I—

20 A. —Paria did not have the competence—

21 Q. Right.

22 A. —to execute the job. May I explain?

23 Q. Paria did not have the competence to execute the job. Did it
24 have the competence to supervise the execution of the job?

25 A. In the opinion of the technical and maintenance department,
26 yes.

27 Q. Yes. So—

1 A. Because they but Mr. Marjadsingh, they assigned him to
2 supervise the execution of the job.

3 Q. So you are saying then that Mr. Marjadsingh had the
4 competence to supervise the execution of these works?

5 A. I think that might be implied but I didn't say that.

6 Q. Okay. So let me ask you specifically.

7 **Mr. Chairman:** Let's be clear please? We don't need
8 implication. You're here you can tell us what you understand
9 the position to be.

10 **Mr. Archbald:** Right. The technical and maintenance
11 department assigned Mr. Marjadsingh to supervise the
12 execution of the job.

13 **Examination By Mr. Chairman:**

14 Q. What does that mean? Sorry, what does that mean? They
15 assigned him, Mr. Marjadsingh, to do the job, what does that
16 mean?

17 A. To supervise the execution of the job?

18 Q. Yes.

19 A. They put him in charge of being the applicant and the duties
20 and the roles of the applicant are outlined in 5.1.

21 Q. Can we take it from that, that they would not have appointed
22 him if they did not believe he was capable of supervising the
23 execution of the job?

24 A. I could assume that, yes.

25 Q. Has there been a review since this has happened?

26 A. Of?

27 Q. Whether he was capable of supervising the execution of the job.

1 A. I'm not certain.

2 Q. Well, I don't know what that means, "I'm not certain." You're
3 the HSE, you're head, aren't you, at Paria?

4 A. [*Nodding head*]

5 Q. Has there been a review, since this happened, as to whether Mr.
6 Marjadsingh was someone capable of supervising the execution
7 of the job?

8 A. The—Paria did an investigation—

9 Q. No, no I'm familiar with that. I want to know from you, as the
10 head of the HSE whether—look, whichever—whoever is
11 responsible, whether there's nobody responsible, something
12 went wrong, because four people died. Right? So I'm
13 assuming you, as head of HSE, would want to ensure that
14 whatever the position is it doesn't happen again and that the
15 personnel who were in charge or responsible for the
16 undertaking of these works were the right people to do it. So,
17 has there been a review, to your knowledge, of whether Mr.
18 Marjadsingh was capable of supervising the execution of the
19 job?

20 A. Of this job?

21 Q. Yes, this job.

22 A. No. As far as I'm aware no review was done for Mr.
23 Marjadsingh—on Mr. Marjadsingh whether he was capable of
24 executing this past job.

25 Q. Right. So if there was another job similar to this, he might be
26 reappointed?

27 A. The review might be done.

1 Q. Well, let's, let's, let's—

2 A. The, the, the, the job, the job would be different. If it's the
3 same exact job, we have we have other things in place now to
4 address doing a job like this.

5 Q. All right, we'll, we'll, we'll turn to those in due course I'm
6 sure.

7 A. Yeah.

8 Q. All right, but as far as you're aware, no review has been
9 conducted by Paria as to whether or not the man who was to
10 supervise the execution of the work was fit to do so?

11 A. Correct.

12 **Mr. Chairman:** Thank you.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. Mr. Archbald, I want to give you an opportunity. Are you
15 telling this Commission that as the person, as the lead of this
16 department in Paria, are you telling this Commission today that
17 Mr. Marjadsingh had the specialist knowledge to supervise this
18 job?

19 A. I would like to explain.

20 Q. Well, it's a simple question but you could just give me the
21 answer and then explain.

22 A. Okay. Again—

23 Q. The question is—

24 A. —he was assigned by the technical and maintenance
25 department to be the applicant on this job, which is to supervise
26 the execution of the job.

27 Q. Okay that—

1 **Mr. Chairman:** Is the answer yes then?

2 **Mr. Archbald:** The question was whether in my opinion he
3 is—

4 **Continued Examination By Mr. Maharaj SC:**

5 Q. Whether in your opinion he has the specialist knowledge to be
6 given that duty to supervise this job?

7 A. For the diving aspect of the job?

8 Q. No, I talking about the works.

9 A. The works? No, I would say that Mr. Marjadsingh, there are
10 some aspects of this job that was out of his ability to be able to,
11 to supervise.

12 Q. Well what aspect of the job which was not out of his ability?

13 A. The aspect of the Delta P hazard.

14 Q. The Delta P hazard?

15 A. That's right. I am of the opinion, I believe that Mr.
16 Marjadsingh, and I don't know for sure, that he did not know
17 about Delta P.

18 Q. So when he was made by Paria the applicant for these works on
19 the date that this accident happened, according to you, he
20 should not have been the applicant? On the permit to—

21 A. Yeah, I, I think, I think I can agree that for some aspects of the
22 job that he should not have been the applicant and, and the
23 reason, the reason for that was that the, again, the Delta P
24 hazard was not something that he would have been
25 knowledgeable of.

26 Q. You know that this accident happened on the 25th of February,
27 not so?

1 A. Yes, Sir.

2 Q. And on the 25th of February is when they had the incident with
3 the plugs being pulled out?

4 A. Yes.

5 Q. And the Delta P occurred, right? You know that in respect of
6 those works on that day, Mr. Marjadsingh was the applicant?

7 A. Yes.

8 Q. So are you saying, are you telling us that Mr. Marjadsingh
9 should not have been the applicant for these works on that date?

10 A. I think I answered that just now, but just, just to be clear, um,
11 there are some aspects of this job that Mr. Marjadsingh would
12 not have had the competence or have knowledge of the hazards,
13 and the more appropriate thing to have done would have been
14 to split the permit so that Mr. Marjadsingh would be the
15 applicant for several aspects of the job and keep the, the area
16 that dealt specifically with the Delta P hazard under the
17 contractor.

18 Q. Under the contractor?

19 A. Yeah.

20 Q. With no representative from Paria? Did, did Paria have
21 anybody else than Mr. Marjadsingh to be the applicant for this
22 job?

23 A. No, no, the—

24 Q. No?

25 A. No, in, in, in circumstances like this, for example the diving
26 job, LMCS personnel were the applicant.

27 Q. LMCS?

1 A. LMCS was the applicant in that case.

2 Q. For the diving job?

3 A. For the diving job.

4 Q. On the 25th?

5 A. That's right. So, for example, Andrew Farah was the applicant.

6 So he was the one supervising the diving activity at that time.

7 Mr. Marjadsingh was the applicant for the hyperbaric works.

8 Q. Yes. And the hyperbaric works—

9 A. As—

10 Q. —for the hyperbaric works in the chamber there is where the
11 accident occurred?

12 A. And the hyperbaric works that I was referring to that he was the
13 applicant for, which is where his knowledge and competence is,
14 is supervising the execution of the pressure testing as well as
15 the installation of the flange.

16 Q. And the—and whatever works were to be done on that day,
17 whatever works were to be done on that day he was to
18 supervise it? In other words, he was to supervise the works
19 which were to be done in the hyperbaric chamber?

20 A. He was to supervise the execution of the works outlined in the
21 permit.

22 Q. Yes.

23 A. There was another job being—taking place, for which he did
24 not have the competence and the—LMCS was the applicant for
25 that.

26 Q. Mr. Marjadsingh in his witness statement to this Commission,
27 and I'm referring to page 3049 volume—of the supplemental

1 witness statement bundle and particularly at paragraph 15 of his
2 witness statement, said, “As a maintenance technician, I only
3 know of work relative to my field. I did not have specialist
4 knowledge about the job LMCS was doing.” He didn’t say part
5 of the job. The job LMCS was doing.

6 A. Right.

7 Q. He did not have the specialist knowledge about the job LMCS
8 was doing. Do you agree with his statement?

9 A. The—some of the activities—or, you want me to answer first?

10 Q. Answer first, please?

11 A. I don’t—

12 Q. Do you agree with his statement?

13 A. I don’t know what he meant. I could tell you, I could tell you
14 what I know.

15 **Examination By Mr. Chairman:**

16 Q. So you disagree with his statement?

17 A. I, I cannot agree or disagree.

18 Q. Well, hang on a minute. Who is he?

19 A. Sorry?

20 Q. Marjadsingh, who is he?

21 A. He works with Paria through Kenson.

22 Q. Right. And you’ve been there four years.

23 A. Yes.

24 Q. How long has he been there?

25 A. I’m not sure.

26 Q. Right. Longer than you?

27 A. No.

1 Q. No. All right. You knew who he was?

2 A. Yes.

3 Q. You knew his competencies?

4 A. No.

5 Q. You didn't know his competencies?

6 A. No.

7 Q. You were content for him to sign a work permit for these what
8 can only he regarded as hazardous works to be done, and yet
9 you didn't know his competencies?

10 A. No. The technical and maintenance department, according to
11 the permit to work process as well as the hiring process—

12 Q. I follow that. But you're in charge of safety, health and safety
13 at this site and for these works. That's your job. You're the top
14 man. Buck stops with you with health and safety, doesn't it?

15 A. Yes.

16 Q. Right. And you're saying that you were content for Mr.
17 Marjadsingh to sign off as the applicant for this work permit—

18 A. Yes.

19 Q. —doing these hazardous works without knowing his
20 competencies?

21 A. I accepted the assessment by the technical and maintenance
22 department and were satisfied with it.

23 Q. Right. Do you think, on reflection, it would be sensible for you
24 to know these competencies?

25 A. The, yes there is, there is a built-in review process now taking
26 place, yeah.

27 Q. A built-in review process as a result of this incident?

1 A. It started before. There was another incident last year that we
2 have been looking at.

3 Q. Yes, so we—but what I want to know really is whether or not
4 this new process involves you knowing the applicant's
5 competencies before agreeing to him being an applicant?

6 A. Yeah. The applicant's competencies with respect to being an
7 applicant, that process is in place and I could confidently say
8 that I am satisfied with his competence.

9 Q. Now?

10 A. For being an—no, for being an applicant before the job. His
11 competencies with respect to him doing—executing his
12 activities under technical and maintenance, that was not part of
13 an HSE review. There are two things. One is being an
14 employee of the technical and maintenance department—

15 Q. All right.

16 A. —to be able to execute or supervise the execution. The other is
17 his competency as an applicant in the permit to work procedure.

18 Q. Yeah, but the applicant has to be able to supervise the execution
19 of the job?

20 A. Yes.

21 Q. Doesn't he?

22 A. Yes.

23 Q. So all I'm asking you is whether or not you knew of his
24 competencies before agreeing to him being an applicant, which
25 involved supervising the execution of the job. and you've told
26 me you didn't?

27 A. No. That would—I—

1 Q. That's why I asked.

2 A. —like I said—

3 Q. Sorry, sorry.

4 A. I answered with respect to his competencies as an employee
5 under technical and maintenance department. With respect to
6 the permit to work system, we have a process in place.

7 Q. Yeah, but I'm on—forgive me. We're at cross-purposes, all
8 right? I want to be clear about that. I'm not undermining his
9 ability as an employee of the firm. I'm assuming if he was a
10 decent employee they'd be keeping him on. If he were no good
11 then they got rid of him. But the fact is that he, in this context,
12 in this matter that we're considering, is the applicant. The
13 applicant has a responsibility to supervise the execution of the
14 work. And I'm asking you whether or not you were satisfied as
15 to his competencies to be an applicant in these and therefore
16 supervise the execution of the work?

17 A. Yes.

18 Q. Right. Are you satisfied that he did have such competencies?

19 A. Yes.

20 Q. Even though you identified to Mr. Maharaj that there were
21 certain areas of his ability that clearly he couldn't supervise?

22 A. Which is the diving.

23 Q. Just the diving?

24 A. Well, as far as I could remember. He—the, the pressure testing
25 and the mechanical works, those fall within his competency.

26 Q. Right. And you were satisfied from your own knowledge that
27 he was capable of doing that?

1 A. Yes.

2 Q. Right. But you're satisfied that the diving aspect of it was not
3 something within his—

4 A. Correct.

5 Q. Right. And does it follow from that that therefore there was no
6 adequate supervision of that aspect the job?

7 A. Well, that is why we have a different permit.

8 Q. Right.

9 A. For the diving aspect.

10 Q. Okay.

11 A. The—and we asked LMCS to be the applicant for that permit.

12 Q. Well we can see that at page 1072 of the core bundle Volume
13 III. It says here, "To carry out diving activities, specific task to
14 carry out diving activities to assist with the maintenance work."

15 A. Yes.

16 Q. Yeah? So this is the work permit for that and if we go to the
17 bottom, please, you can tell me the applicant there is a squiggle.
18 I'm assuming that that's Mr. Farah?

19 A. Yes.

20 Q. Yes?

21 A. Well I know—

22 *[Document handed to Mr. Archbald]*

23 **Mr. Maharaj SC:** That's Farah.

24 **Mr. Archbald:** It is? Okay, thanks. Yeah I thought it was
25 Farah. I just don't recognize his signature.

26 **Examination By Mr. Chairman:**

27 Q. Well, I don't. I mean, I have no idea what his signature looks

1 like but assuming that that is Mr. Farah's signature, so he is the
2 applicant in this particular—

3 A. Yes.

4 Q. Right. So he is responsible for the diving part of it?

5 A. Yes, Sir.

6 Q. Right. And then we go—move on two pages to 1074, so that's
7 the work permit for the works to be done?

8 A. To remove and install the 50-inch flange, that would fall under
9 Houston Marjadsingh's competence, to remove and install the
10 30-inch riser pipe, that too would fall under his competence.
11 To remove the 30-inch solid blank, conduct pressure tests on
12 the flange weld, remove the chamber and blank the top of the
13 new riser, yes. All of those would fall under his competence.

14 Q. So you'd be satisfied that he would be an appropriate applicant
15 for that—

16 A. Yes, Sir.

17 Q. —that part the work? All right. And so—and therefore he is
18 the applicant at the bottom, we can look to the bottom of the
19 page please? We can see he is the applicant, all right? So
20 you're, you're able to assure us that he would have been more
21 than competent, or a competent at least to be able to supervise
22 those aspects of the job?

23 A. Yes. I am confident.

24 Q. Right. Thank you. That, that helps me considerably because
25 the previous work permit deals with the diving aspect.

26 A. Yes.

27 Q. And this part deals with the actual works to be carried out?

1 A. That's right.

2 Q. Now, the, um, there is inevitably a crossover between the two
3 of them?

4 A. Yes.

5 Q. And is it anticipated that in the crossover between the two Mr.
6 Marjadsingh would be liaising with Mr. Farah?

7 A. Yes. Yes. It would be. That's right.

8 Q. You would expect?

9 A. I would expect that.

10 Q. Right. And just so that I'm clear about this, Mr. Marjadsingh's
11 responsibility to supervise the execution of the work would
12 include that which is identified on page 1074—scroll back up a
13 bit please, thank you—where it says, um—keep going. That's
14 it. Stop. That's it. You see where it says, "Cleared of
15 process/hazardous materials", do you see that?

16 A. Yes.

17 Q. And then it says: "Yes, migration barrier to be used"?

18 A. Yes.

19 Q. Right? Now we'd been told that the migration barrier was to be
20 used in order to preserve the good air in the chamber and to
21 prevent anything falling into the pipe.

22 A. Yes.

23 Q. I, I summarized what we've been told.

24 A. Yes.

25 Q. But that's the essence of it because Delta P had not been
26 identified, all right?

27 A. That is correct.

1 Q. So the purpose of the migration barrier there was to preserve
2 the good health of those working in the chamber?

3 A. Yes.

4 Q. And the integrity of the pipe. Now, is Mr. Marjadsingh—

5 A. And, and the integrity of the pipe?

6 Q. Yeah, nothing falling into it.

7 A. Oh, yes. Well, it's not for the integrity the pipe, I suppose, but
8 it is for—inclusive of people as well.

9 Q. Well obviously it's inclusive of people but, I mean, when I say
10 the integrity of the pipe, I mean that there shouldn't be foreign
11 bodies in it, other than the—

12 A. Yes.

13 Q. —the oil that it was intended to carry.

14 A. Yes.

15 Q. Right. Given that that's the purpose, can we take it that Mr.
16 Marjadsingh would have prevented, had he known, the removal
17 of the migration barrier at all?

18 A. Yes. He would have known that because it's on the permit as a
19 control and he would have—

20 Q. And that somehow—

21 A. —if he had known that they were going to remove it, he would
22 have intervened.

23 Q. Right. Well, what, what it, what it amounts to is this. You're
24 content that Mr. Marjadsingh was competent enough to know
25 that the removal of the migration barrier would be something
26 that should not happen?

27 A. Yes.

1 Q. And if he were supervising the job, as he was required to do, in
2 the execution of that work, had he seen it or had been told of it,
3 or in some other way come to know that the migration barriers
4 were to be removed, he would have stopped it or should have
5 stopped it?

6 A. Yes. I believe that if anybody had told Houston that they were
7 going to remove the migration barrier or if somehow he were
8 able to see, um, then he would have stopped it. I believe that.

9 Q. Well thee somehow that he would have been able to see the
10 camera, isn't it?

11 A. Yes. Well I don't know if he would have been able to see from
12 the camera. I'm not certain because the migration barrier is a
13 couple feet below.

14 Q. Yes a few feet below.

15 A. So I don't know if the camera sees the migration barrier.

16 Q. Hmm. But in his monitoring the work we've heard varying
17 evidence as to how long this migration barrier would have
18 taken to be removed—

19 A. Okay.

20 Q. —two barriers.

21 A. Okay.

22 Q. If he's monitoring the work, or supervising it as it's described
23 in your document, one would have thought that it would have
24 been pretty obvious that somebody's putting a great big tool
25 down inside the pipe in order to remove it?

26 A. Well the—he, he is required to monitor.

27 Q. Uh-huh.

1 A. It's not—he's not required to be there 100 per cent of the time.

2 Q. No, no, I follow that.

3 A. Um—

4 Q. What would you say would be the appropriate period of time
5 for him have to an eye on it or be an inappropriate period of
6 time to have not had an eye on it, if you follow what I mean?

7 A. Well let me describe the situation.

8 Q. No, no. You help me first with that then you can describe the
9 situation, all right? You help me with what you say—

10 A. Okay.

11 Q. —supervising the execution of the job—

12 A. Yeah.

13 Q. —involves by way of a time associated with it? So, you know,
14 obviously he can nip off to go to the loo, have a cup of coffee
15 maybe, attend to one or two other things but would you expect
16 him to be away for an hour, a half an hour?

17 A. In this particular instance—

18 Q. Uh-huh.

19 A. —I would, I would say within maybe every two hours he
20 should visit.

21 Q. Right. I see. So you would be content, as the head of health
22 and safety, for Mr. Houston Marjadsingh to keep an eye on it
23 every couple of hours?

24 A. Yes. Can I explain?

25 Q. You can in a moment, and I will let you explain, but that—in an
26 ordinary working day, would that amount to three or four
27 visits?

1 A. Yes.

2 Q. And you think that's adequate, do you, in a job which on any
3 view is described as hazardous, dangerous and unusual? You
4 think that's sufficient, do you?

5 A. For the specific situation here, yes.

6 Q. All right. Good. Now you can explain why.

7 A. Okay. Mr. Marjadsingh was handling the job on berth 5 in
8 addition to berth 6. The diving aspect of the job, which was
9 being supervised by Andrew Farah, and, according to Andrew
10 Farah's dive plan that was submitted in the contract, he stated
11 in the dive plan that the blind, the pipeline, must be double
12 plugged in order to prevent any chemical contaminants from
13 affecting the people in the hyperbaric chamber.

14 Mr. Marjadsingh was aware that Andrew Farah was
15 supervising this activity 100 per cent of the time. It is a
16 contractor HSE requirement for the contractor supervisor to be
17 there 100 per cent of the time. Based on that requirement, I
18 would say that Mr. Marjadsingh's visit need not be as frequent
19 as every hour and possibly maybe even two hours might be
20 sufficient. However, in this particular instance, it is almost
21 irrelevant how frequently he should have visited because when
22 they broke for lunch was when the plugs were removed.

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. When they resumed work after lunch?

25 A. We did—Paria did not know that they resumed work.

26 **Examination By Mr. Chairman:**

27 Q. Why not?

1 A. We were not informed.

2 Q. Well you mean Mr. Marjadsingh was on his two-hour break or
3 doing something else?

4 A. I don't know if he was on a two-hour break.

5 Q. All right. So you're saying, so far as you're aware, that the—
6 when the work resumed after lunch by LMCS, you, Paria, were
7 wholly unaware of the resumption of that work?

8 A. Yes.

9 Q. Right.

10 A. At least that is the evidence from Dopson and when Dopson
11 left—

12 Q. We've had the evidence from Mr. Dopson.

13 A. Well, yeah.

14 Q. We've had his evidence already.

15 **Mr. Maharaj SC:** We've had his evidence.

16 A. That's what he told me.

17 Q. Well, all right. I am conscious of what you're saying but I do
18 need to understand, because it seems to me quite important, you
19 regarded supervision of the execution of the every couple of
20 hours as being sufficient?

21 A. In this particular instance with the fact that Mr. Farah was
22 supervising 100 per cent of the time and that Mr. Farah himself
23 knew that the two plugs should have been inside there, I think
24 it's reasonable to expect that Mr. Farah would not have
25 supervised them removing the plugs.

26 Q. Yes. You say Mr. Farah knew the plugs should not be
27 removed. Where do you get that from?

1 A. In the tender documents there's a document called a dive
2 plan—

3 Q. Yes.

4 A. —that in it he has, um, that the two plugs should be in the line
5 to protect the men from chemical contamination.

6 Q. Right. Thank you.

7 **Mr. Chairman:** Thank you.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Mr. Marjadsingh, with the greatest respect to you, on the
10 minute—

11 **Mr. Chairman:** He's not Marjadsingh.

12 **Mr. Maharaj SC:** Sorry.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. Mr. Archbald—much obliged—Mr. Archbald, with the greatest
15 respect to you, on the permit to work that Mr. Marjadsingh was
16 the applicant—

17 A. Yes, Sir.

18 Q. —in his supervision of those works—

19 A. Yes.

20 Q. —according to you he had to ensure that the migration barrier
21 was used, correct?

22 A. According to the permit to work document—

23 Q. Does it show migration barrier to be used?

24 A. That's right.

25 Q. So he had to—that is one of the part of the job he's supposed to
26 supervise?

27 A. You asked me if he has to ensure.

1 Q. But is that what he had to supervise?

2 A. Among other things he was responsible for that, to supervise
3 the execution of the job and that is one of the controls, but, as I
4 said earlier, I don't know if he could have seen the plug.

5 Q. Well, whose duty it was to ensure that if Paria had to supervise
6 the works that the supervisor would be able to see what was
7 going on? Was that LMCS' duty or Paria's duty? If Paria had
8 to supervise the works and Mr. Marjadsingh was its agent to
9 supervise the works, whose duty it was to ensure that Mr.
10 Marjadsingh would be in a position to supervise the work?

11 A. I want to come back to this work permit to answer the question.

12 Q. Well would you answer the question first?

13 A. Whose duty was it to supervise this permit that is on the screen?

14 Q. Whose duty it was to ensure that Mr. Marjadsingh would be in
15 a position to supervise the works that he would be able to see
16 what was happening?

17 A. I think you're asking who is—who—I just want to make sure
18 that I get the question correct.

19 Q. Do you consider that it was Paria's duty to ensure that Mr.
20 Marjadsingh would have been able to see what was happening
21 in order to supervise the works?

22 A. The, the diving aspect of the job was not under—

23 Q. I'm not talking how the diving aspect. I'm talking about the
24 works on this work permit. I know what you want to say, Mr.
25 Archibald but I'm talking about the works on this work permit.

26 **Mr. Peterson SC:** I don't even know what he wants to—what
27 he—what he wants to say but could my learned colleague allow

1 the witness to answer the question? And the witness was going
2 to use a document to assist him in answering the question which
3 all witnesses ought to be allowed to do in all proceedings.

4 **Mr. Chairman:** Of course that's right. I think Mr. Maharaj
5 was trying to get an answer to the question is something I've
6 been engaged with many witness. Answer the question first
7 and you'll be given the opportunity to add anything you want to
8 afterwards, but if you can answer the question, sometimes or
9 most times it can be answered with a yes or no, but or however,
10 and I will always permit the but or however unless it's flippant,
11 I will permit that, so, if you can answer the question asked by
12 Mr. Maharaj, answer the question with a yes or no and if there
13 is a rider to add to it I'll have no difficulty with you adding that
14 rider to explain why you're saying yes or why you're saying no.
15 All right?

16 **Mr. Archbald:** Right.

17 **Examination By Mr. Chairman:**

18 Q. So, so, can we—so that we get where we are—

19 A. Yeah.

20 Q. —Mr. Maharaj will ask the question again, you'll answer it and
21 if there's a rider to be added, you'll be permitted—

22 A. Yeah.

23 Q. —to do so.

24 A. Thanks. I'm just having a little challenge with the length of the
25 question maybe. So—

26 **Mr. Maharaj SC:** Let's try and shorten it a bit.

27 **Mr. Archbald:**—let's go, let's go again.

1 **Mr. Chairman:** Oh dear.

2 **Mr. Maharaj SC:** I'll try and shorten it for you. Okay.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. Did you consider that it was Paria's duty to ensure that Mr.
5 Marjadsingh, as the supervisor, would have been able to see the
6 works while it was being done in order to discharge his duty?

7 A. Which works?

8 Q. The works described on the work permit, "Migration barrier to
9 be used"?

10 A. In this case, no.

11 Q. In this case no.

12 A. In this case, no.

13 **Examination By Mr. Chairman:**

14 Q. Do you want to explain why?

15 A. Okay. The, the, for example, the installation of the 30-inch
16 riser pipe has to be done inside of the chamber and I don't
17 know if it would have been possible for him to be—been able
18 to see that.

19 Q. All that we know that it is.

20 A. Sorry?

21 Q. We've we know that it would have been. We've seen video
22 footage inside the chamber from the original camera that was
23 located inside the chamber, and if there putting a riser on we'd
24 have seen it.

25 A. Okay.

26 Q. So we know that that is the case. You could see, certainly
27 could see a riser being put on. I accept immediately I don't

1 think you'd have been able to see the plugs at all looking into
2 the chamber—

3 A. Okay.

4 Q. —as it stands. So, take it from me that what we've seen so far,
5 and on the evidence we've heard so far, you would not be able
6 to see the actual plugs themselves in the pipe but you would be
7 able to see the riser, you'd have been able to see the flange
8 being but on it, you'd have been able to see the new riser
9 attached to that flange. All of that you'd have been able to see.

10 A. Okay, so, so because of the use of camera?

11 Q. Because of the camera, yes.

12 A. Okay. So, so Paria did make it possible to be able to see and
13 the question is whether Mr. Marjadsingh should have been
14 watching all of the time?

15 Q. No, that's not the question. Nobody says he should be there
16 100 per cent of the time.

17 A. Okay, what—

18 Q. The question is whether there was a duty for Paria to ensure
19 that Mr. Marjadsingh could carry at his job—

20 A. Yes.

21 Q. —which was to supervise the execution of the job.

22 A. Right. So then the presence of the camera would have made the
23 du—made it, um, possible, yes.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. So you would agree—

26 **Examination By Mr. Chairman:**

27 Q. No, no, no, that doesn't answer the question. Did you regard it

1 as Paria's duty to ensure that he could see sufficient to be able
2 to carry out his job? Was it your duty, your company's duty?

3 A. Yes.

4 Q. All right, thank you. Right. If you want to—like I've said
5 before to you and others, if you want to add anything to it,
6 you're more than welcome to do so. If you want to refer to a
7 document you're more than welcome to do so, but it helps me
8 and no doubt the questioner, if you answer the question with a
9 yes or no, where that is possible and here it is clearly. So yes is
10 the answer.

11 A. Thank you.

12 Q. It was their duty—

13 A. Yeah.

14 Q. —and if you want to add anything, feel free.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. So if he was in a position to see, as you say, right, if the
17 migration barrier was not being used, in his duty to supervise
18 the job he would have seen it?

19 A. We have just jumped from one work permit to the other.

20 Q. From one work permit to another?

21 A. The answer that I gave was with respect to the work permit that
22 is on the screen.

23 Q. Yes. So the—

24 A. But now you're talking about the migration barrier.

25 Q. The migration—the permit on the screen is the migration
26 barrier to be used?

27 A. Yeah.

1 **Examination By Mr. Chairman:**

2 Q. Well, I mean the diving, if I may say so, has nothing to do with
3 the migration barrier. The migration barrier is in order to carry
4 out these works. The diving is in order to get into the habitat in
5 order to carry out the works. The diving certificate that we've
6 looked at, I've pointed it out to you so you could see it so that
7 no one could suggest for a minute that you were being in any
8 way misled, all right? I've pointed out to you. That's got
9 nothing whatever to do, can I suggest, with the migration
10 barrier. If I'm wrong about that please tell me, because I am
11 proceeding on the basis, and have done for the last few weeks,
12 on the basis that the migration barrier is there in order to carry
13 out the very works that are set out in that work permit.

14 A. Yes, the migration barrier is there to set out the works.

15 Q. You don't need to be a diver to be able to put the migration
16 barrier in.

17 A. I don't know that it was necessary for him to be able to, to see
18 the migration barrier because—

19 Q. I accept that. I've said to you less than two minutes ago you
20 could not see, unless you were in it, in the chamber itself, you
21 could not see those migration barriers. I accept that completely.
22 So the question is, related to this work permit, nothing to do
23 with diving. So we're not jumping from one to the other. If
24 that was happening I'd stop it.

25 A. Okay so let's hear the question.

26 **Continued Examination By Mr. Maharaj SC:**

27 Q. So the question is that if the migration barrier was not being

1 used and he was supervising the works, he—

2 A. I don't understand what you mean by if it was not being used.

3 Q. Well on the work permit it says, "migration barrier to be used".

4 A. Yes.

5 Q. So if that was being contravened, that is to say the migration
6 barrier was not being used, it was being removed—

7 A. Okay. So if the migration barrier was being removed?

8 Q. He, he would—and he was supervising the works?

9 A. And he could have seen it?

10 Q. And he would have been able to see it?

11 A. If he was watching at that point in time?

12 Q. Yes.

13 A. Yes, he would have been able to see that something was being
14 done, but he would not have been able to see until it came out,
15 would it?

16 Q. Well he would see that it is being removed.

17 A. Well he would see that there was some activity of men looking
18 down into a pipe.

19 Q. And—

20 A. I, I still, I still don't think that the migration barrier could have
21 been seen from the camera. So if men are looking down into
22 the pipe, the only point in time that he would know that it's
23 being removed is after it has been removed. I don't know if
24 um—

25 **Examination By Mr. Chairman:**

26 Q. Forgive me, forgive me. Look, we're going round and round in
27 circles here. There is no question that the camera inside the

1 hyperbaric chamber did not show the actual barriers
2 themselves. There are two, correct?

3 A. Correct.

4 Q. The fact that there may have been one or two men around the
5 top of the pipe with a T-bar that I understand to be something in
6 the order of a couple or three feet long and a T coming across
7 being placed inside that chamber and being turned would have
8 been of obvious to anybody looking inside the chamber,
9 wouldn't it?

10 A. Yes.

11 Q. Well there couldn't have been any other reason for putting such
12 a bar inside the pipe, could there? Could there?

13 A. That was used to remove it?

14 Q. That's the only way you can remove it as I understand.
15 Someone tell me if that was wrong.

16 A. No, that, that, it was used—that was used to install it because of
17 the height of the spool and it would have been used to remove it
18 after the new spool was—

19 Q. Put on?

20 A. —put in. So I don't think that they used—is that the evidence?

21 Q. Well, I've understood it to be used as a smaller T-bar was being
22 used and then a longer one was necessary in the event that the
23 pipe was refitted, that it was necessary to use it. But even if
24 I'm wrong about that, I mean, they're taking spanners and
25 leaning inside and using a spanner to open it. Now, I appreciate
26 you might not have seen the spanner, but what else could they
27 be doing?

1 A. I agree. I agree that they—that that is what—

2 Q. Whether they're using a T-bar or a spanner or whatever it is,
3 right, there's one or more men reaching inside this pipe and it's
4 not something that takes just two minutes, it takes a bit of time.
5 From what I've seen there's 15 or 16 bolts to be removed—

6 A. Yes.

7 Q. —presumably not easily.

8 A. Yeah.

9 Q. All we're trying to establish, please, all I'm trying to
10 understand, Mr. Archbald, is that, and I, I hear what you say
11 two hours might be the appropriate time as far as you're
12 concerned but anybody who was watching inside that
13 hyperbaric chamber by virtue of a camera would have
14 appreciated that the barrier was being—the first barrier was
15 being removed, couldn't have been missed and someone with
16 Mr. Marjadsingh's experience would have immediately
17 understood that, surely?

18 A. Yeah I agree.

19 Q. Right. So, that's what—

20 A. It would at least would have assumed that.

21 Q. Yes, or at least said, "What are you doing?"

22 A. Yeah.

23 Q. You know, "What are you doing?" So let's assume that that's
24 where we are, okay? Now, of course, it seems apparent that
25 Mr. Marjadsingh either wasn't looking, or, if he was looking
26 didn't understand it. And so—

27 A. But Mr. Marjadsingh was not there.

1 Q. No, no, he was not there, all right.

2 A. They broke for lunch.

3 Q. Yes, I understand.

4 A. And they came back early.

5 Q. Umm. Umm. [*Inaudible*] how early, but anyway, the fact is, is
6 Mr. Marjadsingh did not observe what was happening. Had
7 someone been observing, they would have recognized it?

8 A. But Mr. Farah was observing.

9 Q. Yes, all right. Er, he didn't think there was anything wrong
10 with it, you see?

11 A. Yah, and, and Mr. Ali was observing too.

12 Q. Well, some of the time, yes. He, he dived down to provide
13 them with a spanner to do it, didn't he?

14 A. Yeah.

15 Q. Yeah. So they clearly thought there was nothing wrong with
16 taking it out. Did they? Must have done.

17 A. Yes.

18 Q. All right.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. Mr. Archbald, just, just, I want to show you 1072, the work
21 permit that you relying on.

22 **Mr. Chairman:** Can I ask you to find an appropriate moment
23 to wreak for lunch?

24 **Mr. Maharaj SC:** Yeah, just after this.

25 **Mr. Peterson SC:** [*Inaudible*]

26 **Mr. Maharaj SC:** Okay, just after.

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. Page 1072 of Volume III—

2 A. Yes, Sir.

3 Q. —that is the one that—what Mr. Farah with the diving work
4 permit, right?

5 A. Yes.

6 Q. Nothing there had to do with migration barrier, nothing there. I
7 want you to look at it.

8 A. Okay, yes.

9 Q. Okay? All right. And the works which were being done—

10 A. Is, is there a question?

11 Q. Sorry?

12 A. Is there a question?

13 Q. The question is that there is nothing on that work permit had to
14 do with migration barrier.

15 A. No, that's a statement.

16 Q. Sorry?

17 A. So, so, so.

18 **Mr. Chairman:** I think he's looking for you to agree to that
19 statement, all right?

20 **Continued Examination By Mr. Maharaj SC:**

21 A. Okay, okay. So I agree with you but the dive plan says that the
22 double plugs must be in the pipeline.

23 Q. Okay, well I'm talking about the work permit, okay?

24 A. So the work permit is for diving and a dive plan is for diving.

25 Q. Well I am talking about the subsea maintenance work, the
26 offshore subsea maintenance work.

27 A. And so am I.

1 Q. Yes, okay.

2 A. I don't understand if you don't understand.

3 Q. Okay, Mr. Archbald, after lunch when we come back I will
4 show you some more things and probably you could help us
5 more, all right?

6 A. Okay.

7 Q. In the meantime, in the meantime, I would ask you to look at
8 the OSHA report which mentioned your name.

9 A. Uh-huh.

10 Q. Okay? Okay then.

11 A. Now?

12 Q. No, during the lunch break.

13 **Examination By Mr. Chairman:**

14 Q. I think he's suggesting you might want to remind yourself of
15 what's in the OSHA report.

16 A. Okay.

17 Q. So that you're not caught up.

18 A. No it's in here?

19 Q. No. I'll make sure you have a copy, all right?

20 **Mr. Peterson SC:** That's what I think. I don't think he has it,
21 Mr. Chairman.

22 **Examination By Mr. Chairman:**

23 Q. I'll make sure you have a copy, all right.

24 A. Thanks.

25 Q. And you can have that as a bit of lunchtime reading.

26 A. All right.

27 **Mr. Chairman:** All right, we'll break for an hour. Yes, we'll

1 break for an hour.

2 **1.27 p.m.:** *Enquiry suspended.*

3 **2.29 p.m.:** *Enquiry resumed.*

4 **Mr. Chairman:** Good afternoon.

5 [*Mr. Randolph Archibald re-enters Enquiry room and sits at*
6 *witness table*]

7 **Mr. Chairman:** Afternoon, Mr. Archbald.

8 **Mr. Archbald:** Hello, good afternoon.

9 **Mr. Chairman:** Mr. Maharaj, you're asking questions.

10 **Mr. Maharaj SC:** Yes.

11 **Continued Examination By Mr. Maharaj SC:**

12 Q. Mr. Archbald, you recall before lunch you said that Paria was
13 not monitoring the work after lunch on the 25th because they
14 did not know that the works were being monitored and Mr.
15 Marjadsingh wasn't there, because they did not know that the
16 works were being monitored?

17 A. He went for lunch.

18 Q. Yes, he went for lunch, and therefore when the work started
19 after lunch he was not there?

20 A. Correct.

21 Q. Correct?

22 A. Yes.

23 Q. And you maintain that?

24 A. Well as far as I know then Dopson would have advised that
25 he—

26 Q. I want to refer you to what Mr. Marjadsingh said—

27 A. Okay.

1 Q. —about that. And it is in the transcript of the 6th of December,
2 I'm sorry, the 7th of December, page 135.

3 **Mr. Chairman:** You're going to read from his witness
4 statement?

5 **Mr. Maharaj SC:** The transcript.

6 **Mr. Chairman:** Right, transcript it is, all right.

7 **Mr. Maharaj SC:** At—

8 **Mr. Chairman:** So this is what he gave as live evidence—

9 **Mr. Maharaj SC:** Live evidence.

10 **Mr. Chairman:**—on the 17th.

11 **Mr. Maharaj SC:** On the 7th.

12 **Mr. Chairman:** Seventh of December. Right.

13 **Mr. Maharaj SC:** From about line 3.

14 “Q. Okay, so I want to go to your responsibilities as
15 the applicant. Before I go there you told us that
16 you arrived at berth 6 at about 2.00 p.m.

17 A. About after that. I say around 2.00 or after that.

18 Q. What time did this work start that day, sometime in
19 the morning.

20 A. Yeah, correct.

21 Q. So you didn't monitor the morning period?

22 A. No.

23 Q. And the first time you start to monitor the work
24 was at 2.00 p.m.?

25 A. Yes, dah is when ah reach out at berth 6.

26 Q. That's after lunch?

27 A. Yeah.”

1 So, Mr. Marjadsingh was saying that, um, that he was there
2 after lunch, from about 2.00 p.m.

3 A. Okay. Thank you.

4 Q. Right. Then you—remember you said that, um, there was
5 nothing in the dive plan about the hyperbaric chamber?

6 **Mr. Chairman:** Just before you pass on from that—

7 **Examination By Mr. Chairman:**

8 Q. It follows, doesn't it, as a matter of logic, if he was there from
9 2.00 p.m., he had, first of all, the ability to supervise and
10 monitor, didn't he?

11 A. Yes.

12 Q. Right. And we know that the incident happened at about 2.45
13 or so?

14 A. Yes.

15 Q. So, whatever was taking place between two o'clock and 2.45,
16 when the Delta P occurred, must have involved the removal of
17 the two plugs?

18 A. I'm not sure what time they went for lunch but it would have
19 been definitely sometime, yeah.

20 Q. Well even if they removed the first plug I think someone
21 suggested that the—

22 A. Yeah.

23 Q. —first plug might have started to be removed before lunch.
24 But, either way, whatever was happening after lunch must have
25 involved the removal of the plugs?

26 A. Yeah, I believe the inflatable plug, as soon as it was started to
27 be removed, would have—the event occurred.

1 Q. Sure. So it follows, doesn't it, as I say, that between two
2 o'clock when he tells us that he was present, and 245 when the
3 incident occurred, the final plug at some point must have been
4 removed?

5 A. Yes.

6 Q. And there's no question that Mr. Marjadsingh had the ability at
7 least to look at what was going on?

8 A. Well if as you say he's on the berth after 2.00 p.m., yes, he
9 would have had the ability to look at the screen.

10 Q. Yes. Well he didn't have any other job on berth 6, did he?

11 A. I don't think so.

12 Q. You told us earlier that he had another job earlier before lunch
13 on berth 5.

14 A. On berth 5.

15 Q. Which was to do as we know with the ca something or other
16 test. What's it called?

17 A. CARBER.

18 Q. CARBER test, thank you, to do with the CARBER test with the
19 integrity of the weld, isn't it? So we know he had something to
20 do in the morning but by two o'clock he is telling us that he is
21 now on berth 6 and in a position, presumably for the first time
22 that day, to do some of the supervising and monitoring that he
23 was employed to do, correct?

24 A. Yes.

25 Q. And we're agreed, aren't we, that there wasn't any other task
26 that you had given him or that you knew of that he had?

27 A. As I said, I don't think that there was anything else—

1 Q. Right.

2 A. —other than the work on berth 6.

3 Q. So, apart from supervising and monitoring at that time, he had
4 nothing else to do?

5 A. Well, as far as I know, that's right.

6 Q. So if these plugs were being removed between two o'clock and
7 2.45 when the incident happened, one might have thought he
8 might have seen it?

9 A. That would have been very possible if he was on berth 6.

10 Q. Well he was, according to him.

11 A. Yes.

12 **Mr. Chairman:** All right. Thank you very much.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. Mr. Archbald, I also want to refer you to what Mr. Kirt Scott
15 said that he saw on the screen that day, okay, and that is at,
16 um—yeah, that is at the transcript on the 6th of December, at
17 page two two eight and two two nine starting from line 22 on
18 page two two eight. The line 21 says:

19 "I saw the top of the pipe where the flange was.

20 Right."

21 Have you got it before you? Yes, and it's on screen.

22 "And you could have seen that they were doing some
23 work at the top of the pipe.

24 Yes.

25 Taking out something from the pipe?

26 Yes."

27 Are you seeing it on the screen? Sorry.

1 A. One second.

2 Q. Sorry, well I'll wait and I'll start back.

3 A. That's okay. I am understanding what you're saying.

4 Q. You're understanding what I'm saying?

5 **Mr. Chairman:** Well everybody else has as well.

6 **Mr. Archbald:** Yes.

7 **Mr. Chairman:** I'm sorry. What line?

8 **Mr. Maharaj SC:** Line 21. You got it? Right.

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. "A. I saw the top of the, um, the pipe where the flange
11 was.

12 Q. Right. And you could have seen that they were
13 doing some work at the top of the pipe?"

14 That's the question.

15 "A. Yes.

16 Q. Taking out something from the pipe?

17 A. Yes.

18 Q. What you saw they were taking out?

19 A. First I saw they was working, moving some bolts
20 from on the blank. Right, and, um, during another
21 time, um, another period because every time I pass
22 I would take a look. I saw personnel operating a
23 chain belonged turning something.

24 Q. And turning something? And if you see—I
25 wonder if we could show—I wonder if the witness
26 can see that mechanical plug on the screen? I want
27 to show you on the screen something and you will

1 tell me if you recognize it, okay?"

2 And he was shown something on the screen.

3 "A. Yes.

4 Q. Was it something like that that you saw them
5 working on?

6 A. Something like that I saw after take out of the
7 pipe."

8 So therefore, from that, you would agree that based on what
9 Kirt Scott said, who is an employee of Paria and he was looking
10 on the screen, they could have seen or you could have seen the
11 plug being removed.

12 A. Yes. But I, I, I understand that the, the—he must have seen that
13 they took it out.

14 Q. Yes.

15 A. Yeah.

16 **Examination By Mr. Chairman:**

17 Q. Was there any reason why he shouldn't know that it shouldn't
18 be removed?

19 A. Kirt Scott is in operations and this is a maintenance activity. I
20 don't know that Kirt Scott was briefed or taught or educated or
21 informed in any way about what the plugs looked like or what
22 they were—what they looked like.

23 Q. Yeah, never mind what they looked like. I mean, did he
24 understand, in any event, in any event, that there was certain
25 works that he was to be observing?

26 A. I don't know if he was supposed to be observing those works.

27 Q. What did you think he was there for?

1 A. I was told that Kirt Scott was there representing the operations
2 section and monitoring the activities with respect to the diving.
3 For example, one of the roles of the operators or the operations
4 department is while diving is going on to ensure that no vessels
5 are in the area to cause a harm to the people—

6 Q. Right.

7 A. —facility risk, as well as, if any work is going on that there's
8 no cause of pollution taking place as well.

9 Q. In other words, there should not be any of the gas from the pipe
10 going into the hyperbaric chamber?

11 A. No. Er, pollution would be liquid hydrocarbon from the lines.

12 Q. Coming out of the line?

13 A. From other lines on the berth.

14 Q. I'm not following you. On berth 6 to make sure there was no
15 oil leaks from any of the other pipelines, pipes?

16 A. Yeah.

17 Q. Well the only pipe inside the hyperbaric chamber was the riser,
18 correct?

19 A. Yes but the, the role of the operator is to monitor for pollution
20 on the berth.

21 Q. No, no, I understand that.

22 A. Yeah.

23 Q. I understand that. But the purpose—I mean, he's looking at a
24 screen. That's what he told us he was doing. Not all the time
25 but he was looking at the screen.

26 A. That was—I don't think that was his purpose for being there,
27 looking on the screen.

1 Q. Right. So the screen's not for his benefit?

2 A. The screen was not part of his job function.

3 Q. All right. That's what you understand it to be?

4 A. That is what I understand.

5 **Mr. Chairman:** All right. Thank you very much.

6 **Continued Examination By Mr. Maharaj SC:**

7 Q. Okay, and you remember before lunch you told us that in
8 respect of the dive plan it had nothing about the hyperbaric
9 chamber?

10 A. Did I, did I say that dive plan had nothing about the hyperbaric
11 chamber?

12 **Mr. Chairman:** No what he was saying was that the dive plan
13 contained reference to the plugs being in the pipe.

14 **Mr. Archbald:** Yes, that the pipe must be double plugged.

15 **Mr. Chairman:** That's what you were relying on.

16 **Mr. Maharaj SC:** Sorry.

17 **Continued Examination By Mr. Maharaj SC:**

18 Q. So I looked at the dive plan and it is at Volume III at page
19 1064. Tell me if you see anything there about the dive plan
20 requiring the plugs to be in the pipeline.

21 A. [*Document handed to Mr. Archibald*] No.

22 Q. No. So you made a mistake when you said that?

23 A. This is from where?

24 Q. This is the dive plan that—look at the date—

25 A. Yeah. What I was referring to was the—

26 **Examination By Mr. Chairman:**

27 Q. It's put, it's put in front of you.

1 A. Yeah.

2 Q. Have a look at the whole of it so that you—I don't want you to
3 be misled.

4 A. Yeah, I was referring to—I mentioned that it's in the contract
5 that was submitted, in the contract document. There's a dive
6 plan in the contact document.

7 Q. There is a dive plan in the contract document.

8 A. That's what I remember saying.

9 Q. Well, you said the dive plan. I don't know about contact, but
10 you said the dive plan. Let's be clear.

11 A. Is there a transcript that we could check back?

12 Q. Let's not worry about it.

13 A. Okay.

14 Q. It doesn't matter particularly.

15 A. Okay, all right, good, thanks.

16 Q. What you meant was the dive plan in the contract?

17 A. Yes, that's what I meant.

18 Q. The dive plan in the contract I think is in a different bundle,
19 core bundle two, isn't it?

20 **Mr. Maharaj SC:** Page seven one four.

21 **Mr. Chairman:** Seven?

22 **Mr. Maharaj SC:** One four.

23 **Mr. Chairman:** Right, seven one four.

24 **Mr. Archbald:** Yeah, I think this looks familiar.

25 **Mr. Chairman:** Yes. [*Document handed to Mr. Archbald*]
26 Can we—yes, there it is.

27 **Mr. Maharaj SC:** And this is dated?

1 **Examination By Mr. Chairman:**

2 Q. First of all, is that what you were talking about?

3 A. This is what I was speaking about.

4 Q. Right. And this part of the original contract—

5 A. Yes.

6 Q. —bundle of documents that were put together—

7 A. Thank you.

8 Q. —and submitted by LMCS?

9 A. Yes.

10 Q. All right. Yes, I'll leave it to Mr. Maharaj to ask you about it.

11 A. Thanks. Sorry, um, sorry about that.

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. Well, can you show me where they talked about the plugs there,
14 not to be moved?

15 A. Um, under—there's a, there's a row talks about chemical
16 contamination. Show it to you, Sir?

17 Q. Yes, point out where it is.

18 A. Um, how do I do that?

19 Q. No, no, it's a—I'm not seeing the—

20 **Mr. Chairman:** Yeah, it's just on the—it's on the screen there
21 now, yeah.

22 A. [*Pointing to white board situated at back of witness table*]

23 Q. Yes, okay, okay. "Contents of riser removed and line double
24 plugged"?

25 A. Yes, Sir. That is what I was referring to.

26 Q. But it doesn't say that plug not—plugs to be used or plug not to
27 be removed. But is that what you're referring to?

1 A That is what I was referring to, and I—

2 **Examination By Mr. Chairman:**

3 Q Yeah, well, I need a little help with this because I don't really
4 follow, you see? You said in answer, certainly to questions I
5 was asking and some questions Mr. Maharaj was asking, that
6 you regarded the, um, the, er, the separation between the dive
7 work permit, permit to work and the works permit to work as
8 being two separate items, and I showed them to you so that you
9 could see what they were.

10 A Yeah.

11 Q The dive plan, I suggested to you, had nothing whatever to do
12 with the plugs.

13 A Yes.

14 Q It doesn't mention plugs at all. The other work permit did
15 mention the dive—the plugs were to be used. You remember
16 it?

17 A Yes.

18 Q To be used. And you said, well, the original dive plan did
19 mention plugs and your—what you were referring to is this
20 document?

21 A Yes.

22 Q Is that the only reference that you wish to make in relation to
23 diving and the plugs? There's nothing else, is there?

24 A I, I can't think of any other.

25 Q No. And I don't think there is anything else?

26 A Yeah.

27 Q The position is this. This is a document which was submitted

1 as part of the original contract, correct?

2 A. Yes.

3 Q. Do we see that the date of this is, if you scroll back the other
4 way, please, the 10th of May, 2020?

5 A. Yes.

6 Q. Scroll up please so that we can, everyone can see?

7 A. Yes.

8 Q. You see top right-hand corner. This is dated the 10th of May,
9 2020, yes?

10 A. Yes.

11 Q. Clearly something which apparently is drafted long before the
12 contract was entered into?

13 A. Correct.

14 Q. Long before, perhaps even a cut and paste?

15 A. I don't know.

16 Q. No. Nobody knows that for sure but there's no reason why the
17 10th of May would have been something—I don't think even
18 the contract was out for tender on the 10th of May.

19 A. Well, certainly, I don't know, but I am assuming that they
20 would have used this in the 2020 job.

21 Q. Yes. In other words, this looks to be in relation to an earlier
22 job—

23 A. And they—

24 Q. —which might have been cut and pasted?

25 A. And it was used in the tender submission.

26 Q. The fact remains, though, that has obviously been superseded,
27 hasn't it, by the document at page 1064 which is dated the 15th

1 of February, 2022, I believe the day of the initial works?

2 A. And this was used in the document—this was submitted?

3 Q. Yes.

4 A. Okay.

5 Q. This is, this is what has been supplied as part of the
6 documentation, and if you look over the page you can see it has
7 a—to the next page please—you can see it's signed by Mr.
8 Farah at the end, but, I mean, if you just look, if you just look
9 over the page—no, no, you've gone too far, I think. We're
10 1065. Yes, there we go. So at one oh six five you can see that
11 what it does is to set out a pre-dive checklist?

12 A. Yes.

13 Q. Yes? So, as part of the dive plan attached to it is this pre-dive
14 checklist.

15 A. Yes.

16 Q. And it has a whole range of different things that they're
17 considering and either are ticked or not ticked, correct?
18 Nothing to do with plugs.

19 A. Correct.

20 Q. And going back to the dive plan itself, if we can put that on the
21 screen as well please, if, it's at 1064, as I say, dated the, um,
22 15th of February, on any view appears to supersede anything
23 that might have been sent as part of the original contract on the
24 10th of May of 2020.

25 A. I don't know if the, if the risk or the hazard had been—has
26 disappeared. It's still there. It's the same hazard that existed
27 before.

1 Q. I beg your pardon?

2 A. But I, I, I agree with you that there's nothing in this document
3 that speaks about using the plugs.

4 Q. No. And the reason for that, can I say, it seems clear to me, is
5 because the diving has got nothing whatever to do with the
6 plugs in the pipe. Has it?

7 A. The diving that was done on the permit to work has nothing to
8 do with the plugs on the pipe?

9 Q. Yes. That's the question.

10 A. I, I don't know. I really cannot—

11 Q. No, no, no.

12 A. —I cannot say that.

13 Q. Forgive me. You are the head of health and safety. Is it the
14 position that the plugs, in relation to that pipe, have got
15 anything to do with diving or not?

16 A. The—

17 Q. If this had all been above water, would it have been any
18 different? Would the works that needed to be doing—if the
19 riser was being replaced above the waterline, you'd still use
20 plugs, you'd still have the same removal of the riser, you'd still
21 have the blind flange put on, you'd still have the new riser
22 fitted, all of that would have been exactly the same, wouldn't
23 it?

24 A. Yes.

25 Q. The only difference here is that this was below the water level,
26 correct?

27 A. Correct.

1 Q. So the dive plan relates only to diving in and out of the
2 hyperbaric chamber. Look at what it says. Method statement,
3 at the bottom of the screen or where you've got it there, method
4 statement, the last of that paragraph—you've gone too far on
5 the screen. Go back where you were—"Method statement, dive
6 from barge to chamber, access port at SL36 riser."

7 A. Yeah, I agree.

8 Q. And back.

9 A. I agree that this—

10 Q. "Use of barge ladder for water access and exit." This has got
11 nothing whatever to do with the, with the plugs.

12 A. I agree that this method statement has nothing to do with the
13 plugs.

14 Q. Well this is the method statement that was being used, isn't it?

15 A. Well I assume so.

16 Q. Well I'd hope so because it's dated the 15th of February,
17 2022—

18 A. Uh-huh.

19 Q. —when the work was being done.

20 A. I accept that.

21 Q. Good. So, where we are, then, is this, is there is a separate
22 work permit, permit to work, for diving, correct?

23 A. Yes.

24 Q. That permit relates to diving in and out of the hyperbaric
25 chamber?

26 A. Correct.

27 Q. There is another work permit that deals with all the work that

1 needs to be done which includes the question of the barriers?

2 A. That's right.

3 Q. And that was being supervised by Mr. Marjadsingh?

4 A. Yes.

5 Q. Thank you.

6 **Mr. Chairman:** All right, I've got it.

7 **Mr. Maharaj SC:** Okay, much obliged, Sir.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Let's go to another issue, okay? Let's go to the—your witness
10 statement that you dealt with the question of rescue. Right?

11 A. Yes.

12 Q. At paragraph 35 you said:

13 "It came to the knowledge of the ICT that persons were
14 diving inside the pipeline in the wake of Mr. Boodram's
15 rescue and based on your qualifications, knowledge and
16 experience in occupational health and safety, you advised
17 the incident commander that diving into the pipeline was
18 unsafe."

19 And then at paragraph 37 this is what you said, and this is also
20 based on your qualifications, knowledge and experience,
21 correct?

22 A. Yes.

23 Q. You said:

24 "I believed it was unsafe to dive within the pipeline at
25 that time without a continuous air supply with a tank and
26 a tether. The rescue divers would have at least needed a
27 rope with them and supply of—and air—supply of air.

1 They would have needed a tank to be on them as an
2 emergency air supply in case their regular air supply was
3 interrupted. Air and a means in communication and
4 extraction were three things they needed for any rescue
5 dive inside the pipeline to be safe.”

6 And you still maintain that?

7 A. Yes.

8 Q. Yes. And so I want to point to you that as a member of the
9 ICT, were you aware that at 6.30 p.m. on the Friday, that when
10 a rescue plan was being offered when Conrad Beddoe arrived at
11 the scene, it was supported by commercial diving equipment
12 and experienced divers, and I refer to paragraph 40 of Andrew
13 Farah’s evidence that is at page 448 of Volume I of the witness
14 statement bundle, paragraph 40. Were you, as a member of the
15 ICT, were you aware of that?

16 A. At around 6.30—

17 Q. P.m.

18 A. —Conrad arrived with all of the surface supply equipment
19 which we brought onto the barge. The rescue plan was
20 modified so that we could now enter with commercial
21 equipment.

22 **Examination By Mr. Chairman:**

23 Q. Pause there please? I want to make a note of this. At around
24 6.30, Conrad arrived with all commercial equipment?

25 A. Yes.

26 Q. Well all the equipment?

27 A. With all surface supply equipment.

1 Q. Surface supply equipment. Yes.

2 A. And later on it says the rescue plan was modified so that we
3 could now enter with commercial equipment.

4 Q. Yeah.

5 A. I remember there was a—

6 Q. Yes. And you're agreeing with that?

7 A. Yes. Subsea Global came around that time and

8 **Mr. Maharaj SC:** No, later Subsea Global came.

9 **Mr. Chairman:** They came later.

10 **Mr. Archbald:** Or Conrad came with the equipment?

11 **Continued Examination By Mr. Maharaj SC:**

12 Q. Yes, Conrad came with equipment at 6.30 p.m.

13 A. Uh-huh.

14 Q. And at 7.14 p.m. Subsea came with dive support vessels, also
15 with all the necessary equipment that Mr. Alvin Seeterram told
16 us—

17 A. Okay.

18 Q. —that could be used to do a rescue.

19 A. Right. I know Sub—OI know Subsea Global came at some
20 time that night and that they had everything that was necessary.

21 Q. Yes.

22 A. Except for divers.

23 Q. Yes. Yeah because Subsea could not use their divers.

24 A. Yes.

25 Q. And, um—

26 **Examination By Mr. Chairman:**

27 Q. So I just want it clear, do you agree with this that you were

1 aware of that?

2 A. I was a—I did not know that someone named Conrad Beddoe
3 came.

4 Q. All right, forget his name.

5 A. Yeah.

6 Q. You knew someone came, a diver?

7 A. I—yes, yes, divers came.

8 Q. So as far as you're—leaving aside the names of the
9 individuals—

10 A. Yeah.

11 Q. —you in the ICT were aware that divers had arrived—

12 A. Yes.

13 Q. —with equipment?

14 A. I don't know what equipment they came with.

15 Q. Right.

16 A. But shortly after a lot of equipment came.

17 Q. And then Subsea Global arrived—

18 A. Yes.

19 Q. —whoever they were, and they had the commercial
20 equipment—

21 A. Yes.

22 Q. —necessary?

23 A. That's right.

24 Q. Right. So you knew that at the time that it was happening? Is
25 that the position?

26 A. Yes.

27 **Mr. Chairman:** Thank you.

1 **Continued Examination By Mr. Maharaj SC:**

2 Q. And you also knew that there were divers that LMCS had
3 available who had commercial diving experience?

4 A. Yes.

5 Q. Yes.

6 A. Yes because, because—I mean, there was an assumption, but
7 yes that was my assumption—

8 Q. Yes, yes.

9 A. —that they were, they were good divers, very well experienced
10 and trained.

11 Q. And before I refer you to the evidence that Catherine
12 Balkissoon gave us, you know Catherine Balkissoon—

13 A. Yes.

14 Q. —was a member of the ICT?

15 A. Yes.

16 Q. But before I refer you to that evidence, you also had
17 information at the ICT that they were willing to go into the
18 pipeline to do a rescue?

19 A. Yes, we got feedback from Catherine and I think whoever else
20 was on the—that, that, um, divers, people wanted to dive.

21 Q. And based on the evidence you have given that I just referred
22 you to, they had the commercial equipment, they had all the
23 equipment that a dive could have taken place?

24 A. Yes.

25 Q. Yes. Do you know whether the ICT, apart from the Catherine
26 Balkissoon talking to them and relaying the information to the
27 ICT, do you know whether the ICT as a—sent anybody to talk

1 to them?

2 A. No, Catherine was the person on the site.

3 Q. Catherine was the person on the site?

4 A. Yeah. She represented the ICT on the site.

5 Q. So she communicated all that information to the ICT?

6 A. Yes.

7 Q. And you agree to that, so the question now is, do you know
8 whether the ICT had any discussion with them?

9 A. Through Catherine. It would have only been through
10 Catherine.

11 Q. Through Catherine?

12 A. Yeah.

13 Q. And were that discussions that no diving should take place?

14 A. Well, at one point in time when we, we found out that, that at
15 least one person was diving, the, the decision was that it should
16 stop and that was communicated.

17 Q. Yes. So who—so the ICT made that decision?

18 A. Yes.

19 Q. And it was communicated by?

20 A. I think it was communicated by Catherine.

21 Q. By Catherine?

22 A. I think so.

23 Q. But who communicated it to Catherine, Mr. Piper?

24 A. Might have been. I could—I'm not sure. But I assume it's—it
25 would have been Mr. Piper.

26 Q. Now—

27 **Examination BY Mr. Chairman:**

1 Q. Time?

2 A. Around 7.00 p.m.

3 Q. So after Beddoe, I appreciate you didn't know his name, but
4 after the diver arrived and the equipment or before?

5 A. Well after the diver and before the equipment.

6 Q. Right, between the two?

7 A. Yeah.

8 Q. Right. When the equipment arrived, was there a review of the
9 no diving ban?

10 A. The reason why we said no diving—

11 Q. No, no, answer that question first then add whatever you like.
12 Was there a review of the no diving ban at the point at which
13 the equipment arrived?

14 A. Continually, yes, there was a review.

15 Q. Continually there was a review?

16 A. Yes.

17 Q. Did it change?

18 A. It never changed.

19 Q. So the ban remained in place?

20 A. Well the decision to not allow an attempted rescue to take place
21 remained in place.

22 Q. Not quite the question I'm asking you. The question I'm asking
23 you is, there was a general ban on diving or diving into the pipe
24 or diving into the hyperbaric chamber. Which was it?

25 A. There was an advice at some point in time and I don't know
26 that it was repeated. I don't know that it was enforced.

27 Q. Right. None of those answer my question. The question is,

1 first of all, was there a general diving ban or was it limited to
2 the pipe?

3 A. It was limited to a pipe rescue, yeah.

4 Q. Right. No diving in the pipe?

5 A. Correct.

6 Q. Right. That's the first thing. Right. Your understanding is that
7 that happened for the first time between the diver arriving,
8 experienced diver arriving, and the equipment arriving?

9 A. Yes.

10 Q. You said already about seven o'clockish which would fit in
11 with that timeline, all right?

12 A. Yes.

13 Q. So about seven o'clockish. There was a review of whether that
14 ban should remain in place once the equipment arrived. That's
15 what I understand you to say.

16 A. I, I don't know if there were—I don't know if we reviewed the
17 ban. I cannot say that the ICT reviewed the ban. The ICT—

18 Q. Well, that's what I'm asking you.

19 A. Yeah.

20 Q. Because obviously things were changing and I need to know
21 whether, once the equipment arrived that could have been used
22 to effect a rescue, whether there was a review of the no diving
23 ban.

24 A. No. There was no focus on a ban. There was a focus on a
25 rescue.

26 Q. Well, the initial ban was you can't dive into the pipe because
27 it's unsafe.

1 A. Correct.

2 Q. That was your position.

3 A. Yes.

4 Q. And that was the IMT position, right?

5 A. [*Nodding*]

6 Q. Equipment arrives that is capable of being used to effect a
7 rescue.

8 A. Correct.

9 Q. All I want to know is once you were made aware of the arrival
10 of that equipment, did you, as the head of HSE, health and
11 safety, did you say, “Look, we need to review whether or not
12 there should— we should be stopping them going into the
13 pipe”, or were you—what was happening once you knew this
14 equipment had arrived?

15 A. There was no focus on a ban.

16 Q. Right.

17 A. The focus was on a rescue.

18 Q. So it just remained in place?

19 A. Yes. And we needed several things to effect a rescue.

20 Q. Well you said so in your statement.

21 A. No, that was for a, for the dive. We needed more things than
22 that for a rescue.

23 Q. No, no. At paragraph 37 in your statement, it's been pointed
24 out to you by Mr. Maharaj already, paragraph 37, just bring it
25 up on the screen, it's at page one three two zero, there we are,
26 and you've got it in front of you, I think? I believed—

27 A. I'll see it on the screen.

1 Q. Yes.

2 "I believed it was unsafe to dive within the pipeline."

3 Well what was the purpose of diving within the pipeline?

4 A. I have no idea what the dive was about. My, my advice—

5 Q. Really? Really?

6 A. No, no, no hold on.

7 Q. Is that a fair answer?

8 A. Yeah I—my, what I understand from seeing on YouTube
9 subsequently was that it was an attempted rescue having
10 traversed vertically downward at about 10 feet into the
11 horizontal.

12 Q. Mr. Archbald, please? I'm only interested, for the moment at
13 any rate, in what you were thinking at the time at the IMT.
14 Never mind what you subsequently learned on social media, I
15 try to ignore it myself, but doing your best to place yourself
16 there at the time, you say, "I believed it was unsafe to dive
17 within the pipeline at the time." Correct?

18 A. Correct.

19 Q. And there's only one purpose for diving in the pipeline, wasn't
20 there? It wasn't for fun, that's for sure.

21 A. Certainly/

22 Q. No.

23 A. That is correct.

24 Q. And that was in order to effect some kind of rescue?

25 A. That's right. I believe so.

26 Q. You believe so. So what you're saying in this statement which
27 you prepared for us is this.

1 “I believed it was unsafe to dive within the pipeline at
2 that time without, one, continuous air supply, two, a tank,
3 three, a tether. The rescue divers would have at least
4 needed a rope”—that’s the tether—“with them and
5 supply of air”—which you’ve expressed. “They would
6 have needed a tank to be on them as an emergency air
7 supply.”

8 In other words if the—some sort of snag in the hose going up to
9 the surface, they had a separate air supply. That’s what you
10 meant by that, isn’t it, a separate tank? Yes?

11 A. Yes, yes.

12 Q. Yeah.

13 “And their regular air supply in case it was interrupted.
14 Air and a means of communication.”

15 So there’s a fourth thing, some way, although you could use the
16 rope presumably?

17 A. Yes.

18 Q. A means of communication and extraction were the three things
19 that needed—that they needed for any rescue dive inside the
20 pipeline to be safe.

21 A. Correct.

22 Q. Right. So just pausing in time, as Mr. Maharaj has asked you
23 about, these men have arrived, there’s been a ban put on diving,
24 these things have now arrived, haven’t they?

25 A. Those things have arrived, yes.

26 Q. Right. You had concluded at that point in time that it might be
27 safe or at least safer to dive into the pipe if you had those

1 things?

2 A. That is correct.

3 Q. Where did you get this from? You're not—are you a diver
4 yourself?

5 A. I got that from knowledge of confined space.

6 Q. Right. So you're not a diver, do I take it?

7 A. No.

8 Q. Right. But this, if I may say so, is a logical approach, isn't it, as
9 to the sort of things that you might think someone would need
10 in order to effect a rescue, correct?

11 A. Well it's based on my knowledge of confined space entry.

12 Q. Right.

13 A. On laned.

14 Q. All right. Well it seems reasonable enough for me I'm just
15 saying. But anyway that was your view at the time?

16 A. Yes.

17 Q. And once that equipment which you described yourself as being
18 the sort of minimum level of—

19 A. That's right.

20 Q. —of, of—in order to make it safe—

21 A. That's it.

22 Q. —once that had arrived, what were you saying in the IMT?
23 “Look, equipment's here, we've got the divers? Why don't we
24 do it?”

25 A. We did not have divers who were willing to traverse the
26 horizontal portion of the riser.

27 Q. Is that right?

1 A. As far as I know, as far as I believe.

2 Q. I thought you told Mr. Maharaj earlier that you knew that there
3 were divers who were prepared to dive?

4 A. I understand that there were commercial divers present but the
5 traversing in to the horizontal portion of the line, I don't know
6 if there were any of—any of the divers that were actually
7 willing to go down. When we—where—we at no time after,
8 after the first dive where they reached up to 10 feet, at no time
9 after that did any of the divers come with any plan or we were
10 not able to get any plan from them to go into the horizontal
11 portion of the line.

12 Q. Um, right. Okay. So you knew that someone had been into the
13 pipe and had gone a few feet into the horizontal?

14 A. Yes. Yes I—

15 Q. And had come out?

16 A. —I, I, think we might have heard about that that night. I'm not
17 so sure, but we know that they dived into the line.

18 Q. Yes. All right. Well you say you might not have known that at
19 the time?

20 A. I'm not so sure about the horizontal portion. I not certain. That
21 came out afterwards.

22 Q. And is it then your evidence that you didn't know, at that time
23 when this equipment had arrived, that there were divers
24 available and willing to go into the pipe, into the horizontal?

25 A. In—that—into the horizontal part.

26 Q. What, only just down to the end?

27 A. I think, I think that they would have been willing to go down to

1 the end. I think that was a—was safe enough. I think they
2 believed that that was safe enough but to start traversing the
3 horizontal portion, it seemed to me that none were willing to
4 come up, come forward with that.

5 Q. Where did you get this from?

6 A. From—well it was from the feedback from, from Catherine, I
7 should say, that none of the divers were—that there was no
8 plan.

9 Q. Yeah that's a slightly different thing, isn't it, because I've
10 recognized in the Enquiry that we've had so far and the
11 evidence given that there were—there was a need, certainly as
12 expressed by some, for a formal or informal dive plan, right?

13 A. Informal would be fine for me.

14 Q. But in any event, a dive plan?

15 A. Yeah.

16 Q. You're saying that you had no such dive plan ever advanced to
17 you?

18 A. Correct.

19 Q. Did you ever seek to try and obtain one, through Ms.
20 Balkissoon and the divers who were there?

21 A. No. No I, I cannot say that we actively went and asked them
22 for a dive plan.

23 Q. Why not?

24 A. When LMCS, when the incident occurred, the automatic trigger
25 was for LMCS to initiate an emergency response. That, that
26 was accepted. That is what Kazim was doing or leading.

27 Q. But you stopped them from diving in the pipe?

1 A. We arranged for as much resources as possible to facilitate their
2 diving.

3 Q. Uh-huh.

4 A. And when—after that first dive by Michael Kurban, there was
5 no effort coming forward at that point in time.

6 Q. Well pausing there, did you have a dive plan for Mr. Kurban to
7 go into the pipe?

8 A. No.

9 Q. Right. So what was different between Mr. Kurban going in the
10 pipe and somebody else going into the pipe a little bit later on
11 once all the commercial equipment was on site?

12 A. We did not know that Kurban had gone into the pipe.

13 Q. Until after he had done it?

14 A. Until after he had done it.

15 Q. But had come out?

16 A. Sorry?

17 Q. But he had come out?

18 A. That's right, and he had only traversed 10 feet. This now was
19 an effort to go further than 10 feet.

20 Q. Well yeah.

21 A. Probably much further, maybe 50, maybe a hundred.

22 Q. Maybe more.

23 A. Yeah. And the thought about going further in, well, I don't
24 know, I don't know what the divers were thinking. What I do
25 know is that none came forward to say, I am going to dive. At
26 least that is the evidence we have.

27 Q. None came forward to say they were willing to dive?

1 A. That's right. We did try—

2 Q. That's really the position? No one said, "I am willing to dive in
3 that pipe"?

4 A. That is correct.

5 Q. Including Mr. Kurban, including Mr. Farah, including Mr.
6 Beddoe and his brother, none of those people said, "I am
7 willing to dive in that pipe"?

8 A. On that night as far as we are aware, yes.

9 Q. Thank you. That's your evidence.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. But you agreed, you told us that Catherine Balkissoon told the
12 IMT—she was the representative of the IMT—

13 A. Yes.

14 Q. —that LMCS had divers who were willing to do a rescue?

15 A. Yes. They, they—yes, I have to say yes to that.

16 Q. Yes.

17 A. That they were saying they want to do a—

18 Q. Rescue?

19 A. —they have divers and—

20 Q. If it is that you or the IMT wanted to find out whether those
21 divers were prepared to go into or wanted to make sure they
22 were prepared to go into the horizontal section of the pipe, the
23 IMT could have asked them?

24 A. Well that's the thing. The IMT attempted to deal—yes we
25 could have asked them. IMT—

26 Q. And you had Catherine Balkissoon on the site?

27 A. Yes.

1 Q. And I want to read to you what Catherine Balkissoon said in
2 evidence here.

3 A. Certainly.

4 Q. So I could get your comments about it, okay? Catherine
5 Balkissoon's transcript of the evidence on the 14th of
6 December, 2022 on page 66 lines 8 to 24, it's on the screen for
7 you, and according—the question:

8 "Q. And according to my instructions, they made
9 several requests of that and they were told to stand
10 down several times?

11 A. At the very start around 7.00, right, they asked to
12 dive, that would have been around 7.00. And then
13 sometime after that and that would have been after
14 they got the—when I saw the people with the air,
15 commercial people came, he asked. Andrew Farah
16 asked. Right? And I told him stand down. I not
17 in charge. Let me talk to Collin Piper about it. So
18 definition of several, it's not like—it was like, um,
19 you know that, are we there yet? Movie? It was,
20 like, are you there yet? Are you there yet? That
21 every minute asking, he wasn't asking me like that,
22 if that's what you mean by several. I don't know.
23 He did ask me more than once."

24 So she was saying to us in evidence that the divers there were
25 prepared to go into the pipe, wanted to go in, she communicated
26 it to the ICT and they were told to stand down. Were you
27 aware of that?

1 A. Not to that detail, but I could tell you what—not to that detail.

2 Q. But you would agree with me that the IMT did not have any
3 discussions with the divers who were prepared to go into the
4 pipe with all the commercial equipment they have, to ask them
5 or to point out to them or to find out whether they would want
6 to go into the horizontal section if they had any objection of
7 going into the horizontal section?

8 A. Yeah. I, I don't know if they had any—I don't know if they
9 had—they were prepared to go into the horizontal section.

10 Q. You don't know?

11 A. The IMT sought to deal with an LMCS representative not
12 freelance divers at the first instance, and that would have been
13 Andrew Farah or Kazim Ali. There must be at least one leader
14 for us to have been able to lead with. Even if Conan Beddoe
15 had stepped forward to be the leader of that team, we would
16 have been able to meet with him and to say, "Look, this is—
17 let's work this out. Let's have that dynamic risk assessment on
18 this thing now", but there—it did not happen.

19 Q. Mr. Archbald, before I go into the evidence, because I want to
20 go, this is the last part of my cross-examination to you—

21 A. Uh-huh.

22 Q. —as to, I want to just put what I'm going to put to you and ask,
23 ask you to answer me in respect of some of the things that the
24 IMT did—

25 A. Okay.

26 Q. —as their form of rescuing, right?

27 A. Yes.

1 Q. But you would agree with me that these four men who were in
2 the pipe after Boodram came out—the—you or the IMT would
3 have recognized that any rescue to get them out alive had to be
4 within a short space of time?

5 A. As the planning section chief I really did not attach time frame
6 on it.

7 Q. So you did not—as a, as a—what you said as a planning?

8 A. Planning section chief.

9 Q. As a planning section chief you did not attach any time frame?
10 So as far as you were concerned, it could have taken 12 hours,
11 24 hours, 48 hours, it didn't matter?

12 A. I attached no time frame to it, Mr. Maharaj.

13 Q. No time frame?

14 A. Yeah.

15 Q. So you did not think that this was urgent to get a rescue done
16 from the pipeline?

17 A. By not attaching a time frame, I don't think that means that it's
18 not urgent. It was very urgent and very critical.

19 Q. But if it was very urgent and very critical, would you want to
20 take six hours to do it, ten hours to do it, 12 hours to do it or try
21 to do in three hours?

22 A. Immediately.

23 Q. Immediately. So therefore, if any rescue of the men from the
24 pipeline, and if Paria wanted to have a rescue done, a decision
25 had to be made urgently?

26 A. Definitely.

27 Q. Right. And therefore, if these men who were prepared to go

1 into the pipeline at the time at around seven o'clock from what
2 we just talked about, would you not agree that Paria should
3 have tried to see whether that rescue should have been effected?

4 A. From the information that we have, there was no safe dive to be
5 able to take place at that time.

6 Q. And there was no safe dive, as Paria was concerned, because
7 they wanted to see the conditions in the pipeline?

8 A. That—you mean with respect to the crawler?

9 Q. Well, with respect to everything that they wanted to send.

10 A. Well we got the crawler to be able to find out, to try to find out
11 where the men were. That was the main objective as far as I am
12 aware for the crawler.

13 Q. But you knew the men were in the pipeline?

14 A. To know where along the pipeline they were, sorry. I didn't
15 make myself clear. By sending the crawler down, if we had
16 been able to pinpoint whether they're a hundred, 200 or 300
17 feet—

18 Q. Okay.

19 A. —it would have been able to give us more information.

20 Q. Okay. So the reason for the crawler and the reason for—to
21 getting all this video footage was merely to find out how far in
22 the horizontal section the men were?

23 A. Not merely, what was—it was to try to find out where the men
24 were.

25 Q. Okay. Well, let me just point out to you what Paria did,
26 because Paria is relying upon this timeline to do a rescue and I
27 want to put it to you—

1 A. Uh-huh.

2 Q. —as a representative of the IMT.

3 A. What timeline is that?

4 Q. Yeah, I'll go through it.

5 A. Or, sorry.

6 Q. Good. Mitchell's was contacted at 4.30 p.m. on the 25th of
7 February, 2022 and they were told to be on standby by Paria
8 from 8.40 p.m. with surface supply equipment, and that is to be
9 found at paragraphs four and five of Fitzroy King's witness
10 statement, supplemental witness bundle page three zero one
11 seven. I wonder if we could put that up on the screen for the
12 witness to see. You see that?

13 A. Yes.

14 Q. Right. Then, could you put paragraph seven on the screen for
15 him at page 3o17? Based on Fitzroy King's statements they
16 were on standby and not given any further information until just
17 after 1.00 a.m. on Saturday when he, Rolph Seales, requested
18 him to view the video footage of the pipeline. Mr. King
19 assessed that his divers were too big to fit into the pipeline. So
20 that is from 8.40—from 4.30 p.m., 8.40 p.m., stand by and then
21 at 1.00 a.m. on Saturday morning. You see that?

22 A. Yes.

23 Q. Right. Let's go to Eastern Engineering responses. Eastern
24 Emergency Response Services were not contacted until 11.40
25 p.m. on Friday. See paragraph six—

26 A. They were not contacted until 11.40?

27 Q. Eleven forty p.m. on Friday. See paragraph six of Andy

1 Johnson, witness bundle Volume IV page 1526, and also
2 paragraph 11. The first part of the team arrived on site at 12.30
3 a.m. on Saturday. They were briefed at 1.25 a.m. by the
4 incident commander, that's at paragraph 11. The incident
5 commander advised Mr. Johnson that due to the variables
6 around the incident, Eastern should prepare themselves for a
7 retrieval and not a rescue due to the possibility that the divers
8 may have expired, paragraph 11, page 1527.

9 After viewing the video footage of the pipeline and visiting berth 6,
10 Eastern at 3.45 a.m. informed the ICT that they could not
11 perform a rescue because the pipeline was filled with water and
12 that the rescue required a diving team, paragraph 19, page 1529.
13 And then at 5.00 a.m., Eastern was placed on standby and at
14 7.00 p.m., that is on Saturday, they were called off their
15 assignment by the IMT, paragraph 21. You see that?

16 A. Yes.

17 Q. OTSL, OTSL was contacted in the afternoon of Friday, the 25th
18 of February. Look at paragraphs six and eight of Ian Bertrand's
19 witness statement at supplemental witness bundle page two
20 eight four two. On the afternoon of Friday the 25th of
21 February, 2022 and they arrived on site at 8.10 p.m. And
22 remained on standby until 5.30 a.m. Their evidence is that they
23 were not called upon by Paria to do anything.

24 **Mr. Chairman:** Remained on standby until when?

25 **Mr. Maharaj SC:** They remained on standby until 5.30 a.m.

26 **Mr. Chairman:** 5.30 a.m.?

27 **Mr. Maharaj SC:** A.m.

1 **Mr. Chairman:** And were stood down when?

2 **Mr. Maharaj SC:** And they were stood down—well they
3 arrived at the site at 8.10 p.m. at Friday evening and remained
4 on standby until 5.30 a.m. on Saturday morning.

5 **Mr. Chairman:** Right.

6 **Mr. Maharaj SC:** And their evidence is that they were not
7 called upon by Paria to do anything.

8 **Mr. Chairman:** Thank you.

9 **Mr. Maharaj SC:** And that is paragraphs six and eight of Ian
10 Bertrand's witness statement SWB two eight four two.

11 **Mr. Chairman:** Thank you.

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. Then Hull Support Services, that is at SWB two nine nine zero
14 and two nine nine one. That's Andy—sorry, it's Gyasi
15 Woodley witness statement. And he said he received a call at
16 4.30 p.m. from Andy Fortune and he told Andy that he would
17 try to put a crew together. Hull did not go to the site as it could
18 not put a crew together. So that is the—that is Hull.

19 According to Michael Wei, at paragraph 103 at page
20 1289 Volume IV of the witness statement bundle, a request was
21 made by—for a camera by Paria at 6.30 p.m.—at 6.10 p.m. on
22 Friday. It arrived at 7.30 p.m. but could not be used as the light
23 was insufficient. Further, further, let me give you at paragraph
24 105 of Mr. Wei's witness statement at page 1290, Volume IV
25 of the witness statement bundle he said, further at around 9.00
26 p.m. a push rod camera from Atlantic LNG arrived on site at
27 9.00 p.m., that is on the Friday, and around midnight that

1 Atlantic LNG camera was used to perform an inspection but
2 could not go past the scuba tank in the pipeline.

3 Hummingbird was contacted at 10.50 p.m., see paragraph
4 107 of Michael Wei's witness statement at page 1290, 107. It
5 was contacted at 10.50 p.m. on Friday by Mr. Michael Wei to
6 make arrangements for a crawler with camera. You see that?

7 A. Yes, yes, Sir.

8 Q. Then Catherine Balkissoon said at paragraph 31 of her witness
9 statement, witness bundle page at 1333, that the pipeline
10 crawler went in at 3.00 a.m. on Saturday. They were still trying
11 to retrieve footage from that camera by 4.00 a.m. See
12 paragraph 79 of the statement of Mushtaq Mohammed page
13 1457 Volume IV of the witness statement bundle.

14 So, you see Mr. Archbald, that although Paria knew that
15 there were divers since seven o'clock on Friday evening,
16 prepared to go into the pipeline, Paria was engaged in these
17 activities that I pointed out to you without even talking to the
18 divers who were willing to go or making representations to
19 them?

20 A. I've heard what you read and if I could share what I know?

21 Q. But do you find that satisfactory?

22 A. I've heard what you read.

23 Q. As an IMT person—

24 A. Yes.

25 **Mr. Peterson SC:** Mr. Chairman, you say I have to—Mr.
26 Maharaj read a lot and—Mr. Maharaj read a lot and the witness
27 is saying, "I heard what you read but I want to tell you what I

1 know.” Because if it’s—the invitation to the witness is to
2 accept or dispute any or all of that, it has to be done seriatim.

3 **Mr. Chairman:** Yes, of course. I mean, I agree. Let’s take it
4 one step at a time. I think what Mr. Maharaj was doing was
5 just set the scene so that we understand the purpose of the
6 question. And I have no difficulty with that.

7 **Examination By Mr. Chairman:**

8 Q. You understand what has happened? He’s read to you what the
9 evidence that has been placed before this Enquiry has been, all
10 right?

11 A. Yes.

12 Q. Not all the of the evidence obviously, and there’s some
13 evidence that potentially contradicts it, all right, so, but this is,
14 this is the evidence that has been led before this Enquiry, either
15 in writing or by live evidence, right?

16 A. Well it’s bits and pieces of evidence.

17 Q. No, no, of course it is. It’s a selection. We’re not going
18 through the whole of the evidence for you to consider that.
19 That’s my job, all right? But you’ve been given a picture of the
20 activities in terms of finding people who were prepared to do
21 something, if anything, to rescue these divers by the IMT, all
22 right? He’s given you a picture. I accept it’s a snapshot, but
23 it’s a picture, all right? First of all, you said in answer to that,
24 first of all that you, er, you hear what he says or you hear what
25 has been read to you. Do you dispute any of what has been
26 read to you? I mean, are you able to say whether it is accurate
27 or not? If you can’t, then fine.

1 A. Well he read a lot.

2 Q. Of course he did, yes?

3 A. And it's rather difficult for me to say that I dispute with each
4 one now not having been able to comment on each one.

5 Q. Let's proceed on this basis then, shall we? Let's assume for a
6 moment that it is accurate, what he's read to you is accurate—

7 A. Umm.

8 Q. —recounting of the evidence. Doesn't mean to say we're
9 necessarily going to accept it. Do you follow that? But it's an
10 accurate recount of some of the evidence. Let's assume that for
11 the moment, all right? If that is true or if it's true, does it
12 represent to you what Mr. Maharaj has asked as a satisfactory
13 approach to the rescue of these men?

14 A. It's a difficult question to answer because, because, because the
15 bits and pieces that he read—

16 Q. Hmm.

17 A. —is not necessarily the facts that I have.

18 Q. You mean, you mean you may not accept them as being
19 accurate?

20 A. That's right.

21 Q. Right. All right. Let us assume they're not accurate.

22 A. Yes.

23 Q. Do you think that the efforts made to rescue these men, by way
24 of contacting different agencies, was satisfactory?

25 A. The outcome was that there was no rescue.

26 Q. No, not the outcome.

27 A. So—

1 Q. Not the outcome. Do you think that the efforts—

2 A. The efforts were satisfactory?

3 Q. —were satisfactory?

4 A. I think, yes, because we did all that we could have done, I think.
5 I don't think there was anything that we could have done that
6 we did not do.

7 Q. All right. Well that will be for us to determine, but, I think the
8 concern for Mr. Maharaj, and, to be frank to me is the answer to
9 question you made earlier and it's against that background I
10 suspect these questions have been asked of you, which is, was
11 there any kind of time frame or timeline that was applied by the
12 IMT, given that you accept that it was very urgent and very
13 critical and needed to be done immediately? You follow the
14 point, don't you, that if you're contacting, just take one of them,
15 you're contacting somebody saying we need help—

16 A. Yeah.

17 Q. —and you do that at 5.30, all right, and they tell you, well, they
18 can arrive by 8.10, and then they are on standby until 5.30 in
19 the morning, and not being called upon to do anything, that is
20 OTSL, if that is right, it doesn't really speak of a particularly
21 well-thought-out plan by the IMT as to how they should
22 progress, given that it was very urgent, very critical and should
23 be acted upon immediately?

24 A. Well if that—if it were right.

25 Q. Yes if it's right?

26 A. But I don't believe that it is—that is what occurred.

27 Q. You think it's wrong?

1 A. Yes.

2 Q. Right. So you think they were contacted before 5.30?

3 A. No. I think that the time they were contacted is correct.

4 Q. Right. Ten past 8.00?

5 A. I believe that that is also correct.

6 Q. Right. But you say they were called upon to provide some
7 assistance?

8 A. Yes.

9 Q. Right. All right, well let's assume that that is correct, at ten
10 past 8.00 when they arrived on the scene, well, go back at one
11 step. If at 5.30 they're saying they can't get there for the better
12 part of three hours, did you think that that represented to you
13 what was either very urgent or very critical? They can't even
14 get there for the best part of three hours.

15 A. I, I believe that that was the best they could have done.

16 Q. No I believe that too. But is it good enough for you?

17 A. Well it wasn't—it certainly was not good enough for the rescue.

18 Q. No.

19 A. But there was nothing else—these—this is the Friday afternoon
20 evening.

21 Q. Yes.

22 A. And you're calling upon persons to mobilize. Mobilization
23 doesn't take an instant. You're calling people out from their
24 homes possibly and they have to report to work and then to—

25 Q. No I understand it might take—believe me I've been stuck in
26 the traffic here just like everybody else, but I understand how it
27 works. The point about it is this. Is, if you had a timeline and

1 you, you know the incident happened at around 2.30, that they
2 disappeared, 2.30, 2.45, call it 2.45, all right? They disappeared
3 2.45. Two and a half hours later approximately somebody
4 comes out of the pipeline, alive. So at 5.30 or so that evening
5 you know for sure that there are people alive in the pipe.

6 A. We believe that.

7 Q. Yes, exactly. There must have been in your mind a critical
8 timeline upon which to work because at 5.30 you say, “Well if
9 we can get a team in there now we might save one, two, three
10 or all were of them. If we wait an hour, it’s to going take—we
11 may lose one. If it takes three hours we may lose two. If it
12 takes five hours we may lose them all.” Did you not work to
13 some kind of timeline?

14 A. No. And I think I understand the question.

15 Q. Good.

16 A. But I don’t agree with the basis.

17 Q. Right.

18 A. Um—

19 Q. That you’ll need to explain.

20 A. If, if you call upon someone for help and you want the help
21 now and they say, “I could make it there in a hour or two or
22 three”, do you tell them, “No, I don’t need you anymore”? No.
23 We did not do that. We called upon them for help and they
24 came and then we called upon another team for help and then
25 another team because we did not assume that one would be
26 good enough. We called upon everyone that we could—were
27 able to get in contact with. So that we turned away no one

1 because they were not able to reach immediately. They all
2 understood the urgency of why they were coming and I believe
3 that they came as quickly as they could have come.

4 Q. I believe that too.

5 A. Whether that was good enough, I mean, we know the result.
6 We know the outcome. But whether they could have done
7 better, I don't know.

8 Q. No, it's not about whether they could have done better, it's
9 whether you could have done better, you the IMT. I don't
10 mean you personally, although that may be an issue too, but the
11 fact is that if you call someone and they say, "Look, it's going
12 to take three hours to get there", there must be another plan, all
13 right? You say then you call someone else?

14 A. Yes.

15 Q. Then to come there, and another and another?

16 A. But we didn't tell them not to come.

17 Q. No, no, I appreciate that. There's no point in telling them not to
18 come.

19 A. Thank you.

20 Q. But, and I understand all of that. The point is, though, is it the
21 first arrival of anyone to give you any help is hours away, is
22 there not plan B? Is there not some other alternative?

23 A. LMCS was affecting the first plan which is to put together a
24 rescue team—

25 Q. Right.

26 A. —which we were helping with.

27 Q. You say you were helping with it. As I understand it, what was

1 happening is that you provided them a few tanks of air when
2 they say they needed more, but apart from that you were
3 prohibiting them from going into the pipe, weren't you?

4 A. The help that we provided to them was to get their divers down
5 to get air for them and to—well, they got their own vessel.

6 Q. Yeah. The help—

7 A. The very next—

8 Q. —that you provided, the help that you provided LMCS, as I
9 understand it, correct me if I've got it wrong, was that when
10 they say they ran out of air you provided them with some more
11 air tanks?

12 A. Yes.

13 Q. At the same time you were saying don't dive?

14 A. Correct.

15 Q. Right. So, er, what I want to understand from you is this, is that
16 you knew pretty early on that the best that you were likely to
17 achieve was that it was going to take hours, hours, for any of
18 the people you were calling to turn up and be able to help you.
19 That was the position, was it not?

20 A. Yes. Um, but I have to—the, the, the, the questions caused me
21 to have to ask this. What was the alternative?

22 Q. The alternative was to have a plan B which, bold as I might be
23 to make the suggestion as to what it might be, is to go to LMCS
24 and say, or go on the barge, the berth, and/or speak to them
25 directly, not through Ms. Balkissoon, if that wasn't working. I
26 mean, you knew, according to you, that the equipment had
27 arrived, you knew that there were people who were still in the

1 pipe almost certainly alive, and you knew that there were divers
2 who were available and willing. I mean, is it beyond the wit of
3 man to be able to put together a plan yourself?

4 A. No, we could have.

5 Q. Well why didn't you—I mean, you came up with your own
6 statement which you dated the 16th of August of 2022 with
7 what you regarded as the minimum requirements to be safe. It
8 didn't involve sending in a camera. It involved making sure
9 that the person who was going to go into the pipe was as safe as
10 he could be, didn't it?

11 A. That's right. And—

12 Q. And you had that.

13 A. And after seven o'clock, there was, as far as we know, as far as
14 I believe, there was no one willing to traverse the horizontal
15 part of the line.

16 Q. Do you think you might be wrong about that?

17 A. It is possible.

18 Q. Right. And if you are wrong about it, then a—somewhere
19 along the line there was a failure in communication of that,
20 wasn't there, if you're wrong?

21 A. Yes, yes, yes, um—

22 Q. And if there were willing people, if there were, if that's our
23 finding in due course that there were one, two, three or four
24 divers who both had the ability and the willingness to do it, you
25 say you at the IMT did not know that?

26 A. Right. So—

27 Q. Is that the position?

1 A. —I agree.

2 Q. Yeah. All right.

3 A. Um—

4 Q. And if that is so, there was a failure in communication, was
5 there not?

6 A. Definitely.

7 Q. Right.

8 A. But the willingness—

9 Q. The consequences of which may be death?

10 A. It may, but the willingness would not have effected a rescue.
11 The willingness would not have reflected a rescue.

12 Q. Well, you needed someone who was prepared to do it?

13 A. I still—if it is we could ask, we could ask those same people
14 who we think were willing and sit together with them and
15 develop a plan now, even now, after this incident, and say what
16 it actually entails to go down into the 30-inch line, traverse
17 horizontally and to remove the bottles and then to come back
18 up, then to go back again, this is—this must—

19 Q. Why would the bottles need removing?

20 A. To be able to get to the, to the first man.

21 Q. Why? A 30-inch pipe couldn't go past me in a bottle?

22 A. Well if the—in my, and I'm not a diver and I'm not a rescue
23 diver—

24 Q. I'm neither of those. I have dived a bit but I'm not a rescue
25 diver.

26 A. But if I—if, if, if the rescue diver is going down, he would have
27 on his helmet, the umbilical, he would need to have an extra

1 bottle for the person and a tether, um, it's—

2 Q. It's a smaller bottle? You know that, don't you?

3 A. Yeah, well, I—and, and he should probably go with, um, a
4 BCD, the vest, so that way the man would not have to swim or
5 be pulled up to the surface. That's what I think might have
6 been the better thing, so that they woulda used that to rise
7 vertically rather than to have to pull because to set up a pulley
8 at the top of the riser would have been almost impossible.

9 Q. All right. Well, let's not muse too much at this juncture
10 because I'm not sure that's going to achieve very much.

11 A. But—

12 Q. That musing that you're doing now is something that might
13 have been done then.

14 A. We did it then, because—

15 Q. I rather got the impression, from your statement, that you had
16 identified the things that you thought were necessary—

17 A. Yeah.

18 Q. —in order to effect a safe rescue.

19 A. We, we did that then and we worked—but there was the—with
20 the willingness from the LMCS supporters—

21 Q. That's the—right.

22 A. —was not enough to effect a rescue. It might have been
23 enough to dive but not to effect a rescue.

24 Q. I'm not sure I understand that.

25 A. Diving does not—

26 Q. As I understand it, and again if I've got this wrong, Mr.
27 Archbald, please tell me. You say the only impediment

1 ultimately at around 7.15 or 7.30 when the commercial
2 equipment arrived, the only impediment to a rescue at that stage
3 was the fact that there was no one communicated to you willing
4 to go into the horizontal part of the pipe. Have I got that right?

5 A. And that is the main impediment.

6 Q. All right. Thank you. The main impediment?

7 A. Yes, right.

8 Q. Thank you very much.

9 **Examination By Commissioner Wilson:**

10 Q. Just before we move on, Mr. Maharaj, I heard you just
11 mentioned that it was a possibility or even if now you were to
12 sit with the willing personnel, right, I think what has already
13 been established for me by Paria is that the ICT members are
14 ICS trained and you as the head, are you aware of a unified
15 command under ICT or a IMT philosophy?

16 A. Yes. The ICS teaches about a unified command approach, so
17 yes.

18 Q. Right, so a unified command would dictate very much what you
19 said, so even engage in the specialist and/or your outsource
20 stakeholders, under that philosophy you could have engaged all
21 your specialists, whether using technology, teleconference and
22 stuff to start enacting components into your tactical plan as
23 early as when you started engaging the first specialist.

24 A. The—all right. So the specialists that we contacted were on
25 site, and, well when they came on site we engaged them at that
26 point. The unified command—

27 Q. Uh-huh.

1 A. —um, it did not include an LMCS representative which is what
2 the Commissioner is saying.

3 Q. No, not necessarily. So I'm—so I'm even removing you from,
4 um, you know, any having to think about diving or confined
5 space rescue. I'm dealing with your expertise or competence in
6 ICS.

7 A. Yes.

8 Q. And since you're familiar with a unified command they're
9 multiple agencies that you engage, not concerned with the time
10 that they showed up.

11 A. Yes.

12 Q. I'm just trying to interrogate the philosophy or your
13 understanding of the unified command philosophy because it
14 speaks to a quality timeline that you could have gotten quality
15 information and/or started developing components into a
16 tactical plan—

17 A. Okay, so—

18 Q. —under the unified command.

19 A. Right.

20 Q. So the unified command won't only put you into LMCS as your
21 first responder—

22 A. Uh-huh.

23 Q. —because you've engaged Rolph Seales, you've engaged other
24 members.

25 A. Right.

26 Q. So even though if they were scattered across the country, and I
27 do appreciate February 25th, that was a carnival Friday—

1 A. Yeah.

2 Q. —you know, so, um, I think if you have a good understanding
3 and a good command of the unified command philosophy, and
4 I'm a bit challenged in terms of what I'm hearing, it seems as
5 though your outside stakeholders were engaged in silos and not
6 necessarily under the unified command philosophy.

7 A. I'm not sure which agency should have been in the unified
8 command that was not there. Yes, there may have been others,
9 um, but the, the—and if you consider the Planning P which is
10 the initial response and then the generation of the ICS two and
11 the incident briefing and the formation of the incident
12 command/unified command, right, unified command for larger
13 incidents, and before you get into the cycle, that, at that point in
14 time we actually did have TTCG, TTFS, Trinidad and Tobago
15 Police Service, we did not have the dive companies as yet, they
16 didn't arrive until about eight o'clock and I think what you're
17 saying is that we could have been online with them in order to
18 be able to start soliciting information?

19 We were not necessarily online over the phone with them
20 explaining what the situation was. The only—I think the only
21 person that actually responded affirmatively or in any definite
22 way what their position was, was Hull. The other three needed
23 to be on site to be able to assess before they could have made a
24 pronouncement. So, so the, the creation of the unified
25 command you could say did—it was started but the first tactical
26 plan did not take place until after the first site visits were done.

27 Q. But now I'm going to have to test the site visit because there's

1 nothing that came out to me, you know, what the diving
2 companies did in, in, in—

3 A. That's right.

4 Q. —as, as a—of a site visit.

5 A. That is absolutely correct, yes.

6 Q. But also under the ICS system, I mean again the thing about it
7 is command and control and overexaggerate.

8 A. Yes.

9 Q. So, I understand coast guard showed up, coast guard
10 immediately almost said, "Look, we're not going into the
11 pipeline", so I'm not hearing powerfully that a unified
12 command operated as advertised under the ICS system.

13 A. No, I would agree—

14 Q. Okay.

15 A. —that it did not operate as advertised in the ICS system and
16 that is actually one of our findings.

17 Q. Okay, so then really—

18 A. Yeah.

19 Q. So there are gaps in terms of the timeline?

20 A. Definitely. That's right. And, and the recommendation is to do
21 training with the, joint training, with the regulators and the
22 persons in rescue and that kind a thing.

23 Q. Understood. Thank you for that.

24 A. Yes.

25 **Mr. Peterson SC:** Mr. Chairman, sorry, just by housekeeping
26 are we likely to get to Mr. Osei Flemming-Holder? I see it's 5
27 to 4.00 and—

1 **Mr. Chairman:** We have to rise at 5.30 at the very latest.

2 **Mr. Peterson SC:** Yeah, that's what I was advised, so, at least
3 you could keep Mr. Seales and Mr. Fuentes at least so that we
4 dent lose time.

5 **Mr. Chairman:** No, quite.

6 **Mr. Peterson SC:** I can't see us getting to Mr. Osei.

7 **Mr. Chairman:** Well, what I would like to do, um, can you
8 just give me a moment please?

9 **Mr. Peterson SC:** Sure.

10 *[Mr. Chairman confers with Ms. Sinanan and Mr. Bissessar]*

11 **Mr. Chairman:** It seems to me that, you—how much longer
12 do you have do you think?

13 **Mr. Maharaj SC:** One question.

14 **Mr. Chairman:** All right, well ask that question then I'll deal
15 with where we are going to with the rest of this. Let's just go.

16 **Continued Examination By Mr. Maharaj SC:**

17 Q. Mr. Archbald, I have a duty to put something to you. You're
18 aware that OSHA conducted an investigation into this matter?

19 A. Yes.

20 Q. And you're aware that you were interviewed by OSHA?

21 A. Yes, Sir.

22 Q. And you're aware that OSHA made certain findings?

23 A. Yes.

24 Q. Well I should say preliminary findings?

25 A. Yes, I understand.

26 Q. And at page—and I want to ask you your view at it so that
27 you'll get an opportunity.

1 A. Okay.

2 Q. Yes. At page one two three nine and the core bundle Volume
3 III, under the heading 6.2.4 and what I'll do I'll read—it's on
4 the screen, and you can—

5 A. Yes.

6 Q. You can read it but I just want to put it to you and then ask you
7 two questions on it, okay?

8 A. Yes.

9 Q. Well OSHA stated that you had no experience in offshore
10 subsea maintenance works.

11 A. Yes.

12 Q. Do you agree with that or not?

13 A. Whether I have no experience or that I told them that?

14 Q. Well did you tell them that?

15 A. I don't remember saying that to them.

16 Q. You don't remember saying that to them?

17 A. But it's something that I might have said but I really don't
18 remember.

19 Q. Something you might have said?

20 A. I asked them to be able to tape the conversation and they said
21 no.

22 Q. So, so, so you agree with them, then, that you have no
23 experience in offshore subsea work?

24 A. Well I have never done diving or any sort of maintenance work.

25 Q. Offshore maintenance?

26 A. Offshore, yeah, I have never done any of that.

27 Q. Right.

1 A. So I—if that is what was meant here then, I—that is—I don't
2 have competency or qualifications or training in doing any sort
3 of offshore work.

4 Q. Great, okay. I thought I had a duty to ask you that.

5 A. Right.

6 Q. And, um, it went on to say that he admitted that his team does
7 not have the required competency in offshore subsea
8 maintenance work.

9 A. Well I don't know how the word required there, but, my team
10 does not do offshore maintenance work. We are HSE. We are
11 HSE professionals so we don't do the work. We understand the
12 risks associated with the work for the oil and gas industry.

13 Q. You do not understand the risks associated?

14 A. We understand the risks associated for the oil—as far as the oil
15 and gas industry pertains, but, but actually the doing of the
16 work, no, that is not our area of expertise at all.

17 Q. So you understand the risks in this job that was being done?

18 A. Well, as far as it pertains to the oil and gas, industry. The
19 diving aspect of it, the competent contractor would have
20 brought that to us.

21 Q. So you think that you were competent in Paria to assess the
22 method statement?

23 A. The, the JHA, the, the, the risk assessment?

24 Q. Yes, so yes—

25 A. So, so, to, to assess it for as far as to include the facility risks,
26 which is what I would have spent some time explaining earlier.

27 Q. All right, Mr. Archbald, thank you very much.

1 A. Okay, you're welcome, Mr. Maharaj.

2 **Mr. Chairman:** All right just wait one moment. Who wants
3 to ask questions of Mr. Archbald? [*Hands raised*] Three and I
4 take it you both will have some, or you may not have much?

5 **Mr. Peterson SC:** Just three questions.

6 **Mr. Chairman:** All right, all right.

7 **Mr. Peterson SC:** [*Inaudible*]

8 **Mr. Chairman:** Well I know when you say three you mean
9 three or maybe three and a half at the most. All right,
10 realistically I think that's—we're going to take a five-minute
11 break in a moment but I think realistically that's going to take
12 us at least half an hour, perhaps a little more. So I'm minded to
13 certainly to release Mr. Osei Flemming-Holder. That's his
14 name is it, Flemming-Holder. Right. Well he should be
15 allowed to go, I think. The question is whether I keep Mr.
16 Seales or Mr. Fuentes or both. My inclination at the moment is
17 to keep Mr. Seales. [*Crosstalk*] Well I'm being told to keep—

18 **Mr. Peterson SC:** Fuentes depending.

19 **Mr. Chairman:** Well, um, maybe we should just have Mr.
20 Fuentes. I think he is the one we should keep, and let Mr.
21 Seales go as well. I've got an appointment at six o'clock which
22 I have to keep and I need to do a little bit of reading before that,
23 so, um, so what I'm going to do is to keep Mr. Fuentes, ask Mr.
24 Seales and Mr. Flemming-Holder to come back tomorrow
25 morning. I'm sorry about that but if you ask them to come I
26 shall call them first. We'll have Mr. Seales first and then Mr.
27 Flemming-Holder. All right, and then the other two that are

1 fixed to come, Mr. Johnson from Eastern Emergency
2 Responses and Mr. Gill from Hull Support. All right, well
3 that's what we'll do.

4 **Mr. Peterson SC:** The time to be confirmed, Sir, I see, the
5 time for tomorrow. You need to tell them now.

6 **Mr. Chairman:** We're going to tell them now, yes.

7 **Mr. Peterson SC:** Okay.

8 **Mr. Chairman:** I'm going to rise for 5 minutes, everyone will
9 stretch their legs, and then we'll resume with, um—

10 **Mr. Peterson SC:** The start time.

11 **Mr. Chairman:** Yes, thank you very much.

12 **Mr. Maharaj SC:** I think Mr.—

13 **Mr. Peterson SC:** The starting time.

14 **Mr. Maharaj SC:** Tomorrow.

15 **Mr. Peterson SC:** If it—

16 **Mr. Chairman:** Tomorrow?

17 **Mr. Peterson SC:** Tomorrow, yes, if you—it's not on the
18 schedule.

19 **Mr. Chairman:** Right. Oh, it isn't, is it?

20 **Mr. Peterson SC:** It says to be, um, confirmed. Well I think
21 you did say nine o'clock or 9.30 or ten o'clock I think.

22 **Mr. Chairman:** Right. [*Laughter*] The question is this, isn't
23 it? Do you want to go home early or start early? Why don't we
24 start at 9.30 tomorrow? 9.30? All right, 9.30 tomorrow. Thank
25 you very much. I'll rise for 5 minutes all right? Just 5 minutes.

26 **3.59 p.m.:** *Enquiry suspended.*

27 **4.08 p.m.:** *Enquiry resumed.*

1 **Mr. Chairman:** Yes, Mr. Pegus has asked me in everyone's
2 absence if Mr. Seales could give evidence this afternoon rather
3 than Mr. Fuentes. I would have accommodated him but for the
4 fact that I must rise at 5.30, and I do not believe that we will get
5 through the remainder of Mr. Archbald and then Mr. Seales this
6 afternoon by 5.30. So I'm afraid I'm going to have to ask him
7 to come back tomorrow morning, otherwise he'll end up doing
8 both, this afternoon and tomorrow morning

9 **Mr. Pegus:** No problem with that, Mr. Chairman. Just to
10 clarify, I didn't ask for him to go in place of Mr. Fuentes. The
11 request was for him to be squeezed in, but when I spoke to the
12 Secretary, I understood the position and he has no difficulty
13 being here for 9.30 tomorrow.

14 **Mr. Chairman:** All right, but I think if he comes at 9.30
15 tomorrow, I mean, I can give him a reasonable assurance that
16 subject to hurricanes or something like that he will be first on
17 and be first away.

18 **Mr. Pegus:** And will be very happy for that because tomorrow
19 will be the third day he'd be appearing.

20 **Mr. Chairman:** No, I understand that.

21 **Mr. Pegus:** Yes.

22 **Mr. Chairman:** He's not the only one, I'm afraid.

23 **Mr. Pegus:** Yes.

24 **Mr. Chairman:** It's just what happens, as you know.

25 **Mr. Pegus:** Yes.

26 **Mr. Chairman:** All right. So what we're going to do is we'll
27 finish with Mr. Archbald, we'll hear from Mr. Fuentes and the

1 target time is 5.30 please, and then then we will hear from Mr.
2 Seales tomorrow morning at 9.30. Thank you very much. So
3 let's get on.

4 Now, who wants task Mr. Archbald some questions. Yes. So
5 first of all we'll hear from Ms. Alfonso, please?

6 **Ms. Alfonso:** Thank you, Sir.

7 **Continued Examination By Ms. Alfonso:**

8 Q. Good afternoon, Mr. Archbald. My name is Nyree Alfonso. I
9 represent the interest of the SWWTU and I have very few
10 questions for you. A lot of the stuff has been traversed already.
11 Mr. Archbald, you would have been involved in compiling an
12 investigative report, an incident investigation report in August
13 of last year?

14 A. Yes, Ma'am.

15 Q. Okay, thank you. And in that report, amongst other things, and
16 that report is to be found well, attached to Mark Rudder's
17 witness statement at 1743 in part three of the witness bundle, at
18 Appendix IV, so you would have come to two conclusions that
19 the incident which caused the—well five divers to be sucked
20 into the pipeline was caused by LMCS removing the inflatable
21 plug?

22 A. Yes.

23 Q. That's one.

24 A. Yes, um, and maybe I could have it.

25 Q. Sure.

26 A. Do you have it anywhere here?

27 Q. Sure. I don't know about in—I don't—I can't—

1 **Mr. Chairman:** Just a moment. You want the original
2 document? Let—

3 **Mr. Archbald:** Yeah, well to answer the question.

4 **Mr. Chairman:** Yes, well of course you should—

5 **Ms. Alfonso:** Yes, certainly.

6 **Mr. Archbald:** I'm not sure how many conclusions—

7 **Mr. Chairman:** Where are we, Ms. Um—

8 **Ms. Alfonso:** We are—the place that I found it is at Tab 59 in
9 the part three of the witness statement bundle.

10 **Mr. Archbald:** I don't remember how many conclusions but I
11 remember there were two recommendations.

12 **Mr. Chairman:** All right, just a moment.

13 **Ms. Alfonso:** I know it's in the core bundle but I accessed it
14 from the witness statement.

15 *[Mr. Chairman confers with Ms. Maharaj]*

16 **Mr. Chairman:** It'll just take a moment longer because there's
17 a central core bundle and then there are the ones that we're
18 using. So it's core bundle one one four three, is it? One one
19 eight five. Sorry. One one eight five.

20 *[Document handed to Mr. Archbald]*

21 **Mr. Archbald:** Right.

22 **Continued Cross-Examination By Ms. Alfonso:**

23 Q. Okay, so if I—and because we might be looking at totally
24 different versions, I have page 3 of 21, which I hope will be at
25 the—

26 A. Okay, yes.

27 Q. Right? Um, I would say the penultimate paragraph, if it looks

1 the same on that document, based on the information gathered?

2 Yes, there we are. You see that paragraph?

3 A. Yes.

4 **Mr. Chairman:** You'd best read it because we haven't all got
5 it unless we have it on our screens, so—

6 **Ms. Alfonso:** Okay. Mr. Chairman you'd like me to read it
7 or—

8 **Mr. Chairman:** Yes, or that part which you want to refer him
9 to.

10 **Ms. Alfonso:** Right.

11 **Mr. Chairman:** Because, unless we get our screens up we're
12 not going to be able to see the—

13 **Ms. Alfonso:** Okay, I'm sure. I will oblige.

14 **Continued Cross-Examination By Ms. Alfonso:**

15 Q. "Based on the information gathered, the incident
16 occurred due to the LMCS employees removing the
17 mechanical plug and attempting to remove the inflatable
18 plug. These actions took place without the knowledge or
19 permission of Paria's T and M personnel."

20 Technical and maintenance I suppose?

21 A. Yes.

22 Q. "LMCS employees did not follow the agreed work-plan,
23 failed to properly comply with the P—well—permit to
24 work procedure and acted outside the terms of the work
25 permit for the task. LMCS also failed to follow the
26 manufacturer's safety instructions for the preventing—
27 for preventing movement of or for deflating the inflatable

1 plug.”

2 Yeah?

3 A. Yes.

4 Q. Okay. So, would it be correct to say that’s what you deem to be
5 the root cause?

6 A. The root, yes. Um, well, direct cause.

7 Q. Causes, I beg your pardon.

8 A. Yeah, that, it’s really direct. It’s immediate or direct.

9 Q. Oh, immediate okay. I’m happy for that terminology.

10 A. Yeah.

11 Q. An immediate or direct cause. And you would have gone on,
12 and I could make it simple by just looking at the, in the
13 executive summary, which is the next page on, you’d have
14 made key findings and recommendations. So you basically
15 reiterated what you’ve just read there and you made two
16 recommendations, yes?

17 A. Yes.

18 Q. And that recommendation really was retraining of the
19 contractors on—or the contractors, including, I guess, LMCS
20 on the permit to work?

21 A. Yes. So arising directly out of the direct causes that the
22 investigation found.

23 Q. Okay. And, you would have also recommended that essentially
24 when contractors bring equipment that they be trained in the
25 use of their equipment?

26 A. That the employees also be trained in it and not be dependent
27 on—

1 Q. And that—and you have some way of—

2 A. Yeah.

3 Q. —of—some evidence of that fact be produced to Paria?

4 A. Yes.

5 Q. Yeah? Okay. So let me ask you having regard to your
6 evidence this afternoon—

7 A. Yes.

8 Q. —would you, do you still hold to that view, those two, those
9 findings and the recommendations?

10 A. Um, those are still the direct causes.

11 Q. Okay. So, you would have had access at all, Mr. Archbald, to
12 the In-Corr-Tech report?

13 A. Yes, yes.

14 Q. Okay.

15 A. Yes.

16 Q. And, I'm the most untechnical person you will ever meet so
17 forgive me in advance if I oversimplify. Is it that the In-Corr-
18 Tech report concludes that the removal of some of the—or
19 removal of a good quantity of the line contents caused a
20 gaseous accumulation in the pipeline and then that led to the
21 Delta P?

22 A. I believe so.

23 Q. Okay.

24 A. Um, I believe so. I'll, I'll give the but after.

25 Q. And again I say I'm the least technical person, so I would be, I
26 would be happy for the but.

27 A. Well, the thing about it is that the Paria investigation report

1 only looked at the direct immediate causes—

2 Q. I see.

3 A. —based on the lack of information at that point in time. If you
4 look at this report, we didn't even know if they were
5 intentionally removing the inflatable plug or if it slipped or if
6 they were fixing it and it fell, so, um, after this Enquiry we
7 would have a lot more information to be able to say not only
8 what are the direct or immediate causes but the underlying root
9 causes as well.

10 Q. Okay.

11 A. So we will be able to talk about things like Delta P and the
12 removal and suitable and sufficient risk assessments and that
13 kind a thing.

14 Q. So let me just ask you, Mr. Archibald.

15 A. Yeah.

16 Q. So again I just wanted to say, let me expand what I said earlier.
17 With the benefit of your evidence this afternoon with the
18 benefit of additional information that would have come to
19 Paria, and I know, to be fair to you I know this report is
20 completed even before your witness statement, I beg your
21 pardon, I'm wrong.

22 A. Is it the same one—

23 Q. Two weeks after?

24 A. Yeah, yeah.

25 Q. Two weeks after, right, but in the same month. So, with the
26 benefit of additional information, are you still of the view that
27 these findings, these conclusions in your report, are accurate,

1 spot on?

2 A. Well they are the direct causes. The removal of the plug is the
3 direct cause. If, if, if, if we had not—if the plug had not been
4 removed, then the event would not have occurred. So—but the,
5 the, er—but there are other contributory causes as well which
6 could be considered to be direct, I suppose, depending on the
7 methodology that we used, which is the, the um, emptying of
8 the line. To a certain extent that would have allowed the plug
9 to fall. So, yeah, that would definitely be part of the
10 contributory causes as well.

11 Q. And correct me if I'm wrong. If I follow what Commissioner
12 Wilson has explained previously as well as the In-Corr-Tech
13 report, isn't it that the line, the removal of the—okay the lack of
14 contents—

15 A. Yeah.

16 Q. —in the pipe allowed for the differential to exist?

17 A. Yeah.

18 Q. Because there was one pressure outside, I can't say anything
19 about, atmospheric pressure, eh, but there's one pressure
20 outside and there was one pressure inside?

21 A. Yeah the lack of the—

22 Q. Or, inside the pipe, I beg your pardon.

23 A. The lack of the contents caused the sudden drop in the
24 inflatable plug which then, at that point in time would have
25 caused the rush of water to come in.

26 Q. Okay.

27 **Examination By Mr. Chairman:**

1 Q. That's what you think, is it?

2 A. Yes.

3 Q. You think that the lack of fluid in the pipe meant that the—once
4 they, um, deflated the inflatable plug it fell?

5 A. Yes.

6 Q. What like in gravity fell?

7 A. No, no not gravity. No, not gravity.

8 Q. Well what do you mean then, fell?

9 A. The, the, the, um, the compressor was on.

10 Q. Yes.

11 A. And the, the line was plugged.

12 Q. Yes.

13 A. And there was about possibly maybe between six and seven PSI
14 of pressure acting down on the face of the inflatable plug.

15 Q. At the top?

16 A. At the top.

17 Q. Six or seven PSI?

18 A. Yes.

19 Q. On top?

20 A. Yes.

21 Q. And you didn't know what was on the other side?

22 A. No. It—there were six or seven PSI in addition to what was
23 on—higher than on the other side I should say.

24 Q. Right.

25 A. And then, um, so when—so that was, that was seven PSI over a
26 surface area of πR^2 in diameter which was about 4,000
27 pounds.

1 Q. Of pressure?

2 A. Of, of, of weight—4,000 pounds of weight.

3 Q. Yes. The equivalent of the pressure?

4 A. Yes, due, yeah, due to the pressure.

5 Q. Right.

6 A. So, so, I believe, when they started to slacken the plug, even if
7 it was chained and even if they were holding it, that that 4,000
8 pounds would have broken whatever restraints it might have
9 had and it fell.

10 Q. Even a substantial chain wouldn't have held it?

11 A. Yeah. And when it fell it created what, what we could describe
12 as a parcel vacuum in the space above it and that now caused
13 the flow of water into the line.

14 Q. Sucked everything the other side of it into the pipe with it?

15 A. Yes.

16 **Ms. Alfonso:** Thank you, Chairman.

17 **Mr. Chairman:** It's just the use of your word fall made me sit
18 up for a minute.

19 **Mr. Archbald:** Okay, right, yes.

20 **Mr. Chairman:** Sucked I think is—might be better.

21 **Mr. Archbald:** Well the plug was—maybe the better word
22 was pushed down.

23 **Mr. Chairman:** Yes, all right. Yes, still, yeah.

24 **Continued Cross-Examination By Ms. Alfonso:**

25 Q. Well I've heard a lot of terminology, vortex was created, a
26 sudden vortex was created.

27 A. I've seen that word been used, yeah.

1 Q. But it's a violent action?

2 A. Yeah.

3 Q. Right? It wasn't, I agree with the Chairman, fall.

4 A. Yeah, yeah.

5 Q. You know?

6 A. Well, the, the plug was forced down because of the weight of
7 the pressure and the water rushed in, and, because of the space,
8 the empty space underneath, the water created a siphon with a
9 vortex and then went in following the plug.

10 Q. Okay. So, one of those root causes we can, as a takeaway,
11 which you may not have had the benefit of in August of 2022,
12 is that you created, and it—the., the, and when I say you, the
13 job created the environment, the way that the job was
14 conducted, the pre-work for the job, and, I think that's the
15 better word—

16 A. Yes.

17 Q. —created the environment for this potential hazard which
18 unfortunately evolved into a real hazard.

19 A. Yes, yeah, the, the—yeah, there was a realization of the, of the
20 risk.

21 Q. So, that is something that is now in the, in the, in the psyche of,
22 of, of Paria, this is something that you are addressing in some
23 way, following on the, on this loss?

24 A. Yes, so specifically, specifically with respect to diving work or
25 works, any works related to diving where there could be the—
26 we have, we have addressed, we have built in ways to address
27 the risk in a different way.

1 Q. Okay. And that is by seeking external diving—

2 A. Yes.

3 Q. —expertise and so on?

4 A. Yes.

5 Q. Would you agree with me, Mr. Archbald, that that was also
6 available pre-February, or, to be fair to you, maybe July 2021
7 when the tender was being awarded, reviewing the plans and so
8 on that your department had to plan? That was available as
9 well, that external assistance?

10 A. External third-party advice is always available.

11 Q. Is always available?

12 A. Um, certainly, I mean, I could add more.

13 Q. Please do.

14 A. Certainly if LMCS had sought third-party advice, they would
15 have been able to present a suitable and sufficient risk
16 assessment to the client, Paria, outlining all of the risks as per
17 the requirements of the OSH Act section 13A for the employer
18 to provide a suitable and sufficient risk assessment.

19 Q. And would you agree, Mr. Archibald, by the same token, that
20 Paria could have sought that—

21 A. Yes.

22 Q. —third-party external assistance because—well, I'll let you
23 answer that before I ask the further question.

24 A. Yes, Paria could, could have also sought third-party review.

25 Q. Because you have admitted you didn't have that expertise
26 internally?

27 A. Correct.

1 Q. In your department?

2 A. That is right.

3 Q. I don't want to give you the—you have one department. So, if
4 you got a method statement, a risk analysis and so on, you
5 didn't have the expertise internally to interrogate it, to review it,
6 to analyze it?

7 A. The diving aspects of the job, correct.

8 Q. Good. But this job has a diving—

9 A. Yes.

10 Q. —component?

11 A. Yes.

12 Q. Yes? So, okay. Thank you for that, Mr. Archbald.

13 **Examination By Mr. Chairman:**

14 Q. Can I ask you in that regard please, um, there's no national
15 standard applied in Trinidad and Tobago for diving in this—
16 commercial diving of this kind, is there?

17 A. No, not that I'm aware of.

18 Q. OSHA haven't introduced any, um, regulation in relation to
19 diving—

20 A. Not as yet.

21 Q. —commercially in this country, have they?

22 A. No, no.

23 Q. There was nothing of course to stop Paria having their own
24 diving regulations?

25 A. No, no, there was nothing to have stopped.

26 Q. Which could have been adopted from, say, Canada or the
27 United Kingdom or wherever else this sort of work, I mean I

1 picked those because they both have—

2 A. That is correct.

3 Q. —oil and gas producing operations or from or from other parts
4 of the world. Could have been relatively easy, couldn't it, for
5 Paria to themselves have said, "You know what, there may not
6 be any regulation or law here but in order to ensure the safety of
7 those who are carrying out this hazardous work, we will impose
8 our own system."

9 A. Definitely.

10 Q. You could have done that?

11 A. That's correct.

12 Q. And you still haven't done that?

13 A. We haven't adopted a specific standard. What we have done is
14 introduced third-party verification—

15 Q. Right.

16 A. —who use standards of international standards to be able to
17 measure the contracts.

18 Q. Okay. Thank you.

19 **Continued Cross-Examination By Ms. Alfonso:**

20 Q. Thank you, Mr. Archbald. Mr. Archbald, I want to carry you to
21 paragraph 50 of your witness statement. That is on page 1322.
22 You have it before you?

23 A. I will. Yes.

24 Q. All right.

25 A. Yes.

26 Q. Now, my learned Senior, Mr. Maharaj, would have carried you
27 through certain timelines which I won't do, and also detailed

1 certain companies who were present at one point in time or the
2 other. Could you identify, so you—are you able to say that
3 Hull Services was asked to dive or OTSL was asked to dive and
4 they refused?

5 A. Yes. Well, well, as far as I know we asked them to, to, to be
6 able to do a rescue and they considered it, they assessed and
7 they advised subsequently that the risk was too high for them to
8 be able to initiate a rescue.

9 **Examination By Mr. Chairman:**

10 Q. When?

11 A. Sorry?

12 Q. When, when did you ask them?

13 A. From the time that we called them we explained the situation to
14 them and I think you might have read the timeline—the times
15 before, and when they came on site they did the assessment and
16 I'm not sure exactly at what time they would have arrived. I
17 know Mitchell and OTSL came at around 8.00, between 8.00
18 and 8.30.

19 Q. OTSL arrived 10 past 8.00.

20 A. Yes.

21 Q. Did you ask them then?

22 A. I, I'm not sure if we asked them before or at that point in time
23 but we would have asked them at some point in time that we
24 want to be able to rescue.

25 Q. No, no, no. That's a different question from the one Ms.
26 Alfonso was asking you. She was asking you, in relation to
27 these companies, whether or not there were divers who were

1 prepared to go into the pipe, were they, were they prepared to
2 carry out such a rescue?

3 A. Within the dive crew?

4 Q. Yes. No, the crew that they were bringing, whoever they were?

5 A. Oh, oh, oh if there were any divers—

6 Q. Yes. Were they prepared—did you ask them if they were
7 prepared to carry out a rescue? You said that, um, they refused
8 in your statement that you made. “I was informed that Hull
9 Services and two other diving establishments with which Paria
10 made contact for the purposes of assisting [*Inaudible*] advised
11 they would not be able to dive into the pipeline. I’m asking you
12 when, when was it that they were asked to provide that, to dive
13 into the pipeline?

14 A. Commissioner, I don’t know the exact time. That would be in
15 the statements of the persons who would have asked them.
16 But—

17 Q. Do you, do you accept—let me ask you it this way—the closer
18 to the time when there was a greater likelihood of the men
19 being alive in the pipe, might encourage people to carry out a
20 rescue? The later the time that men were in that pipe might
21 discourage people to carry out a rescue, because, when you
22 know they might be alive, it might be worth taking the risk.
23 When you know that there is a real likelihood that they’re
24 already dead, it is less likely you take that risk. Do you accept
25 that as a proposition?

26 A. I accept that.

27 Q. Right. So if the later that these people were asked to dive into

1 the pipeline, the less likely they were to entertain that risk?

2 A. That is—

3 Q. Do you accept that?

4 A. I accept that, but I don't think that at least for me—

5 Q. Umm.

6 A. —that—I really can't speak for the dive teams but I did not—

7 Q. No, no, I'm not asking you.

8 A. I did not think that within the first 24 hours was unreasonable.

9 Q. Within the first 24 hours? You really thought that there was a
10 prospect that these men would still be alive in a pipe filled,
11 apparently filled with fluid, at least for the most part with fluid?

12 A. We were continuing with rescue efforts until Sat—all until
13 Saturday evening we were still continuing with rescue efforts.

14 Q. No, no, the fact that you were still con—or saying that you
15 were conducting them is one thing. I'm interested to know
16 whether or not, and you seem to accept my propositions about
17 the risk involved, it followed, it is the case, isn't it, that it was
18 always going to be a risk? There was no 100 per cent
19 guaranteed safe way in which to extract these men from the
20 pipe?

21 A. No, there was not.

22 Q. It never was going to be, was there?

23 A. Yes.

24 Q. So it was always going to have a risk?

25 A. Yes, it's always a risk-based approach.

26 Q. Of course. If you're the man going into the pipe, you would
27 want to know what is the likelihood of them still being alive

1 before I risk my own life?

2 A. Yes. And to say it a different way, I would only go into the
3 pipe, not me, but, the rescuer, if someone is alive.

4 Q. If there was a reasonable prospect—

5 A. Yes.

6 Q. —of them being alive. You might never be sure that they're
7 alive but if there was a reasonable prospect—

8 A. Yes.

9 Q. —then you might be more willing to go in, mightn't you.

10 A. Definitely, yeah.

11 Q. So in the immediate aftermath of Mr. Boodram coming out or
12 within the hour of him coming out you might be more inclined
13 to go in?

14 A. Definitely.

15 Q. As each hour passes, the likelihood of your being willing to do
16 that, it is reduced, isn't it, lessened?

17 A. I, I suppose some people would think like that.

18 Q. Well, wouldn't you?

19 A. Well with each hour, maybe, maybe with each day you might
20 think like that but not with each hour.

21 Q. With each—isn't there reliance on air? Did you know how
22 much air was in the pipe?

23 A. No.

24 Q. Do you know how much fluid was in the pipe?

25 A. We—I believed that it was almost filled except for a couple
26 air—few air pockets.

27 Q. How did you think these men were going to survive for days?

1 How did you think they were going to live?

2 A. Well not days, I said that maybe 24 hours would be
3 unreasonable.

4 Q. Well, all right, a day, a day?

5 A. Yeah.

6 Q. How much—how long do you think a diver has with one tank?

7 A. Not tanks, air pocket.

8 Q. No, with one tank, how do you—how long do you think a diver
9 has?

10 A. It depends on how much the tank able to hold, maybe—

11 Q. No, unless—

12 A. —an hour, two hours. I don't know.

13 Q. A normal dive tank, did you ask anybody how long has man
14 got, a diver, an experienced diver, how long has he got with one
15 tank at 70 feet?

16 A. One hour.

17 Q. Good. So that was an estimate at best, an hour, all right? Did
18 you have any idea how many tanks might have been in that
19 pipe?

20 A. Yes. We—initially there were supposed to have been five.

21 Q. Right.

22 A. Um—

23 Q. So five hours for one man?

24 A. For one man.

25 Q. If he had all the tanks?

26 A. Yes.

27 Q. Right. So you had five men in that pipe.

1 A. Yes.

2 Q. Right. And the first man didn't come out for two and a half
3 hours so he—you knew he'd used some air, did you, from
4 tanks?

5 A. Yes.

6 Q. Right. So, you had no idea how much air was in the pipe but
7 you've just told me that you believed the pipe to be largely full?

8 A. Yes.

9 Q. All right? Correct?

10 A. Correct.

11 Q. Right. And insofar as there was any space in the pipe at one
12 point in time, it sucked in, on any view, a very substantial
13 amount of water?

14 A. We know that.

15 Q. Yeah?

16 A. Yes.

17 Q. We know that as a fact, don't we?

18 A. Yes.

19 Q. So, start from this premise, would you, please? You know how
20 long that pipe is. You know that that that topography, the
21 layout of that pipe, how much area there is inside the pipe?

22 A. Yes.

23 Q. Right. You know how much it was supposed to be originally
24 completely flooded with oil, wasn't it?

25 A. It—yes.

26 Q. You know how much you pumped out of it, should—

27 A. Well, I don't know how much was pumped out.

1 Q. No, no apparently neither does anybody but, let's assume that
2 you should have known how much was pumped out of it.

3 A. Uh-huh.

4 Q. Because you have a measure of control over that because you
5 were the ones pumping it, right?

6 A. Um, I think it was, um, LMCS that was emptying the line, air
7 blowing.

8 Q. They were air blowing but you—let me just go, sorry, it was
9 going into your, your tanks and your boats.

10 A. Yes, yes, yes.

11 Q. Right. So you—

12 A. So it was going into—we were receiving the product.

13 Q. You were receiving the product?

14 A. Yes.

15 Q. And you were able to measure what that product was?

16 A. We, we had the capacity to be able to measure what went into
17 the tank.

18 Q. Well, we've looked at quite a lot of charts to do with the
19 capacity, all right, so you should have been able to work out
20 how much had been taken out of the pipeline?

21 A. I can't answer that.

22 Q. Why not?

23 A. I, I don't know if I, if I could have done it, maybe, maybe.

24 Q. No, I'm not asking you personally to do it. I don't know
25 whether you're a mathematician any more than you are a diver
26 but somebody could, couldn't they? Once you know what's in
27 the pipe, which is particularly—I mean, it is a piece of pipe,

1 which is 30 inches in diameter. It's a pretty easy calculation to
2 work out what the volume of the pipe is, yes?

3 A. Once you know where it's going, yes, you will—well, should
4 be able to—

5 Q. You know how long the pipe is, you know how much it goes
6 along the vertical and the horizontal, so you have a complete
7 length. It's supposed to be completely flooded with oil. You
8 pump a certain amount out. That leaves a capacity, a gap
9 within that pipe, doesn't it, once you've pumped that amount
10 out?

11 A. Yes.

12 Q. All right. Okay. So you should be able to work out how much
13 had been taken out and therefore how much is left in there.

14 A. It is very possible that you would be able to do it.

15 Q. Right. You know. What you don't know is how much water it
16 sucked in.

17 A. Correct.

18 Q. What you don't know is the extent to which there was any air
19 pockets before the Delta P occurred?

20 A. Correct.

21 Q. Right. But you are in a position to be able to say the maximum
22 that it was likely to be going to be X and the minimum was
23 going to be Y.

24 A. Of air?

25 Q. Yes.

26 A. I, I don't know that.

27 Q. You don't know that?

1 A. No, I, I really—

2 Q. Let's say I'm wrong, all right, that it's not possible to work that
3 out at all, on any view it was going to be relatively small air
4 pockets. Do you agree?

5 A. I cannot agree to that either.

6 Q. Why?

7 A. I, I, I don't know the, the, um, the shape of the line, I don't
8 know how much air went in.

9 Q. You don't know the shape of the line? You're Paria, you
10 should.

11 A. I don't know how much air went in.

12 Q. How much air went in?

13 A. That's right.

14 Q. Or should any air have gone in?

15 A. Well the, um—we could possibly have worked out how much
16 air was in the chamber and—but we don't know how much air
17 was in the, the, um, the line and I'm assuming that's what you
18 mean that that's the total quantity of air.

19 Q. Exactly. You're sucking in everything that was in that
20 chamber, all the tools, all the bits and pieces, the air and then
21 the water—

22 A. Right.

23 Q. —and the men, all get sucked into this pipe. The pipe was
24 supposed to be flooded. It clearly wasn't. But what I'm saying
25 is this. Is that even if you were unable to give an accurate
26 picture of the amount of air pockets that there might have been
27 you could have estimated it from what information you did

1 have. That would have provided you, can I suggest, with a
2 timeline, a potential for how long these men could survive in
3 the pipe.

4 A. Okay, but that was not done.

5 Q. No, I appreciate it wasn't done. My question is why wasn't it
6 done?

7 A. Okay, I cannot answer that.

8 Q. Right, well, you might want to think about that for the future
9 but it does seem to me that you're talking about a 24-hour
10 window for these men to be alive is, is just a guess, a wild
11 guess.

12 A. Okay.

13 Q. Isn't it?

14 A. Well, for me, the, um, the incident command was on rescue
15 mode.

16 Q. And I, you know, I'm not interested in that. I'm asking you this
17 question. The idea that these men could survive in that pipe,
18 even after Mr. Boodram came out and there were four more left
19 in there, the idea that they might survive for 24 hours was
20 unrealistic, wasn't it?

21 A. It might have been—it might be unrealistic to other people but I
22 did not make that determination in my mind.

23 Q. Why not?

24 A. Because I continued to believe for them to be alive.

25 Q. No, you continued to hope.

26 A. Thank you.

27 Q. Didn't you?

1 A. I continued—if you want me to say hope I will say hope.

2 Q. Well it is a hope because it was a hope against the facts, wasn't
3 it?

4 A. Yeah.

5 Q. The facts were that these men were sucked into a pipe that was
6 filled with oil and then water, right? And the idea that you had
7 no timeline to work towards, other than 24 hours completely
8 ignores the facts as they were known to you.

9 A. The incident command system is command and control.

10 Q. Yeah I know.

11 A. This is the objective and this what I believed and—

12 Q. I know.

13 A. —continued to work.

14 Q. But, as each hour passes, and I don't, I simply don't accept your
15 days scenario, as each hour passes, the likelihood of these men
16 being alive lessened. Do we agree?

17 A. That is for sure.

18 Q. Right. And there had to be some sort of out—maximum period
19 that could be realistically considered?

20 A. That was not calculated.

21 Q. No, I appreciate it wasn't. Nobody seemingly made that
22 calculation and that is what, can I suggest, is what failed in the
23 IMT, because you were not able to measure the decisions being
24 made against a timeline as to the likelihood of them still being
25 alive. So it doesn't become as any surprise to me that there
26 were divers who were not prepared to go in the pipe after five,
27 six, seven hours of, of them—of Mr. Boodram coming out

1 because the likelihood, from their point of view as the experts,
2 was they are likely to be dead and I'm not risking my life to
3 save a dead body.

4 A. Well if that is what they said, well then I wouldn't argue with
5 that.

6 Q. No. But you had a window, you had a window of opportunity
7 where Mr. Boodram came out of that pipe and you didn't take
8 it, did you?

9 A. We did not send anybody into the pipe without a safe plan.

10 Q. All right. Sorry, I've—

11 A. That's all right.

12 Q. It's been a long time and I, I, I keep interfering and I shouldn't

13 **Ms. Alfonso:** Thank you, Mr. Chairman.

14 **Continued Cross-Examination By Ms. Alfonso:**

15 Q. So I, I—my position is, carrying you back to paragraph 50—

16 A. Yeah, I, I kinda forgot what we were talking about.

17 Q. Oh yeah sure, sure, sure and I will take you back to where we
18 were.

19 A. Yes.

20 Q. Paragraph 50.

21 A. Yes.

22 Q. Right? So my reading of that first bit of that paragraph, Mr.
23 Archbold, sorry, Archbald, right, is that OTSL and Hull
24 Support and two other dive establishments, that's four
25 altogether, refused to dive. That's my understanding of this.

26 A. Yeah.

27 Q. Am I correct?

1 A. Did I use the word refused.

2 Q. Um, I was informed—

3 A. It sounds so bad.

4 Q. Advised that they would not be—

5 A. They advised that, yeah—

6 Q. —would not be—

7 A. —they—no I didn't use the word refused. They advised that
8 it—

9 Q. Yes, absolutely, you did not use the word refused.

10 A. Okay.

11 Q. That's my terminology but it amounts to about the same, right?

12 A. They, they, they considered the risk that they would be putting
13 their men to and they were not able to do it.

14 Q. They were not able to dive into the pipeline to attempt a rescue
15 of the missing divers. I do not see anything else beyond that.

16 A. Okay.

17 Q. So I'm just taking you through the individual, um, four persons
18 you—or four entities you have identified.

19 A. Yes.

20 Q. Let's start the coast guard. You deal with the coast guard in
21 paragraph 45 of your witness statement—

22 A. Okay.

23 Q. —but—

24 **Mr. Chairman:** I mean, I really do think we've done the coast
25 guard. I mean, I—

26 **Ms. Alfonso:** No, I'm just breezing through the four entities.

27 **Continued Cross-Examination By Ms. Alfonso:**

1 Q. So coast guard said, "I'm not trained. I don't have the
2 equipment.

3 A. Yes.

4 Q. Agreed?

5 A. Yes.

6 Q. Um, Mitchell Profes—I'm dealing with the people called by
7 Paria, right?

8 A. Yes, yeah.

9 Q. Okay, or heritage, right? So Mitchell Professionals say, "My
10 divers are big fellas. Can't fit in a 30-inch pipe"?

11 A. And that they're too—it's too risky.

12 Q. No, but they say, "We can't fit."

13 A. Okay.

14 Q. We can't send a diver because our guys are too big. Yes?

15 A. I suppose he was taking into consideration the equipment as
16 well.

17 Q. Okay. Well, I'm just saying what I've read.

18 A. Yes.

19 Q. "My guys are too big."

20 A. Right.

21 Q. That's all it says, not, "my guys and equipment", right? Um, I
22 see no evidence that OTSL, which is where we were a little
23 while ago, was asked to do any diving.

24 A. Okay.

25 Q. You agree with that?

26 A. That you don't see any evidence or that there is no evidence?

27 Q. Okay well I, I—in my reading—from what you have said so far

1 this afternoon and, and, and going through the witness
2 statements submitted by OTSL, I do not see any request was
3 made—

4 A. All right.

5 Q. —of them—

6 A. So I would have to check.

7 Q. —by Paria.

8 A. I would have to—

9 Q. Okay.

10 A. —go back to the incident commander and the logistics section
11 chief to verify that—

12 Q. Okay.

13 A. —about the request, but, as far as I know it was requested of
14 them to dive.

15 Q. Okay. If I—if we carried you the witness statements, they're
16 very brief, of both Mr. Donawa and Mr. Bertrand?

17 A. Well I was actually referring to Collin and Michael.

18 Q. Okay. So we could also take it that if OTSL doesn't have that
19 they were asked to do any diving plan, rescue operation as the
20 case may be, that there may be some merit in that, yes?

21 A. Sorry, say that again?

22 Q. If, if we look at the witness statement submitted by OTSL—

23 A. Yes.

24 Q. —and there's no reference to Paria asking them to conduct a
25 rescue dive, rescue plan, rescue operation, any terminology—

26 A. Uh-huh.

27 Q. —we could agree that, at least from their evidence, that no

1 request was made of them?

2 A. So what we call them for? [*Laughter*] Sorry, um—

3 **Mr. Chairman:** All right, I'm going to bring this to an end.
4 Mr. Maharaj, I think very carefully, took a number of these
5 issues with the witness and he was not prepared to agree to the
6 detail as provided to Mr. Maharaj without looking at each
7 individual document himself, right? That's his entitlement. We
8 will be making the determination, ultimately, of what the
9 evidence shows.

10 I'm not sure that there is any value in your taking him
11 throughout again because we're simply going to get back to
12 where we were, which is, unless you show him each and every
13 single document he's not going to agree. It doesn't matter, it
14 seems to me, for these purposes. If you have a separate
15 question in relation to what the outcome of that all is then by all
16 means ask it, but I don't think there's any value in taking him
17 through it once again.

18 **Ms. Alfonso:** Chairman, all I was trying to elicit from him is
19 that these people that were called, and he said they brought out
20 all the resources, they were not asked to perform any task.

21 **Mr. Chairman:** And that point has been made. That's what
22 I'm saying. That point has been made, I think, quite
23 comprehensively by Mr. Maharaj. The witness has said what
24 he has said. You're not going to be able to persuade him to say
25 something different.

26 **Ms. Alfonso:** Thank you, Mr. Chairman. Then I have only one
27 more question for Mr. Archbald.

1 **Mr. Chairman:** All right.

2 **Continued Cross-Examination By Ms. Alfonso:**

3 Q. Mr. Archbald, you would have worked in Petrotrin or Trinmar,
4 one of those entities, prior to—

5 A. Yes.

6 Q. —the employment in Paria?

7 A. Yeah, I worked at Petrotrin.

8 Q. During the, I think four and a half years you said, prior to
9 joining Paria?

10 A. I was in the refinery for four and a half years—

11 Q. Okay.

12 A. —prior to Paria, yes.

13 Q. During your time in Petrotrin did any similar job as this one
14 take place to your knowledge?

15 A. To my knowledge, while I was in the refinery, I don't
16 remember.

17 Q. Okay. Well, thank you very much for that, Mr. Archbald, thank
18 you.

19 A. You're welcome, Ms. Alfonso.

20 **Mr. Chairman:** Mr. Trebouhansingh. Have I pronounced that
21 correctly, or close enough anyway?

22 **Mr. Trebouhansingh:** Yes, 100 per cent accurate, yes.

23 **Mr. Chairman:** Oh, marvellous. That's a first, I have to say,
24 for me, but anyway please proceed?

25 **Mr. Trebouhansingh:** I do not have any questions for this
26 witness.

27 **Mr. Chairman:** That makes it even better. Where is Mr.

1 Ramadhar?

2 **Mr. Peterson SC:** No, no, Sir, no.

3 **Mr. Chairman:** Um, all right.

4 **Ms. Mohammed:** Good afternoon, Commissioner.

5 **Mr. Chairman:** Good afternoon.

6 **Ms. Mohammed:** Yes I am Sharon Jaggernauth Mohammed.

7 I act with Mr. Ramadhar—

8 **Mr. Chairman:** Ah.

9 **Ms. Mohammed:**—for the families of Faizal Kurban and
10 Yusuf Henry's daughter, right? I just have one or two
11 questions, very brief, in the interest of time—

12 **Mr. Chairman:** Very well.

13 **Ms. Mohammed:**—for this witness. Right.

14 **Cross-Examination By Ms. Mohammed:**

15 Q. Good afternoon, good evening Mr. Archbald.

16 A. Hello. Hello.

17 **Mr. Chairman:** Remind me of your name again, please?

18 **Ms. Mohammed:** Sharon Jaggernauth Mohammed.

19 **Mr. Chairman:** Sharon Ramoutar Mohammed?

20 **Ms. Mohammed:** Jaggernauth Mohammed.

21 **Mr. Chairman:** Right. Okay, thank you.

22 **Ms. Mohammed:** You're welcome.

23 **Continued Cross-Examination By Ms. Mohammed:**

24 Q. Yes, um, Mr. Archbald, now, I heard you mentioned and you
25 gave evidence that you called several companies, Mitchell,
26 Eastern, OTSL, Hull and so on, right? Now, can you tell me if
27 you all considered calling any other companies such as, let me

1 suggest some, Well Services, Shell, I don't know if you all, um,
2 called them in that small window of opportunity you all had?

3 A. I dent know.

4 Q. You don't know?

5 A. I don't know if we called them, no.

6 Q. And you are the planning section chief, but you don't know
7 who was called and who was not called?

8 A. I don't know if that implies that the planning section chief
9 should have done doing the calling, but, no, I don't know.

10 Q. Right.

11 A. Normally it's the logistics section chief but—

12 Q. Thank you.

13 A. —I was not advised if, um, if any other companies were called.

14 Q. All right, great. Now, I know you all called NGC for the
15 recovery not the rescue. Now the reason I asked this is because
16 these companies they have big pipelines, like the one in Paria.
17 Now these companies, um, Shell I know Shell, well, NGC, they
18 would have vast amount of resources that would—you know,
19 equipment that could go into pipes such as the ROV. You
20 know? Did anyone call any of these companies for
21 assistance—

22 A. I would have to find out—

23 Q. —in that window of opportunity, sorry?

24 A. I would have to find out from the logistics section chief if any
25 of those companies were called.

26 Q. Right. Okay. So from, from that point, looking at Michael,
27 another issue—Michael went into this pipe, right? You said he

1 only went into like 10 feet into the horizontal?

2 A. Yeah that's what—

3 Q. Right?

4 A. —he reported, yes.

5 Q. Right. Now with that information, right, I mean you all did not
6 get the information in time but even when you did get the
7 information, did you think that if someone could go 10 feet,
8 why not 200 feet? Because he came back out. Let me explain,
9 he came back out, um, no set a oil, no set a, you know?

10 A. Yeah.

11 Q. You, you—the conditions were such that he could dive into the
12 pipe. So if you could dive into 10 feet what happened to the
13 next 200 feet?

14 A. I mean, I could, I could attempt to describe what—you, you—
15 the—you're entering vertically—

16 Q. Uh-huh.

17 A. —foot downward.

18 Q. Uh-huh.

19 A. It might take a 5 minutes, and then you—or 10 minutes and
20 then you start traversing. but would have to drag yourself
21 because you're moving forward with your feet—

22 Q. Uh-huh.

23 A. —in a 30-inch line. You're carrying with you rescue
24 equipment.

25 Q. Uh-huh.

26 A. And, um, you really cannot swim. You would have to be
27 dragging yourself. I don't know if I should get onto the ground

1 and imitate if necessary—

2 Q. Well—

3 A. —but—

4 **Mr. Chairman:** Please don't.

5 **Continued Cross-Examination By Ms. Mohammed:**

6 Q. Okay, accepted.

7 A. But, but, but, it's a 30-inch line and you cannot swim. You
8 have to—

9 **Mr. Chairman:** Where's Mr. Ramadhar when we need him?

10 [*Laughter*]

11 **Continued Cross-Examination By Ms. Mohammed:**

12 A. And, um, and, and, then, and then, and then at a certain point in
13 time you have reached I think your 75-minute limit and then
14 you have to come back, well according to the US navy tables,
15 again I'm not an expert, and you have to come back out, else
16 you would have to go through decompression, and, um, and
17 then you have to switch because divers need to take two or
18 three hours' break, I've read four.

19 Q. All right, all right, okay thanks. Thanks. I, I understand what
20 you're saying.

21 A. All right.

22 Q. Right? Um, one more thing, now, in terms of training, the
23 Commissioner did touch on this but do you all do international
24 training?

25 A. If we receive international training?

26 Q. Yes the—well you're responsible for training, so—

27 A. Yes, yeah. So, so, so we have never hired an international

1 company to come down and do training. But there are local
2 companies that offer international courses, right? And, and,
3 um, that is one of the things that we have access to.

4 Q. Do you think—from that question now, do you think if you all
5 had more training the IC team would have been able to handle
6 this situation better?

7 A. I, I, I don't know. I can't say that for sure. I, I, I don't know.

8 **Examination By Mr. Chairman:**

9 Q. Well when was the last time they drilled?

10 A. We do drills every year.

11 Q. No, no. When was the last time that this IMT did a drill?

12 A. Can I send you the records?

13 Q. I'd rather you tell me.

14 A. It's in a book in an outside room.

15 Q. You have it outside?

16 A. Yes.

17 Q. Well you can perhaps get it in a moment, but, um, was it within
18 the year of this event happening?

19 A. Yes. We, every, not every year, maybe twice over the last three
20 or four years we did, um, hurricane drills and we would have
21 done a—

22 Q. Did comp involve an IMT?

23 A. Yeah, we used the IMT for it, and then we used the, um—we
24 had a companywide drill that involved a berth on the, um—fire
25 on the berth and that was in 2019. We'd used the ICS system
26 for that. Um, now it takes an effort to really use the ICS system
27 because it's almost natural to get into emergency response

1 without following the system, but we have been using it so
2 often that we even attempted to use it on a, on a—ICS could be
3 used for anything, for any event, including an incident, and we
4 used it for the repair of 66 Sealine recently and we set up the
5 incident commander and the logistics section chief, so we used
6 it for a repair purpose.

7 Q. Yes.

8 A. So we have been using it.

9 Q. But the answer to my question is that there have been drills and
10 they took place in the year before?

11 A. Yes.

12 Q. Approximately?

13 A. Yes, yes, yes.

14 Q. All right, thank you.

15 **Mr. Chairman:** Yes, sorry to—

16 **Mr. Archbald:** Within 2022 that is, this year.

17 **Continued Cross-Examination By Ms. Mohammed:**

18 Q. Yes, Mr. Archibald, now, I've been hearing more problems
19 than solutions, and that's what we've been hearing from Paria,
20 problems, risk, but no real solution. What did you do or what
21 did you recommend to the team as a, um, conditions or
22 whatever could mitigate the, the risk factor of diving into the
23 pipeline or any part of the rescue?

24 **Mr. Chairman:** Well he set that—he sets that out in paragraph
25 37 and he's been asked about it.

26 **Ms. Mohammed:** Or.

27 **Mr. Chairman:** He has made it clear what he regarded,

1 whether others did or not is another matter, but he set out what
2 he regarded as being the minimum required to make it safe and
3 I've asked him about that, so I'm—

4 **Ms. Mohammed:** Okay.

5 **Mr. Chairman:**—not going to ask for his response again.

6 **Ms. Mohammed:** Guided Chairman. Right?

7 **Mr. Chairman:** Anything else?

8 **Ms. Mohammed:** Thank you and nothing else thank you.

9 **Mr. Chairman:** All right, marvellous. Thank you very much.

10 Mr. Pegasus?

11 **Mr. Pegasus:** Yes thank you very much. I do have some
12 question for Mr. Archbald.

13 **Cross-Examination By Mr. Pegasus:**

14 Q. Good afternoon, Sir.

15 A. Good afternoon, Sir.

16 Q. My name is Chase Pegasus and I represent the interest of Kenson.
17 Now, is it correct to say that you developed the permit to work
18 procedure?

19 A. My—no, no it's not correct, um, to say that. Um, I was part of
20 it.

21 Q. Okay. You had some involvement in the development of the
22 permit to work procedure?

23 A. Yes. Well, I—all—I could call the names.

24 Q. The names are not necessary, right?

25 A. Yeah. Good.

26 Q. So I have some questions on this procedure, and before I
27 proceed I want you to understand that I'm not faulting it in any

1 way? Right?

2 A. Good.

3 Q. Now this permit to work procedure, it pre-dated the contract
4 between LMCS and Paria?

5 A. Yes.

6 Q. Right. And before I proceed I would just like to, um, make it
7 clear from upfront, you were familiar with the contract between
8 LMCS and Paria, yes?

9 A. Yes.

10 Q. Good. And you were familiar, of course, with the scope of
11 works?

12 A. Yes.

13 Q. And you were familiar with the obligations of the parties under
14 that contract?

15 A. Yes.

16 Q. Right. The permit to work procedure, it was a generic permit to
17 work procedure, it was a general procedure, yes?

18 A. Well the permit to work procedure outlines how you should
19 proceed.

20 Q. Okay. It was not specific to the job that was being done on
21 berth 6, so that procedure, you could have used it for, let's say,
22 I don't want to say any other job but you could use that same
23 procedure were another set of work?

24 A. I think I understand—I would try to answer in this way. Um,
25 yes. The permit to work, yes, you can use it for other works.
26 The permit to work procedure provides the steps, the objectives,
27 the scope as well as the mechanism by which jobs can be done

1 which is the work permit document and the certificate.

2 Q. Okay. Thank you. Now, would it be correct to say that this
3 permit to work procedure and, um, maybe—well, I'm not sure
4 if I would make you refer to it, right. It would be correct to say
5 that the permit to work procedure would normally be used by
6 Paria regardless of the particular works that are being done?
7 That's a fair statement to make?

8 A. Well it outlines what type of works it is to be used for.

9 Q. Yes.

10 A. Contractor works, maintenance works and so on.

11 Q. Okay. The one that we are concerned with, it was not
12 developed specifically, and I and sorry if this was asked before
13 but I'm trying to—

14 **Mr. Chairman:** I think you asked it a few moments ago,
15 actually.

16 **Mr. Pegus:** Well, the question, I didn't finish the question.

17 **Mr. Chairman:** You can change it now.

18 **Continued Cross-Examination By Mr. Pegus:**

19 Q. Right. Now, this document that we call the permit to work
20 procedure, it basically lists the obligations of the different
21 participants that would be involved in the job, so they will have
22 obligations for the applicant, competent person, site authority,
23 et cetera?

24 A. Yes, Sir.

25 Q. Right. And these obligations were intended to be a general
26 guideline to be used in the execution of the works, yes?

27 A. I would rather say they're rules and responsibilities that must

1 be followed.

2 Q. Rules and responsibilities that must be followed.

3 **Mr. Chairman:** They're not just guidelines, are they?

4 **Mr. Archbald:** No, they're not just guidelines.

5 **Mr. Chairman:** Okay.

6 **Continued Cross-Examination By Mr. Pegus:**

7 Q. Right. Now, earlier you indicated that you are familiar with the
8 contract between LMCS and Paria, yes?

9 A. Yes.

10 Q. Mr. Chairman, can the contract be shown to the witness? I
11 have it at—well I'm on page 557 of the witness statement
12 bundle but it could also be found—

13 A. Got it.

14 Q. And the first heading we have there is the contractor
15 responsibility, yes?

16 A. That would be four point—

17 Q. Five point one, well 5.0 and we're going to focus on 5.1.

18 **Mr. Chairman:** I think you're in the wrong bundle. You're in
19 the wrong bundle.

20 **Mr. Archbald:** Oh, sorry.

21 **Mr. Chairman:** Right, remove that bundle from his desk and
22 give him some space. Exactly.

23 *[Document handed to Mr. Archbald]*

24 **Continued Cross-Examination By Mr. Pegus:**

25 A. Yes.

26 Q. Right. Now, take a look at 5.1.

27 A. Yes.

1 Q. Right. Now what we are concerned with here are the
2 contractor's responsibility, yes?

3 A. Yes.

4 Q. Right. These are LMCS' responsibility, yes?

5 A. Yes.

6 Q. Right. And 5.1 states that they were to supply adequate,
7 competent, certified/licensed labour for the job functions, full-
8 time supervision, et cetera, for the timely completion of the
9 scoped work.

10 A. Yes, Sir.

11 Q. Yes?

12 A. Yes.

13 Q. So, notwithstanding what the permit to work procedure says,
14 and we'll get back to that shortly—

15 A. Uh-huh.

16 Q. —your understanding is that LMCS had an obligation, under
17 the contract, to provide full-time supervision for the timely
18 completion of the scoped work?

19 A. Yes.

20 Q. Right. And part of the scoped work would obviously include
21 subsea works, yes?

22 A. Yes.

23 Q. Right. Now, Paria did not have a diver, a Paria employee, as a
24 diver on the job site, agreed?

25 A. Correct.

26 Q. Right, either through themselves or through the company,
27 Kenson. Agree with that?

1 A. Correct.

2 Q. Right. Now, as far as you are aware, the parties involved in the
3 execution the job knew that Paria's representatives on the site,
4 these are the Kenson workers, they knew that the Kenson
5 workers were not divers?

6 A. Yes. Well, I don't know if they knew that. I, I really ought not
7 to say that they were not.

8 Q. But you knew that?

9 A. Yes.

10 Q. Right. Now, I want to, before I embark on this, um, particular
11 area, read clause 5.12 to yourself.

12 A. [*Perusing document*] Yes.

13 Q. Right. Now, one of the limitations of the permit to work
14 procedure which my friend, Mr. Maharaj, learned Senior Mr.
15 Maharaj Senior Counsel referred to as rules, one of the
16 limitations of the permit to work procedure would be that the
17 applicant could not supervise subsea works.

18 A. Okay.

19 Q. You're, you're, you're willing to agree with that?

20 A. Could not?

21 Q. Okay. So, maybe I should do it a different way. Let's go to the
22 permit to work procedure.

23 A. Yeah, the applicant in this case was not able to supervise the
24 subsea works. Is that what you're asking?

25 Q. Yes.

26 A. Okay.

27 Q. You're willing to agree with that?

1 A. Er, yes.

2 Q. Now, clause 5.12—

3 A. Well, no, hold on. With respect to the removal of the plug, but
4 with the presence of the camera, I, I, I not sure, to me that's
5 what we had said, that it was poten—there was a possibility to
6 observe the installation of the flange and so on.

7 Q. Okay. Let's put aside that point for a minute.

8 A. Okay.

9 Q. And let's focus on what 5.12 says.

10 A. Uh-huh.

11 Q. Now we're still on the contractor's obligations, these are
12 LMCS' obligations, right?

13 A. Uh-huh, yes.

14 Q. They were obligated under the contract to maintain permits to
15 execute the entire job?

16 A. Yes.

17 Q. Full stop. The contractor shall become familiar with and
18 conform to Paria's permit to work procedure at his own
19 expense, any limitations, provisions or requirements in or
20 pertaining to the permits.

21 A. Okay, yes.

22 Q. The contract contemplated that there would be limitations in the
23 permit to work procedure. You're willing to accept that?

24 A. I, um—the contractor shall become familiar with and conform
25 to Paria's—at his own expense any limitations, provisions or
26 requirements in—any limitations, provisions or requirements in
27 or pertaining to the permits? Okay. Okay.

1 **Mr. Chairman:** What's the proposition you're putting?

2 **Continued Cross-Examination By Mr. Pegus:**

3 Q. The proposition that I'm putting is that the contract LMCS had
4 with Paria contemplated that there may have been possible
5 limitations to the permit to work procedure. That's the
6 proposition I'm putting.

7 A. I would have to go to the person who wrote this to find the
8 intent. I really—I don't want to make a pronouncement on this.

9 Q. Okay, so, I'm not asking you to make a pronouncement but you
10 are seeing the use of the word any limitations?

11 A. Yes.

12 Q. Right, good. So you're willing to accept that pursuant to
13 5.12—

14 A. Uh-huh.

15 Q. —right, the contractor, LMCS they were obligated to become
16 familiar with and conform to Paria's permit to work procedure,
17 yes?

18 A. Yes.

19 Q. At their own expense?

20 A. Yes.

21 Q. Any limitations?

22 A. Yes.

23 Q. Provisions or requirements in—

24 A. Yes.

25 Q. —or pertaining to the permits?

26 A. Right.

27 Q. Right. So quite apart from you not making a pronouncement,

1 you're seeing it in black and white?

2 A. Yes, black and white.

3 Q. Right. Now, in earlier in your evidence in answer to the
4 learned Chairman, you indicated repeatedly that you were not
5 sure. Are you paying attention to me?

6 A. Yes I am, sorry.

7 Q. I just making sure you're with me.

8 A. I was still mulling over the, um, limitations.

9 Q. Yes. So earlier in your evidence in answer to the learned
10 Chairman you indicated repeatedly, at least this is what I
11 gather, that you were not sure that the Paria's representative,
12 Mr. Marjadsingh, could look at the monitor and see whether
13 they were interfering with or attempting to remove the plug?

14 A. Yes.

15 Q. Right. Now, before we move forward, I would just like to draw
16 your attention to clause 5.1 of the permit to work procedure.

17 A. Yes.

18 Q. And I believe that is page 24 of the supplemental core bundle or
19 the core bundle, page 24 of the core bundle. Right, clause 5.1
20 please?

21 **Mr. Chairman:** I'm not sure you're in the right place, Mr.
22 Pegus.

23 **Mr. Pegus:** The permit to work procedure is at page 24 of the
24 core bundle. It's on the screen now.

25 **Mr. Chairman:** Ah yes.

26 **Mr. Pegus:** Right.

27 **Continued Cross-Examination By Mr. Pegus:**

1 Q. Right, now, what it says here is that the applicant must have the
2 necessary competence to execute the job or to supervise the
3 execution of the job.

4 A. Yes.

5 Q. Yes?

6 A. Yes.

7 Q. Good. Now, based on what we heard from you today, there
8 would be a limitation in terms of Mr. Marjadsingh supervising
9 or monitoring any interference with that mechanical barrier.

10 A. Yes.

11 Q. Good. Now, under 5.12, the same provision that you just read a
12 little while ago—

13 A. Uh-huh.

14 Q. —are you willing to accept that LMCS had an obligation to
15 become familiar with one such limitation, well with that
16 particular limitation?

17 A. I understand. So the question is, if LMCS knew that—sorry, I
18 just—

19 Q. Let me—

20 A. No, no, I know, I know, I know.

21 Q. That's not the question, so let me, let me try and, let me try and,
22 um, keep it simple. We have just identified a limitation under
23 the permit to work procedure. Yes?

24 A. We have identified that he would not be able to see the, um, the
25 plug directly.

26 Q. Right. And to the extent that the permit to work procedure
27 provides that he was supposed to supervise the execution of the

1 works, but he was unable to monitor or supervise simply
2 because it was under the water and from the monitor he wasn't
3 able to see?

4 A. Yes.

5 Q. Right? That's a limitation of the permit to work procedure.
6 Agree with that?

7 A. It's a limitation of the situation to allow him to be able to see.
8 If we could call that a limitation of the permit to work
9 procedure then I will go along.

10 Q. Right. Okay. Right. And I want to suggest to you, Sir, that
11 this is a limitation that would have been glaringly apparent to
12 the participants on that job. Agreed? Not only, not only, not
13 only Paria or Kenson, it would have been glaringly apparent to
14 anybody who look at that monitor.

15 A. Yeah it would—yeah, it, it—they would have known that, um,
16 that no one could see the plug.

17 Q. Good. And what I'm saying to you, what I'm suggesting
18 respectfully is that LMCS, the contractor under 5.12, they had
19 an obligation to become familiar with that particular limitation,
20 yes?

21 A. I understand what you're saying, yes.

22 Q. Right. So you're willing to accept the proposition, yes?

23 A. Yes.

24 Q. Good.

25 **Mr. Chairman:** Just a minute. Does not the limitation apply
26 to the permit to work?

27 **Mr. Pegus:** The permit to work, though, Mr. Chairman—

1 **Mr. Chairman:** The permit to work, what it says is the
2 contractor shall become familiar with and conform to Paria's
3 permit to work procedure, that is the procedure that gives them
4 the permit to work.

5 **Mr. Pegus:** Yes.

6 **Mr. Chairman:** Yes. And that permit to work grants them the
7 ability to do the job.

8 **Mr. Pegus:** Yes.

9 **Mr. Chairman:** Right? And that any limitations, provisions
10 or requirements relating to that permit to work, the procedure
11 for the permit to work—

12 **Mr. Pegus:** Relating on the permits.

13 **Mr. Chairman:**—has to be, has to be for something that the
14 contractor must be aware of?

15 **Mr. Pegus:** Yes.

16 **Mr. Chairman:** Right. And you're saying, are you, that the
17 limitation there is that he wouldn't be able to see or I should
18 have appreciated that he wouldn't be able to see the actual
19 plug?

20 **Mr. Pegus:** Yes.

21 **Mr. Chairman:** Is that your point?

22 **Mr. Pegus:** Yes, that's my point.

23 **Mr. Chairman:** Right. Okay.

24 **Mr. Pegus:** Yes.

25 **Mr. Chairman:** Do you accept that, um, that he wouldn't be
26 able to see the plug and that is a limitation?

27 **Mr. Archbald:** Yes.

1 **Mr. Chairman:** I think we all accept that.

2 **Mr. Pegus:** Am I allowed to proceed?

3 **Mr. Chairman:** You are. As long as it's not on the same
4 point.

5 **Mr. Pegus:** Right, thank you very much. Yes, good.

6 **Continued Cross-Examination By Mr. Pegus:**

7 Q. Now, the permit to work procedure, you were involved in the
8 development of the permit to work procedure?

9 A. Yes.

10 Q. This was always intended to be subordinate to the contract?

11 A. I—when we wrote the permit to work procedure, I did not
12 contemplate its subordination to a contract.

13 Q. But I'm asking you when you wrote it you didn't contemplate
14 the procedure being subordinate to the contract, right?

15 A. No.

16 Q. But it's not going to displace a contractual obligation which is
17 placed on a party?

18 A. I don't know if I have the competence to—it seems like a legal
19 question.

20 Q. Okay, All right.

21 **Mr. Chairman:** I'd agree with you. I think that is a legal
22 question and you can address me about that.

23 **Mr. Pegus:** Yes.

24 **Continued Cross-Examination By Mr. Pegus:**

25 Q. Now, I, I understand you don't want to, um—I understand you
26 don't want to give an answer because you think you don't have
27 the legal expertise, but we see in black and white an obligation

1 on LMCS to provide full-time supervision, yes?

2 A. Yes.

3 Q. Right. And what we're seeing in the permit to work procedure
4 is reference to the applicant playing a supervisory role?

5 A. Yes.

6 Q. Right. Are you willing to accept, from a commercial point of
7 view or on any point of view it would make absolutely no sense
8 were Paria to pay someone to provide full-time supervision and
9 then turnaround and pay another entity to supervise the first set,
10 you agree with that?

11 A. Well, I agree with that.

12 Q. Okay thank you.

13 A. Yes.

14 Q. Right. And you're also willing to agree that the supervisory
15 role, for want of a better term, which was placed on the
16 applicant under the permit to work procedure, is inconsistent
17 with LMCS providing—with LMCS' obligation, sorry, to
18 provide full-time supervision. You agree with that?

19 A. Yes it's not the same, if that's the question.

20 **Mr. Chairman:** Well it's not the question but I think it's—I'm
21 not sure what you're actually asking when you're saying one is
22 inconsistent with the other.

23 **Mr. Pegus:** Okay, let me try and clarify.

24 **Continued Cross-Examination By Mr. Pegus:**

25 Q. Under the contract between LMCS and Paria, there was a
26 contractual obligation to provide full-time supervision. We
27 established that.

1 A. Yes.

2 Q. Right. The obligation under the permit to work procedure—

3 A. Yes.

4 Q. —which places a duty on the applicant to supervise—

5 A. Yes.

6 Q. —is inconsistent with a full-time obligation on LMCS to
7 supervise?

8 **Mr. Chairman:** All right, why is that inconsistent?

9 **Mr. Pegus:** Well—

10 **Mr. Chairman:** You're putting it as a proposition, I don't
11 understand why you say one is inconsistent with the other.

12 **Mr. Pegus:** Right.

13 **Mr. Chairman:** An obligation on the part of LMCS to monitor
14 and supervise their own work, and then a supervisory role by
15 Paria, the contractor of their services, having a supervisory role,
16 why are those inconsistent?

17 **Mr. Pegus:** Well, the point I'm making respectfully, Mr.
18 Chairman, is that one party providing full-time supervision—
19 okay, an obligation on one party, sorry, to provide full-time
20 supervision for the duration of the works, that idea is
21 inconsistent with having another party providing periodic
22 supervision to the person who's responsible for full-time
23 supervision. It's a suggestion.

24 **Mr. Chairman:** Well, I don't—I frankly don't see that at all.
25 If I am LMCS and I am performing a job putting in bolts and
26 someone's watching me put those bolts in to make sure I put
27 them in straight, the fact that a company employs my company

1 to do that job and has periodic supervision over that seems to
2 me to be entirely consistent. If I was employing them at not
3 inconsiderable expense I'd probably want to actually make sure
4 they've been putting in the bolts correctly, notwithstanding
5 what LMCS might have been doing.

6 **Mr. Pegus:** Okay. What I will do, Mr. Chairman, is rest the
7 issue and then seek to address you on it, and not try to bring it
8 out in the form of an answer.

9 **Mr. Chairman:** No but, you put it that the two things were
10 inconsistent and I don't see that they are.

11 **Mr. Pegus:** Yes, and I'm guided.

12 **Continued Cross-Examination By Mr. Pegus:**

13 Q. Right, now, I just want to canvass the area of supervision, yes?
14 Right. Now, earlier in your evidence, I believe it was in answer
15 to the learned Chairman, you said that if Mr. Marjadsingh knew
16 hay were going to remove the barrier he would intervene and
17 stop it, yes?

18 A. Yes.

19 Q. Right. And what we established, both in your earlier testimony
20 and a few moments ago, is that he could not have done this by
21 simply looking at the monitor, yes?

22 A. Yes.

23 Q. Right.

24 A. I believe so.

25 Q. Now, what Mr. Chairman—

26 **Mr. Chairman:** Is that what was established? He established
27 that he couldn't see the plugs. Think I think—that much is

1 agreed. It doesn't mean he couldn't see what, for example, like,
2 um, Scott, whatever his name is, Kirt Scott said, he saw the
3 thing coming out of the pipe, the whole thing coming out the
4 pipe. The fact that he might not have seen it actually being
5 unbolted doesn't prevent them from arriving at a conclusion
6 that that's what was happening or that once it came out of the
7 pipe there it was. What I think everyone agrees is that it's not
8 possible to see into the pipe, I think that both Mr. Archbald and
9 certainly this Commission agree from what we've seen that that
10 is likely to be the case.

11 **Mr. Pegus:** Well, so my earlier question—well, I mean—

12 **Mr. Chairman:** What's your proposition?

13 **Mr. Pegus:** Okay, my proposition is that Mr. Marjadsingh
14 could not have seen the removal of this barrier. This is what we
15 established, unless I'm wrong.

16 **Mr. Chairman:** No, he couldn't have seen the actual barrier.

17 **Mr. Pegus:** He could not have seen the actual barrier—

18 **Mr. Chairman:** Correct.

19 **Mr. Pegus:** By simply looking at the monitor.

20 **Mr. Chairman:** Correct.

21 **Mr. Pegus:** Right. I am putting to this witness that he could
22 not have seen the act of removing the barrier by looking at the
23 monitor.

24 **Mr. Chairman:** All right.

25 **Mr. Archbald:** He could not have seen—

26 **Mr. Chairman:** The action.

27 **Mr. Archbald:**—them unbolting it. He could not have seen

1 them them—they would have to actually have been taking it out
2 and him standing there at the same moment for him to have
3 seen it, I believe.

4 **Continued Cross-Examination By Mr. Pegus:**

5 Q. Okay, good. Now, and this is something that I want to address
6 because, um, the Chairman pointed out to you that he arrived on
7 berth 6 at about 2.00 p.m., yes?

8 A. Yes, I remember.

9 Q. And the incident happened sometime after 2.00 p.m.?

10 A. Right.

11 Q. Good. As you understand it, his role was not to remain by that
12 monitor to look at the monitor non-stop when he was on berth
13 6. You're willing to agree with that?

14 A. No, certainly. That is definitely not his role.

15 Q. Of course. And I can't recall if it's in answer to Mr. Chairman
16 or to Mr. Maharaj—

17 **Mr. Chairman:** I think it was Mr. Maharaj.

18 **Mr. Pegus:** Well, right.

19 **Mr. Chairman:** I'm blaming him anyway.

20 **Mr. Pegus:** Right, good.

21 **Continued Cross-Examination By Mr. Pegus:**

22 Q. You indicated, right, and it may be in error, you indicated that
23 when he arrived on berth 6 he had nothing else to do but
24 provide this oversight or monitoring. You recall saying that?

25 A. I recall being asked if there was any other jobs for him to do
26 and I said I don't know, I don't think so.

27 Q. Okay. I want to suggest to you that another job that he had,

1 another function that he had, quite apart from providing this
2 oversight, he was responsible for, well, going to source
3 materials if needed. So if LMCS needed something from the
4 stock room, he would go and get that and bring it back. Are
5 you aware of that?

6 A. Yes. He—yes.

7 Q. Right. Good. And we're also willing to accept that this man
8 was not stationed on berth 6?

9 A. Yes.

10 Q. You're willing to accept that, right?

11 A. That's a fact.

12 Q. Good. Now, this obligation to supervise/monitor, that is placed
13 on the applicant under the permit to work procedure—

14 A. Periodically monitor.

15 Q. Well, periodically monitor, right? Thank you.

16 A. Yes.

17 Q. Right. It did not extend to work going on subsea?

18 A. As far as he could see it would have extended to it.

19 Q. Okay. As far as he could see. Are you willing to accept that
20 the whole system was set up in such a way that he was
21 supposed to be continually kept abreast by the LMCS
22 supervisor?

23 A. Yes, um, so, so there is a set work to be done and if there's any
24 deviation from that work, certainly, if there's any hazards that
25 arise, he definitely as a—the supervisor of LMCS has a
26 responsibility to inform him, and, um, if there were certain
27 reporting points he, the supervisor would have reported to the

1 applicant as well.

2 Q. Good. Right. Now—

3 **Examination By Mr. Chairman:**

4 Q. Can I take you up on the periodically supervise? Because the
5 applicant in your document is described as having a number of
6 tasks, one of which is said to be continually monitor the job to
7 ensure that it's performed in a safe manner and within the
8 conditions prescribed by the work permit. That doesn't sound
9 to me like periodically. Continually monitor. What do you
10 understand by continually monitoring? I asked about this
11 before.

12 A. Okay.

13 Q. You told me that you thought that every couple of hours would
14 do, but I, I am anxious to understand because you seem to have
15 adopted what Mr. Pegus is suggesting that, um, periodically
16 was even—it was enough?

17 A. The word continually is used, if we reference the ISO 45001
18 document safety management system, or ISO 14001
19 environmental management system.

20 Q. There is, there is absolutely no use to me at all I'm afraid
21 quoting various IS documents.

22 A. Yes.

23 Q. I'm reading your documents—

24 A. Right, so the—

25 Q. —which is what the contractor would be reading and it says
26 that one of the responsibilities of the applicant, Mr.
27 Marjadsingh, was to continually monitor the job to ensure that

1 it is performed in a safe manner and within the conditions
2 prescribed in the work permit. He may sign the renewal
3 section, et cetera, et cetera, but that's one of the requirements.
4 As I understand what you've said to me, was that you regarded
5 that as being every couple of hours. You've accepted from Mr.
6 Pegus that periodically, I'm not sure what periodically means in
7 this context but periodically. I take from continually monitor to
8 be something more than either periodically or every couple of
9 hours. What do you—you have to tell me because you're partly
10 the author of this, so, what do you understand by continually
11 monitor the job?

12 A. Continually means on and off periodically.

13 Q. Periodically?

14 A. Yes.

15 Q. And periodically to you is every couple of hours?

16 A. In—well in this particular instance because the dive supervisor
17 was over the screen, constantly, I would have said that every
18 couple of hours is sufficient.

19 Q. The dive supervisor's job is to supervise the diving part, isn't
20 it?

21 A. Yes.

22 Q. not the actual job itself once they were in the habitat?

23 A. Rudolph Gonzalez, the contractor official for this particular
24 permit—

25 Q. Right.

26 A. —had the responsibility for 100 per cent supervision. My
27 assumption is that the reason why he was not there supervising

1 it is because Andrew Farah was doing it as a delegate for him.
2 According to the contractor HSE requirements which is in the
3 contract—

4 Q. Uh-huh.

5 A. —the contractor supervisor the contractor official, according to
6 the permit to work, is supposed to be there 100 per cent of the
7 time.

8 Q. You said that before. I understand that. I understand they're
9 doing, they're, they're doing their—they were supposed to be
10 doing their job and I'm assuming they were, for these purposes.
11 I'm asking about your obligations which are to continually
12 monitor.

13 A. Yes.

14 Q. And your understanding of continually monitoring is
15 periodically, and that, in many instances is every couple of
16 hours? I mean he didn't do any periodical monitoring in the
17 morning because he was on the other berth?

18 A. Yes.

19 Q. I'm right about that, aren't I?

20 A. That is every couple of hours in this instance.

21 Q. Well, I absolutely follow that. I think they went out a little
22 earlier than that, but never mind. The fact is that there was no
23 monitoring at all in the morning and the first monitoring that
24 took place was at two o'clock when he says he arrived on the
25 berth. That's right, isn't it?

26 A. I am—I'm not sure if he was not on berth 6 at all if that is

27 Q. Well, very clearly he wasn't there. He was on berth 6, he was

1 on berth 6 from two o'clock.

2 A. We're referring to the morning?

3 Q. Yes, I am referring to the morning.

4 A. Yes.

5 Q. He wasn't there. He was on berth five.

6 A. Yeah. So if he wasn't there, he wasn't that.

7 Q. No, I appreciate that. I want to know from you, as head of
8 HSE, whether or not continually monitoring that is being
9 satisfied by being there at two o'clock.

10 A. The work that was being done in the morning was limited to
11 from about 9.30 till about maybe about 10.00, 10.00, 10.30.
12 They were waiting for the CARBER test to be completed berth
13 5 and then to come across to berth 6.

14 Q. That's your understanding of what they did?

15 A. And, and with—and that is where, yes—and that is where
16 Houston Marjadsingh was, if I'm not mistaken.

17 Q. Well, you thought that they'd been on the job for maybe less
18 than an hour?

19 A. Yeah they, they had—I think they started at around maybe 9.00,
20 9.30, and just a couple things, well, yeah, just about an hour
21 before, but I would have to go back and check the statement.

22 Q. Anyway, whatever the position is, there was no monitoring
23 until two o'clock, do you agree?

24 A. Correct, if Houston really did not go to berth 6.

25 Q. Right. There was no monitoring until two o'clock and if that is
26 correct, then—and you still regard that as being compliant with
27 your own regulation that there should be continual monitoring?

1 A. Yes.

2 **Mr. Chairman:** All right, thank you. Sorry, Mr. Pegus.

3 **Mr. Pegus:** Not a problem.

4 **Continued Cross-Examination By Mr. Pegus:**

5 Q. Now, Sir, as we're on the, on the issue of monitoring, the—his
6 obligation to monitor could only be limited to what he could
7 see, yes?

8 A. Yes.

9 Q. Right. Now, let's deal with, um—just a second please? Let's
10 go to Mr. Kirt Scott. Now earlier when you were giving
11 evidence, the transcript from Mr. Scott was shown to you.

12 A. Yes.

13 Q. And there was a specific portion which spoke to Mr. Scott
14 observing something being, well, I don't know if I'm being
15 loose here but something being removed, yes?

16 A. Uh-huh.

17 Q. Yes? Good. Now, let me suggest to you that Mr. Scott had a
18 specific role on the day in question, you're willing to accept
19 that, as operator?

20 A. I, I believe so, yes.

21 Q. Right. Now, part of his functions were to monitor the work
22 area for any signs of pollution, mainly oil pollution, yes?

23 A. Yes, yes.

24 Q. Rat. And to be on the lookout for any incoming vessels, yes?

25 A. Yes, I believe so.

26 Q. Right. And to ensure no work other than operation within the
27 defined area of berth 6 was being performed, yes?

1 A. I said that earlier.

2 Q. No, I'm putting my instructions to you.

3 A. Okay.

4 Q. You're willing—

5 A. I'm sure that Collin Piper might have said it, what is his exact
6 role and description.

7 Q. Right. Now you're willing to accept that he wasn't there to
8 monitor any work, that's number one?

9 A. He was not there to monitor the contractor.

10 Q. Good. And, it was no part of his business to stand by that
11 monitor which was on berth 6?

12 A. That is correct.

13 Q. And just to make it abundantly clear, he wasn't there to monitor
14 any subsea works?

15 A. That is correct.

16 Q. Good. Just a second, Mr. Chairman, let me just ensure that
17 [*Perusing documents*] Right.

18 **Mr. Pegus:** I have no further questions for this witness, Mr.
19 Chairman. Thank you very much, Sir.

20 **Mr. Chairman:** Thank you.

21 **Examination By Mr. Chairman:**

22 Q. Can I just ask you one more question—

23 A. Yes.

24 Q. —arising—again, to do with the responsibilities of the
25 applicant, because, in addition to continually monitoring the job
26 he has also the role, doesn't he, to stop the work if there are
27 changes in site conditions that increase the risk, or if new

1 hazards are identified, and to promptly notify the site authority
2 of these changes?

3 A. Yes, Sir.

4 Q. I think you agreed with me previously that he had the power to
5 stop the works?

6 A. Yes.

7 Q. And would have done had he known—

8 A. Yes.

9 Q. —that these plugs were being removed.

10 A. Yes.

11 Q. Or you would have expected him to?

12 A. Yes, Sir. He along with any employee, any contractor
13 employee, LMC S have the power to stop.

14 Q. Irrespective of how lowly that member of staff might be?

15 A. Yes.

16 Q. The fact is if he'd realized that there was something happening
17 that shouldn't have happened, he has the power to say stop?

18 A. Yes.

19 Q. And then call in somebody else?

20 A. Yes.

21 Q. Correct. And that would apply to Mr. Scott as well?

22 A. Yes.

23 **Mr. Chairman:** Thank you very much. All right, yes, Ms.
24 Maraj.

25 **Cross-Examination By Mrs. Persaud Maraj:**

26 Q. Good afternoon. My name is Kamini Persaud Maraj and I'm
27 attorney-at-law for LMCS.

1 A. Good afternoon.

2 Q. All right. So I'd just like to take you back to paragraph 5.12 of
3 page 571 of the core bundle to which you were referred by my
4 friend. This is in relation to the interpretation of limitation, any
5 limitation.

6 A. Yes.

7 Q. Right. So, you considered that the limitation proposition of my
8 friend to be a limitation of a situation. You accepted that to be
9 the meaning of limitation in this clause?

10 A. What did I accept it to be, sorry?

11 Q. A limitation of a situation, a factual situation?

12 A. I think Mr. Pegus was suggesting it's a limitation in the permit
13 to work procedure.

14 Q. A limitation of the permit to work procedure?

15 A. I think he was suggesting that, but, I am not comfortable with
16 making a pronouncement.

17 Q. Okay, that's fair. What I would like to ask you to consider is
18 whether or not this any limitation would actually mean a
19 condition in the permit to work system, the limitation that is
20 being referred to in this paragraph here meaning the condition
21 that would be set out in the—in any of the permits that is
22 issued?

23 A. Um, I'm not seeing that in the words.

24 **Mr. Chairman:** I think really both you and Mr. Pegus could
25 address me about that. I have certain views about it anyway
26 but—

27 **Mrs. Persaud Maraj:** Certainly.

1 **Continued Cross-Examination By Mrs. Persaud Maraj:**

2 Q. I would also like to take you to the PTW procedure that we
3 were now looking at, page 29. I know you already said that
4 continually is interpreted as periodic?

5 A. Defined as, yes.

6 Q. Right, and that's in relation to the applicant.

7 A. Yes.

8 *[Document handed to Mr. Archbald]*

9 Q. I would just like to draw your attention to 5.2—

10 A. Yes.

11 Q. —to the very last bullet point that appears there, and you would
12 see that it is specifically written, periodically check, and that's
13 in relation to what a competent person shall do.

14 A. Yes.

15 Q. Yes? It says periodically check the side and equipment to
16 ensure that the conditions for certification have not changed.

17 A. Yes.

18 Q. Right? Now my question is in relation to the interpretation that
19 you've given to continually and periodically. This is, this is a
20 document that you were part and parcel of drafting.

21 A. Uh-huh.

22 Q. Could you explain the difference between what you mean as
23 continually above in relation to the applicant as opposed to
24 periodically here?

25 A. There's no difference.

26 Q. There's absolutely no difference?

27 A. No, that's correct.

1 Q. But you'd appreciate you could have used periodically as
2 continually instead of having continually used in the description
3 of the roles and responsibilities of the applicant?

4 A. I appreciate. I agree.

5 Q. Okay.

6 A. Used words interchangeably, yes.

7 Q. It's used interchangeably. This morning you were explaining
8 there are two different kinds of risk situations.

9 A. Yes.

10 Q. And you would recall that you said that there is functional and
11 situation risk?

12 A. Yes.

13 Q. Yes. And in relation to the situational risk, that was risk
14 associated with the facilities according to your—

15 A. Yes.

16 Q. —um, explanation. Those risks would include risk associated
17 with, let's say, the pipe system, that is, is at Paria, assets?

18 A. Yes.

19 Q. Yes. All right. Would you be able to say to the Commission
20 whether or not—and these pipes, Sealine 36 hit has been out of
21 commission for some time?

22 A. I'm not sure how long it has been out of commission.

23 Q. All right. But we do know that there were repairs, clearly—

24 A. Yes, yes.

25 Q. —that had to have been done?

26 A. Yes.

27 Q. Yes, so they were not functional, yes?

1 A. Correct.

2 Q. Right. Was there any, to the best of your knowledge, any
3 condition report for both the internal and external system of
4 pipe on Sealine 36 that had been done for the entire Sealine that
5 had been done by Paria or even Petrotrin?

6 A. A condition report like an inspection report?

7 Q. Not just a mere inspection for—I know there's an inspection for
8 the part of the riser, that's on record and in evidence, but I'm
9 asking about the entire Sealine 36.

10 A. An inspection report—

11 Q. Yes.

12 A. —for the entire Sealine?

13 Q. Yes.

14 A. I don't know.

15 Q. You don't know. All right.

16 **Examination By Mr. Chairman:**

17 Q. Is there a topographical, probably a wrong expression, some
18 sort of map—we've been provided with one by Paria showing
19 the pipe and where it goes, still not a hundred per cent sure I
20 understand it, but can you tell me do you know, or does anyone
21 know, if the pipe in the horizontal is level?

22 A. We believe it to be relatively level because—

23 Q. Right. Yes.

24 A. —the bathymetric survey shows the surface of the ocean floor.

25 Q. Yes.

26 A. The line is 30 inches in diameter, quarter of an inch thick and
27 coated in three inches of concrete. It is hardly likely that there

1 would be significant deviation in the level.

2 Q. When it's installed and put into the seabed, it's in sections
3 obviously.

4 A. Yes.

5 Q. How long is each section?

6 A. Typically a length of pipe is 40 feet.

7 Q. Right. And is it already coated in concrete?

8 A. I'm not sure at—when, when it's coated in concrete. I believe
9 that it's coated and then lowered into place but I'm not certain
10 what would have happened in this line.

11 Q. Right. So, on the one hand, the first question is whether or not
12 it has any undulations in it at all. It's 1,200 feet?

13 A. Yeah. Undulations would be very slight deflections, if any at
14 all. Undulations is, is—no, hardly likely with the thickness of
15 the concrete.

16 Q. Yeah, well it bends when the concrete is put on, but, in your
17 estimate it's unlikely to have undulations?

18 A. No, well it's concrete right through, so the concrete would have
19 been put on before it was—hit the floor, yeah.

20 Q. But as each piece is put together, they're welded together,
21 aren't they?

22 A. Yes.

23 Q. Rather than flanged?

24 A. Yes.

25 Q. Right. So each section is welded together?

26 A. Yes.

27 Q. So one piece is lowered, put down onto the ground, the seabed?

1 A. Yeah.

2 Q. Then the next piece is lowered?

3 A. Yes.

4 Q. The two are joined together, welded?

5 A. I'm really not certain how this line was fabricated.

6 Q. Right. So you're not really able to say whether they were—in
7 other words when the two came together they weren't exactly
8 straight and were just—do you follow what I mean?

9 A. Oh.

10 Q. At an angle as it were—

11 A. It would have, it would have to have made a seal such that it
12 would pass the welding inspection.

13 Q. Sure.

14 A. So definitely it would have met that, which is very slight
15 deviations, if any.

16 Q. And I appreciate the slight deviations. My concern I suppose is
17 that over a length of 1,200 feet even a slight deviation might
18 produce a significant difference in height at different points?

19 A. Yeah, I, I think—that information is available at the, the—if
20 there's a difference in height.

21 Q. All right.

22 A. Whether there's any undulation, it's unlikely.

23 Q. All right so let's assume that there's no undulation in this pipe
24 at all, but you are able to tell whether it is higher at one end or
25 lower at one end?

26 A. Yes.

27 Q. And it follows from that that if it's lower at one end, when you

1 pour water or oil or any liquid in it, that will settle so the levels
2 of the liquid are the same height?

3 A. Yes.

4 Q. Whereas the down, the vertical part of the pipe might be longer
5 at one end than the other?

6 A. Yes.

7 **Mr. Chairman:** Okay, thank you.

8 **Continued Cross-Examination By Mrs. Persaud Maraj:**

9 Q. Are you familiar with one Mr. Ahmad Ali?

10 A. Yes.

11 Q. Right. On the 25th of—on the day of the incident, 25th of
12 February, 2022, did you meet with Mr.—did you meet Mr. Ali
13 at the shipping office?

14 A. I'm not sure.

15 Q. You don't recall that?

16 A. I'm not certain.

17 **Mr. Chairman:** Could you bring the microphone a little
18 closer, please?

19 **Mrs. Persaud Maraj:** Sure.

20 **Continued Cross-Examination By Mrs. Persaud Maraj:**

21 Q. So Mr. Ali's evidence is that he met with you at the shipping
22 office. What say you?

23 A. Well if Ahmad said that, then, he probably did.

24 Q. You have no recollection of it?

25 A. That day was very—I really not, I'm not certain. I don't doubt
26 that he did meet with me.

27 Q. You don't doubt. It would have been—well, okay. I accept

1 that. In your witness statement paragraphs 54 to 57, you deal
2 with—well, in fact from 53, sorry, to 57, you deal with a
3 meeting with Mr. Kazim Ali Sr..

4 A. Or yes.

5 Q. Yes? This was on Saturday the 26th of February?

6 A. Yes.

7 Q. Yes. And this meeting was with Mr. Ali and yourself and
8 Catherine Balkissoon?

9 A. Hmm. I'm not certain. I'm not absolutely certain. I just
10 remember, um, speaking to Kazim.]

11 Q. All right. So, I'm going to put this very quickly to you because
12 the version of what you have and what you've presented as to
13 your recollection of that meeting and what he said in that
14 meeting, right, Mr. Ali denies that.

15 A. Okay.

16 Q. Yes? Now, his instructions and evidence is that he was at the
17 meeting on the 26th for the purpose of convincing Paria to
18 allow a rescue.

19 A. Okay.

20 Q. Yes? Would you agree?

21 A. If I agree that that was—

22 Q. Would you agree?

23 A. —what his evidence is?

24 Q. No, would you agree that that is true?

25 A. No.

26 Q. That is his evidence.

27 A. No, that's not true.

1 Q. All right. So I'll put it to you that what you have said is untrue
2 and you can answer that.

3 A. No, this is.

4 **Mr. Chairman:** Untrue or inaccurate?

5 **Mrs. Persaud Maraj:** Inaccurate.

6 **Continued Cross-Examination By Mrs. Persaud Maraj:**

7 Q. You can say that is inaccurate. Your version from paragraphs
8 53 to 57—

9 A. Yes.

10 Q. —is inaccurate.

11 A. And what am I supposed to say?

12 Q. Well you tell me.

13 **Mr. Chairman:** Well, either it's accurate or it's not, meaning
14 it may be wrong.

15 **Continued Cross-Examination By Mrs. Persaud Maraj:**

16 A. No, this is—what I wrote here is correct.

17 Q. Right. That's what you say.

18 A. I remember this because I was shocked when I heard it and I
19 resolved afterward that he has surrounded himself with people
20 who also believe the same thing and I, you know, this is what—
21 it might have been understandable but at the time he said it, this
22 is what he said.

23 Q. All right. And—but you don't recall—

24 **Examination By Mr. Chairman:**

25 Q. Specifically, sorry, specifically he was shocked about what?

26 A. That he would say that his son is no more.

27 Q. And this was at what time?

1 A. I think it was about 1.00 p.m. I felt like—I feel like if it's
2 between 1.00 and 2.00 or somewhere around there.

3 Q. On Saturday?

4 A. Yeah.

5 Q. Early afternoon on the Saturday?

6 A. Yeah.

7 Q. Well, he's probably not wrong, was he?

8 A. I don't know.

9 **Continued Cross-Examination By Mrs. Persaud Maraj:**

10 Q. All right. Well, that's really all that I could clarify. I think
11 everything else has been dealt with. Thank you very much.

12 A. You're welcome.

13 **Mr. Chairman:** Mr. Peterson.

14 **Mr. Peterson SC:** Thank you, Mr. Chairman.

15 **Mr. Chairman:** I have to say I've moved my meeting to 6.30.

16 **Mr. Peterson SC:** Ah great, but that doesn't mean I would use
17 all the time. But can we first have up Mr. Houston
18 Marjadsingh's statement. It's at—I'm interested in page 303—
19 three zero—

20 **Mr. Chairman:** The supplemental bundle?

21 **Mr. Peterson SC:** In, yeah, the supplemental bundle, 3053 and
22 3054.

23 **Mr. Chairman:** Yes. Which particular paragraph you want
24 to—

25 **Mr. Peterson SC:** Paragraph 27 to start with. I'm interested in
26 27 into 28 actually.

27 **Examination By Mr. Peterson SC:**

1 Q. Mr. Archibald, you were taken by Senior Counsel Maharaj, my
2 learned friend, with respect to the transcript of the 7th of
3 December of Mr. Marjadsingh where you were pointed—you
4 were directed to his testimony. You wouldn't find it there. It
5 was on the screen earlier—

6 A. Yes.

7 Q. —where Mr. Maharaj showed that Mr. Marjadsingh was
8 speaking about having arrived on berth 6 from berth 5 at around
9 2.00 p.m.

10 A. Yes.

11 Q. That it was put to him in his cross-examination. So I'm trying
12 to interrogate that taking into account the event, if you look at
13 the, first of all, paragraph 27, and I'll show you why I'm going
14 there.

15 A. Yes.

16 Q. At paragraph 27 of Mr. Marjadsingh's statement he speaks
17 about upon arrival at berth 6.

18 A. Yes.

19 Q. He spoke to the LMCS dive master Mr. Andrew Farah. He had
20 a brief conversation, so I'm using his events to really test
21 whether the 2.00 p.m. is accurate. That's what I'm doing. So
22 let me tell you one time what I'm doing.

23 "I had a brief conversation with Mr. Farah to find out if
24 the team was getting through with the job. He said yes. I
25 went to the screen monitor on berth 6 and I saw one diver
26 in the chamber. I then moved away from the screen."

27 All right? So that is after his arrival he just gave that

1 description.

2 A. Okay.

3 Q. “After about 10 minutes”—so let’s give him that, give or
4 take a few minutes left and right of that, all right—“I felt
5 a shake on berth 6 and I heard a noise. I immediately
6 went back to the monitor to see if something had
7 happened in the chamber. I noticed the camera was not
8 focused in the chamber and it appeared to be showing the
9 wall of the chamber. When I went back to the monitor
10 area Andrew Farah was there.”

11 Now, we know, and I don’t—I think it’s beyond dispute that the
12 event that gave rise to the disappearance of the men into the
13 pipe occurred at about 2.50 p.m.

14 A. Yeah 2.45 I think.

15 Q. Two forty-five, 2.50. So if we were to anchor his arrival, brief
16 conversation and 10 minutes later, that must be somewhere post
17 2.30 p.m. Do you agree with my analysis?

18 A. Yes I agree.

19 Q. Right.

20 A. Yes, I agree.

21 Q. Because then that event occurred and I don’t think it’s disputed
22 that the—that’s what we have been using throughout, 2.45
23 thereabouts.

24 A. Yeah.

25 Q. Two-fifty.

26 **Mr. Peterson SC:** Mr. Chairman, I now wish to go to Mr.
27 Dopson’s statement.

1 **Mr. Chairman:** Just pause for me. I'd like to make a note.

2 **Mr. Peterson SC:** Of course, Sir.

3 **Mr. Chairman:** Right. [*Writing*] Thank you.

4 **Mr. Peterson SC:** Thank you, Mr. Chairman. I wish to take—
5 to go to Mr. Dopson's statement which is at page 3020 which in
6 the supplemental bundle is at page 183 of 378, so that's two
7 ways of finding it.

8 **Mr. Chairman:** Got it.

9 **Mr. Peterson SC:** Page 3.

10 **Mr. Chairman:** Dopson's statement in?

11 **Mr. Peterson SC:** The supplemental bundle, supplemental
12 witness bundle. There's a bundle I was using with—

13 **Mr. Chairman:** Yeah.

14 **Mr. Peterson SC:** The same bundle. Yes. It's at page 3020.

15 **Mr. Chairman:** Yep.

16 **Mr. Peterson SC:** I really in—I'm interested in paragraphs 12
17 and 13. You with me also, Mr. Chairman and Mr. Archbald?

18 **Mr. Chairman:** Yes.

19 **Mr. Peterson SC:** You found it? Right.

20 **Continued Examination By Mr. Peterson SC:**

21 Q. At paragraph 12 Mr. Dopson said this.

22 "At or around 1345"—which is 1.45 hours—"work in the
23 chamber stopped."

24 So at quarter to 2.00 the work stopped.

25 "I observed divers Kurban, Henry, Nagassar exited the
26 chamber."

27 So, let's picture this.

1 “I then left berth 6 and returned to shore for lunch.
2 Before leaving for lunch I informed victor Dhillpaul,
3 LMCS HSE officer, that I was going for lunch. He had
4 to be on site at all times. I did not have to be on site at all
5 times as my role on that day in question as directed by
6 Mr. Yearwood was to make the above periodical
7 checks.”

8 So he has gone for lunch at 1.45.

9 “At or around 1445”—which is 2.45 p.m.—“I called Mr.
10 Dhillpaul on his cell phone to notify him that I was
11 leaving shore to return to berth 6 to resume my periodical
12 checks. Mr. Dhillpaul told me he would call me back
13 and hung up the phone. He then returned my call at or
14 around 1450”—10 minutes to 3.00, hours—“and told me
15 the diving supervisor, Mr. Andrew Farah, reported that
16 observed a splash on the remote monitor which showed
17 the activities within the chamber and thereafter they lost
18 communication with the divers.”

19 So it is clear from Mr. Dopson’s account that when he went for
20 lunch the work seemed to have been suspended. But whilst he
21 was on lunch, just about an hour, usual lunchtime, even in this
22 Commission, just about an hour, the work resumed in his
23 absence.

24 A. Yes.

25 Q. Unsupervised by Mr. Marjadsingh.

26 A. Yes.

27 Q. Because the work ought not to have been taking place.

1 A. Yes.

2 Q. And that's when the event occurred.

3 A. Yes.

4 Q. I think it's consistent with your testimony here that you got a
5 narrative that the incident occurred during the lunch period
6 when there wasn't to be work?

7 A. Yes, that is what Dopson would have told me.

8 Q. Sounds very unauthorized to me.

9 A. Yes.

10 Q. Just tell me something, on the 25th of February, 2022 if there
11 were to be a permit to work issued for the removal for the
12 plugs, who would be the applicant in such a case?

13 A. I think Mr. Marjadsingh might have been used as the applicant
14 there, because it would have been mechanical work.

15 Q. Right. To remove the—

16 A. Taking out—

17 Q. —the barriers?

18 A. Yeah.

19 Q. Do you know of any permit to work issued for the removal of
20 those plugs on the 25th?

21 A. No, none was issued.

22 Q. So there was no question of supervision of the removal of those
23 plugs on that day?

24 A. Absolutely none.

25 **Mr. Peterson SC:** Mr. Chairman, that's all I have for this
26 witness, thank you.

27 **Mr. Chairman:** Thank you. I think Mr. Wilson has some

1 questions.

2 **Examination By Commissioner Wilson:**

3 Q. Yes. Good afternoon, evening.

4 Q. I just want to go back to direct cause from your incident report.

5 A. Yes.

6 Q. And I'm glad you used the terminology direct cause. I see that
7 in your incident report the direct cause will obviously point to
8 LMCS.

9 A. Yeah.

10 Q. Right? I believe I heard, I'm alive to correction, that you said
11 you're awaiting the outcome of the Commission?

12 A. Well no, not necessarily—sorry. More information that will
13 arise from this Commission.

14 Q. In service of the—

15 A. Yes, yes.

16 Q. More information from—

17 A. More information, statements and that sort of thing, things, um,
18 even from LMCS that they would have said they did with
19 Christopher Boodram.

20 Q. Understood. But you're waiting for more information from the
21 Commission in service of a report?

22 A. Oh yes, yes to be able to, to, not to redo but to complete.

23 Q. To complete the incident report—

24 A. Yes.

25 Q. —the incident report?

26 A. Yes.

27 Q. From your colleague prior, it's Archbald?

1 A. Paul Yearwood?

2 Q. Yearwood, it came out that no industry known root cause
3 analysis was employed by Paria.

4 A. For the investigation?

5 Q. For the investigation.

6 A. Okay.

7 Q. Is that so?

8 A. Well, we applied RCAT and something like 3 Whys.

9 Q. Three Whys?

10 A. Right? I know there's no 3 whys but five whys would take you
11 to your management system.

12 Q. Right.

13 A. But in order to be able to get to the direct cause I need to ask—

14 Q. Yes.

15 A. —a couple whys and I also did a cause and effect diagram.

16 Q. Okay, understood. Where I'm going with it is because a direct
17 cause would only point at one party. Would you appreciate if
18 you did a, which is industry practice, a root cause, it could
19 potentially flag the gaps that exist with Paria in the incident?

20 A. It would flag the gaps that exist at all levels.

21 Q. At all levels, that's correct.

22 A. And the more why we ask we reach straight to the regulators,
23 the, you know and so on.

24 Q. So why wouldn't you do a root cause analysis?

25 A. We would, but just not right now.

26 Q. Is it industry practice to wait a year after to do a root cause
27 analysis?

1 A. No, but the circumstances right now we were not able to get
2 information. The hyperbaric chamber is still at the base of the
3 sea, at the bottom of the ocean, and so it is necessary for us to
4 get—I did not interview any of the LMCS witnesses.

5 Q. Okay.

6 A. Now I have that information available.

7 Q. Okay, so, just to clarify it's—you're awaiting for more
8 information—

9 A. Yes—

10 Q. —coming out of the Commission?

11 A. Yes.

12 Q. Once you get that information are you now going to employ in-
13 house resources or external to do a quality root cause analysis?

14 A. I think we will do in-house for the, um, for the—up to the, the,
15 um, rescue, sorry, the emergency response, like a bow tie.

16 Q. Okay. But you do have an appreciation your direct cause
17 would just—it's just one component of this entire process that
18 went—and I feel comfortable in saying it went wrong.

19 A. Yeah.

20 Q. All right. Okay, thank you.

21 A. Okay.

22 **Mr. Peterson SC:** Mr. Chairman, could I have your ear? You
23 did ask me this morning to reconfirm the retrieval of the
24 hyperbaric chamber.

25 **Mr. Chairman:** Yes.

26 **Mr. Peterson SC:** We have been able to confirm with the
27 contractor that those are fixed dates. He would retrieve it

1 between the 1st to the 5th of February.

2 **Mr. Chairman:** Just a minute.

3 **Mr. Peterson SC:** So he's confirming that retrieval, and it will
4 be available for inspection from the 6th.

5 **Mr. Chairman:** At Paria's site.

6 **Mr. Peterson SC:** At Paria's site.

7 **Mr. Chairman:** Do I have to put all that kit on again?

8 **Mr. Peterson SC:** You still have it, Sir?

9 **Mr. Chairman:** No, you took it back. All right, thank you.
10 Sixth of February.

11 **Mr. Peterson SC:** Sixth of February. It's available from that.

12 **Mr. Chairman:** It will be available from that date?

13 **Mr. Peterson SC:** Yes.

14 **Mr. Chairman:** Okay, thank you. All right. I'm going to
15 reconsider whether or not we need to come on those two days
16 that I've currently earmarked but I'll come back to that, but
17 thank you for that. Appreciate it. Anything else? No.

18 Well, look, thank you very much for coming, Mr. Archbald. I
19 appreciate it. You're free to go and we will rise now. Thank
20 you very much. Tomorrow 9.30. We need to try and get
21 through as many of those witnesses as we can, so I think we're
22 going to have a full day tomorrow. All right, thank you very
23 much. Please feel free to get up and go. I'm going to collect
24 my papers so don't wait for me. Thank you.

25 **6.06 p.m.:** *Enquiry adjourned.*

26

27

1 **EVIDENTIARY HEARING DAY 13**

2 **9.31 a.m.: Enquiry Commenced.**

3 **Mr. Chairman:** Good morning, everybody. Okay. A few
4 things, first of all. First, I'd like to deal with witnesses for
5 OSHA. They, as you probably appreciate, were pencilled in for
6 Monday. I've reviewed their evidence with the team, and for
7 our part given that they have provided us with statements and
8 have been interviewed by us, we have no specific need to call
9 any of the witnesses from OSHA. I'm not going to make that
10 decision without asking, at least those who are here, whether
11 there was anything that they thought that they might need to ask
12 any of those witnesses from OSHA. I mean, obviously, they
13 weren't part of the IMT; it didn't seem to me to add anything
14 specific beyond that which they've already provided.

15 Does anyone have any representations to make about
16 that?

17 **Mr. Peterson SC:** Our view is that we don't need them either,
18 Sir. I don't think they add beyond what they have in their
19 statement.

20 **Mr. Chairman:** Yes, thank you. Is that the same for you, Ms.
21 Persaud-Maraj?

22 **Ms. Persaud-Maraj:** The body of what this Enquiry has
23 indeed gone through is what OSHA would have, and so, I
24 would adopt the same approach, please.

25 **Mr. Chairman:** Right. Good. Well, with that in mind, I then
26 release them from their requirement to attend on Monday. Mr.
27 Maharaj, I don't require them to attend. We got their evidence.

1 We'll utilize it for our purposes as we see fit. So that frees up
2 Monday. So that's good. There's still some evidence to be
3 heard, but let me just deal with one or two other matters.

4 I'd indicated, I think, two days ago, that I would come to
5 view the chamber on the 14th and/or 15th—sorry, the 23rd
6 and/or 24th February with a view to seeing the chamber once it
7 has been taken out of the water and keeping the 24th just in
8 case there was any need to hear any further evidence. I'm
9 going to vacate those dates partly because, as it's been pointed
10 out to me, this is a rather busy time in this country, and I
11 wouldn't want to upset Counsel who wish to attend the
12 festivities by having to attend the chamber as well. So I'm
13 moving it to the 14th and 15th March. That's the position. I
14 hope that fits in with everybody. The 14th would be the day on
15 which I would hope we will be able to come and see the
16 chamber, Mr. Peterson, if that was possible.

17 *[Pause]*

18 **Mr. Peterson SC:** Mr. Chairman, that conversation was just
19 about—Paria was concerned about the integrity between the
20 window; it lends itself to, most likely, unfounded allegations of
21 interference or tampering. So I think that could be addressed by
22 LMCS attending or being present, and supervise the emergence
23 of it from the waters, and after that—

24 **Mr. Chairman:** And confirming that that is as it is and could
25 do the same on the day of the 14th March, so that there's no
26 question of any interference with it in the interim period.

27 **Mr. Peterson SC:** I'm advising Paria to also take photographs

1 when it emerges from the water to see how best we could
2 preserve what actually came up from the ground.

3 **Mr. Chairman:** I was wondering whether it could be videoed
4 as it was being brought out and put on shore.

5 **Mr. Peterson SC:** I suggested videos also.

6 **Mr. Chairman:** Marvellous. Well, if that fits in then with
7 your timetable for viewing, I'll fix those dates, 14th and 15th.
8 The 15th is simply a pencilled in date for the purposes of
9 hearing any additional evidence if anybody thought that it was
10 absolutely vital. I hope that that's not going to be necessary,
11 but let's pencil it in for the moment. Once a decision has been
12 made not to utilize that day, I will communicate that through
13 Ms. Sinanan, so that everybody knows it becomes free. So I'm
14 grateful for that. Thank you very much.

15 Anybody who wants to attend on the 14th will need to
16 communicate with Ms. Sinanan in the same way as they have
17 done for the previous view and I take it that you want to limit
18 numbers in the similar way. I would hope that we'll be able to
19 manage one bus rather than two for this exercise. So, thank
20 you.

21 Next, I should tell you this: on Wednesday of this week
22 we received an additional series of videos provided by Mr.
23 Khan of In-Corr-Tech. I have now considered them and regard
24 them as important enough to want to show for the purposes of
25 this Enquiry, so they will be incorporated in his evidence which
26 is scheduled for next Tuesday. Can I say that I think that they
27 are sufficiently different from that which has been provided

1 before that I've asked for and I believe we will have today a
2 further statement from him setting out why they are different,
3 what they intend to show, what particular parameters he has
4 used. I urge you all, particularly Mr. Peterson, Ms. Maharaj, to
5 have a look because they do colour things in a slightly different
6 way to what has been the evidence hitherto. I'm anxious that
7 you should have it at the earliest possible opportunity. It is
8 now, I'm told—the videos are posted on the website. So they
9 are available. There are four. They're all quite short, but there
10 are four of them.

11 **Mr. Peterson SC:** And since Monday is a free day, Sir, we'll
12 have time to look at it in time for Tuesday.

13 **Mr. Chairman:** It won't be entirely free, I'm afraid, because
14 we've asked—Mr. Donawa who was due to come this week,
15 was unable to come this week, and I accommodated him for
16 Monday. That can't be changed now. So we are, I'm afraid,
17 sitting on Monday.

18 What I thought to do was to bring forward—which brings
19 me to the next topic, really—to bring forward the witnesses for
20 the family members from Tuesday to the Monday, so that we
21 would use up part of the morning, at least, before we rise, but
22 the remainder of that day will be free. I don't imagine either
23 Mr. Donawa or those witnesses will take very much time in the
24 morning, which will give you the remainder of the day. But
25 that's the current plan.

26 Can I say that at the moment those witnesses, in addition
27 to Mr. Donawa, are going to be Catherine Ali, Vanessa Kussie,

1 Jamie Menodath-Ali. I haven't heard yet back from Mr.
2 Ramadhar as to whether any of his clients are intending to read
3 their statements. I don't know if the lady who is here can help
4 me with that.

5 **Ms. Boodan:** Yes, please, Mr. Chairman. I would have sent
6 Ms. Sinanan some statements maybe about two days ago, I'm
7 not sure.

8 **Mr. Chairman:** I can't quite hear you. Sorry, say that again?

9 **Ms. Boodan:** I would have sent Ms. Sinanan two statements
10 from our clients about two days ago.

11 **Mr. Chairman:** No, no, I got the statements. It's a question of
12 whether they want to give them live or whether they want to
13 just put them in as statements.

14 **Ms. Boodan:** I don't have any instructions as yet, but as soon
15 as I receive those instructions, I will email Ms. Sinanan.

16 **Mr. Chairman:** Well, can I ask for it today, please?

17 **Ms. Boodan:** Yes, Mr. Chairman.

18 **Mr. Chairman:** I need to know today. And if they do, that it
19 will be on Monday, not on Tuesday. All right?

20 **Ms. Boodan:** Yes, Mr. Chairman.

21 **Mr. Chairman:** Well, I've said in front of Mr. Ramadhar what
22 my approach is to them giving that evidence. All right? So
23 he's aware of that. All right. As soon as you can advise me
24 today, before the close of business today, please.

25 **Ms. Boodan:** That's no problem.

26 **Mr. Chairman:** All right. Thank you.

27 So that will be Monday. I anticipate we'll finish before midday

1 on Monday. We'll start at 10.00 a.m. Tuesday, we will also
2 start at 10.00 a.m. when we will hear from Mr. Zaid Khan from
3 In-Corr-Tech. That will then be the conclusion of the evidence.

4 On Wednesday, I will hear three speeches: first from Mr.
5 Ramadhar at 10.30. We'll have a short break and then Ms.
6 Alfonso, I think, has indicated that of her team she's going to
7 be addressing me. Is that right? "Us" I should say.

8 **Ms. Alfonso:** Yes. Good morning, Mr. Chairman.

9 **Mr. Chairman:** Good morning.

10 **Ms. Alfonso:** That is, indeed, the case.

11 **Mr. Chairman:** Okay, right. So what we'll do is on
12 Wednesday, we will hear, first of all, from Mr. Ramadhar; we'll
13 have a break; then Ms. Alfonso; we'll have an early lunch, I
14 hope; and then hear from Mr. Pegus after lunch.

15 Then Thursday, we'll hear, first of all, from Ms. Kamini
16 Persaud-Maraj on behalf of LMCS and then we'll have,
17 hopefully, an early lunch. And then we will hear from—is it
18 Mr. Peterson or Mr. Mootoo? We're going to get the long or
19 the short version? You haven't decided yet.

20 **Mr. Peterson SC:** One of the offenders.

21 **Mr. Chairman:** One of the offenders, right. Well, as long as it
22 is only one of the offenders, that's fine. But we'll hear from
23 you, if we may, on Thursday afternoon after, what I hope will
24 be an early lunch.

25 Then on Friday in the morning at 9.30, please, Friday at
26 9.30, Mr. Maharaj on behalf of the Commission will address us
27 in the morning. I will have a few closing remarks to make once

1 he's concluded, which I anticipate to be about 11.30 for 10 or
2 15 minutes. And at the close of that, I would like to invite all
3 Counsel into the witness room afterwards as an invitation from
4 me for half an hour or so to conclude the Enquiry informally.
5 But that would be the position.

6 So can I ask, then, that everybody make a note of that.
7 That's the plan for the remainder of this Enquiry before we get
8 down to the business of having to prepare our report.

9 As I have indicated, and since this is being made public, I
10 make clear now that it is our intention that there should be a
11 draft report in the early part of April and that there will be a
12 final report after any—the supply of any Salmon Letters at the
13 earliest opportunity, if there are to be any, by the end of April.
14 So I hope to be able to provide the President with a copy of our
15 report by the end of April.

16 **Mr. Peterson SC:** I was just enquiring which President, but I
17 guess there's continuity of office.

18 **Mr. Chairman:** All right. Well, certainly, it would be
19 available to the Government in that way. Of course, it is a
20 matter entirely for them as to when they make it public. I will
21 do everything in my power to encourage them to do so pronto.
22 This is a matter which clearly has attracted considerable public
23 attention and involves the future of this industry and people's
24 lives. If there's any value in having this public Enquiry, it is in
25 making available our report as soon as humanly possible. To
26 that end is why we have worked as hard as we have to try and
27 make sure that it is available at the earliest opportunity. So

1 that's where we are at the moment.

2 Thank you all. We will proceed today. We've got five
3 witnesses to get through. Let's hope we do. Thank you.

4 Mr. Maharaj.

5 **Mr. Maharaj SC:** Mr. Chairman, the first witness is Mr.
6 Rolph Seales, and the summary will be done by Ms. Vijaya
7 Maharaj.

8 **Mr. Chairman:** Thank you.

9 Yes. Good morning, Mr. Seales. The oath will just be
10 taken from you.

11 [*Mr. Rolph Seales Sworn*]

12 **Mr. Seales:** I, Rolph Seales, solemnly swear that the evidence
13 I shall give to this Commission in this case shall be the truth,
14 the whole truth, and nothing but the truth.

15 **Mr. Chairman:** Right. Please take a seat. Thank you for
16 coming. I'm sorry you've been here, I know, a few times and
17 you've not been accommodated. So forgive us for that. We've
18 done our best to try and make sure that people aren't kept
19 waiting too long, but I'm afraid it doesn't always work, so
20 accept my apologies for that. The water is there for your use.

21 Ms. Maharaj who sits opposite you, is going to give you
22 a summary of your evidence to the Commission. Please listen
23 carefully. If you agree it, then great, and we will proceed from
24 there. Mr. Maharaj will then ask you a few questions and then
25 there'll be, I suspect, a number of other questions from some of
26 the other counsel. All right? So that's the plan.

27 All right. Thank you very much.

1 **Ms. Maharaj:** Thank you.

2 On Friday the 9th December, 2022, Mr. Rolph Seales
3 submitted a witness statement to the Commission. His
4 statement is at page 3130 of the supplemental witness statement
5 bundle.

6 Since 2019 he has been the Diving Operations Supervisor
7 Client Representative employed by Kenson and assigned at the
8 Point Fortin facility of Heritage Petroleum Company Limited.
9 His role is to coordinate all company contractor diving
10 activities at Heritage in accordance with the organization's
11 regulatory standards and international best practices.

12 He has over 25 years' experience in the field of marine
13 diving operations. He was previously employed by Petrotrin
14 for 22 years, 18 of which he was employed permanently as a
15 commercial diver.

16 On Saturday 25th February, 2022, at about 4.57 p.m., he
17 was requested by his line supervisor to mobilize Mitchell's
18 Professional Diving Services Limited to report to and provide
19 support, if required, at Paria because of an incident which
20 occurred earlier that day at Berth No. 6.

21 At 5.05 p.m. Mr. Seales contacted Mr. Fitzroy King of
22 Mitchell's who confirmed at 5.23 p.m. that Mitchell's would be
23 able to provide services. Mr. Seales was also requested to act
24 as liaison between Mitchell's and Offshore Technology
25 Solutions Limited and Paria in relation to Paria's request for
26 diving services.

27 At 6.00 p.m. he arrived at Heritage in Point Fortin to

1 facilitate Mitchell's retrieving their diving equipment from the
2 base. He left Heritage at 6.30 p.m. At about 8.20 p.m., Mr.
3 Seales arrived at Paria. He was informed that OTSL was
4 already moored at Berth 6 and was on the vessel, Gulf Stream
5 Eagle, standing by for further instructions.

6 At about 8.40 p.m., he was contacted by Mr. Fitzroy
7 King of Mitchell's who informed him that he and his crew
8 arrived at Paria's carpark and was standing by for instructions.
9 At about 9.00 p.m., Mr. Seales was given an update by
10 Heritage's Osei Flemming-Holder and Paria's Mr. Paul
11 Yearwood in an office downstairs of Paria's terminal
12 administration building. They informed Mr. Seales that the
13 divers were working to remove a plug in a 30-inch riser in a
14 chamber at 15 feet seawater when a splash was seen and contact
15 with the divers was lost. He was also informed that one diver
16 exited the chamber safely. He was shown a rough sketch of the
17 riser chamber layout which was a picture of a whiteboard on
18 someone's phone.

19 Mr. Seales responded to the briefing by indicating that
20 the chamber is called a habitat and the divers may have
21 experienced a Delta P scenario based on the explanation given.
22 At around 9.30 p.m., Mr. Seales proceeded upstairs in the
23 company of Osei Flemming-Holder to an unoccupied office at
24 Paria's terminal administration building to stand by for requests
25 and/or instructions from the Paria persons in charge of the
26 emergency response for the Paria Incident Command Team.

27 During the period 9.30 p.m. to midnight various

1 personnel were in and out of that office. At one time Mr.
2 Seales held a discussion with Mr. Collin Piper in the presence
3 of Paria's Mr. Michael Wei and Mr. Randy Archbald and was
4 shown a sketch of the riser chamber layout which was on a
5 whiteboard in the office. Mr. Piper told him that the divers
6 were working in the chamber on the 30-inch riser at 15 feet
7 seawater. They removed the first plug, and while they were
8 removing the second plug a splash was heard and observed on
9 the surface that all communication was lost. He responded by
10 repeating that based on what he explained the divers may have
11 experienced a Delta P scenario and he explained what it was.

12 Mr. Seales also asked if anyone knows the present state
13 of the habitat and of the second plug which the divers were
14 reportedly removing. No answer was given. Mr. Piper and the
15 other Paria personnel subsequently left the office.

16 At about 12.15 a.m. on Saturday, Mr. Seales attended a
17 meeting with Paria personnel, Coast Guard and others, in the
18 lobby area upstairs of the administration building. At the
19 meeting which was partially in person and partially virtual, Mr.
20 Collin Piper informed the audience that the camera which was
21 inserted into the pipeline encountered a blockage which
22 appeared to be a diving tank in the horizontal segment of the
23 pipeline. He said the blockage prevented the camera from
24 going any further. He then asked whether the Coast Guard
25 could go into the pipeline and remove a diving cylinder. The
26 Coast Guard's response was that they could not. Mr. Piper did
27 not ask whether Mr. Seales could send any of his divers to

1 remove the diving cylinder.

2 Mr. Seales raised the issues of risk and limitations
3 associated with this request by asking Mr. Piper questions. He
4 asked, "How are you going to introduce a diver?" Mr. Piper
5 said, "You could lower the diver with the use of a crane." Mr.
6 Seales asked what the height of the riser above the surface of
7 the water was. He was told eight to 10 feet. He then asked,
8 "How are you going to introduce a diver wearing surface supply
9 equipment", and whether the diver would be introduced into the
10 pipeline headfirst or foot first. He asked these questions so that
11 the Paria team and others at the meeting could get an
12 understanding of what the diving activity would have entailed.
13 Mr. Seales told Mr. Piper that he had no authority to send
14 anyone to remove the blockage and that Mitchell's and OTSL's
15 dive supervisors would be informed of the request to examine
16 the camera footage and determine whether they could enter the
17 pipeline to remove the blockage in the pipeline.

18 After reviewing the video footage at about 1.18 a.m., the
19 dive supervisors of Mitchell's and OTSL determined that the
20 risk was too high and they could not send their divers into the
21 pipeline to remove the blockage. Mr. Seales communicated
22 their decision to Paria's team.

23 Mr. Seales, during 1.40 a.m. to 2.00 a.m. on Saturday,
24 consulted with OTSL, Mitchell's and Hull Support Services to
25 explore the availability of a recompression chamber for Mr.
26 Boodram. He then instructed Mitchell's to return to their
27 facility in Point Fortin to ready their recompression chamber

1 and remain on standby to receive Mr. Boodram. OTSL's team,
2 however, remained on site.

3 After being informed that Mr. Boodram's treatment was
4 deferred to 8.00 a.m. on Saturday, Mr. Seales instructed
5 Mitchell's to stand down and instructed Hull Support Services
6 to ready their decompression chamber at their facility in La
7 Brea to receive Mr. Boodram. Mr. Seales then left Paria at
8 about 4.23 a.m. He arrived at Hull Support's facility at 7.00
9 a.m.

10 At 8.00 a.m., the Hull Support's facility was in a state of
11 readiness for Mr. Boodram's arrival. However, at 10.00 a.m.
12 Mr. Seales was informed that Mr. Boodram tested Covid
13 positive. As a result, Mr. Seales then held a meeting with Hull
14 Support Services to discuss what additional controls would be
15 required to safeguard their personnel. However, he was
16 subsequently informed that the decompression treatment was no
17 longer required.

18 On Sunday, 27th February at 4.15 p.m., Mr. Seales was
19 requested to attend a Teams meeting. He logged into that
20 meeting at 4.20 p.m. which was ongoing with the Paria team,
21 the Coast Guard, LMCS, Heritage team, Mr. Krishna Fuentes,
22 and others. LMCS was presenting a dive procedure at the time
23 to insert a diver into a 30-inch pipeline at Berth No. 6 to
24 remove the scuba cylinder which was preventing the camera
25 from going any further. A document was placed on the screen
26 and LMCS was reading the proposed procedure. The questions
27 which were discussed included how the diver could be

1 introduced into the pipeline; what equipment would have been
2 part of the safety parameters; and physically, how was the diver
3 going to perform the operation with the equipment on.

4 Mr. Seales' view was that the procedure did not
5 demonstrate how the steps would be safely executed but only
6 stated what steps were proposed to be done. In his
7 consideration, the proposed plan did not contain this
8 information which was necessary to assess whether it could be
9 safely executed. He also noted that the exercise was not to
10 rescue the divers, but to remove objects in the line. The risk of
11 the exercise had to be weighed carefully against its objective.

12 Discussion was held surrounding the presented diving
13 procedure and its lack of detail and inadequacies of control to
14 safeguard the proposed diver. Due to the fact that it was
15 ultimately not his decision to make, Mr. Seales stated that he
16 volunteered no further input to the discussions and his opinion
17 was not solicited. Mr. Seales did not review the documents and
18 the documents were not forwarded to him. The meeting
19 concluded with LMCS and Paria's team exploring other options
20 to safely recover the missing divers. Mr. Seales had no further
21 involvement in the matter.

22 Mr. Seales, is this an accurate summary of your
23 evidence?

24 **Mr. Seales:** Yes, it is.

25 **Ms. Maharaj:** Thank you.

26 **Mr. Chairman:** All right. Thank you.

27 Mr. Seales, now Mr. Maharaj has got some questions for

1 you. All right? And then, as I say, there'll be others. Mr.
2 Maharaj.

3 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

4 **Examination By Mr. Maharaj SC:**

5 Q. Good morning, Mr. Seales.

6 A. Good morning.

7 Q. You are a very experienced diver. Am I correct? Over 25
8 years' experience?

9 A. Yes.

10 Q. And could you explain to us when you said that: "I'm certified
11 as an unrestricted surface supply diver," what is that? Could
12 you explain what is that to us?

13 A. That's just the classification of the diver.

14 Q. Sorry?

15 **Mr. Chairman:** You're going to have to move—bring the
16 whole thing towards you; that's it. And if you don't mind, just
17 lean a little forward when you speak. Thank you.

18 **Mr. Seales:** That's the classification of the diver. So there are
19 different levels. Unrestricted is a level under the Canadian
20 standard.

21 **Continued Examination By Mr. Maharaj SC:**

22 Q. But to help us, the classification is a high classification?

23 A. Yes, it is.

24 Q. And according to your statement—I'm interested in the
25 timeline, right, so if you could try and help us. You first
26 became involved in this matter, according to paragraph 5 of
27 your statement, at 4.57 p.m. on the 25th February?

1 A. Yes.

2 Q. And that you said in that paragraph 5 that you were requested
3 by Mr. Fortune—and Mr. Fortune is at Heritage?

4 A. Yes, he is.

5 Q. Requested that you mobilize Mitchell's Professional Diving
6 Services Limited to report and provide support, if required, to
7 Paria. Correct?

8 A. Yes.

9 Q. And that you were told to do this because an incident occurred
10 earlier that day at Berth 6?

11 A. Yes.

12 Q. Were you told at that time what the incident was?

13 A. No.

14 Q. No. So based on the instructions you got, you contacted
15 Mitchell's?

16 A. Yes, I did. So I tried to gather more information to help inform
17 what equipment would be required, but there was no
18 information available at that time.

19 Q. But you contacted Mitchell at around 5.05 p.m.?

20 A. Yes.

21 Q. You spoke to one Mr. Fitzroy King?

22 A. Yes, I did.

23 Q. Right. And then you received information from Mr. Fitzroy
24 King at around 5.23 p.m. that Mitchell's would be able to
25 provide its services and they were actually engaged by
26 Heritage?

27 A. Yes.

1 Q. Right. Then at about 6.00 p.m. you arrived at Heritage Marine?

2 A. Yes.

3 Q. And then you received a call from Mr. Fortune who identified
4 Mr. Flemming and for—what that call was for—that call you
5 got from Mr. Fortune?

6 A. No, well, he just informed me of the contact persons.

7 Q. Sorry?

8 A. He informed me of the contact persons at Paria.

9 Q. Contact person at?

10 A. So I'll be contacting when I arrive at Paria.

11 Q. Right. And who was that contact person?

12 A. Mr. Osei Flemming.

13 Q. And he was associated with which company?

14 A. Heritage.

15 Q. Heritage. And you were asked to contact OTSL?

16 A. No. So I did not contact or engage OTSL.

17 Q. Who contacted OTSL?

18 A. I'm unaware.

19 Q. You're not aware. But at about 6.30 p.m. you departed
20 Heritage Marine and you—where did you go to, if I may ask,
21 after 6.30 p.m.?

22 A. Paria.

23 Q. Paria. And you arrived at Paria at 8.20 p.m.?

24 A. Yes.

25 Q. And you went to Paria's administrative building?

26 A. Well, not immediately.

27 Q. Not immediately?

1 A. No.

2 Q. But how long after?

3 A. So within that period, 8.20 and nine o'clock.

4 Q. Around nine o'clock?

5 A. Yeah.

6 Q. And you made contact with Mr. Rupert Paul of OTSL?

7 A. All right. So I would have made those calls when I arrived at
8 the location, which is Paria, just to ascertain where they were at
9 that time.

10 Q. And then according to my working it out, at around 8.40 p.m.
11 you were contacted by Mr. Fitzroy King of Mitchell—

12 A. Yes.

13 Q. Who informed you that the crew had arrived at Paria's carpark
14 and was standing by for instructions?

15 A. Yes.

16 Q. Am I correct?

17 A. Yes.

18 Q. And that was the crew from Mitchell's?

19 A. Yes.

20 Q. And then at around 9.00 p.m. you located Mr. Flemming in an
21 office downstairs of Paria?

22 A. Yes.

23 Q. And then at—then you were given an update of the incident as
24 to what happened that day?

25 A. Yes.

26 Q. At around what time that was given to you?

27 A. That will be around nine o'clock. When I say so, when I met

1 Mr. Holder, Mr. Yearwood was in the office, so they would
2 have just given a brief overview of the information that was
3 available at that time to them.

4 **Examination By Mr. Chairman:**

5 Q. Was that the first time that you learnt that someone had
6 emerged from the pipe?

7 A. Yes.

8 Q. So no one had told you that up until nine o'clock that night?

9 A. No.

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. And you are an experienced diver for 25 years and no one told
12 you that?

13 A. No.

14 Q. And at—when you arrived at Paria and you were given this
15 briefing, you responded immediately to the briefing and you
16 said words to the effect that it would have been—it may have—
17 you said that the divers may have experienced a Delta P
18 scenario?

19 A. Yes, based on the explanation given.

20 Q. And then even after you got the briefing you were—you
21 remained at Paria?

22 A. Yes.

23 Q. And you were in contact with Osei Flemming-Holder at Paria
24 while you were there?

25 A. Yes.

26 Q. And they were on standby also?

27 A. Yes. Well, sorry, I can't say what role or function he was

1 performing at that time.

2 Q. Well, according to paragraph 18 of your witness statement, you
3 said that, “Around 2130 hours I proceeded upstairs to the
4 company of Osei Flemming-Holder to an unoccupied office of
5 Paria’s terminal building to stand by for...” Oh, so you were
6 asked to stand by—

7 A. Yeah.

8 Q —for a request. I’m sorry—from Paria. And who gave you
9 those instructions?

10 A. It wasn’t an instruction.

11 Q. But who informed you of that, to stand by?

12 A. What I’m saying, it wasn’t an instruction. So we proceeded
13 upstairs, right, and stood by, basically.

14 Q. And stood by. Okay. Then during the—

15 **Mr. Chairman:** Sorry, just pausing there, so that I follow.

16 **Examination By Mr. Chairman:**

17 Q. So it’s about half past nine in the evening now?

18 A. Yes.

19 Q. Right. You’ve been given some sort of a briefing as to what
20 had happened?

21 A. Yes.

22 Q. Were you told the time when this first happened, the time when
23 they first noticed that there had been an incident?

24 A. An incident?

25 Q. Yes.

26 A. [*No response*].

27 Q. It’s not a memory test, Sir. Let me see if I can help you. It was

1 about 2.45 that we know it happened—there or thereabout.

2 A. Yes.

3 Q. Between 2.30 and 2.34, some say 2.50. It's in that period. All
4 right? Were you told that this event which you were being
5 consulted upon had happened as long ago as 2.45 that day?

6 A. I believe so.

7 Q. Right. And you've already told me in answer to the question
8 that you only learnt that a man had emerged from the pipe at
9 about nine o'clock?

10 A. Yes.

11 Q. Were you told then when he emerged?

12 A. No.

13 Q. Did you ask them, "Well, when did this chap come out the
14 pipe?"

15 A. No, the conversation didn't [*Inaudible*].

16 Q. I mean, we know that it was more than three hours between the
17 time when he did emerge from the pipe and you telling us you
18 were informed that a man had come out of the pipe. And being
19 a diver of some 25 years' experience it does not behove me to
20 say to you that time is of the essence?

21 A. Yes, it is.

22 Q. Isn't it?

23 A. Yes.

24 Q. There are four men in a pipe who may be alive. Were you told
25 that?

26 A. No. There weren't conversations surrounding the other divers
27 and where they were.

1 Q. There were no conversations?

2 A. No.

3 Q. So when you were informed that a man had emerged from the
4 pipe at—when you were told that at nine o'clock but not told
5 when, you had no idea when it was that he had emerged from
6 the pipe? You were not told as to the fact that it was known
7 when he emerged from the pipe that there were still people in
8 the pipe alive?

9 A. Okay. At that time, I'm unaware if it was actually confirmed
10 that the men were in the pipeline.

11 Q. So when you were being told this at nine o'clock, no
12 confirmation that these men were in the pipe?

13 A. Not that I'm aware of.

14 Q. Or that they were alive in the pipe?

15 A. Not that I'm aware of.

16 Q. I mean, for you to be able to assist Paria and/or Heritage in this
17 tragedy as a diving expert in your own right, would you not
18 think those were the basic facts you would need to know?

19 A. Yes.

20 Q. And they didn't tell you? You just stood by? I don't mean that
21 offensively.

22 A. Yeah.

23 Q. You stood by because nobody was asking you to do anything?

24 A. Yes. Now, can I expand?

25 Q. Of course, you can, yes.

26 A. Now, remember I would have entered into an active
27 emergency—

1 Q. Sorry. Speak a little louder, sorry.

2 A. Sorry. Remember, I would have entered into an active
3 emergency response system. So Paria would have had their
4 Incident Command Team.

5 Q. Yes.

6 A. And—

7 Q. Were you part of that?

8 A. No.

9 Q. Were you ever invited in?

10 A. No. I would not say that.

11 Q. Right. So you were never invited in to actually address them,
12 even if you were not part of the Incident Command Team
13 yourself, but to explain to them that night what you considered
14 the position to be. You were never asked?

15 A. No.

16 Q. Right.

17 A. Sir, I didn't consider that my role.

18 Q. When you did hear such facts as you heard, you immediately
19 thought to yourself this sounds like Delta P?

20 A. Yes, the initial explanation, yes.

21 Q. And you communicated that to them, did you?

22 A. Yes.

23 Q. To whom was it that you communicated that please?

24 A. Well, it would have been on two occasions—

25 Q. The first occasion?

26 A. Yes. That would have been to Mr. Flemming and Mr.
27 Yearwood.

1 Q. Flemming and Yearwood?

2 A. Right.

3 Q. Did they appear to understand what you were talking about?

4 A. I can't say. I would have taken it for granted, because when I
5 explained initially, I didn't go in to explain anything at that
6 point in time. So it was just a response to an explanation
7 given—

8 Q. No. But you understand what I'm saying if they appeared to
9 understand what you were explaining to them? You see, if
10 somebody had said to me six months ago what is Delta P, I
11 might have started to guess at it, but probably didn't know. If
12 somebody had said that, I suspect, to most of the people
13 watching this or sitting in his room six months ago, they might
14 not have understood what Delta P was. Do you follow?

15 A. Yes, I understand.

16 Q. So when you were explaining, well, this sounds like Delta P,
17 did they seem to follow what you were saying, or did you have
18 to explain what Delta P was?

19 A. No. At that time, at the first instance, no. When I went upstairs
20 I explained it a little more. I didn't take it for granted.

21 Q. You didn't take it for granted, and you explained it to them?

22 A. A little more, yes, of what may have occurred.

23 Q. Right, what may have occurred. Obviously, from your point of
24 view, it was only your best guess?

25 A. Yes.

26 Q. But your best guess, if I may say so, with 25 years' experience,
27 is rather better than anybody who has not dived ever in their

1 lives. Yes?

2 A. Yes.

3 Q. Right. Thank you.

4 **Mr. Chairman:** Thank you, Mr. Maharaj.

5 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

6 **Continued Examination By Mr. Maharaj SC:**

7 Q. And just to continue, you stayed at Paria for Friday night?

8 A. Yes.

9 Q. Until Saturday morning?

10 A. Yes, Sir.

11 Q. And during that period of time, Paria did not request you to
12 assist with actually diving services?

13 A. The first request would have come at Saturday morning?

14 Q. Around what time?

15 A. So this would be a debriefing a little after 12 midnight.

16 Q. After—

17 A. Yes. So this is between twelve and one o'clock.

18 Q. Mr. Seales, we have had that evidence before this Commission
19 that Mr. Boodram came out of the pipe—that is one of the
20 divers—came out of the pipe at around 5.30/5.45 p.m. on the
21 Friday night. Okay? So bear that in mind. I want to ask you
22 your view on that. And he said that four other divers were in
23 the pipeline. Now, you knew that this was a 30-inch diameter
24 pipeline?

25 A. Yes.

26 Q. Right. If a rescue had to be done to take those men out of the
27 pipeline, if a rescue had to be done, would you agree with me

1 that a rescue had to be done urgently if the men were to come
2 out alive?

3 A. Yes.

4 Q. In your view, in your opinion, you have a vast experience from
5 what I'm reading here, very distinguished experience, and you
6 had to advise what timeline there was for a rescue to take place,
7 what timeline would you have given—approximately what
8 timeline?

9 A. My timeline would be within the first five hours of the incident.

10 Q. Within the?

11 A. First five hours of the incident occurring.

12 Q. First five hours of the incident occurring.

13 **Examination By Mr. Chairman:**

14 Q. Did anyone ever ask you your opinion for a timeline as to
15 effecting a rescue?

16 A. No.

17 Q. What you've just told us now, just this minute, five hours or so,
18 was never asked of you either by any of the people who were
19 engaging you or the IMT?

20 A. No.

21 Q. Had they asked you, would you have told them what you told
22 us?

23 A. Well, I would have asked for more information first—

24 Q. I dare say you would have because you weren't being given
25 very much from what you said. But can I understand hither,
26 doing your best now, if you'd been asked, that is the sort of
27 timeline—you now know what the facts are. So would that

1 have been your timeline, the same as what you've just told Mr.
2 Maharaj?

3 A. Yes, and that would be on the outer limits.

4 Q. That would have been the outer limit?

5 A. Yes.

6 Q. Right. Just to take that as a sort of scale, imagine you had a
7 whiteboard and you divided that whiteboard into five separate
8 sections, hour one, hour two, hour three, hour four, hour five,
9 yes, beyond hour five, they're not going to be around, are they?
10 Not alive anyway or pretty unlikely? That would be your view?

11 A. Unlikely.

12 Q. Yeah. So if you got this five-hour window at the outside, as
13 you put it, you'd look to see what could be done in the first
14 hour, because that's their best chance, isn't it?

15 A. Yes.

16 Q. Then you'd look to see what—in the second hour, and so on, by
17 way of a scale, wouldn't you?

18 A. Yes.

19 Q. You now know, I anticipate, if you didn't then but now know,
20 that the incident itself happened at about 2.30-ish, 2.45, just say
21 between 2.30, 2.45—let's call it 2.45—and we know that Mr.
22 Boodram came out of the pipe about three hours later, perhaps,
23 5.30 maybe a little bit less than three hours later—

24 A. Yes.

25 Q. So two and a half hours, as a minimum, had already been used
26 up, as it were, not—in fairness to everybody—nobody had
27 appreciated that they were necessarily sucked into the pipe.

1 And you weren't consulted until pretty late on in the day. But
2 be that as it may, about two and a half hours had already
3 passed, so half of your time has already been used, isn't it?

4 A. Yes.

5 Q. Renewed hope, I imagine, for those who were seriously
6 interested in rescuing these men when Mr. Boodram comes out
7 of the pipe, because he's alive?

8 A. Yes.

9 Q. And he's made his own way out, hasn't he?

10 A. Yeah.

11 Q. So renewed hope, as I put it, that the remainder of the men in
12 the pipe might be rescued still even two and a half hours after
13 the initial incident, do you see?

14 A. Well, what they will be taking into consideration is that he
15 would have been using the resources within that period also.

16 Q. Yes, clearly, which may shorten your five-hour timeline, isn't
17 it, rather than extending it. Were you made aware of whether or
18 not there were any air pockets in this pipeline?

19 A. At that time, no.

20 Q. You subsequently heard that presumably?

21 A. Yeah.

22 Q. All right. But in any event, your outer limit timeline is five
23 hours; two and a half hours were before Mr. Boodram comes
24 out—half the time used up. And as you now know, he had used
25 some of the air that was available to those men, which left you
26 with a two and a half hour window at best. Correct?

27 A. Yes.

1 Q. Tell me this: In assessing the risk to you and/or any other diver
2 in going into that pipe to rescue those men, is the timeline a
3 critical factor?

4 A. Timeline is a factor, yes, for the personnel, but effecting a
5 rescue you have to consider the risk to the rescuer.

6 Q. No, I follow that. But as you told us, I think, in the summary,
7 one of the factors you were considering is later on when you
8 were looking at going into the—you were being asked about
9 entry into the pipe to remove a bottle?

10 A. Yes.

11 Q. An air bottle? That is a factor, isn't it?

12 A. Yes.

13 Q. Am I really going to risk a man to remove an air bottle? It must
14 be the question that you ask yourself, wasn't it?

15 A. Yes.

16 Q. That is different if you'd known, for example, if there was a
17 man there alive where that bottle was, you might say, well, it is
18 worth risking a man to save that man. But to save a bottle or to
19 move the bottle out the way, it's a different dynamic, isn't it?

20 A. Yes.

21 Q. Yes. All right. So, really, I suppose what I'm asking you is
22 this, is that as more time passes, so the value in risking
23 someone's life to go and effect a rescue diminishes, doesn't it?

24 A. Yes.

25 Q. Thank you.

26 **Mr. Chairman:** Thank you, Mr. Maharaj.

27 **Mr. Maharaj SC:** Much obliged.

1 **Mr. Chairman:** I think Mr. Wilson has a question.

2 **Examination By Commissioner Wilson:**

3 Q. Good morning, Mr. Seales.

4 A. Good morning.

5 Q. Just listening to you there, I would like to have your opinion,
6 and I guess get a little more clarification. You're basing the
7 five hours in and around of probable survival based on you
8 knew a diver came out, yeah, that somebody survived and came
9 out. But with your knowledge of Delta P, and that's what I
10 needed clear, with that violent event, are you able to put a
11 timeline of survivability once you were made aware of initial
12 incident; men going into the pipeline; your training and your
13 knowledge indicates Delta P.

14 A. Yeah.

15 Q. Your first thoughts about that, men going into a pipeline after
16 suffering Delta P, you would still apply a survivability window
17 with you a—

18 A. No.

19 **Commissioner Wilson:** Okay, thank you.

20 **Examination By Mr. Chairman:**

21 Q. Well, when you say, no, you mean longer?

22 A. Shorter.

23 Q. So having identified Delta P, that five-hour window may even
24 be less?

25 A. Yes—and the emergence of Mr. Boodram. So the fact that you
26 could have applied survivability was Mr. Boodram supposedly
27 coming out of the pipe.

1 Q. Right. So you got—thank you. So you got Mr. Boodram
2 coming out of the pipe. Did you know that he had told those
3 who rescued him from the pipe that the others were in the pipe
4 and alive?

5 A. No. At time of—until later on that night into the wee hours
6 of—

7 Q. Into the wee hours of Saturday morning?

8 A. Saturday morning, yeah, that's when I would have got the
9 information.

10 Q. That's when you first knew that. When did you first know that
11 he had said there were air pockets in the pipe?

12 A. Could have been around that same time.

13 Q. Same time. So you didn't discover that until the early hours of
14 Saturday morning?

15 A. Well, yes, late Friday night into Saturday morning.

16 Q. Late Friday night into Saturday. So well past your window?

17 A. Yes.

18 **Mr. Chairman:** Thank you.

19 Thank you, Mr. Maharaj.

20 **Continued Examination By Mr. Maharaj SC:**

21 Q. So it may have been implied, but on the Saturday morning or
22 during the Saturday morning period or during Saturday was the
23 first time you were asked your advice and sought help in
24 respect of the men in the pipe?

25 A. Yes.

26 **Mr. Chairman:** Is there a time on that, Mr. Maharaj?

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. Around what time was that on Saturday morning?

2 A. It is approximately 12.15.

3 Q. Twelve-fifteen?

4 A. Approximately.

5 Q. And at that time that would have been way past what you have
6 just told us, having known the facts, that timeline of about five
7 hours?

8 A. Yes.

9 Q. I just want to ask you one more question which I would like to,
10 I think, might help us. You said in paragraph 1 you are the
11 client representative and diving operations supervisor of
12 Heritage. Correct?

13 A. Yes.

14 Q. What those functions entailed at Heritage?

15 A. Basically, I coordinate and supervise all diving operations and
16 ensure compliance to HPCL's requirements and industry best
17 practice. I have other non-diving specific functions also and
18 administrative duties.

19 Q. If I may ask you this: if you were the client representative of
20 Paria, would you have the same kind of functions?

21 A. Maybe.

22 **Mr. Maharaj SC:** Okay. No further questions.

23 **Mr. Chairman:** Who else would like to ask Mr. Seales any
24 questions? [*Hands raised*] Right. Ms. Alfonso, please, first.
25 Please introduce yourself?

26 **Ms. Alfonso:** Thank you, Mr. Chairman.

27 **Cross-Examination By Ms. Alfonso:**

1 Q. Good morning, Mr. Seales. My name is Nyree Alfonso. I
2 represent the interest of the SWWTU.

3 A. Good morning.

4 Q. I just have a few questions to ask you. Are you yourself, Mr.
5 Seales, a Dive Supervisor?

6 A. Yes, I am.

7 Q. Okay. Are you still an active diver?

8 A. No, I'm not.

9 Q. Okay. Right. As part of your commercial diving experience—
10 and I agree with my learned senior; very impressive
11 credentials—you would have received training with respect to
12 the—part of your course would have been the rescue of divers?

13 A. Yes, it is.

14 Q. Okay. And also diving into confined spaces?

15 A. Not specifically, no.

16 Q. Not specifically. But rescue?

17 A. Yes.

18 Q. Okay, thank you. Speaking of which, you would have said that,
19 um, you are the client representative for—at Heritage?

20 A. Yes, I am.

21 Q. Are you in charge of a—or part of a diving department, or unit,
22 or any of those things? Or is it just you yourself?

23 A. No, it's just me.

24 Q. Oh, I see. But in Petrotrin you were part of a division, unit,
25 department?

26 A. Yes, a department, a Diving Department.

27 Q. Department, I see. So with the closure of Petrotrin, that

1 department, I guess, went the same way as Petrotrin?

2 A. Yes.

3 Q. I see. Now, you've said in your witness statement you were
4 only in communication with OTSL and Mitchell's Professional
5 Diving Service. Yes?

6 A. Yes.

7 Q. Okay. And specifically, you were in contact with the two
8 diving supervisors of each of the companies?

9 A. Yes, I was.

10 Q. On the Gulf Stream Eagle was—is it Mr. Paul?

11 A. Yes, it was.

12 Q. Right. And from rather MPDS it was Mr. King?

13 A. Yes, it was.

14 Q. Okay. So what I see from your witness statement is by 8.20
15 you've communicated with OTSL and they tell you we already
16 on site?

17 A. Yes.

18 Q. And they were in the Gulf Stream Eagle, a diving vessel. Yes?

19 A. Yes.

20 Q. Okay. And did they tell you, Mr. Seales, that they were on
21 standby waiting for instructions?

22 A. Yes.

23 Q. Did Mr. King tell you something similar?

24 A. Yes.

25 Q. And shortly thereafter he would have told you the same thing?
26 We started at 8.20—

27 A. That would have been approximately 8.40.

1 Q. Okay, thank you. So 20 minutes later. Now, we already know
2 from the information you just gave, you got very late and
3 limited information with regard to Mr. Boodram emerging from
4 the pipe and the timing in which he came out of the pipe. Did
5 you pass that information on to Mr. King or Mr. Paul?

6 A. No, not immediately.

7 Q. Okay. Did you pass it on at all?

8 A. No. The conversation I would have had with Mr. Paul and Mr.
9 King would have been after the request was made for our
10 support.

11 Q. Okay. Sorry, I don't think I followed you there. So you do
12 speak to Mr. King and Mr. Paul, one at 8.10, one at—sorry,
13 8.20 and one at 8.40?

14 A. Yes.

15 Q. Okay. By that time by your evidence this morning, you did not
16 know that Mr. Boodram had come out of the pipe, because if I
17 follow it is about nine o'clock?

18 A. Right. So at this time there was no communication of the
19 details surrounding the incident to Mr. King or Mr. Paul,
20 because I was also unaware.

21 Q. Okay. That I understand. So subsequently when you—nobody
22 could ask you to relay information before you get it.

23 A. Yes.

24 Q. So when you did get the information, which I believe is around
25 nine o'clock that night, that Friday night, did you communicate
26 that to the two dive supervisors?

27 A. No, I can't recall we had that conversation.

1 Q. So as far as you know, you remained on standby whether on
2 land or on a vessel?

3 A. Yes.

4 Q. Okay. You yourself, Mr. Seales, using that terminology
5 “standby” indicate from about 11.30 you are also on standby?

6 A. Yes.

7 Q. Awaiting instructions. To be fair, from your witness
8 statement—

9 A. Yes.

10 Q. You’re awaiting instructions from somebody from Paria?

11 A. Yes.

12 Q. Right. Did you ever receive such instructions? You say you
13 were waiting for instructions. So you’re a diver, so I assume
14 you’re waiting for instructions with respect to diving?

15 A. Yes. So the request came at approximately after 12.15.

16 Q. Okay. So the first request you get—you reached the building
17 where the Incident Command Team is, you reached at 6.30?
18 Yes, around 6.30 you reached?

19 A. No, no.

20 Q. No?

21 A. 9.30.

22 Q. Oh, yes, I beg your pardon. You departed Heritage premises at
23 6.30?

24 A. Yes.

25 Q. And you say yes. I hate 24-hour time. So it’s at 8.20 you
26 reached to Paria’s administrative building, you say?

27 A. Yes.

1 Q. Right. So the first request—and you go up to this office, this
2 vacant office you say, and you await instructions?

3 A. Yes.

4 Q. And the first time that somebody makes a request of you—
5 forget instructions—the first time somebody makes a request of
6 you is after midnight?

7 A. Yes.

8 Q. During the course of the night, Mr. Seales, would you have
9 reached out to somebody called Dr. Glenn Cheddie? I hope I'm
10 getting his last name right.

11 A. I may have. I can't recall.

12 Q. Is he one of the people you reached out to for a remote camera,
13 an ROV?

14 A. No, it may have been an unofficial request.

15 Q. Sorry?

16 A. It may have been an unofficial request. So overhearing
17 conversations, I may have called him to ask him if he knows of
18 an available ROV.

19 Q. Okay. And you may have done so because you know him to
20 have that kind of equipment?

21 A. Yes.

22 Q. Okay. So you do recall speaking to Dr. Glenn Cheddie?

23 A. Yes.

24 Q. Okay. Did Mr. Cheddie give you any suggestions—you would
25 have told him what transpired, of course?

26 A. Yes.

27 Q. You're not asking—

1 A. Well, [*Inaudible*].

2 Q. Okay. You must have told him, look, I want this because I
3 think some men are down in a pipe, or something like that?

4 A. No. Well, actually he was aware of an incident.

5 Q. Oh, he was aware. He was aware of an incident?

6 A. Yes.

7 Q. Did Dr. Cheddie volunteer—he's a diver himself, yes?

8 A. Yes.

9 Q. He's an instructor?

10 A. Yes, he is.

11 Q. Right. And a supervisor as well?

12 A. Yes.

13 Q. Okay, so he's a dive instructor. Did he volunteer any
14 information, Mr. Seales, with regard to—because he knew of
15 the incident?

16 A. No.

17 Q. He didn't volunteer any—

18 A. No.

19 Q. Methodology? Approach?

20 A. No.

21 Q. Suggestion?

22 A. No.

23 Q. No. Okay, thank you for that. In this conversation you referred
24 to on Saturday in the wee hours of Saturday, Mr. Seales, in
25 Paria's Incident Command Centre, you were the only diver
26 present?

27 A. Yes, that I'm aware of.

1 Q. Okay. And, Mr. Seales, why is it if you are the only—okay. So
2 questions were being posed, a proposal was being put out
3 there—in here, paragraph 24 of your witness statement. You’re
4 right—if you could probably look at that?

5 A. Yes.

6 Q. So Mr. Piper was asking you something about could you send
7 your divers to do something?

8 A. Yes.

9 Q. To remove the tanks, right?

10 A. Yes.

11 Q. Now, you just said you are the only diver in Heritage. So this is
12 either Mitchell’s Diving or OTSL? When it says, “my divers”,
13 who did you think that was?

14 A. No, well, again, it had to be probably the resources available.

15 Q. Okay. But the only resources that you were in communication
16 with was OTSL and—

17 A. And Mitchell’s.

18 Q. And Mitchell’s, okay. And then you posed a number of
19 questions?

20 A. Yes.

21 Q. You don’t volunteer information or volunteer methodology
22 based on your considerable experience?

23 A. No.

24 Q. So you are the only diver there and you asked Mr. Piper how is
25 this going to be done; how is the diver going to be introduced
26 into the tank; whether he will have this kind of equipment or
27 that kind of equipment?

1 A. Yes.

2 Q. Okay.

3 A. No, but this is not for Mr. Piper *per se*. It's a matter of, these
4 are considerations when you are planning the activity.

5 Q. Okay. So you were posing these questions so that—

6 A. Just to have an appreciation for what the activity entails or will
7 entail.

8 Q. Okay. As the only diver present, Mr. Seales, you know, you
9 didn't think that you the person could put forward a plan?

10 A. No. At that time, no, because it was a request for assistance. I
11 had no divers available to me in terms of under my direct
12 command. We have dive supervisors who have their dive team.
13 So what I would have done is gather as much information that I
14 could have to communicate to them to form an intervention if
15 required.

16 Q. Okay. But did you do—using your own words, did you do
17 what you just said?

18 A. Yes. So we—

19 Q. You gathered information?

20 A. Yes. So the questions that I would have asked, which one of
21 them would have been how high is the riser above the deck. So
22 earlier the question would have been—well, they would have
23 said that the riser was 10 feet from the sea surface.

24 Q. Eight to 10 feet you say in your witness statement?

25 A. Right, but that wasn't. So the question I asked was to, again,
26 gather information and have an appreciation for the site itself.
27 And that eight to 10 feet, the question I asked was above the

1 deck of the structure. So it wasn't from the splash zone or the
2 sea level. It would have been from the deck. So you would
3 have had an additional interface from the deck now to the sea
4 surface. So in an addition to the eight to 10 feet, you would
5 also have an additional distance from the deck to the sea
6 surface.

7 Q. Okay. I understand why you were asking the questions.

8 A. So this is information now that I would have gathered too, so
9 when I'm communicating to OTSL and Mitchell, I could
10 inform them of site-specific information.

11 Q. So my question was, did you relay this information that you
12 solicited or elicited from these questions—

13 A. Yes.

14 Q. —that you posed to members of the ICT team, one presumes,
15 yes?

16 A. Yes.

17 Q. So you relayed that information, that's after midnight?

18 A. Yes, and we would have also conducted a site visit.

19 Q. I see. Who is "we", Mr. Seales?

20 A. OTSL and Mitchell's.

21 Q. I see.

22 Thank you very much, Mr. Seales. That's all, thank you.

23 **Mr. Chairman:** Mr. Ramadhar, we missed you yesterday.

24 **Mr. Ramadhar:** After Mr. Peterson indicated that no one
25 liked me, I'm delighted to hear that I was missed yesterday.
26 Thank you so much for that.

27 **Mr. Chairman:** He's misrepresenting the facts.

1 **Mr. Ramadhar:** I'm so grateful for that. Thank you so much.
2 And it's good to be back before you, Sir.

3 **Cross-Examination By Mr. Ramadhar:**

4 Q. Good morning, Mr. Seales.

5 A. Good morning.

6 Q. First of all, let me thank you for the efforts that you would have
7 made of your personal time and energies to do what you could
8 to assist. Yes?

9 A. Thanks, Sir.

10 Q. Now, to be fair, you were there in a capacity as a resource to
11 Paria and a resource for rescue or whatever else would have
12 been required?

13 A. Yes.

14 Q. Yes. Tell all of us, please, for a decision to be taken, what is
15 the most important thing you would require? Not information?

16 A. Yes.

17 Q. Yes. And you had a wealth of experience as a diver. Correct?

18 A. Yes.

19 Q. Yeah. No trick questions here. So relax yuhself, okay? I do
20 mean we are grateful to you. So you being the only diver in the
21 environment where decisions were to be made, questions were
22 posed, and so—now, I want to be clear. The first time you
23 learnt that there may have been live men in that pipe, remind us
24 what time were you given that information?

25 A. That will be between—after 10, midnight.

26 Q. After 10 to midnight?

27 A. Yes, Sir.

1 Q. Did you consider for a moment that there might have been a
2 need for rescuing persons when you left Heritage to come to
3 Paria?

4 A. I would have said—I will say yes, because an incident would
5 have occurred.

6 Q. Yes. But when you got there, no one who greeted you
7 informed you, first of all, as we've heard that you told us very
8 frontally, that Christopher Boodram had exited the pipe before
9 six o'clock that evening. Correct?

10 A. Yes.

11 Q. Had you been given the information upon your arrival—well,
12 did you consider that to be critically important information to
13 help you give advice?

14 A. Well, to be honest, I wasn't there in the capacity to give advice.
15 So the fact that it wasn't forthcoming initially—because as I
16 would have explained earlier, I entered into an active
17 emergency management system. So LMCS should have had
18 their emergency response plan effected.

19 Q. We get all of that, we got all that, and we're grateful, right?

20 A. Yes.

21 Q. But you as a human being first—

22 A. Yes.

23 Q. —knowing what you do today as you sit here, did you not—
24 would you not now, reflecting upon it, consider that that bit of
25 information to have been critical—

26 A. Yes.

27 Q. —to be shared among the team of resources assembled like The

1 Avengers?

2 A. Yes.

3 Q. Yes. Had you known that Christopher Boodram had exited
4 alive from the pipe at around that time, would you have acted
5 differently? In other words, your decision-making process,
6 whether they asked you to or not, would you not have
7 volunteered some suggestion, "Listen, I'm a diver. These are
8 the things we can or cannot do"?

9 A. Yes.

10 Q. Thank you. Now, it shocked me, and I'm going to ask the
11 question again because I want to give you an opportunity to
12 reflect whether your answer is correct. When was the first time
13 you learnt that there would have been live men in that pipe?

14 A. Between 10 and midnight.

15 Q. Do you, sitting as you are today, find it shocking that that
16 information wasn't given to you upon your arrival? I'm not
17 blaming you, right?

18 A. Yeah.

19 Q. Garbage in, garbage out, as we say.

20 A. No. Well, again, to be fair, I can't say that information was
21 available at that time. That was the impression I got.

22 Q. The impression you got. What was the impression you got?

23 A. In terms of life; proof of life.

24 Q. Proof of life. So you got no impression when you arrived that
25 there was even the need for proof of life within the pipe or the
26 surroundings? Is that accurate?

27 A. Yes.

1 Q. In fact, wasn't it more an environment of death and disaster
2 honestly?

3 A. An incident.

4 Q. Yes. Was there any anxiety that you would have observed from
5 anyone from Paria, Piper, whomever, to endeavour any rescue
6 into the pipe? Even if you were not told about men being alive,
7 did you—I mean, you're there, you're observing, and your
8 reputation precedes you, right, in terms you are not—you are a
9 great—you know, you observe, and you're very sharp. Did you
10 observe any anxiety or even a discussion for a rescue into the
11 pipe?

12 A. I would say yes.

13 Q. Good. Rescue what, the tanks?

14 A. No, I would say yes in terms of they were feverishly working to
15 gather information and resources.

16 Q. To what end? That's the point.

17 A. I can't say.

18 Q. You didn't know. But the first time you—they made an
19 enquiry of you was to retrieve or remove a blockage?

20 A. Yes.

21 Q. And as the Chairman put it, to retrieve a tank, yes?

22 A. Yes.

23 Q. Up to that time nobody is saying men had been alive; one came
24 out alive, and at the time that you may have been present, they
25 may still have been alive. Nobody hinted that to you?

26 A. No. Well, at that time, which would be approximately 12.15,
27 they were trying to ascertain?

1 Q. Ascertain what?

2 A. Information in terms of from inside the pipeline.

3 Q. About the tanks?

4 A. Well, I would not say the tanks, because—

5 Q. When—because remember you just told us—I'll repeat. What
6 is the time you first learned that men had been alive at the time
7 you were there before? When? Not after 12?

8 A. No, just before—what I'm saying, so between 10 and
9 midnight—so between 12 and that conversation—

10 Q. Yes.

11 A. —the request to remove the tanks was for the camera to go
12 further into the line.

13 Q. Excellent, excellent. And were you even informed as to the
14 purpose the cameras going in? Was it for the furtherance of
15 exercising a rescue of human beings?

16 A. Yes.

17 Q. Really?

18 A. Yes, I would assume that.

19 Q. No, no, I ain ask you about assume. What were you told?

20 A. No, I wasn't—I wasn't going to say; I wasn't told to say—

21 Q. Right, okay. So you were kept out of that information loop.
22 Correct?

23 A. Yes.

24 Q. Yes. And you were there to grant whatever assistance possible.
25 You are the trained diver. You are aware that divers have
26 found themselves in difficulties within a confine of a pipe
27 before? Not personally, you know, but you are a well-read man

1 and in part of your training you know that that is part of the
2 dangers of a diver going into water in a pipe-ridden area?

3 A. Well, I can't say so.

4 Q. Why can't you say so?

5 A. It's not a common practice.

6 Q. Not common. I ain ask you 'bout common. But is it out of the
7 realm of the possibility that divers in a pipeline environment
8 could find themselves in problems within a pipeline?

9 A. Yes.

10 Q. Thank you very much. Now, you are the first one to tell these
11 noble gentlemen of Paria that there may have been a Delta P
12 situation. Is that accurate?

13 A. I can't say.

14 Q. Okay. But you are the one who told them about it. You told
15 them?

16 A. Yes. So in my conversation, I can say yes.

17 Q. Yes, right. You are at Heritage. You're in the industry for
18 many years. Isn't it by definition pumping, isn't it the use of
19 Delta P, pressure differentials?

20 A. Yes.

21 Q. To move oil, to move water? Isn't that the business of
22 pumping?

23 A. Yes.

24 Q. Thank you. So it will be stunning that if anybody would
25 suggest that a Delta P situation would not have been a credible
26 risk for men who are diving within a chamber with a pipe,
27 wouldn't that be stunning to you that a Delta P was not a live,

1 and clear and present danger?

2 A. Yes.

3 Q. Thank you. Now, you know Mr. Piper for many, many years,
4 isn't it?

5 A. No.

6 Q. When did you first know Mr. Piper?

7 A. At 9.30.

8 Q. First time you're meeting him?

9 A. Yes.

10 Q. Right. But he was the Commander of the Incident Management
11 Team?

12 A. Yes.

13 Q. He was the boss as far as you were aware?

14 A. Yes.

15 Q. Yes. You appreciate divers, first of all, are not like normal
16 landlubbing people, right? They take risks daily into going into
17 an unnatural environment, meaning that you can't breathe under
18 water unless you have devices. Is that accurate?

19 A. Yes, it is.

20 Q. Yeah. And, therefore, you are trained, first of all, differently
21 from the average landbound human being. Correct?

22 A. Yes.

23 Q. Yeah. You appreciate that you are prepared in that—would I
24 call it a hostile environment, under water? Would you consider
25 that to be a hostile environment with dangers of crocodiles,
26 sharks, currents?

27 **Mr. Chairman:** I'm not sure where you swim.

1 **Mr. Ramadhar:** Close to where Mr. Peterson is.

2 **Continued Cross-Examination By Mr. Ramadhar:**

3 Q. Yes. There are dangers there, inherently. Correct?

4 A. Yes.

5 Q. And, therefore, you are prepared to meet in that hostile
6 environment, challenges that may be not readily foreseeable.

7 Correct?

8 A. Yes.

9 Q. Yeah. Now, going into a pipe that may have oil, may have
10 water, and not the largest of pipes, a 30-inch diameter is
11 something that is doable, isn't it?

12 A. I would say no.

13 Q. No?

14 A. No.

15 Q. You have never gone into a confined space in all your years as
16 part of your practice or training?

17 A. Not a 30-inch pipeline.

18 Q. Okay. What's the largest you went into—or the smallest,
19 sorry?

20 A. No. Again, I never went into a pipeline.

21 Q. There you go. But you do know that it is not just possible but it
22 happens from time to time?

23 A. With careful consideration.

24 Q. And proper equipment?

25 A. And proper equipment.

26 Q. Yes. At the time you were at the scene, you observed
27 equipment, diving equipment, to be clear?

1 A. No. So the only equipment I would be aware of would be
2 Mitchell's and OTSL.

3 Q. Right. What time did you first go to the scene of the incident?

4 A. Berth 6, would have been—maybe around, I think, could be
5 around one.

6 Q. One o'clock, 1.00 a.m.?

7 A. On Saturday, yeah.

8 Q. Anything prevented you from going before—before one?

9 A. I would say, yes, because of, again, I entered into an active
10 system. So I wasn't free to do what I want.

11 Q. No, of course, of course. You're basically a pawn where
12 wherever they ask you to go, you go?

13 A. Yes.

14 Q. Whatever they ask you to do, you would do. That's why we're
15 grateful to you. But having gone there at this time, one o'clock
16 in the morning, you saw diving equipment?

17 A. No. Well, the diving equipment, again, that I would have seen
18 would have been on the Gulf Stream Eagle.

19 Q. Right. So let's get it clear now. To go into a confined space,
20 you certainly would need oxygen supply. Correct?

21 A. Yeah.

22 Q. Tell all of us here, what is the technology that is available and
23 was available in Trinidad and Tobago on the 25th February,
24 2021, to supply oxygen to a diver, apart from tanks?

25 A. Air. No, you're saying oxygen, right. So, air.

26 Q. Sorry, sorry, because you can't give 100 per cent, of course. I
27 appreciate that.

1 A. The equipment that available to—

2 Q. In Trinidad and Tobago or from your knowledge, what would
3 be used to supply air to a diver not using tanks under water?

4 A. Compressors.

5 Q. Right, compressors and a hose?

6 A. Yeah, umbilicals.

7 Q. Umbilicals?

8 A. Yeah.

9 Q. And you, of course, knew that that was readily available that
10 night?

11 A. Yes.

12 Q. Yeah. And as a trained diver there is a language of distress. I
13 don't know the terms, so you'll help me. When a diver is in
14 trouble and he's being tendered, how does he respond to let
15 those who are tendering him know that he has a problem?

16 A. No, you have communication, you have line pull signals.

17 Q. Sorry?

18 A. You have communication and line pull signals.

19 Q. Communication meaning electronic communication. Correct?

20 A. Yes, that's audio.

21 Q. And that part of the umbilical?

22 A. Yes, it is.

23 Q. Yeah. And also the oldest of technology is ah ol' rope, right?

24 A. Yes, and you could signal on the umbilical.

25 Q. Yeah, you could signal on the umbilical?

26 A. Yes.

27 Q. But also on a rope. Tell us if you're in problem, show us now,

1 because we want to learn. Right? If you are in severe danger
2 and you need assistance using the rope—forget the umbilical
3 and the technology of the electronics, tell us the oldest simplest
4 form of communicating that you have a problem and you
5 require assistance?

6 A. Yeah, line pull signals.

7 Q. Show us.

8 A. You tug on the line and there's a specific number of pulls—

9 Q. How many pulls?

10 A. It varies from department—from contractors.

11 Q. Okay. But you know when yuh gehing pull—

12 A. So they establish—yeah. So each pull have different—

13 Q. And what is the response when yuh geh dah pull being the
14 tenderer?

15 A. The tenderer would acknowledge the pull signals.

16 Q. And then what?

17 A. Retrieve the diver.

18 Q. Eh?

19 A. Attempt to retrieve the diver.

20 Q. And how is that done?

21 A. By pulling on the—

22 Q. Simple ol' technology, pull the rope, right? If they in difficulty
23 and they can't help themselves?

24 A. Well, it's depending on the circumstances.

25 Q. Of course; we know. But if after the four pulls you lose
26 communication as an example, what's the natural thing you do?

27 A. The—

1 Q. Tell us for the record. Tell us. It's not a trick question, brother.

2 Tell us, simple things. What do you do?

3 A. You recover.

4 Q. What does that mean?

5 A. No, you pull the—

6 Q. You pull them out. Correct?

7 A. Yeah.

8 Q. So that if a diver wish to go into this dangerous environment,

9 and I say that openly, of a 30-inch pipe, right, with some level

10 of blockage, a tank and some other things, maybe chains and

11 pulleys or whatever, and he finds himself in difficulty, could he

12 not be easily retrieved by the old pull method?

13 A. Not in this circumstance.

14 Q. Why not in this circumstance?

15 A. Because of the diameter of the pipeline. You also will be

16 working around a bend.

17 Q. Yes.

18 A. Now, there are certain requirements for certain activities. The

19 fact that he'll be working around a bend, he will require in-

20 water tender.

21 Q. A what?

22 A. Ah in-water tender.

23 Q. Right.

24 A. So that will be a person at the bend.

25 Q. Beautiful.

26 A. Because the fact that you have that turn, that tube turn—

27 Q. It may interfere with the communication?

1 A. You get that signal, you might not feel the signal, one, and two,
2 in trying to retrieve the diver, you may not be able to pull him
3 out of the pipe.

4 Q. I appreciate that. But did you—sitting as you are today, the 6th
5 January, important day in the United States—the 6th January,
6 2023, you are aware that Michael Kurban actually went in
7 beyond the bend, isn't it?

8 A. I would have heard that.

9 Q. Yes. So it was possible. And he came back out alive and well.
10 Well, I shouldn't say "well" because he lost his dad. But he
11 came back out alive. Correct? You know that?

12 A. I would have heard that.

13 Q. Yes. So it was not impossible. You agree?

14 A. I can't say.

15 Q. We're doing well, you know.

16 A. Yeah, yeah.

17 Q. I want you to say.

18 A. Nah, I can't say. I'm being honest, I can't say because I would
19 have heard. So I can't say exactly what was done. So I would
20 have heard.

21 Q. Right, okay. But you had no reason to doubt that? Whether
22 you have reason or not, the fact is, this is the evidence.

23 A. Yes.

24 Q. Okay. So you know now, assuming that to be correct, that it
25 was possible. Yes?

26 A. Okay.

27 Q. Yeah. Now, let's go a little further. A diver who has the

1 umbilical, meaning you have air supply, electronic
2 communication, and out of an abundance of caution a
3 secondary umbilical cord, ah ol' rope. Right? And that diver
4 goes in and encounters oil, as an example, and for whatever
5 reason, believes that, you know, it's too hazardous to move
6 forward. What would you—you as a diver, what would you
7 do?

8 A. Retreat.

9 Q. Retreat. Yeah. Are you aware at any time that whilst you were
10 there within the confines of the likelihood of life and before it
11 should be extinguished—I think you told us, is it five hours he
12 said? Five hours, yeah, that any effort was made by any of the
13 resources provided by Paria, by Heritage, or so, or any of the
14 dive companies to enter to effort a rescue?

15 A. Repeat the question, sorry?

16 Q. Of course. I know it's kind of long but it's simple when you
17 hear it again. Whilst you were there, did you become aware of
18 any effort by anybody provided by the resources of Paria or
19 Heritage to enter that pipe to try to rescue human life?

20 A. No.

21 Q. No. I understand there's a brotherhood within the diving
22 community. Correct?

23 A. Yes, there is.

24 Q. Yeah. You don't have to know somebody, but once they know
25 it's a brother diver, there's a heightened anxiety to ensure their
26 safety and wellbeing, isn't it?

27 A. Yes.

1 Q. The old golden rule from which that comes: Do unto others as
2 they have him do unto you. Correct?

3 A. Yes.

4 Q. You understand that? That is one of the most important rules
5 for life, for children to grow up with. Yes?

6 A. Yes.

7 Q. Yeah. Do you think, looking back on all you know today that
8 men were alive in that pipe up till 6.00—one came out alive and
9 indicated that there were others alive there—first of all, that it is
10 fair to those who perished that that information not be shared
11 with all those who could have helped?

12 A. Yes.

13 Q. Do you think it was fair to the divers who were alive that no
14 effort was made when we had the technology, the ol' rope, the
15 umbilical, and persons who were willing to go in, that such
16 persons were prevented from making an effort to save their
17 lives? Do you think that's fair?

18 A. I can't say.

19 Q. No, well, listen. Let me help you. Maybe you don't know.
20 There was a professional diver who knew all the risks. He
21 came and he gave evidence, and was willing, knowing all that
22 he did, to go in to rescue. Do you know that?

23 A. No.

24 Q. No? Nobody tell you that even. Isn't it? Because the time you
25 were there until you found out after the expiration or the
26 extinguishment of life, you didn't know that there were live
27 persons to be saved, isn't it?

1 A. No.

2 Q. No. And as a brother in the diving fraternity, do you think that
3 is right that they should be left to die with no effort made to
4 rescue them?

5 A. I can't say. I wouldn't say that's a fair statement.

6 Q. Oh, I am being unfair in the statement?

7 A. Sorry, no.

8 Q. I'm not understanding you. What is unfair about that?

9 A. No, you're saying to leave them to die.

10 Q. Yes, they were left to die, because no rescue was effected.
11 They made no effort to rescue them?

12 **Mr. Chairman:** Can you just pause for a minute, because I'm
13 struggling to hear with the noise going on outside? Just pause.

14 [*Sounds of sirens outside*]

15 **Mr. Ramadhar:** It is alarming evidence also.

16 **Mr. Chairman:** Never a lost opportunity, eh, Mr. Ramadhar.
17 All right.

18 **Mr. Ramadhar:** I missed you, Sir.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. So—

21 **Mr. Ramadhar:** What was that question?

22 **Mr. Chairman:** While you are taking a break—

23 **Examination By Mr. Chairman:**

24 Q. Can I ask you a question? From what you were saying to Mr.
25 Ramadhar about the possibility of a rescue, do I understand you
26 to say that in your estimation whilst it might have been
27 possible, it was necessary for someone to go into the pipe to the

1 bend, and if he was going to go beyond the bend to have
2 another diver at the bend?

3 A. Yes.

4 Q. So in effect, you are putting two divers in the pipe?

5 A. Yes.

6 Q. Would that have anything to do with partly because of the
7 existence of the bend, obviously, and the tighter the bend, if it's
8 a right angle as opposed to a much softer type of bend, it makes
9 it more imperative, I imagine.

10 A. So recommended practice—

11 Q. Yes.

12 A. It's a diver around a bend, it is a penetration dive.

13 Q. Right.

14 A. The fact that that diver is going to make that bend, you lose the
15 opportunity to recover or retrieve in the event of an emergency,
16 one. Two, if he requires signalling, that bend would restrict the
17 ability to even use the line pull signals.

18 Q. So when you were raising these questions, when you were
19 finally being asked to provide your input in relation to the
20 retrieval of a tank, you raising a number of questions yourself
21 within those who were asking you, this would have been one of
22 the considerations that you would have had in mind—

23 A. Yes.

24 Q. —as to how you might ameliorate those risks?

25 A. Yes.

26 Q. Mitigate them. So assuming for a moment Mr. Ramadhar's
27 suggestion that there were willing divers prepared to undertake

1 that task, one to go down to the bend and then beyond and one
2 at the bend, would that facilitate, do you think, a diver being
3 able to go in headfirst, the front one, and the one at the bend
4 feet first, so as to make sure the extraction of diver who went in
5 headfirst could come out at the bend if there was a problem,
6 because otherwise I anticipate a 30-inch pipe if you're just
7 pulling someone out if there's some distress or you're not
8 getting any response and you have to just pull them out, their
9 legs could get in the way at the bend, couldn't it?

10 A. Right. So there'll also be the challenge of inserting a diver
11 headfirst.

12 Q. Sorry?

13 A. Inserting a diver headfirst—

14 Q. Yes.

15 A. There's a risk associated with that also.

16 Q. Exactly, yes. But by the same token, putting him in feet first
17 wouldn't particularly assist in trying to rescue the very divers
18 you're trying to get?

19 A. Exactly.

20 Q. So one way of meeting the difficulty of deciding whether they
21 should go in headfirst or feet first, would be to have one go in
22 headfirst, first, and the second man at the bend feet first.
23 Would that ameliorate the risk?

24 A. No.

25 Q. It's still a risk?

26 A. Yes, because, again, the fact of introducing somebody headfirst,
27 right, now, again, initially, we'd have established that the riser

1 is approximately 10 feet above the deck.

2 Q. Above the deck?

3 A. Yes.

4 Q. So you were told at midnight, or thereabouts, that the riser is
5 now 10 feet above the deck on the berth?

6 A. Right. So when we went to the berth, the opening of the
7 habitat—so the riser is within the habitat, so you'd have to
8 lower a diver from 10 feet above the deck. This is an air—

9 Q. Sorry, I just need to understand what you're saying. Are you
10 saying that the diver couldn't enter the pipe inside the habitat?

11 A. No.

12 Q. How did the diver come out?

13 A. No, that's what I'm saying. So there are different times. So—

14 Q. So by now—

15 A. Right. So the time that I'm aware of what was available would
16 be a riser above surface.

17 Q. Right. You mean the habitat being removed?

18 A. No, the habitat is still there and the riser is within the habitat,
19 and the habitat ends at approximately 10 feet—eight to 10 feet,
20 which is I was told, above the deck.

21 Q. Right.

22 A. So you are going to introduce a diver in an airspace, so you are
23 going to suspended a diver.

24 Q. Right.

25 A. So the diver could pass out.

26 Q. So that I understand it—Someone, perhaps, remind me when
27 the riser was added? [*Crosstalk*] About 10.00 p.m. that night.

1 Thank you. So by the time you were being consulted on this,
2 they'd already added this riser?

3 A. Yes.

4 Q. Were you aware of the fact that up until about ten o'clock you
5 could have accessed the pipe by going up into the habitat and
6 into the pipe—a little lower than the level, but, I mean, it was
7 within the habitat, because Mr. Boodram came out that way.

8 A. Yeah.

9 Q. It's only by about ten o'clock, I'm reminded, about ten o'clock
10 this new riser had been fitted to make it a lot longer so that it
11 came above the surface of the sea. And I get what you're
12 saying now. So in effectively, you're now suspending a diver
13 all the way down the pipe before he even hits any fluid?

14 A. Right. So you have 10 feet, approximately. Then you have
15 from the deck to the sea surface which may be what we would
16 have observed to be about five feet or more.

17 Q. Right.

18 A. Then you may not have fluid until below where the riser was
19 reattached, the flange, which is another 15 feet.

20 Q. So it's a long way to—

21 A. So you're looking at suspending a diver headfirst
22 approximately 30 feet.

23 Q. Yes, a pretty unenviable position, yeah.

24 A. Yeah.

25 Q. So, actually, adding the riser made it more difficult, not less
26 difficult, to go in headfirst, certainly?

27 A. Yeah.

1 Q. I mean, obviously, it would be much more efficacious, much
2 more practical to have someone going in headfirst if he's going
3 to try and rescue someone?

4 A. Yes, practically.

5 Q. Because feet first, it's very difficult to do anything once you hit
6 somebody?

7 A. Yeah.

8 Q. But in order to mitigate the going in headfirst, you'd need
9 someone, as a bare minimum, at that bend.

10 A. Headfirst or foot first. So despite which direction you enter the
11 tube, the pipeline, you need a tender—you need ah in-water
12 tender.

13 Q. Right. For the moment let's ignore the fitting of this additional
14 riser. Okay?

15 A. Yeah.

16 Q. Imagine we're just inside the habitat, so that you can—I
17 wouldn't say hop into, but you know what I mean, climb into
18 the pipe relatively easily, unlike being suspended by a chain
19 through maybe 30 feet of pipe. I mean, there's a difference,
20 obviously. But if I said to you at the time before this riser was
21 put on, what we're planning to do is put one diver in headfirst
22 within the habitat and the second diver in feet first; first diver
23 goes in the horizontal; the second diver stays at the bend, would
24 that meet some of the concerns that you might have?

25 A. No. Again, so headfirst will still be a challenge.

26 Q. Still a challenge?

27 A. Yeah, because you have to climb—

1 Q. So you would say don't go—

2 A. Don't go headfirst.

3 Q. Go in feet first?

4 A. Yes.

5 Q. Whatever you're going to do, do it feet first?

6 A. Feet first, yes.

7 Q. All right. So working on that premise, I mean, I'm just using
8 your skills now in the same way that perhaps the IMT might
9 have done. But let's just consider it for a moment. If you
10 went—I'm testing you as a diving expert. You're saying, okay,
11 you can't go in headfirst, you got to go in feet first. So feet
12 first, one diver goes in feet first with the appropriate equipment,
13 which I understand to be an umbilical cord, proper helmet of
14 some kind, communications, both electronic and the old style as
15 Mr. Ramadhar's, pulling a bit of rope; he has both of those—
16 going in feet first; lights, that sort of thing, yes?

17 A. Yes.

18 Q. So he's the first diver. The second diver went exactly the
19 same?

20 A. Yeah.

21 Q. He stays at the bend. You could presumably even see him
22 down there, 30 feet down?

23 A. No.

24 Q. Well, the water was clear we're told?

25 A. No, but I think the depth was approximately 50 to 60 feet.

26 Q. It is, yes, but there wasn't that much water in it?

27 A. Oh, no, but the bend that we're referring to is the tube turn, so

1 this is at the seabed. And this may even be below the mud line.

2 Q. All right. Well, either way he'd have torch and he'd see the
3 light presumably?

4 A. Not necessarily.

5 Q. Would he not?

6 A. No.

7 Q. All right. Well, I only asked because occasionally I've done a
8 little bit once or twice been diving myself and used a torch, and
9 it does shine quite a long way. But never mind. Be that as it
10 may, both divers are now in.

11 A. Yeah.

12 Q. They've both got communications, both old style and new style,
13 all right?

14 A. Yeah. And we're referring to entering where? At the habitat?

15 Q. Yes, entering through the habitat.

16 A. Right. So you'll need another tender.

17 Q. Oh, you need people in the habitat?

18 A. Another—no. You need another in-water tender, because that's
19 another bend.

20 Q. No, it's not.

21 A. So it's more complex.

22 Q. It's straight down.

23 A. Oh, no.

24 Q. In the habitat the pipe is open like this. It goes straight down.

25 A. Yeah. But to enter the habitat you'll have to pass on the outside
26 of the habitat, enter between the habitat and the riser and then
27 go back down.

1 Q. You mean the umbilical cord?

2 A. Yeah.

3 Q. Right.

4 A. So it actually have more turns now.

5 Q. They have to go two times, yes, to back up on to the surface.

6 A. One, two, three, yeah. So you'll actually have a bend at the
7 bottom of the habitat, another bend at the flange, and then
8 another bend at the tube turn.

9 Q. Like an S bend, yeah?

10 A. Yeah.

11 Q. So you'd have to have men stationed there making sure that—

12 A. And these men would be divers.

13 Q. One would have to be in the water all the time?

14 A. Yeah.

15 Q. One would be in the habitat. So that's the kind of plan you
16 would be looking at?

17 A. Yes.

18 Q. Right. What you're identifying to me is—what you're saying
19 to me is, look, this is all possible but this is what you need?

20 A. Yes.

21 Q. You need a man in the water outside the habitat; you need a
22 man inside the habitat to ensure the cable is going in; another
23 man at the bend; you need one in the pipe to go along to effect
24 the rescue; they've got to go feet first. All of these things are
25 things that you're identifying for us as a possible way that you
26 might rescue these men?

27 A. Considerations.

1 Q. So what you're saying is, is that it's not impossible to do but it
2 is difficult to do?

3 A. Yes.

4 Q. And you need the appropriate number of divers or personnel
5 who can be relied upon to carry out that task and a willingness
6 to do so?

7 A. Yes. And I notice we keep using the word divers, right, but it's
8 a team. And the supervisor of the dive is the person who would
9 be responsible for—so it's not a matter of willingness of a
10 diver. It's a matter of the person responsible for the dive
11 ultimately.

12 Q. So he has to take the responsibility?

13 A. Yes. So you have to have some—

14 Q. But when I say willingness, I mean no one would order
15 someone to go into the pipe.

16 A. Yes.

17 Q. It would have to be voluntary.

18 A. Yes.

19 Q. That's what I mean by willingness, if you follow what I mean.
20 I don't anticipate anybody would seek to force another to go
21 into the pipe in these circumstances. You would have to have
22 somebody say, "I am prepared to do it."

23 A. Yes.

24 Q. And, of course, a supervisor who's prepared to take the risk of
25 letting him do it.

26 A. Yes.

27 Q. And the responsibility.

1 A. Yes.

2 Q. Thank you. All right. Well, that's very helpful. That
3 conversation that we've just had about the possibilities or the
4 ways it might be effected was never conducted with you, was
5 it?

6 A. No.

7 Q. Nobody at the IMT or even outside the IMT discussed with you
8 those possibilities or those potential ways in which it might
9 have been achieved?

10 A. No.

11 Q. Do you know a Mr. Beddoe?

12 A. Not personally.

13 Q. You know of him?

14 A. Yes, I know his name.

15 Q. Do you know him to be an experienced diver?

16 A. I've heard his name, but I've never encountered him.

17 **Mr. Chairman:** Well, I can't ask you that. All right. Thank
18 you very much.

19 Well, I'm sorry for that interruption, Mr. Ramadhar. I
20 think you've managed to regain your thoughts as to what the
21 question was.

22 **Mr. Ramadhar:** I may have lost some, but I'm most grateful,
23 My Lord—Chairman. Thank you very much.

24 **Commissioner Wilson:** Mr. Ramadhar, just excuse, I just
25 wanted to take up from where the Chairman went.

26 **Examination By Commissioner Wilson:**

27 Q. Listening to the timeline. They said the contractor divers got

1 there at about 8.40, call it nine o'clock—8.40, nine o'clock—
2 and they were standing by whether it was an instruction or not?
3 So where I'm going with it is coming out of the whole room is
4 the site visit. So as to your awareness—because you've
5 mentioned the site visit—the site visit took place after the riser
6 was installed or when the contractors arrived? They did
7 conduct a site visit, and what did that site visit bring back or
8 what was reported from the site visit?

9 A. Well, I'll say no. I'm unaware of what—OTSL would have
10 been at Berth 6. I'm unaware if any personnel from OTSL
11 group went and view the chamber—

12 Q. Yeah, so it was just arrive and standby, then probably—

13 A. Arrive and standby, yes. The only official site visit that was
14 conducted would have been approximately one.

15 Q. So that's after the riser was installed?

16 A. Yes.

17 **Commissioner Wilson:** Thank you.

18 **Mr. Chairman:** Right. Mr. Ramadhar. Thank you.

19 **Mr. Ramadhar:** Thank you very much. Very helpful to me,
20 the questions from both Chairman and Commissioner.

21 **Continued Cross-Examination By Mr. Ramadhar:**

22 Q. Now, of course, we appreciate that this was no bed of roses
23 environment, right?

24 A. Yeah.

25 Q. We didn't have perfect circumstances. You agree with that?

26 A. Yes.

27 Q. You're aware that there are difficult rescues done throughout

1 the world and one of the most famous now, even on Netflix, is
2 the rescue of many persons from the Thai caves. You know
3 about that?

4 A. Yes.

5 Q. Where divers were used. Correct?

6 A. Yes.

7 Q. And in such claustrophobic environment that some of the
8 persons rescued had to be sedated in that environment to bring
9 them out, isn't it? You know that?

10 A. Yes.

11 Q. Good. So appreciating, no bed of roses, things are not going to
12 be easy as you have already answered to us, a rescue was
13 possible. Correct? Difficult but possible. Correct?

14 A. Yes.

15 Q. And you've given us—and we're grateful for your efforts. So
16 you required a longer umbilical to make all the turns. Correct?

17 A. Yes.

18 Q. You know an umbilical could be added to?

19 A. Not while online. But—and, again, the length—so—

20 Q. Did you know how much length of umbilical was available that
21 night?

22 A. No.

23 Q. I want to tell you now, and I could be proven wrong, but least a
24 thousand feet of umbilical. You're in no position, of course, to
25 deny that. No? You know the length of rope that was available
26 that night?

27 A. No.

1 Q. Several thousand feet of rope. You had several set of resources
2 coming in. You knew full well that there were several divers
3 available and several teams—thank you for that—several
4 teams. Correct?

5 A. Yes.

6 Q. Are you aware as you are sitting here today whether any of the
7 other dive teams knew that persons were alive in that line
8 before 12.00 or 12.50 a.m.?

9 A. I can't say.

10 Q. You can't say. And as the Chairman so poignantly referenced
11 earlier there's a fundamental difference in going in to save an
12 old air tank to saving a human life, a brother. Correct?

13 A. Yes.

14 Q. And you have to be a little bit crazy to go and risk your life and
15 go through all that with several turns and umbilicals to go and
16 pull out an old tank. You agree with that?

17 A. Yes.

18 Q. But it's not crazy to go in with all of those complications to
19 save a human life, isn't it?

20 A. Yes.

21 Q. If it were to happen to you, what would you expect? That they
22 will do all things that were possible to save your life? I don't
23 mean to get personnel but it's important, because we're dealing
24 with human judgment here.

25 A. No, well, seeing that you make it personal, honestly, no.

26 Q. No, what?

27 A. I would not expect it.

1 Q. Because of the people you deal with?

2 A. No. I'm at peace.

3 Q. You don't expect if you are in a position where you will die
4 within that time frame—

5 **Mr. Chairman:** Just a minute. You've asked him and you've
6 got your answer.

7 **Mr. Seales:** No, Sir. So I can explain?

8 **Continued Cross-Examination By Mr. Ramadhar:**

9 Q. No, wait, wait, wait, we'll jump to that.

10 A. I'm at peace, Sir.

11 Q. I just want to be clear I got your answer. You being stuck in a
12 pipe, right, knowing all that you do that in a period of time you
13 will die. You wouldn't want every possible opportunity be
14 taken to save your own life?

15 A. Not at the risk of other lives.

16 Q. You still working with Heritage?

17 A. I am at Heritage, yes.

18 Q. Yes, of course. And Paria is a sister company, part and parcel
19 of the same management, isn't it?

20 A. I believe so, yes.

21 Q. Yeah. So you would prefer to die rather than a risk, not the
22 certainty of death of the rescuer, right; there's no certainty of
23 death of the rescuer. Remember you told us a rescuer, if he's in
24 problem he could be pulled back out. You appreciate that?

25 A. Yes.

26 Q. And you are willing to die so that this fella wouldn't get his
27 foot wet with oil?

1 A. Sir, uh—

2 Q. Eh, what? Be honest here you know.

3 A. No, Sir, I am; I am being honest.

4 Q. Oh, well, wow.

5 A. So what I'm saying, I would not want anybody to put their lives
6 at risk. I'm at peace. So if I'm in that situation I would not
7 expect anyone or want anyone to risk their lives to save my
8 own. I'm at peace. If the shoe was on the other foot, I would
9 enter. I will make the attempt as an individual because I'm
10 accountable for my life.

11 Q. There you go.

12 A. So it's a decision that I would make for me.

13 Q. Thank you.

14 A. But I would not make a decision for someone else's.

15 Q. Nobody give you that godlike authority, you know. As the
16 Chairman rightly put it, nobody could instruct anybody to come
17 and save you. What's your name? Mr. Seales stick in a pipe;
18 go down there, risk your life and go and get him. Nobody
19 could do that. But you, Mr. Seales, knowing that it's possible
20 and you know the technology, you have the assets, you have the
21 equipment, you have the capacity, and the capability, and the
22 willingness, somebody say I want to go and save meh lovely
23 friend, Mr. Seales, you will say "Don't come; I'm going to die;
24 I'm willing to die"?

25 A. No, I won't tell them that. I can't; I'm stuck in the pipe.

26 [Laughter]

27 Q. Of course. So you think Mr. Kurban—exactly the point. In

1 your mind being stuck in the pipe and in a mindset, being stuck
2 in the pipe—when you say stuck, you mean physically they
3 couldn't move? Did you understand that? That they were
4 immobilized?

5 A. Okay, no.

6 Q. No. So they were not really stuck, but they were contained
7 within the pipe. You agree with that?

8 A. Yes.

9 Q. And all they required was for somebody to come and get them.
10 Isn't it? Eh?

11 A. Okay.

12 Q. Not okay, we talking life and death here. Four men died with
13 children, brothers and sisters.

14 **Mr. Chairman:** All right.

15 **Mr. Peterson SC:** Calm down.

16 **Mr. Ramadhar:** No, no, there's a—I'm on to another issue
17 here.

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. Because you, Sir, are a family man, isn't it?

20 A. Yes.

21 Q. Yes. You would want your family to endure your death—

22 **Mr. Chairman:** I'm going to stop this, Mr. Ramadhar.

23 **Mr. Ramadhar:** I beg your pardon. I will stop, I will stop. I
24 am well contained, Mr. Peterson.

25 **Mr. Peterson SC:** You are counsel.

26 **Mr. Ramadhar:** Yes, I am counsel for human beings.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. Now, Sir, appreciating, as you have already told us, that this
2 thing was possible, right, as a diver, as the Chairman so well
3 and clearly put, time was of the ultimate essence, not just of the
4 essence. You agree with that?

5 A. Yes.

6 Q. Air running out. Correct?

7 A. Yes.

8 Q. Now, to be fair to you, you didn't know that there were live
9 men in there until after 12.00, very likely by which time, from
10 your calculations, they would have perished by then. Correct?

11 A. Unlikely.

12 Q. Yes?

13 A. Yeah, their survival would have been unlikely.

14 Q. Unlikely. When you got to Paria, isn't that the essence you
15 got? That, listen, them fellas gone already?

16 A. No.

17 Q. Did you even know how many persons were involved in this
18 incident?

19 A. No.

20 Q. You weren't interested to find out if it's one or 10?

21 A. Yeah.

22 Q. Right. So did you make an enquiry? Because you are coming
23 there to not just observe like a kunumunu, but to listen and to
24 advise if it's possible. Right?

25 A. Yeah.

26 Q. Did you not enquire how many persons were involved in this
27 incident that you knew right away was a Delta P?

1 A. No, I did not get a number.

2 Q. Eh?

3 A. No.

4 Q. Having not been given it, did you make any enquiry as a normal
5 Trinidadian? Forget you're a diver working for Heritage. You
6 weren't interested?

7 A. Yes.

8 Q. I'm only hearing they're muttering about we're going to eight
9 o'clock. You will not be going to eight o'clock, because they
10 go dead, according to you, by eight o'clock. Did you make any
11 enquiry, and the answer is no, as to how many?

12 A. Um-hmm.

13 Q. Come on, man, we don't want to wait till eight o'clock?

14 A. No.

15 Q. No. Sir, you know the word courage?

16 A. Yes.

17 Q. What is courage?

18 A. Bravery; willing to take risk.

19 Q. Um-hmm. Knowing what you do, knowing that there are
20 dangers you're still willing to do it?

21 A. Yes.

22 Q. And certainly for a worthwhile effort. Correct?

23 A. Yes.

24 Q. There are people who courageously do stupidity. You agree
25 with that?

26 A. Yes.

27 Q. And there are those who have courage to save lives?

1 A. Yes.

2 Q. Like every policeman every day put their lives on the line for
3 us. You appreciate that?

4 A. Yes.

5 Q. Every firearm, yes?

6 A. Yes.

7 Q. Every EMT ambulance driver, and so; all the first responders,
8 the doctors, the nurses, they put their lives on the line for us
9 every day. Correct?

10 A. Yes.

11 Q. You appreciate now, sitting as you are today, 6th January,
12 2023, men in a pipe with certainly limited air and in your mind
13 now reflecting five hours until they perish, extinguished lives,
14 that not making any effort to rescue them, or, in fact, they not
15 being rescued during that period, will lead to what?

16 A. Death.

17 Q. Eh? Lead to?

18 A. Death.

19 Q. Yes. Not a quiz that you don't know. Yes, certain death, isn't
20 it?

21 A. Yes.

22 Q. And a decision, not you, once again not your decision because
23 you were kept out of important information and had you known
24 these other things, your information would have helped you to
25 say, "Aye, aye, aye, fellas, we have to go and save these men",
26 isn't it? As difficult as it is?

27 A. Yes.

1 Q. And not doing it led to certain death, now that you know this.

2 Correct? You want to be part of that stain?

3 A. No.

4 Q. No, of course not. So Fyzal Kurban, you knew or you do know
5 today that Christopher Boodram had promised the men that he
6 coming back to get them or he sending help. Right? You know
7 that? Yeah?

8 A. I've heard, yeah.

9 Q. You appreciate that this was a brother diver rescuing himself
10 and making a promise that could not have been kept. You
11 appreciate that?

12 A. Yes.

13 Q. And through no fault of his own it couldn't have been kept.
14 You appreciate that?

15 A. Yes.

16 Q. You know that was communicated to the authorities when he
17 came out, that men were right behind; go and get them; go and
18 get them?

19 A. Yes.

20 Q. And nobody tried to fulfil that man's promise?

21 A. Yes.

22 Q. Yusuf Henry died. You know that now, right, the names?

23 A. Yes.

24 Q. Kazim Ali died—Jr. You know that?

25 A. Yes.

26 Q. Rishi Nagassar died. You know that?

27 A. Yes.

1 Q. And you know as you are today that even before your arrival
2 Fyzal Kurban's son, Michael, had gone into that pipe as far as
3 he could go with the limited resource at that time round the
4 bend. You know that today?

5 A. Yes, I've heard.

6 Q. And that he came back out unharmed, physically I mean.
7 Emotionally, that's another issue. Physically unharmed,
8 correct?

9 A. Yes, I've heard.

10 Q. Did you speak to each and every diver there that night as to
11 their willingness, capacity, ability to go in?

12 A. No.

13 Q. No. Oh, by the way, maybe you know or you don't know, these
14 companies that were called out, do you know whether they
15 were ever paid for their services that night?

16 **Mr. Mootoo:** What's the relevance?

17 **Mr. Ramadhar:** You will find how relevant that is.

18 **Mr. Seales:** I believe so, yes.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Thank you. You know the best things in life, as they say, free,
21 eh?

22 A. Yes.

23 Q. Do you know that Conan volunteered, he didn't think about
24 money? Do you know that?

25 A. No.

26 Q. But they're all waiting to retain companies to come, isn't it?
27 Isn't it? You only dealing with companies. Do you know how

1 much money was spent for all these resources that led or
2 resulted ultimately in the death of these four men?

3 A. No.

4 **Mr. Ramadhar:** Chairman, thank you.

5 **Mr. Chairman:** Mr. Pegus.

6 **Mr. Pegus:** I have no questions for this witness. Thank you
7 very much.

8 **Mr. Chairman:** Can I ask Ms. Persaud-Maraj, do you have
9 any questions?

10 **Ms. Persaud-Maraj:** I have no questions, please.

11 **Mr. Chairman:** No questions. Mr. Peterson.

12 **Mr. Peterson SC:** Thank you, Mr. Chairman.

13 **Cross-Examination By Mr. Peterson SC:**

14 Q. Morning, Mr. Seales.

15 A. Good morning.

16 Q. The exercise you went through with the Chairman a few
17 minutes ago with respect to options for diving, the divers you
18 placed at the first turn, the second turn, down at the bend—
19 that's one, two, three—I think I counted four so far. If you
20 were to send men after the bend along the horizontal,
21 approximately how many feet along the horizontal before it
22 becomes required or a requirement to place another—what they
23 call them, underwater—you used a term?

24 A. No, well, it's a straight—

25 Q. In-water I think?

26 A. In-water tender, no.

27 Q. Yeah.

1 A. So along the horizontal you would not need additional tenders.

2 Q. It doesn't matter the length?

3 A. But the excursion, you will have to take into consideration your
4 bail out endurance—

5 Q. The what?

6 A. Bail out endurance.

7 Q. What is that?

8 A. So the life cylinder on your back. Again, it has a certain
9 capacity or available gas to the diver. So in the event of an
10 emergency, that is the air supply that he'd be required to use.

11 Q. To retreat?

12 A. Yes.

13 Q. So going in and use and retreat?

14 A. Yes. So that's a calculation also.

15 Q. That's a calculation again?

16 A. So it's not just a matter of joining umbilicals and traveling
17 indefinitely. Right? These are considerations that you have to
18 factor in.

19 Q. And that calculation would be dependent on how far along the
20 horizontal they go?

21 A. You are traveling, yes.

22 Q. Right. Those divers—well, that would probably take us up to
23 about five—are those mere commercial divers or confined
24 space divers?

25 A. No, commercial divers. Commercial divers, all having the
26 relevant equipment.

27 Q. Right. Not confined space requirement?

1 A. No.

2 Q. You're sure about that?

3 A. Well, that's what I'm saying. I would not say specialized in
4 confined-space entry.

5 Q. You what?

6 A. I would not say specializing—because this, again, is a
7 penetration dive, so it's even different.

8 **Mr. Chairman:** Could you move your microphone just to your
9 left? That way when you turn you'll be—

10 **Mr. Seales:** Right. So it's a penetration dive. It's not just a
11 confined space.

12 **Continued Re-Examination By Mr. Peterson SC:**

13 Q. Right. It's not just a confined space, and it's not just—and not
14 all commercial divers are penetration divers specialist?

15 A. So, again, it's not really a specialty, it's a matter of planning.

16 Q. Oh, so penetration is not an area of specialty?

17 A. No. That's what I'm saying. So all this is part of your dive
18 plan.

19 Q. Right.

20 A. And all the mitigations and controls you need to put in place to
21 effect such a dive.

22 Q. Right. If you were to work out that plan, did you—well, since
23 this event, did you attempt to work out such a plan as a mock-
24 up for this incident?

25 A. No, not normally. I would have thought of different things but
26 it was more of a personal effort.

27 Q. Yeah, yeah, just out of interest, because you're a diver?

1 A. Yeah, right. So that's what I'm saying. So it's very restrictive
2 now. The pipeline is 30 inches, so a diver would have
3 approximately—an average person only has approximately four
4 inches on either side of his shoulder, first to begin with. You
5 are in a tube, right, so it is very difficult. You are in full gear.
6 So in terms of to navigate to move to function within that space
7 would be challenging.

8 Q. Would be challenging. And to add to that challenge would be,
9 first of all, the consideration that you were engaging with, with
10 the learned Chairman, with respect to whether you go in feet
11 first or headfirst?

12 A. Yes.

13 Q. And you said that there were risks to going in headfirst. Could
14 you assist us with what, in a nutshell, those risks would be?

15 A. No, well, basically to start with, if you're going to suspend a
16 person in air for period of 30 feet, approximately 30 feet before
17 you reach water, the diver could actually pass out before.

18 Q. Before he gets to the water?

19 A. Yeah. Right. You can also have flooding of your hat.

20 Q. Have what?

21 A. Flooding.

22 Q. Of the hat?

23 A. Yeah.

24 Q. Oh, wow. And when you get into the water headfirst or into the
25 pipe headfirst, what risks or challenges, if any, that you
26 envisage the diver would encounter?

27 A. No, well, again, there's still the possibility because we never

1 know what caused the scenario to subside. So there's still a
2 potential of a secondary Delta P—a consideration. There is a
3 consideration.

4 Q. So having evidence to eliminate the possibility of a second
5 Delta P is a crucial factor for any dive plan, wouldn't it be?

6 A. Yes.

7 Q. Right. And since it's intended to be a rescue, how is it
8 envisaged that, first of all, going in headfirst that that rescue
9 would be effected?

10 A. No, well, again, headfirst to me is not an option.

11 Q. Headfirst to you is not an option?

12 A. It's not an option, no.

13 Q. So the plausible step would be feet first?

14 A. Yes.

15 Q. And could you assist us how you envisaged feet first to be—in
16 the 30-inch pipe, feet first, four inches on either side of the
17 shoulder, with equipment, how is that to be effected?

18 A. It would be challenging.

19 Q. Challenging is kind of uncertain?

20 A. Right. So you're going down the vertical section. When you
21 reach the horizontal, you navigate the tube turn, if you're able
22 to. That might pose a little challenge with equipment on.
23 Right? If you were to turn over so you will have to turn over
24 on, let's use the word "all fours", on your belly.

25 Q. You have to turn over in the 30-inch pipe—

26 A. On your belly. So you'll have to be on your belly now. When
27 you reach the horizontal section—

1 Q. So you going down—your back first—on your back, and then
2 you're flipping to your belly?

3 A. Right. So you'll be going down feet first. When you reach the
4 horizontal section you will need to be on your stomach to be
5 able to travel along the pipeline.

6 Q. Uh-huh.

7 A. Right? Now, you still would not be able to raise in the pipeline,
8 because, again, because of the diameter of the pipeline. Right?
9 Any object or anything that you'll be meeting, you'll be
10 meeting foot first.

11 Q. Right.

12 A. Now, again, we have to envisage that we are in a tube. Right?
13 So it's not a 30-inch hatch and you spill out into a big space or
14 a void.

15 Q. It's a tube all the way?

16 A. You are confined within this tube. So any activity or action you
17 are doing is within this space or this tube.

18 Q. Yes.

19 A. So you'd be meeting objects foot first. You may not know, or
20 if you do know, based on some of the camera footage, the
21 objects that you meet, you would have to try to crouch.

22 Q. Just now. That is—don't factor in the camera footage yet.
23 We're still going blind.

24 A. Okay, you ain know nothing. Right. So you're just going.
25 Whatever your foot encounter, you would have to try to crouch
26 within the same tube to make contact with your hand to bring
27 this object forward, if you can.

1 Q. If you can.

2 A. Yes.

3 Q. But you're bringing the object forward and then putting it in the
4 space that you will be retreat—the passage along which you
5 will have to be—

6 A. No, well, again, you cannot just leave it there. So you would
7 have to remove items one by one. Whatever you put between
8 you and the surface—

9 Q. You now have to clear it?

10 A. —it would be advisable to clear that before you proceed any
11 further.

12 Q. Right. So if you have multiple—because I notice in your
13 statement you speak of tanks and other articles I think you said.
14 You have to clear that first?

15 A. Um-hmm.

16 Q. But having gone down there and clear that, then you're running
17 out of diving time as a diver?

18 A. Yes.

19 Q. So you're now—the four or five divers you have using, two of
20 them might have exhausted their time by then?

21 A. Yes.

22 Q. So you're looking for two more divers again, at least, to replace
23 them going back down?

24 A. Yes, yes.

25 Q. And assuming that they get to the point where the first diver
26 was before he was repelled, you're going further than that and
27 you don't know what you're encountering beyond that either?

1 A. Yes.

2 Q. The evidence is that there were four tanks in the line. Did you
3 know that?

4 A. No.

5 Q. Right. And let us assume—because some of the cross-
6 examination before was based on assumptions. Let us assume
7 clearing four tanks; that is at least four divers have to come out
8 and decompress, I think is the term?

9 A. No, well, in this activity there will be no decompression diving.

10 Q. Well, not decompress, but we gather the time to clear four tanks
11 and then if four tanks are to be cleared before. So, you see, all
12 of this we are speculating because of the uncertainty. Right?
13 Well, we're speculating, because we don't have certainty on all
14 these items?

15 A. Yes.

16 Q. But what would assist in that scenario that you are now
17 engaging with me on would be camera footage to give you
18 some level of certainty.

19 A. Yes.

20 Q. Which would be what you will have to factor in to make a final
21 determination as to whether you effect a dive?

22 A. Yes.

23 Q. Back out the camera footage again. Would you as a dive
24 supervisor in all those variables we just went through there,
25 send a man in blind?

26 A. No. As a dive supervisor, no.

27 Q. Right. You have ever been in control of a facility where you

1 have to authorize diving?

2 A. No.

3 Q. Right. But you know the concept of you could attract—this is
4 somewhat of a legal question but it's basically a commonsense
5 one. You could attract criminal liability if you authorize and
6 send persons to their death?

7 **Mr. Chairman:** I'm not sure that that's a question you should
8 answer.

9 **Mr. Peterson SC:** I would withdraw it or rephrase it. I'll deal
10 with it in addresses, Sir.

11 **Continued Re-Examination By Mr. Peterson SC:**

12 Q. But you—you said that day you weren't part of any decision as
13 to diving on the 25th?

14 A. Yes.

15 Q. You were taken by Mr. Ramadhar, I think, to the scenario of the
16 cave rescue. I think he's speaking about the cave rescue, the
17 international incident with the students in the cave?

18 A. Yes.

19 Q. Did you follow that incident?

20 A. No, I didn't.

21 Q. So you're not aware that that rescue took days of planning and
22 multiple countries and experts involved? You're not aware of
23 that?

24 A. Yes, I'm aware of that. I didn't follow it in its entirety. I have
25 an awareness of it, yes.

26 Q. But at least you know that rescue took days of planning and I
27 think—when I had checked I think was 20 countries were

1 involved and they were lending experts to that effort.

2 A. Yes.

3 Q. And the students had to be sedated to be brought out through
4 the confined spaces. You were aware of that too?

5 A. Yes.

6 Q. Right. That takes me to the point of—when we were going
7 through our narrative a while ago with respect to the difficulties
8 of that rescue on the 25th, did you factor in, in your—after you
9 said you were doing a personal assessment, did you factor in, in
10 that, the likely response of a diver in the pipe when the rescuer
11 encounter same to bring him out, what his state of anxiety may
12 be and whether that posed a difficulty?

13 A. Yes, it does.

14 Q. And why—tell us—expand a bit. Why you say it would pose a
15 difficulty?

16 A. No, he's in survival mode now.

17 **11.40 a.m.**

18 Q. He's in survival mode?

19 A. Yeah.

20 Q. And that means—and I know—

21 A. Yeah.

22 Q. —I know you think it follows, but—

23 A. Yes.

24 Q. —some of us don't know. Explain what—when you mean that
25 he would be in survival mode—

26 A. He could be in—

27 Q. what is that challenge with him being in survival mode?

1 A. Yeah, he could be erratic. He could be trying to do whatever is
2 necessary for him to get out of the pipeline—

3 Q. Yes.

4 A. —which is—yeah.

5 Q. Which is?

6 A. Yeah. You can be attacked.

7 Q. You can be attacked?

8 A. He can try to take your gear.

9 Q. He can take—try to take you air—because, understandably.
10 And also, did you factor in when you were doing your
11 assessment, your post 25th assessment, as to whether the person
12 may have been injured due to the violent, um, Delta P scenario?

13 A. Yes.

14 Q. Yeah. Because I think Commissioner Wilson had asked you
15 about that, that the person being drawn into the pipe on that
16 Delta P could, they could be injured?

17 A. Yes.

18 Q. And that will pose a further difficulty and as to embark upon a
19 rescue?

20 A. Yes.

21 Q. Yes. [*Crosstalk*] Right I'm interested—

22 **Mr. Chairman:** Your sotto voce is quite loud.

23 **Mr. Chairman:** I'm sorry.

24 **Mr. Mootoo:** I don't think it was intended to be sotto voce.

25 **Continued Cross-Examination By Mr. Peterson SC:**

26 Q. Mr. Seales, you were contacted, because I'm quite interested in
27 a lot of what I heard this morning, you were contacted on the

1 afternoon of the—

2 **Mr. Chairman:** Just pausing for a moment. If you're going to
3 be a little bit longer—

4 **Mr. Peterson SC:** Yeah I will be.

5 **Mr. Chairman:**—why don't we take a break now?

6 **Mr. Peterson SC:** Sure.

7 **Mr. Chairman:** Because we haven't had a break, we started
8 9.30—

9 **Mr. Peterson SC:** Sure.

10 **Mr. Chairman:**—so let's take a break now, and then you can
11 take as long as you need. All right. Thank you very much.
12 We're going to take a 15-minute break now so we'll resume at
13 five to 12.00 please, and then I'm told that the Prime Minister is
14 giving a press conference at midday and therefore our TV
15 coverage is going to be cut off. That is not the reason why I'm
16 suggesting we have the break now to resume at twelve o'clock
17 because your—but we'll be, we'll be available on YouTube and
18 on the website so people can follow your cross-examination on
19 YouTube and on the website. Thank you very much. We'll
20 break off now until just before twelve o'clock.

21 **11.43 a.m.:** *Enquiry suspended.*

22 **12.02 p.m.:** *Enquiry resumed.*

23 **Mr. Chairman:** Mr. Peterson, while the witness is coming,
24 you'll recall that I asked Mr. Mushtaq Mohammed if he would
25 provide me, and he agreed to provide me, with a list of the
26 various companies that were contacted, when they were
27 contacted, when they said that they would be able to be on site

1 and when they left.

2 **Mr. Peterson SC:** That is forthcoming, Sir. I was—

3 **Mr. Chairman:** Is that in hand?

4 **Mr. Peterson SC:** I was advised this morning that I think the
5 source of information is from both Paria and Heritage and it's
6 being correlated and put in a table.

7 **Mr. Chairman:** I'm very grateful.

8 **Mr. Peterson SC:** It's being presented in a table for ease of
9 reference.

10 **Mr. Chairman:** Thank you very much.

11 **Mr. Peterson SC:** My instructing attorney will get it to the
12 Commission.

13 **Mr. Chairman:** Yes, thank you. Right, Mr. Seales, you're
14 still on oath, all right, and you're being asked questions by Mr.
15 Peterson.

16 **Mr. Peterson SC:** Thank you, Mr. Chairman.

17 **Continued Cross-Examination By Mr. Peterson SC:**

18 Q. Yes, Mr. Seales, I just want, before I move on from what we are
19 dealing with, with respect to the rescue and the number of
20 difficulties that we chronicled in dealing with an intended
21 rescue on that day, the 25th into the 26th. I also want to add to
22 the list of difficulties that we dealt with. The evidence in this
23 Enquiry is that the men, or at least two of them, were injured
24 and you see that as an added difficulty in rescuing the men in
25 that pipe, they having been injured?

26 A. Yes.

27 Q. Most likely from the Delta P factor?

1 A. Yes.

2 Q. Right. And you also told me that a planned rescue would
3 envisage that the rescue diver, I call him the first man in the
4 line going into the line, would be going in feet first?

5 A. Yes.

6 Q. Help us with how you envisage he going in feet first, if he
7 encountered the blockages and he removed those things and he
8 encountered the first diver, how is it envisaged that there will
9 be the rescue after that? How is the contact, the rescuing, the,
10 the—what is to happen when he reaches him?

11 A. There will be tremendous difficulty—

12 Q. Beg your pardon?

13 A. —because of the confined space.

14 Q. Yes.

15 A. Tremendous difficulty because of the confined space—

16 Q. Yes.

17 A. —to work within.

18 Q. Yes, but then how he communicating to that person? You
19 thought of—you factor that in?

20 A. No, there will be no form of communication.

21 Q. So how, because it—

22 **Mr. Chairman:** Well unless they were in an air pocket.

23 **Mr. Peterson SC:** Well, yeah.

24 **Continued Cross-Examination By Mr. Peterson SC:**

25 Q. But assuming no air pockets or even assuming an air pocket,
26 how is he communicating with him?

27 A. No, well, assuming no air pocket, how would he be alive?

1 Q. Right. Well, assuming he has a tank, we're making some
2 assumptions here. You realize the amount of assumptions that
3 come.

4 A. The assumptions there are some good assumptions so it's
5 difficult to—

6 Q. So let us assume if he's in an air pocket, he breathing, he alive
7 he getting the air from the air pocket.

8 A. Yeah.

9 Q. Assuming no air pocket, assuming he had a tank with him, so
10 he's alive.

11 A. Yeah.

12 Q. Um, how is it envisaged with him with the tank that you're
13 communicating to him what you, the person with your feet
14 towards him, how you anticipate that that will happen after
15 that? Impossible, isn't it?

16 A. More or less, yeah.

17 Q. And also, the difficulty would vary depending on whether
18 you're meeting him with his headfirst or his feet first?

19 A. Yes.

20 Q. Another difficulty, isn't it?

21 A. Yes.

22 Q. Almost getting to the point of impossibility?

23 A. Yes.

24 Q. Thank you very much for that. Now, I want to take you to the
25 evening of the 25th or the afternoon. You were contacted by
26 Mr. Fortune?

27 A. Yes.

1 Q. And he contacted you at around three minutes to 5.00—1657
2 you have in your statement.

3 A. Yes.

4 Q. And if you, in fairness to you, you have your statement there
5 with you, right? Paragraph five.

6 A. Yes, yes.

7 Q. And he made a request of you to mobilize Mitchell Professional
8 Diving?

9 A. Yes.

10 Q. Because there had been an incident at Paria?

11 A. Yes.

12 Q. So you know it was a diving incident at least, because you did
13 not activate mechanics or, or any other expertise?

14 A. It had to do with the water.

15 Q. It had to do with water, yes.

16 A. Uh-huh.

17 Q. But you recognize it was an emergency?

18 A. Yes.

19 Q. But he gave you no further details on that?

20 A. No, none was available at the time.

21 Q. No. He, he—

22 A. That's right. No, he did not, no.

23 Q. He, all he told you; emergency at Paria, activate Mitchell
24 Diving?

25 A. Yes.

26 Q. And get there to assist?

27 A. If required, yes.

1 Q. All right. He said if required?

2 A. It might not be his exact words.

3 Q. Well, give us what he might have said that caused you to come
4 to that conclusion.

5 A. Well, it was [*Inaudible*] yes.

6 Q. Didn't he—well it must have been; get Mitchell divers and get
7 to Paria to assist in the incident?

8 A. Yes.

9 Q. Because, if you weren't to assist, you could have just called
10 Mitchell and tell them, "Ey boys, all yuh get down to Paria and
11 see what all yuh could do down there", but he asked—your
12 supervisor asked you to go to assist and lend support?

13 A. My role?

14 Q. Yes.

15 A. To liaise. So I would have been the point of communication
16 rather than everybody—Mitchell goes, everybody else talking,
17 they don't know who they're dealing with.

18 Q. Right.

19 A. I would have been the focal point for communication to
20 Mitchell.

21 Q. Right. Because Mitchell is contracted by Heritage?

22 A. Yes.

23 Q. On a spot-hire contract basis?

24 A. Yes.

25 Q. So you could give them instructions?

26 A. Yes.

27 Q. Right. Having gotten that request at 1657, what time you got to

1 Paria?

2 A. I would have arrived at Paria approximately 8.20, I believe.

3 Q. That's three and a half hours after being told of an emergency?

4 A. Yes.

5 Q. That's a long time, wouldn't you agree?

6 A. Yes.

7 Q. You weren't in emergency mode, it would appear?

8 A. Yes I was.

9 Q. And what took you three and a half hours thereabouts?

10 A. Because there were mobilization and logistics, so, my role was
11 to—

12 Q. Speak into the mike.

13 **Mr. Chairman:** I'll ask you to move the microphone a little
14 further to your left. Move it to your left so that when you turn
15 left you're speaking into it.

16 **Mr. Peterson SC:** Yes.

17 **Continued Cross-Examination By Mr. Peterson:**

18 A. Yes, so, I would have had to facilitate in the mobilization of
19 Mitchell's. Right. So, if you would notice the time I would
20 have arrived, so, my urgency would be reflected in my time of
21 arrival at Heritage base in that I would have been activated and
22 responding to the incident in my capacity.

23 Q. Yes.

24 A. So, in terms of the mobilization of equipment for Mitchell's,
25 there would have been logistical support required because it's
26 diving equipment.

27 Q. Yes.

1 A. Because they would have gone to the base—now, this would
2 have been an off day also.

3 Q. This would have been a?

4 A. Off, you were off.

5 Q. Yes.

6 A. Right? So I wasn't at work, I was home.

7 Q. Right.

8 A. So I would have responded and went to Heritage base in Point
9 Fortin to facilitate any request for them to get their equipment.

10 Q. And then?

11 A. The equipment is bulky so it may, it may have involved
12 mobilizing forklift operators and so forth, transportation
13 depending on what type of equipment you were going to carry
14 up to Paria.

15 Q. Yes.

16 A. So there were a lot of activities prior to arriving at Paria.

17 Q. Right. I understand that. I'm interested in that, in that, what
18 determined what equipment to be moved from Heritage to
19 Paria?

20 A. Right, so, with the lack of information, we would have carried
21 the basic equipment to effect a dive.

22 Q. Right.

23 A. Right.

24 Q. And the basic equipment took forklift and all of that to move?

25 A. Yes. And a decision was also taken when we found out that
26 there would have been further support in the, er, form of Gulf
27 Stream Eagle which would have had additional diving

1 equipment, certain things were left in an effort—

2 Q. Certain things were?

3 A. —were left, in an effort to reach on site—

4 Q. Right.

5 A. —in a timely manner.

6 Q. So, when did you know that you were getting further support
7 from Gulf Stream?

8 A. While I was on—at Heritage base

9 Q. And at that point, you still did not know that—what was the
10 nature of the event?

11 A. No.

12 Q. All right.

13 A. At that point all you would have heard now might have been
14 the mention of a habitat and that's it, not where the habitat was
15 or what the activity was.

16 Q. Right. But the fact that you were aware, whilst you're at
17 Heritage site, that a habitat was involved—

18 A. Uh-huh.

19 Q. —Delta P start occurring to your mind?

20 A. No.

21 Q. Okay. Right. So, you got to Paria at around 8.20?

22 A. Yes.

23 Q. It's a known fact that that was carnival Friday. Did the fact of
24 carnival Friday pose any difficulties, further difficulties to you
25 in mobilizing men and equipment?

26 A. The only thing might have been traffic.

27 Q. Okay.

1 A. Because we were mobilizing from Point Fortin.

2 Q. Nobody on their way to Soca Monarch or anything?

3 A. Not that I'm aware of.

4 **Examination By Mr. Chairman:**

5 Q. I'm sorry to interrupt, but you all know the distances involved
6 and I don't, so could you just give me some idea, how far away
7 you lived from Heritage's site and then how far it was to get
8 from Heritage's site to get to Paria's site? What are the
9 distances we're talking about?

10 A. Right, so, from where I live to Heritage site in Point Fortin,
11 within 10 minutes.

12 Q. You lived within 10 minutes of Heritage—

13 A. Yeah, that's—

14 Q. —and that's a short journey. Right.

15 A. Yes and you have over a hour from Point Fortin to San
16 Fernando.

17 Q. You have a—it's over an hour?

18 A. Yeah.

19 Q. Is Heritage's site in Port of Spain?

20 A. No, it's in San—no, Point Fortin. Point Fortin.

21 Q. It's where?

22 A. Point Fortin.

23 Q. I don't know where that is, so, er—

24 A. It's further South.

25 Q. Further South?

26 A. Yes.

27 Q. Than Port of Spain?

1 A. No, than Paria.

2 Q. Right. Oh, it's in the other direction?

3 A. Yeah.

4 Q. I am with you, okay, right. So it's about an hour from there to
5 get to Paria?

6 A. No, more than that.

7 Q. More than that?

8 A. Yes, Sir.

9 Q. And that's in ordinary traffic or in heavy traffic?

10 A. In ordinary traffic.

11 Q. Ordinary traffic. Was the traffic heavier on that day?

12 A. Yes.

13 Q. Thank you.

14 **Mr. Chairman:** All right, sorry, I—sorry to interrupt. I just
15 needed to have a picture of the distance.

16 **Continued Cross-Examination By Mr. Peterson:**

17 Q. So you got to Paria. All you had at that point, as far as
18 knowledge is concerned, that it was a incident, emergency
19 involving diving?

20 A. Yes.

21 Q. Right. You arrived there with Mitchell or ahead of them?

22 A. Ahead of them.

23 Q. Right. When you got to Paria, what did you do?

24 A. I called OTSL to find out where they were.

25 Q. Yes.

26 A. Right? And I also called Mr. Holder to find out where he was.

27 Q. That's Mr. Osei Flemming-Holder?

1 A. Yes.

2 Q. Right. And he told you where he was? Where was he?

3 A. Er, he tried to describe the room but I wasn't aware of it so it
4 was downstairs the building.

5 Q. You were downstairs of a building?

6 A. Yes.

7 Q. And you later get to know that that's the shipping building?

8 A. I'm still uncertain because it wasn't the main building, so I'm
9 not aware of the name of the buildings.

10 Q. Right, and where—and you went to that building?

11 A. Well I didn't know where it was so I asked around in the car
12 park and somebody eventually—

13 Q. Took you there?

14 A. —took me to him.

15 Q. Right. You met Mr. Paul Yearwood also? You know him?

16 A. He was there when I entered the office.

17 Q. Right. And you met Mr. Piper at that same building?

18 A. No.

19 Q. Where you met him?

20 A. Upstairs.

21 Q. Well, the same building?

22 A. No, as I say I don't think it was the same building because I
23 think this was a building to the side of the main building.

24 Q. Okay, right. And you were taken upstairs to Mr. Piper?

25 A. I was taken upstairs, yes.

26 Q. And you met Mr. Piper there. Who you told you before you did
27 not know, but—

1 A. At one time, yes, at one time I met him, yes.

2 Q. When you say at one time what do you mean?

3 A. What I—I, I wasn't, I wasn't taken to meet him or—I went into
4 an office.

5 Q. Uh-huh.

6 A. He came into the office later on.

7 Q. But you start to speak to him at around what, shortly after
8 around nine o'clock?

9 A. So yes, no, between 9.30 and 10.00.

10 Q. Well, we are instructed that—all right, well, I wouldn't, I
11 wouldn't hold you too closely to that but you met Mr. Piper
12 along with Mr., um, Mushtaq Mohammed, Mr. Paul Yearwood?

13 A. No.

14 Q. You remember that meeting?

15 A. No.

16 Q. Who you met, Mr. Piper only?

17 A. No. It was Mr. Piper—the first encounter with personnel from
18 Paria, other than Mr. Yearwood, would have been Mr. Andy
19 Archbald and Michael Wei.

20 Q. Archbald, Randy Archbald, Michael Wei, Collin Piper?

21 A. Yes.

22 Q. And Paul Yearwood?

23 A. No, he wasn't there at that time.

24 Q. Right.

25 A. I don't think so.

26 Q. Well, look at paragraph 24 of your statement—um, no, no, not
27 your statement. I want to refer you to paragraph 24 of Mr.

1 Flemming-Holder's statement.

2 A. No problem.

3 Q. All right. He said that, and that's at page one four—

4 **Mr. Chairman:** Yeah, let's just get it.

5 **Mr. Peterson SC:**—page one four nine five, Mr. Chairman, of
6 the bundle.

7 **Mr. Chairman:** Just a minute. One four nine five, do you
8 say?

9 **Mr. Peterson SC:** One four nine five, paragraph 24.

10 **Mr. Chairman:** Yes. Yes, thank you.

11 *[Document was handed to Mr. Seales]*

12 **Mr. Peterson SC:** Proceed, Mr. Chairman?

13 **Mr. Chairman:** Yes, sorry, thank you, yes.

14 **Continued Cross-Examination By Mr. Peterson:**

15 Q. Yes. You see paragraph 24—

16 A. Yes.

17 Q. —where he said that the dive supervisor, Mr. Seales, Mr. Rolph
18 Seales, arrived at the shipping building at around 9.00 p.m.?

19 A. Yes.

20 Q. Right.

21 "I took him to the ICP and gave him an update of the
22 incident and the emergency response."

23 You saw that there?

24 A. Yes.

25 Q. What do you say about that.

26 A. Right, so I arrived at nine o'clock.

27 Q. Yeah.

1 A. He took me—it does not say that I met or he introduced me at
2 that time, you know—

3 Q. Okay.

4 A. —at nine o'clock. So the time that I would have gone, my
5 initial contact with Mr. Holder would have been around nine
6 o'clock.

7 Q. Right.

8 A. The only person present would have been Mr. Paul Yearwood.

9 Q. Yes.

10 A. Right. Subsequently, which would have been around 9.30—

11 Q. Uh-huh.

12 A. —we went upstairs; he took me upstairs.

13 Q. Right. That's what I told you earlier I wouldn't squeeze you on
14 the half an hour. So let's, let's—

15 A. So, so, within that period, right, so within that period—

16 Q. Yes.

17 A. —Mr. Mushtaq, I was never introduced or met Mr. Mushtaq at
18 that time.

19 Q. Well, that's why I tell you I wouldn't—so forget the 9.00, 9.30,
20 give or take, I mean, I wouldn't hold you—that's why I said
21 about 9.00, 9.30.

22 A. Yes.

23 Q. So I wouldn't hold that—I wouldn't hold your hand to the fire
24 on that.

25 A. Right so at this—so in this statement—

26 Q. Yes.

27 A. —right, I would not have been introduced when I would have

1 gone upstairs to Mr. Paul Yearwood because I met him
2 downstairs.

3 Q. Yes.

4 A. Right? The only persons I would have met upstairs would have
5 been Mr. Piper and Mr. Randy Archbald, Michael Wei.

6 Q. Well, Mr. Holder is saying—

7 A. Yes.

8 Q. “I told him that one of the divers was rescued from the
9 pipeline and that there were four missing divers. I also
10 introduced him to Collin”—which is Collin Piper,
11 “Randy”—which is Archbald—“Michael”—which is
12 Michael Wei—“Mushtaq”—which is Mushtaq
13 Mohammed—“Paul and the scribe.

14 Right?

15 A. And the scribe.

16 Q. The scribe is the person—

17 A. No.

18 Q. —who was recording in that, in that ICT, um, ICP room.

19 A. Uh-huh.

20 Q. So, what are you disputing here?

21 A. That’s why I’ll say, I’ll, I’ll say no. The, the circumstances of
22 the events—

23 Q. Yeah.

24 A. —and the introductions was not like that.

25 Q. All right.

26 Q. Let me give you that again. Let us say that he didn’t introduce
27 you to Paul because you say you met Paul.

1 A. Yes, yes, right.

2 Q. Let us say that you can't re—he didn't introduce you to Mr.
3 Mushtaq Mohammed.

4 A. No.

5 Q. So we have that he introduced you to Collin Piper who you
6 didn't know before you said?

7 A. Yes

8 Q. Randy Archbald you knew before?

9 A. No.

10 Q. Right, right. And Michael Wei?

11 A. No, and, and I didn't know him.

12 Q. Right, so you accept that at least that part, that you were
13 introduced to those persons by Mr. Holder, Flemming-Holder?

14 A. Upstairs, yes.

15 Q. Right. I now want to deal with the elephant in that paragraph,
16 that he gave you an update of the incident and the emergency
17 response. What say you?

18 A. No. No, Sir, I said, as I said, what was communicated to me
19 when I—

20 Q. I know what you said.

21 A. Right, so—

22 Q. I just want to know what you say about Mr. Osei Flemming-
23 Holder, the Heritage Petroleum Limited HSSE Manager, what
24 he saying about you there, is that a lie, well, untrue?

25 A. Well, it's a, it's a broad statement.

26 Q. No, it's not broad, it's very narrow.

27 A. So I would not say—I would say it's inaccurate.

1 Q. You say it's inaccurate?

2 A. Yes.

3 Q. Right. And the inaccuracies is that he did not intro—well,
4 forget the introduction, he did not update you on the incident
5 and the response?

6 A. The update on the incident was as I indicated. It was just a
7 brief explanation of what would have occurred, I was—

8 Q. Which—tell us—well tell us that.

9 A. Right. So, er, the divers were working and while removing a
10 plug, a splash was seen.

11 Q. Seen, right.

12 A. Yeah, and communication was lost.

13 Q. And you—

14 A. And—

15 Q. —right away recognized that splash—divers working in a
16 chamber, splash—

17 A. The pipeline.

18 Q. —disappear, pipeline, loss of communication—

19 A. Plug.

20 Q. —Delta P event?

21 A. Yeah, plug. Plug.

22 Q. Plug—right, thank you, plug removed, Delta P event?

23 A. Yeah.

24 Q. Right.

25 A. May have.

26 Q. What?

27 A. Go ahead.

1 Q. No, but you right away realized Delta P event?

2 A. Yes.

3 Q. From your experience. Having come to the conclusion based
4 on that narrative that you were given by Mr. Holder—

5 A. Yes.

6 Q. —Delta P event, where you thought the men were?

7 A. I can't say because it's dependent on the severity of the Delta P.

8 Q. No. Right—

9 A. Right, now we're using—

10 Q. Let us deal with the most—forget the quality of the Delta P,
11 whether slight or severe, Delta P. Let's go with severe. Where
12 you think the men would be if it's severe?

13 A. If it's severe, yes they could be in the pipeline.

14 Q. Yes, they could be in the pipeline?

15 A. If it's severe, yes.

16 Q. And if it's medium?

17 A. They could have been on the seabed.

18 Q. Right, okay. And if it's either no Delta P they would still be in
19 the chamber?

20 A. At which time?

21 Q. Well, no Delta—I taking it to the next extreme.

22 A. Yeah.

23 Q. No Delta P, just a splash, loss of communication, they could be
24 in the chamber?

25 A. I don't know.

26 Q. Right. So, you don't know at that stage whether the men are in
27 the pipe?

1 A. No.

2 Q. Right. And you're saying that Mr. Osei Flemming telling you
3 that one of the men in the pipe and four missing that, that was
4 never communicated to you?

5 A. Repeat, sorry?

6 Q. You are saying that when Mr. Holder says at paragraph 24—

7 A. Uh-huh.

8 Q. —that he told you, or that you were told that one diver was
9 rescued from the pipeline and that there were four missing, that
10 that was never said to you?

11 A. Wasn't from the pipeline, was rescued.

12 Q. He told you one was rescued?

13 A. Yes.

14 Q. All right, let's deal with that. Did you ask him—since at that
15 point you're telling me that you did not know whether the men
16 were in the pipe or not in the pipe or the seabed, you didn't ask
17 them where that one was rescued from? The one that you now
18 know was rescued—

19 A. Yes.

20 Q. —where he was rescued from?

21 A. No. I did not interrogate the situation. So I was told—so he
22 gave an explanation of what had occurred and the conversation
23 didn't progress.

24 Q. And he said one was rescued?

25 A. Yes, one diver exited, yes.

26 Q. Right. So we could tick off that part of, that part of paragraph
27 24 that he told you one diver was rescued. Right. Up to that

1 point, right? You thinking Delta P, not knowing the severity,
2 you didn't ask them, well, if it's severe—well, ask yourself, if
3 the Delta P is severe, men in the pipe. If it's not severe, they're
4 in the seabed, so you would now want to know whether it's
5 likely to be in the pipe or on the seabed because you don't
6 know severity. So, the next question that would assist you is
7 where was that one man rescued from? You would agree with
8 that, right?

9 A. Yes.

10 Q. All right. You sent there by your supervisor to lend support,
11 you're up in the ICP, you're there in a open room with
12 discussion, you didn't ask a question? "That one man all yuh
13 rescue, where all yuh get him from?"

14 A. In a open room with a discussion, er—

15 Q. Ah, I see why you—see why you have problems.

16 A. No.

17 Q. No, what?

18 A. No, I didn't ask them where they rescued—where he was
19 recovered from exactly.

20 Q. Is—but you realize that that's a logical question to ask?

21 A. Yes.

22 Q. And let me put to you, the reason you didn't ask it is because
23 Mr. Flemming told you the pipe—from the pipeline and that
24 four men were still missing. That's why you didn't ask the
25 question.

26 A. Four men were missing?

27 Q. Right? So we could tick that off, or he told you that?

1 A. No.

2 Q. So why you didn't ask the question? And I'm putting to you
3 the reason you didn't ask is because you knew. He told you
4 from the pipeline.

5 A. No.

6 Q. Well then explain to me why you didn't ask the question.

7 A. Sir, we are putting numbers on the divers and so forth in
8 industry practice, right—

9 **Mr. Chairman:** A little louder, please?

10 A. Right. In industry practice—

11 Q. Uh-huh.

12 A. —it would not have even been imagined that more than two
13 people would have been in the water first to begin with.

14 Q. Just now, industry practice we would not have envisaged—

15 A. Yeah.

16 Q. —that more than two persons would be in the water?

17 A. That all your divers are in the water.

18 Q. You lost me there, sorry.

19 A. Exactly, so in the conduct of activity—

20 Q. When you say exactly, what you mean? You intended to? But
21 I lost. But go ahead.

22 A. Right, so you're carrying out a task in the water. There's really
23 no need to have more than two divers in the water. Remember
24 I'm approaching something. I am unaware of what was being
25 done or the activity that was being conducted.

26 Q. Uh-huh. Let's stick a pin there.

27 A. Uh-huh.

1 Q. The fact that you don't know the activity that is being
2 conducted. you cannot conclude that two men would be the
3 appropriate number to have in the water, you agree with that?

4 A. Yes. No I don't.

5 Q. So whatever you're doing two men in the water?

6 A. In best practice—

7 Q. Uh-huh.

8 A. —and no matter the nature of the activity it's highly unlikely
9 that you would have had more than two divers in the water
10 working at one time.

11 Q. Right.

12 A. You would use rigging—

13 Q. Yes.

14 A. —to facilitate any additional support you may require.

15 Q. Right. Let's pause on that for the time being. Back to the one
16 diver rescued.

17 A. Yes.

18 Q. So, four missing, you said coulda never been possible?

19 A. No I would not say not possible.

20 Q. Because that's a fact now?

21 A. Yeah.

22 Q. Right. So, what I'm trying to get from you is that Mr. Holder is
23 saying "I told"—he was told that.

24 A. Okay.

25 Q. No, not okay. Because this is serious because, you see, let me
26 tell you why it's serious, because, it is being alleged against
27 Paria in this course of events that they kept you in the dark. So

1 I want to demonstrate that that is not fair and not true. So let's
2 stick with it.

3 A. Okay.

4 Q. Knowing that one man was rescued, you did not enquire from
5 the pipe or where?

6 A. Yes.

7 Q. But you realized that one man being rescued, you must then
8 ask, where is the other man? According to you, it's only two,
9 eh. It's only two by industry best practice and standards. Only
10 two men could be in the water at the same time. So, one man
11 recovered, according to you they ain't tell you from the pipe, so
12 your next question is, where the next man?

13 A. No, I did not question.

14 Q. So as far as you were concerned, you call out all this equipment
15 and you're going to be looking for one man?

16 A. No, Sir.

17 Q. All right. How many men you thought you would have been
18 looking for when you were upstairs there?

19 A. Sir, I don't know. I was informed. So, when I arrived it was
20 not—I was informed of what was transpiring. So, as I indicated
21 what was communicated to me, was the event at the time. It
22 wasn't a back and forth communication where—

23 Q. No I ain't—I not into all of that. I am dealing with you upstairs
24 9.30—

25 A. Yes.

26 Q. —up in the ICP—

27 A. Yes.

1 Q. —where you introduced to Randy, Collin, Michael, Paul, and
2 Flemming. As far as you're concerned, that operation in that
3 ICP at that time at 9.30—

4 A. Yes.

5 Q. —concerned looking for one man, as far as you were
6 concerned?

7 A. No.

8 Q. How many men you think the operation was about?

9 A. It wasn't a conversation about who they were looking for.

10 Q. Not conversation, your knowledge. As far as you were
11 concerned as an expert diver of 25 years, two men in the water,
12 one found, two minus one, one man this operation concerned—

13 A. Uh-huh.

14 Q. —at that point, 9.30 as far as you were concerned?

15 A. Umm.

16 Q. Is that so?

17 A. Yeah.

18 Q. So at 9.30, as far as you're concerned, we're looking for one
19 man, one man missing?

20 A. No.

21 Q. How many men?

22 A. It was—I didn't put thought—the question I had asked was if
23 they knew the condition of the—

24 Q. Where the man?

25 A. No, I didn't ask on the personnel, I asked on the condition of
26 the habitat and the condition of the plug that they were
27 removing. No answer was given.

1 Q. You asked about the condition of the habitat?

2 A. The reason why I asked—

3 Q. Just now, wait, we'll get your reason.

4 A. Uh-huh.

5 Q. That's how we're doing it here. We answer first and then you
6 come with your buts and reasons after. You were concerned
7 about the condition of the habitat and the plugs, right?

8 A. Yes.

9 Q. Why you needed to know? I tell you I go give you a chance. I
10 fair, you know. Why you wanted to know about the condition
11 of the habitat?

12 A. No, that would help inform what might have happened.

13 Q. Right.

14 A. Further inform.

15 Q. And what you need to know about the plugs?

16 A. Right. What had happened when they were removing the
17 plugs, if anybody knows what—where the plug is, what's the
18 current status of the plug. They would have been deflating the
19 plug supposedly, right? Did they completely deflate it? Is the
20 habitat flooded at present? What is the condition of the habitat
21 at that point in time? Is the habitat—whether atmosphere
22 reestablished? Is it void? Is it full with water?

23 Q. You wanted to know that?

24 A. That would have informed also where the divers might have
25 been.

26 Q. So the earlier information, flooding, splash, loss of
27 communication, flooding habitat—

1 A. Uh-huh.

2 Q. —plugs out, men missing, you still at that point did not think
3 that the men were in the pipe?

4 A. No. It wasn't confirmed.

5 Q. No, nah, no confirmed but—

6 A. No.

7 Q. —thinking.

8 A. No.

9 Q. All right.

10 A. I don't, I don't know.

11 Q. So you don't know.

12 A. Yes.

13 Q. One man rescued?

14 A. Uh-huh.

15 Q. You don't know, you got all that information about splashing
16 and all of that before. One man recovered, you don't think—

17 A. I, I did not know from where.

18 Q. I know.

19 A. Yes.

20 Q. That is what we find difficult to accept. All of that you don't
21 know. You inquiring about plug and habitat whether it flooded
22 still and you hear one man recovered—

23 A. Uh-huh.

24 Q. —but you realize that where that man was recovered is pivotal
25 to any opinion as to where the others might be? Well the other
26 one as far as you're concerned?

27 A. Yes.

1 Q. Hmm?

2 A. Yes.

3 Q. And you didn't ask a question?

4 A. No.

5 Q. You asked about plug and habitat and nobody answer you.
6 Well I could understand why.

7 A. Umm.

8 Q. What you asked about the pipe? Did you ask anything about
9 the pipe? You asked about the plug, the habitat.

10 A. It had no further communication.

11 Q. You didn't ask about the size of the pipe?

12 A. I knew the size of the pipe from downstairs.

13 Q. You knew the size of the pipe?

14 A. Initially they would have informed me of the size of the pipe.

15 Q. Who informed you?

16 A. It would have been Mr. Holder.

17 Q. So he—what he was telling you? Well, let we hear this. What
18 he told you about the size of the pipe downstairs? You now
19 realize you're having more information than you told us earlier
20 right? But go ahead.

21 A. No it's a 30-inch pipe. The diagram that they showed would
22 have indicated it's a 30-inch pipe.

23 Q. A diagram?

24 A. The sketch?

25 Q. We're coming to the sketch. I'll hear about the sketch just now.
26 Mr. Holder tell you about a 30-inch pipe when? And in what
27 circumstances?

1 A. When they would have shown me the sketch on his phone, it
2 was a picture of a sketch, the white—well I'm saying a sketch.
3 It's a sketch on a whiteboard—

4 Q. Okay. So just now. Wow. That's before you go upstairs?

5 A. Yes.

6 Q. Right. Before you go upstairs where I tell you Mr. Holder tell
7 you one man recovered from the pipe and four missing?

8 A. Yes.

9 Q. Which you're denying that part about the four men missing and
10 pipe. So downstairs now I got the impression earlier that you
11 were just introduced to him when all yuh gone upstairs 9.30.

12 A. No.

13 Q. So tell us what happened downstairs now with this phone and
14 diagram and thing? First time we hear—you realize first time
15 we're hearing this?

16 A. No. It's in my statement.

17 **Mr. Chairman:** Pause for a minute, please? Pause for a
18 minute. That is not entirely fair. It's set out in his statement—

19 **Mr. Peterson SC:** Yes, Sir.

20 **Mr. Chairman:**—at paragraph 16.

21 **Mr. Peterson SC:** I am talking about viva voce. That's what
22 I'm talking about.

23 **Mr. Chairman:** I know. But you'll appreciate that the
24 summary that's being given for every witness doesn't cover
25 everything.

26 **Mr. Peterson SC:** Sir, I'm not—with the greatest of respect
27 I'm not speaking about the summary, I understand that. I am

1 speaking about earlier—

2 **Mr. Chairman:** No but you just said—

3 **Mr. Peterson SC:**—he—

4 **Mr. Chairman:**—I know, but you just said this is the first time
5 we're hearing about it and—

6 **Mr. Peterson SC:** I—and I didn't finish, Sir. I was going to
7 say, in your narrative today—I—Sir, I'm being fair. I—one
8 thing I, with the greatest of respect, I don't want to blow my
9 own trumpet, is known for is being fair and in all my cross-
10 examinations.

11 **Mr. Chairman:** One no one is suggesting for one moment—

12 **Mr. Maharaj SC:** So I was going to take him—

13 **Mr. Chairman:** One moment.

14 **Mr. Peterson:** I would have taken him there, Sir, I was
15 speaking—

16 **Mr. Chairman:** Mr. Peterson, Mr. Peterson, there's—no one
17 is suggesting for one minute that you're anything other than
18 entirely fair—

19 **Mr. Peterson SC:** Yes.

20 **Mr. Chairman:**—save that you may have overlooked the
21 paragraph 16 when you made the suggestion that this is the first
22 time we're hearing about it. The fact of the matter is that he has
23 mentioned it before and it wouldn't be entirely right for you to
24 be able to put to him that it's not—that it's something new.

25 **Mr. Peterson SC:** No, Sir. Yeah, I would agree with that. Sir.

26 **Mr. Chairman:** And I didn't want that impression to be
27 created. All right?

1 **Mr. Peterson SC:** Sir, I will never create that impression.
2 What I was putting to the witness is the first time we were
3 hearing that in his narrative of having arrived, having
4 encountered and go upstairs and when he first heard certain
5 things.

6 **Mr. Chairman:** Well, certainly that's—

7 **Mr. Peterson SC:** Then I would have taken him to his
8 statement and say, but, okay you didn't tell us that for the first
9 time. Look it's in your statement.

10 **Mr. Chairman:** Right.

11 **Mr. Peterson SC:** So I would, I would—I amend that if that is
12 the impression created, Sir.

13 **Mr. Chairman:** Certainly it was the impression I got.

14 **Mr. Peterson SC:** Right.

15 **Mr. Chairman:** And I know that you would not have intended
16 that to be the case.

17 **Mr. Peterson SC:** No, Sir.

18 **Mr. Chairman:** But he has the statement in front of him, it is
19 not a memory test and he's entitled to look at the statement if it
20 assists him in answering any of your questions.

21 **Mr. Peterson SC:** I agree with you, Sir. When I started I
22 wanted to make sure he had his statement in front of him. I
23 asked him that.

24 **Mr. Chairman:** All right.

25 **Continued Cross-Examination By Mr. Peterson:**

26 Q. Right. So you got to Mr. Flemming and he showed you a
27 diagram? Paragraph 15 of your statement—

1 A. Yes.

2 Q. —16 of your statement, the last sentence.

3 **Mr. Chairman:** It's in front of you. I suggest you have a look
4 at it.

5 **Continued Cross-Examination By Mr. Peterson:**

6 A. Yes.

7 Q. All right. He showed you a sketch about the riser. That is the
8 pipe?

9 A. Yes.

10 Q. The riser and slash chamber.

11 A. Yeah.

12 Q. Right? So we're not focusing on seabed anymore, we're
13 focusing on pipe, isn't that so?

14 A. Yes.

15 Q. All right. Having been focused on a pipe, you all then moved at
16 some point to upstairs?

17 A. Yes.

18 Q. He told you one man was recovered?

19 A. Yes.

20 Q. Having been focused on pipe, did he not tell you from the
21 pipeline?

22 A. No.

23 Q. So he just tell you focus here on pipe downstairs, all yuh gone
24 upstairs, one man recovered and pipe not part of that
25 discussion?

26 A. Sir, the habitat is part of the discussion.

27 Q. I know. Habitat. He ain't mention pipe?

1 A. Uh-huh.

2 Q. Hmm? Isn't that so?

3 A. Yes.

4 Q. Right. That is your version and I gave you an opportunity to
5 critique what Mr. Holder is saying he told you, right?

6 A. Yes.

7 Q. I'm being fair. So Mr. Holder, according to you, only told you,
8 "Look at mih sketch on mih phone downstairs, pipe", we come
9 upstairs, he tell you upstairs one man—well let me be fair to
10 you, did he tell you downstairs one man was recovered?

11 A. Yes.

12 Q. So he told you that downstairs?

13 A. Yes.

14 Q. And you asked him—showing you pipe, well, better yet, focus,
15 look pipe, one man recovered, and you ain't ask him, thinking
16 about Delta P that you had in your mind, you told me earlier
17 you had in your mind, you ain't ask if from the pipe?

18 A. No.

19 Q. What you expect in a Delta P event, violent or moderate to take
20 the men from the habitat into where?

21 A. Where the man was at the event.

22 Q. No, where would the Delta P take the man? Having occurred,
23 the Delta P having occurred, where you expect the Delta P to
24 have taken the man?

25 A. That would depend on the severity of the Delta P.

26 Q. I know.

27 A. Yes.

1 Q. But you don't know the severity yet.

2 A. Yes.

3 Q. So you're factoring in severe, moderate, slight. Moderate,
4 severe, where you expect it to take the man?

5 A. There's the possibility that the man can be taken into the
6 pipeline.

7 Q. Right. I agree with you. So having heard he recovered or
8 rescued—

9 A. Yes.

10 Q. —you didn't ask about the pipe?

11 A. Yeah.

12 Q. Nobody tell you about the pipe?

13 A. That he didn't end up in the pipe.

14 Q. Hmm?

15 A. There is the possibility that he was not in the pipe.

16 Q. I know, but you didn't know which of those?

17 A. Exactly.

18 Q. So he having—you having been told he's recovered, not
19 knowing whether outside the pipe, inside the pipe, your next
20 obvious question as a 25-year experienced diver, is, "Where
21 you recover this man from?"

22 A. Okay.

23 Q. You must agree that that question jumps out to be and begging
24 to be asked, right? Don't you agree?

25 A. Yes.

26 Q. Right. And the—you were asked to assist with a risk
27 assessment?

1 A. Yes.

2 Q. Who ask you?

3 A. Mr. Holder.

4 Q. When?

5 A. That would have been downstairs.

6 Q. Before going upstairs the 9.30?

7 A. Yes.

8 Q. Right. A risk assessment to do what?

9 A. A diving risk assessment.

10 Q. To dive where?

11 A. Exactly, no.

12 Q. Huh?

13 A. That was the conversation. It was a diving risk assessment.

14 Q. So you—but a risk assessment would depend—doing that
15 exercise in any meaningful way must depend on where you're
16 diving?

17 A. Yes.

18 Q. In Mr. Mootoo's swimming pool, no big risk.

19 A. No, it didn't, it didn't go like that.

20 Q. In open sea? Well Mr. Mootoo, he have a real big pool. In
21 open sea, different risk assessment. Into a pipe, different risk
22 assessment. Penetration dive, different assessment. You agree?

23 A. Yes.

24 Q. Right. So you being asked to do a risk assessment by Mr.
25 Flemming, Flemming-Holder, you will want to know assess, to
26 dive where?

27 A. Yes.

1 Q. You ask him?

2 A. I guess. There's no information.

3 Q. No, you ask him?

4 A. No.

5 Q. So you didn't say, "Mr. Flemming, with the greatest respect to
6 you, you're just telling me assess, assess a risk to dive?" Let
7 me suggest to you that you're being inaccurate. Do you accept
8 your inaccuracy, in that, I am putting to you Mr. Holder asking
9 you to do a risk assessment for a possible rescue of divers from
10 inside the pipeline. And at paragraph 16 of Mr. Holder
11 Flemming's statement, Mr. Chairman. It's on page one four
12 nine three. I am putting to you that you're inaccurate because
13 Mr. Flemming-Holder told you or requested of you a risk
14 assessment for a possible rescue of the divers from inside the
15 pipeline.

16 A. No.

17 Q. Do you accept that?

18 A. No.

19 Q. So you're asking us to accept that all he say is, um, "Mr.
20 Sealesie, all I—I want you to do an assessment for me to dive."
21 That's it, right?

22 A. Yes.

23 Q. How you went about that exercise?

24 A. It was not—

25 Q. That request?

26 A. It was not conducted.

27 Q. You tell him you wasn't conducting it?

1 A. No.

2 Q. So Mr. Flemming-Holder is your manager HSSE at Heritage?

3 A. Yes.

4 Q. He's your boss? He's superior, he, um—

5 A. Superior, yes.

6 Q. —senior to you?

7 A. Yes.

8 Q. He asked you, in an emergency, to do an assessment and you
9 decide you ain't doing it.

10 A. No.

11 Q. What you decided?

12 A. I didn't decide anything. We left—we subsequently left.

13 Q. No, we go deal with the—I know—I want to know why you did
14 not do the assessment.

15 A. When I arrived he was at the computer doing something.

16 Q. I get all that already. We're not dealing with him, we're
17 dealing with you.

18 A. Yeah.

19 Q. Why you—he told—he requested of you an assessment. You
20 tell me that all ready. Why you didn't do it?

21 A. No, I was not instructed to do an assessment.

22 Q. All right.

23 A. Yes.

24 Q. He asked you. He ain't instruct you he ask you.

25 A. No. He didn't ask me.

26 Q. You can't have all—

27 A. No, that coincide—

1 Q. —the marbles, eh.

2 A. It's a matter—

3 Q. I have to pitch too.

4 A. It's a ma—

5 Q. You can't have all the marbles.

6 A. It's a matter of phrasing and how the conversation went, right?

7 “Do you have a diving risk assessment?”

8 Q. That's what he asked you?

9 A. If I had a diving risk assessment or if I can do a diving risk
10 assessment.

11 Q. No, wait, no, no, no. He asked you—

12 A. Yes.

13 Q. —if you have a diving risk assessment?

14 A. Yes.

15 Q. From where?

16 A. There are basic fundamentals in planning a dive.

17 Q. Yeah.

18 A. I don't know if he's just looking—was looking for a template to
19 start processing a risk assessment.

20 Q. And the second one you tell me—you tell me one, he, um—he
21 asked you if you had one or he asking the second, the second
22 part was what? Did he request it? Give me two options. You
23 said he have—you had one?

24 A. No, so it's not—right, so, it was not for you or meaning myself
25 to prepare a diving risk assessment to rescue divers from a
26 pipeline.

27 Q. What he asked you?

1 A. So, in essence probably when I arrived he was doing something
2 on a desktop.

3 Q. Forget him.

4 A. No that's what I'm saying. So, if—

5 Q. Yeah.

6 A. —that is what he was doing at the time of my arrival, it may
7 have been assistance he was seeking to formulate a risk
8 assessment for a diving. It was not specific to rescue divers.

9 Q. It wasn't what?

10 A. A risk assessment to rescue divers. That wasn't the
11 conversation.

12 Q. So he just interested in diving generally? That's what you're
13 telling us? In an emergency situation?

14 A. Yes.

15 Q. You responding to an emergency.

16 A. Yes.

17 Q. Bear that in the back of your mind.

18 A. Yes.

19 Q. So when he asked you about this general diving risk
20 assessment, what did you do? What did you say?

21 [*Interruption*] That is true. What did you say?

22 A. To prepare a risk assessment?

23 Q. No. When, whatever you are saying—

24 A. Uh-huh.

25 Q. —Mr. Holder communicated to you—

26 A. Yes.

27 Q. —what did you say in response to that request, instructions,

1 invitation. I know what it is now.

2 A. Yeah.

3 Q. Yeah what did you say?

4 A. I can't recall.

5 Q. You didn't say, "Boss, I can't do that. I don't have enough
6 information", according to what you're saying?

7 A. Yeah.

8 Q. You said that?

9 A. No, I didn't say it like, what I saying, I can't say exactly what I
10 would have said to him.

11 Q. But he is saying, Sir, that he asked you, which, to my mind
12 make a little more sense than what you're saying with the
13 greatest of deference to you—

14 A. Yes.

15 Q. —I—to do a risk assessment for possible rescue of divers from
16 inside the pipe, so you're saying that was never said to you? I
17 giving you the chance because Mr. Holder coming, eh—

18 A. Yeah.

19 Q. —and he saying that he tell you that.

20 A. Yeah.

21 Q. That never happen?

22 A. No.

23 Q. Right. He finish on the computer and thing and all yuh gone
24 upstairs. At this stage you still ain't know about pipeline, right,
25 and men in the pipe?

26 A. Men in the pipe, no.

27 Q. Right. You gone upstairs. What you saw on the whiteboard

1 when you went upstairs?

2 A. It would have been the same, more or less the same as the
3 picture that was shown on the phone.

4 Q. Right.

5 A. So it was the configuration of the habitat and the pipeline.

6 Q. Right. And you still at this stage even you ain't saying, "But
7 why all yuh men wasting all yuh time and focusing on this
8 pipeline? The men could be on the seabed." You ain't do that?

9 A. No.

10 Q. You ain't wondering all that time what is this obsession with
11 this pipeline about?

12 A. No, there was no obsession with a pipeline.

13 Q. But they was focused—

14 A. No.

15 Q. —on the pipeline?

16 A. No.

17 Q. Remember you tell me downstairs when the Chairman take me
18 to—for beating you up earlier with saying you didn't say it
19 before?

20 A. Yeah.

21 Q. On the phone, you tell me they was focused on the pipeline, on
22 the phone, they showing you on the phone

23 A. No. They're not focused on the pipeline.

24 Q. Well they're focused on the whiteboard only?

25 A. They are focused on the event.

26 Q. Mr., Mr., um, Seales—

27 A. Yes.

1 Q. —please? You arrived in the building, the first thing Mr.
2 Holder run and push in your face is the phone with a pipeline
3 on it. You told us that. He took you to the phone and showing
4 you the pipeline and asked—well, I am putting to you, asking
5 you about a dive into that?

6 A. No.

7 Q. So he just show you the pipeline?

8 A. He show me what the configuration of the operation was in
9 terms of the habitat, the configuration of the pipeline itself and
10 where the habitat was—

11 Q. Show you the configuration—

12 A. —and what they was doing, and so it's a drawing of a U
13 basically—

14 Q. Uh-huh.

15 A. —with the habitat on one end.

16 Q. Uh-huh.

17 A. Men were in the habitat.

18 Q. Uh-huh.

19 A. And they were removing plugs.

20 Q. Uh-huh.

21 A. That was the explanation that was given.

22 Q. And having removed—in the removing plugs and splash and
23 flush and all of that, what—

24 A. Yes. Communication was lost.

25 Q. Right.

26 A. Yes.

27 Q. Delta P?

1 A. Yes.

2 Q. Delta P is pulling men into the pipeline. Come on, Mr. Seales.

3 **Mr. Ramadhar:** Your seal is broken.

4 **Continued Cross-Examination By Mr. Peterson:**

5 Q. Mr. Ramadhar say your seal is broken.

6 A. [*Laughter*]

7 Q. No, this is serious.

8 A. Yes.

9 Q. Because, you see, it's serious.

10 A. Yes, I'm listening.

11 Q. Where would the men be? In that scenario, Mr. Seales, 25
12 years' experience, diving experience, you told us you had—you
13 know about Delta P.

14 A. Yes, so based on the explanation, exactly as I said. Based—it's
15 likely that that could have happened but again they don't have
16 to be in the pipeline.

17 Q. Yes. But one of the grave, the great possibility is that they're in
18 the pipeline?

19 A. Yes.

20 Q. And you did not factor in any part of your thoughts; pipeline,
21 you're only on seabed?

22 A. No.

23 Q. Right. So you thought they could have been in the pipeline?

24 A. Yes.

25 Q. When you thought that first? In that scenario I—arriving,
26 phone and all that, when you first thought that?

27 A. No, within the whole scenario, yeah.

1 Q. No.

2 A. There would have been a possibility of various things
3 happening.

4 Q. I know.

5 A. That would have been—

6 Q. When did you first think—listen to the question.

7 A. Yes.

8 Q. When did you first think that the men could have been in the
9 pipeline in your arrival, phone being shown to you, pipeline,
10 habitat, line, flashing, flooding—

11 A. Uh-huh.

12 Q. —all of that? When did you first think the men could have
13 been in the pipeline?

14 A. Within the whole scenario of the explanation?

15 Q. Within the whole scenario of the explanation—

16 A. Yes.

17 Q. —downstairs before going upstairs.

18 A. Yes.

19 Q. Right. That is it. Having had the lingering thought that these
20 men could have been in the pipeline downstairs, you want to
21 change that now?

22 A. No.

23 Q. All right. Having heard a man was rescued, what came to your
24 mind then, having thought that they could have been in the
25 pipeline?

26 A. Yeah, the—

27 Q. Not even, not only—curiosity ain't ask you—

1 A. Umm.

2 Q. —to ask; “Dah man rescue from the pipe?” So, so you could
3 eliminate your thoughts that the men could have been in the
4 pipe? You realize that, right?

5 A. No, because the fact that he was rescued doesn’t necessarily
6 mean that he was in the pipe.

7 Q. I know that. You didn’t know that either.

8 A. Yeah.

9 Q. What I’m trying to get from you is that you there to assist to
10 search for men, well, according to you, two men, you’re
11 thinking pipeline or seabed, right? Could be pipeline, could be
12 seabed. Isn’t that so?

13 A. Yes.

14 Q. Because that’s what the rescue has been done—the evidence is
15 that, that was being done before they realized a man came out
16 the pipeline, eh, they were searching seabed and around
17 because they don’t know.

18 A. Yes.

19 Q. So you have those two options in your mind. You will want to
20 narrow it down, wouldn’t you? Because you’re there to help
21 and lend support, eh. Isn’t that so?

22 A. Yes.

23 Q. So you want to eliminate?

24 A. Yes.

25 Q. So if you hear a man is rescued, you either, he found on the
26 seabed or in the pipe. So you want to eliminate one of them as
27 possible and you ain’t ask, well where them find he?

1 A. No.

2 Q. And that is why I tell you it's more plausible, and I'm putting to
3 you that you were told, so let's move on. You were told that
4 the men—the man was rescued from the pipe and four other
5 men were missing. I'm putting that to you right, so we could
6 move on. And you deny that you were told that?

7 A. Yes.

8 Q. Right. But you know I, subject to correction, I got the
9 impression that you were just put on standby. The impression
10 you gave, at least me, and I'm infallible, that you, no requests
11 were made of you, you were just put, brought there?

12 **Mr. Chairman:** Did you say infallible?

13 *[Laughter]*

14 **Mr. Peterson SC:** I always get it wrong, Sir. I always try to
15 tell myself I fallible and I always getting it wrong.

16 **Mr. Chairman:** So you're fallible, then?

17 **Mr. Peterson SC:** I'm fallible, yes. I always try to get it that
18 way but I always getting it wrong. *[Laughter]* *[Crosstalk]* My
19 colleague tell me nowhere.

20 **Continued Cross-Examination By Mr. Peterson:**

21 Q. Now, I got the impression, that you were conveying to us that
22 you were called there, you got there and you were put on
23 standby and no requests were made of you.

24 A. Yes.

25 Q. But you realize at least one request so far was made of you?

26 A. Yes.

27 Q. And an important one to do an assessment for a dive?

1 A. Yes.

2 Q. So, do you now accept that the evidence is not accurate when
3 you said Paria had you there and no requests were made of
4 you? You must accept that because we just went through that,
5 and I want to finish quickly.

6 A. Yeah.

7 Q. So you're inaccurate on that, right, at least that?

8 A. Yes.

9 Q. Right. You're upstairs now, board and everybody upstairs,
10 going with you for Collin Piper, Randy Archbald, Michael Wei,
11 um, Paul Yearwood, Osei Holder, what were you all—what
12 was being discussed at that time?

13 A. Right. Paul Yearwood, as I could recall, was not there. As I
14 said, so, Mr. Collin Piper came into the room, was Michael
15 Wei, Randy Archbald, was the same diagram, they explained
16 what had happened, I asked—as I said, I asked the question of
17 what is the status trying to again—

18 Q. What is the status of what?

19 A. The habitat and the plug, if anybody knows? Now this is, er,
20 9.30 in the night to 10.00n. They appeared that they didn't
21 know because no answer was given and they subsequently left
22 the office.

23 Q. But, at least at that conversation the surviving diver was
24 revealed?

25 A. Yes.

26 Q. Mr. Boodram?

27 A. Yes.

1 Q. Well we got through that already you say you didn't—and then
2 what happened after that? They were just—you just—

3 A. That was it, they left.

4 Q. Right. And when they left, all you knew is that there was all of
5 this information, this drawing on the board and all of that, a
6 man was recovered, rescued, and that's it? That's all you
7 knew?

8 A. Yes.

9 Q. And you remained silent throughout all of this, apart from
10 asking those two questions about the habitat and the plug?

11 A. I was no longer in their presence.

12 Q. No, whilst you were in their presence those are the only two
13 questions you asked?

14 A. At that time, yes. No answer was given for those questions and
15 they left.

16 Q. You ain't tell them, "I feel them men could be in the pipe, you
17 know. Let's do up an assessment for the pipe"?

18 A. No I did not.

19 Q. Why not?

20 A. As, as I said earlier I entered into an active emergency
21 management system, Paria's team would have been
22 functioning, their incident command team, LMCS may have
23 had a emergency response plan active, I do not know who Paria
24 was in communication with, what resources they had available
25 and what was being done or conducted at that time.

26 Q. Right.

27 A. So when they came into the room and they asked those

1 questions or not even asked the questions, they showed me to
2 give me an idea of what was transpiring and I made my
3 comment, that did not go any further. They left. So there
4 wasn't a conversation.

5 Q. So they showed—

6 A. So I—

7 Q. Right, they showed you the stuff because you have expertise to
8 bring?

9 A. So—

10 Q. Did you tell them you had Mitchell on site to conduct a dive?

11 A. Yes. All that was communicated on my arrival in terms of what
12 resources was available at that time when I arrived.

13 Q. Right.

14 A. So that's why I got the information from Mitchell when they
15 arrived

16 Q. Right.

17 A. I called OTSL to find out where they were and I would have
18 communicated that.

19 Q. Right. And the assistance you brought through Mitchell, at that
20 stage, your equipment that you brought was intended for a
21 seabed dive, or a pipe dive also?

22 A. To effect a dive. It doesn't matter—to effect a dive.

23 Q. It could be both?

24 A. Yes.

25 Q. Right. When you up in that erm, room upstairs in the ICT, you
26 didn't indicate that you had equipment standing by to do a dive
27 into the pipe also?

1 A. No. There was no conversation to effect a dive or request to
2 effect any dive or anything surrounding diving.

3 Q. Right.

4 A. That's what the—

5 Q. So when this, according to you persons left the ICT, you, what
6 time you left the ICT room after having arrived there around
7 9.30?

8 A. No, and that was not the ICT room.

9 Q. Well the room—

10 A. This is a room separate and apart from incident command.

11 Q. Right.

12 A. So they came into a room where I was.

13 Q. Right.

14 A. I do not even know what office that was.

15 Q. Right.

16 A. So this was a brief conversation and they left.

17 Q. And they left you?

18 A. Yes.

19 Q. But that room had the whiteboard?

20 A. It had a whiteboard.

21 Q. A whiteboard?

22 A. Yes.

23 Q. With the drawing on it?

24 A. Yes.

25 Q. Right. They left there and left you there?

26 A. Yes.

27 Q. Right. That was around what time?

1 A. That's what I say. That would be after 9.30.

2 Q. Right. And you remained there by yourself for how long?

3 A. Yes, Mr. Flemming would have been there, I would have
4 walked out in the hall, but that's the area I was stationed.

5 Q. Yeah, for how long? Until what time?

6 A. Until, er, will be the 12.15 when they would have had the
7 briefing in the lobby where the—when I—where a request was
8 made for diver intervention.

9 Q. So that would have been about two and a half hours later?

10 A. Yes.

11 Q. When did you—when was this request made about diving to
12 remove the blockage in the pipeline?

13 A. Twelve-fifteen approximately.

14 Q. And you were privy to that? You were present for that?

15 A. Yes.

16 Q. Right. When they made this request, who they made it of?

17 A. They made the request of the coast guard. They declined.

18 Q. No, just now, in your presence?

19 A. Yes.

20 Q. Right.

21 A. Correct. So it was a briefing in the lobby area of that building.

22 Q. Yes.

23 A. Right? He gave a briefing of—

24 Q. Who?

25 A. Mr. Piper.

26 Q. Right.

27 A. —of what the camera would have encountered.

1 Q. Yeah.

2 A. Right, and then he made a request for intervention. The initial
3 request was made of the coast guard—

4 Q. Yes.

5 A. —to remove the blockage.

6 Q. Right.

7 A. They declined.

8 Q. Yes.

9 A. And then he asked me—

10 Q. He asked you what—

11 A. —if I could send my divers.

12 Q. Into?

13 A. The pipeline.

14 Q. For what purpose?

15 A. To remove the blockage which would have been a cylinder
16 what the camera would have encountered.

17 Q. Why would—and you declined that also?

18 A. No.

19 Q. Well, you send the men in?

20 A. No. I had no—what I saying, so I indicated that I had no divers
21 and I asked questions in terms of—

22 Q. No, but you had control over Mitchell divers.

23 A. Which I explained later on, so I told him, because it was a
24 direct question, if I can send my divers.

25 Q. Yes.

26 A. So just for it not to be misunderstood, I have no divers.

27 Q. Right.

1 A. Mitchell's and OTSL have divers, have a dive team and a dive
2 supervisor.

3 Q. Right.

4 A. What I could have done is made a request through them.

5 Q. Right.

6 A. So I made that clear.

7 Q. Right. Twelve-fifteen—

8 A. Yes.

9 Q. —you ain't saying, "But why are we so obsessed with this
10 pipeline?"

11 A. No, by that time we would have known because you would
12 have, you would heard of the conversation.

13 Q. Which conversation?

14 A. By this 12.15, this is after Mr. Boodram would have been
15 recovered.

16 Q. I know.

17 A. So their focus—

18 Q. Mr. Boodram come—

19 A. Exactly.

20 Q. —out about 5.30, eh.

21 A. Right. So their—in their communication at that briefing, they
22 looking at going into the pipeline, they have the information
23 that it's possible that men are in the pipeline. So at 12.15 this
24 conversation is to effect a dive into the pipeline.

25 Q. To remove the tanks?

26 A. Yes.

27 Q. To get clearance to do a rescue?

1 A. Yes.

2 Q. Right. So at 9.30, that conversation didn't take place?

3 A. No.

4 Q. Well I am putting to you it did. In fact, I'm putting to you that
5 you were immediately, on entering the building, taken to the
6 whiteboard, you were told that Boodram was recovered. I'm
7 putting that to you.

8 A. Yes.

9 **Mr. Chairman:** Is this at 9.30? Can I understand is that is at
10 9.30?

11 **Mr. Peterson SC:** Yes, Sir.

12 **Mr. Chairman:** Nine-thirty or thereabouts?

13 **Mr. Peterson SC:** At 9.30 thereabouts.

14 **Mr. Chairman:** Is this when he had the meeting with—

15 **Mr. Peterson SC:** Upstairs.

16 **Mr. Chairman:**—upstairs with Mr. Wei—

17 **Mr. Peterson SC:**—in the room.

18 **Mr. Chairman:** Right. Thank you very much.

19 **Mr. Peterson SC:** Sir.

20 **Continued Cross-Examination By Mr. Peterson:**

21 Q. Yeah, I'm putting that he was informed that the men were
22 missing, that Boodram had been taken out the pipe, well
23 rescued out of the pipe.

24 A. That is—

25 Q. I'll put that to you. All right.

26 A. He was rescued.

27 Q. So. Yeah.

1 A. Well, sorry, well—

2 Q. Yeah, well, yeah I know. We get that already. I don't want to
3 cover ground twice. So we're now at 12.15?

4 A. Yes.

5 Q. So the request was made of Mitchell through you?

6 A. Yes.

7 Q. Through the supervisor. What did they say about going into
8 remove the, um—

9 A. No, after reviewing the footage they declined.

10 Q. Right.

11 A. So that would have been—

12 Q. You have 25 years' experience in diving at that stage?

13 A. Yes.

14 Q. You had any difficulty with that declining?

15 A. No.

16 Q. All right. You think it was a reasonable position?

17 A. Yes.

18 Q. You had any difficulty with the request to clear the line before
19 going in further, to clear the obstacle before sending in divers?

20 **Mr. Chairman:** Well it was sending divers in to clear the—

21 **Mr. Peterson SC:** To clear the—yes, yes, thank you Sir,
22 thanks.

23 **Continued Cross-Examination By Mr. Peterson:**

24 Q. You had any difficulty with they sending divers in to clear the
25 obstacle to effect the rescue?

26 A. This is at—after reviewing the video footage?

27 Q. Yeah.

1 A. Yes.

2 Q. What was the difficulty?

3 A. As I would have indicated earlier in terms of, er, the size of the
4 pipeline, how you accessing the pipeline, the equipment that
5 would have been required to effect the dive, what position the
6 diver would have been in, right, er, how do you rescue, your
7 rescue plans in terms of—

8 Q. Yeah. I got all that before. Yeah, I don't mean to cut you off.
9 I mean we got that before. I don't need to spend time. I'm also
10 instructed that you weren't just parked aside and put on hold.
11 You were being consulted at different stages for your advice
12 and assistance. Is that not so?

13 A. No.

14 Q. So after 12.15 what happened?

15 A. No, sorry, after 12.15—

16 Q. Yeah.

17 A. Or, no.

18 Q. No. Between you arriving—

19 A. Yes.

20 Q. —and the declining to send men into the pipe—

21 A. Yes.

22 Q. —to clear, you were being consulted at different points for your
23 input and assistance?

24 A. No.

25 Q. So after 9.30 thereabouts, the next time you got engaged is
26 12.15 thereabouts in the lobby meeting?

27 A. Yes, for that intervention.

1 Q. After you declined, well, through—Mitchell declining through
2 you, what was your participation thereafter?

3 A. A request was made for chamber support.

4 Q. For what?

5 A. For recompression chamber support for—

6 Q. Yeah, all right. That is, yeah—

7 A. No, well, and, and—

8 Q. No, I mean apart from—okay, go ahead. Go ahead.

9 A. So, and right, and that would have occurred at the time when
10 we were reviewing the video footage at berth 6. So my focus
11 would have transitioned from facilitating that request in terms
12 of the treatment for Mr. Boodram—

13 Q. Yes.

14 A. —which would have been mobilizing a chamber, the chamber
15 support.

16 Q. That's Mr. Bood—right.

17 A. So that's my involvement. So again, this is within the same
18 timeline of having the request to go to berth 6 to review the
19 video with Mitchell's and OTSL.

20 Q. Uh-huh.

21 A. The other request at that time would have been for a treatment
22 for Mr. Boodram.

23 Q. I got all of that. I—

24 A. Yes.

25 Q. —commendable. You had 25 years' diving experience. You
26 were in charge of the diving wing of Heritage. Right? If I
27 could call it a diving wing?

1 A. Yes.

2 Q. Paria is a sister company. When I say sister—

3 A. Yes.

4 Q. —under one kind of umbrella. You went there in an emergency
5 to assist. Bringing your experience to bear you didn't ask these
6 men, "When we diving? When we looking for this man?"

7 A. No.

8 Q. You just sat there waiting to be questioned?

9 A. No.

10 Q. You didn't say, "I have the command of Mitchell's diving. I
11 could put five men in the water within the next half an hour.
12 Can I do that?"

13 A. No, Sir, that's not how it works.

14 Q. Or. That's not how it works?

15 A. No, Sir.

16 Q. What you mean by that's not how it works?

17 A. Sir, it's a emergency response system that has been activated.
18 Everybody have roles and responsibilities. I cannot arrive on
19 location—er, there was no directive of, okay, you are here, you
20 and your team take command of anything. The operation was
21 ongoing. Incident command team which is, I am unaware of
22 what resources, other resources and what was actually taking
23 place at berth 6 on LMCS barge, what resources LMCS had,
24 what communication was taking place between LMCS and
25 Paria or any other external resources. I was sent there to
26 support, if required. So that's what I'm saying, I am there into
27 a system. I am not there like I am at the Commission today. I

1 am not here to do as I please or what I think. I am under the
2 command of—

3 Q. The Chairman?

4 A. Yes.

5 Q. Yes.

6 **Mr. Chairman:** That is not just you either. [*Laughter*]

7 **Continued Cross-Examination By Mr. Peterson:**

8 Q. Mr. Ramadhar. You have—right, so, you got—right, I like
9 that. You got into a command system—

10 A. Yes.

11 Q. —that was already activated?

12 A. Yes.

13 Q. That is good, but dealing with the human side of you now—

14 A. Yes.

15 Q. —and taking for—well, I doing this as a risk—taking what Mr.
16 Ramadhar say—

17 A. Uh-huh.

18 Q. —about a brotherhood of divers—

19 A. Yes.

20 Q. —you know divers are missing?

21 A. Yes

22 Q. Notwithstanding the activation of this system, I understand
23 from examination earlier in the Commission by Commissioner
24 Wilson about a command system—

25 A. Yeah.

26 Q. —and a structure and, the human side of you now—

27 A. Yes.

1 Q. —I know a diver is also human but I mean the human side of
2 you—

3 A. Yes.

4 Q. —ain't saying well, "Men missing, I mean I want to dive.
5 What all yuh doing?"

6 A. Yes, I would say things to my myself.

7 Q. No, no, no, that's you to you, not you to you, although I say
8 some things to myself in this Commission already.

9 A. No, well, so I—

10 Q. But, you understand what I'm saying?

11 A. Yes.

12 Q. And you did nothing?

13 A. Yes.

14 Q. Even when, at least the one request you admitted to so far was
15 made of you, you didn't do it, to do the assessment?

16 A. Yes.

17 Q. The dive assessment to rescue men, isn't that so?

18 A. No.

19 Q. You did the assessment? You did nothing, pursuant to a
20 request to do an assessment to dive, not for gold, to dive to
21 rescue men, isn't that so?

22 A. No, that wasn't—when I say it was not concluded. It's not, it's
23 not clear-cut as into a request was made to do a rescue dive and
24 I said I'm not going to do a risk assessment for a rescue dive. It
25 was a conversation, subsequently we left to go upstairs—

26 Q. Uh-huh. But your—but you gave advice at some point that a
27 dive is not advisable?

1 A. It would not have been in the form of advice, it would have
2 been communication from—

3 Q. Well—

4 A. Yes.

5 Q. —suggestion?

6 A. So, so yes.

7 Q. You suggested that a dive was not advisable?

8 A. Yes. You can say that.

9 Q. Because it was too risky?

10 A. Yes.

11 Q. And that was the dive into the pipe, or all dives?

12 A. All—no, this is a 12.15 conversation.

13 Q. Yeah.

14 A. Yes, so, in terms of diving intervention this would have been
15 the conversation after the review of the video footage, after
16 consultation with Mitchell's and OTSL dive supervisors, that
17 would have been communicated to ICT.

18 Q. And your professional opinion, you agreed with the—

19 A. Yes.

20 Q. —dive supervisor that it's too risky?

21 A. Yes.

22 **Mr. Peterson SC:** Thank you very much Mr. Chairman.
23 Thank you, Mr. Seales.

24 **Mr. Chairman:** You have some questions?

25 **Examination By Mr. Chairman:**

26 Q. Yes I do have a few questions just if you can help me please?

27 First of all, can I, in order to try and pin down the time when

1 you first arrived at Paria—

2 A. Yes.

3 Q. —and, um, what happened thereafter, can we—can I ask—is,
4 put up is page one five seven three which is the supplemental
5 core bundle Volume II which contains the, um, actions as
6 recorded by Paria's, um, on—scribe at the scene?

7 A. Yeah.

8 Q. At the IMT and I forget what it's called, the command centre,
9 all right? The person who's scribing as events take place. Well
10 what we can see is, if you go please to the next page, twenty-
11 one forty-one, do you see that there's an entry there, roll up
12 please, 2141, I'm afraid the timing of this is not always
13 chronological but 2141, do you see it? Yes, there we are. Do
14 you see, thank you, you can see at 2106 there's a discussion
15 with Kazim Ali Sr. and then there's information from Mr.
16 Kazim Ali Sr., and then at 2141 the next entry it says,
17 "Discussions with Heritage personnel." Do you see that line?

18 A. Yes.

19 Q. Right, that's at 2141, do you see?

20 A. Yes.

21 Q. Right? Now, you told us that you, between 2130 and 2400
22 hours there were various personnel in and out of the meetings,
23 in and out of the office, but, at around 2130 you had a meeting
24 which involved a number of the personnel at Paria, correct?

25 A. Yes.

26 Q. Right. And that's the meeting that has been put to you by Mr.
27 Peterson and others, and I just want to try and identify the

1 timing of this, because, if this document drafted by Paria is
2 accurate—

3 A. Yes.

4 Q. —the discussion is taking place at 2141, do you see?

5 A. Yes.

6 Q. Right. So do you think that might be right when you were in
7 this meeting with these people from Paria? You said 2130.
8 This is 2141.

9 A. Possible, yes.

10 Q. Right. We can see that the next thing that happens at 2143 is
11 that someone's trying to contact the hospital in order to try and
12 make arrangements to speak to Mr. Boodram.

13 A. Yes.

14 Q. Now were you present in the meeting where Mr. Boodram
15 spoke to Paria?

16 A. No, I wasn't in the meeting.

17 Q. You weren't in that meeting?

18 A. No.

19 Q. Right. So whatever the timing was that you were in the
20 meeting, it's cut off by what we know, from other evidence,
21 Mr. Boodram was speaking to members of the team in the
22 incident room. And we know that to be shortly before ten
23 o'clock. So it's around 2141, there or thereabouts if that's, if
24 their note is accurate?

25 A. Yes.

26 Q. Now, in that meeting at that time, is it the case that—you had
27 already spoken with Mr. Flemming-Holder?

1 A. Yes.

2 Q. And at 2141 if that's the right time you're in this meeting
3 you're now explaining or it's being explained to you what did
4 or didn't happen. There's a dispute, I appreciate, between
5 what's being suggested and what you've put in your statement,
6 all right?

7 A. Yes.

8 Q. And I'm not really for the moment, for the purpose of my
9 questions, interested in that dispute. What I'm interested to
10 know is this. Whether it is right or wrong that you were told
11 certain things or not told certain things, on any view, the first
12 time you knew anything about the detail of this event, this
13 incident, was the, at the earliest possible time, would have been
14 at 2100 hours—

15 A. Yes.

16 Q. —when you first arrived at the scene and saw Mr. Flemming-
17 Holder?

18 A. Yes.

19 Q. Am I right about that?

20 A. Yes.

21 Q. Right. So, whatever the position, whatever you've been told,
22 whatever you weren't told or were told, it is not suggested that
23 you knew anything other than the very basic fact that there was
24 an emergency to which you were required to attend, yes?

25 A. Yes.

26 Q. Until 2100 hours?

27 A. Yes.

1 Q. All right. At 2100 hours when you were being told something,
2 whatever it was, were you, and I would ask you to reflect on
3 this, please, were you told then how long it had been since Mr.
4 Boodram had emerged from the pipe?

5 A. No.

6 Q. Think about it please? It's quite important this, all right? Do
7 you think there's even the possibility that you were told how
8 long it had been since Mr. Boodram had emerged from the
9 pipe?

10 A. No.

11 Q. All right. Would you regard that as an important fact to be
12 told?

13 A. Yes.

14 Q. You told Mr. Peterson that you were asked at an early stage, I
15 say early, sometime after 2100 hours, about a risk assessment?

16 A. Yes.

17 Q. Right. First of all, were you asked if you were capable of
18 preparing a risk assessment?

19 A. No.

20 Q. Were you asked to carry out a risk assessment?

21 A. No.

22 Q. What was it that you were asked about a risk assessment?

23 A. If I had a diving risk assessment.

24 Q. Did you have one? You were asked that, were you?

25 A. Yes.

26 Q. Right. And did you—

27 A. Well, again, it would not be specific because the risk

1 assessment is site specific.

2 Q. Site specific?

3 A. For the—

4 Q. And—

5 A. For the dive.

6 Q. —you see Mr. Peterson is saying, not unreasonably, if that is
7 the case, if a risk assessment is site specific wouldn't that lead
8 you inevitably to be asking questions?

9 A. Yes, and there was no information available.

10 Q. Right.

11 A. That's why nothing ever—

12 Q. Well, let's take it one a step at a time see? The first question is,
13 did you ask the questions? Because I rather understood your
14 answer to Mr. Peterson was that you didn't.

15 A. No.

16 Q. Right. So do you recognize now that perhaps you should have?

17 A. Yes.

18 Q. Right. So you should have—what you're saying is you didn't
19 ask the questions but perhaps you should have done?

20 A. Yes, I should have interrogated, yeah.

21 Q. Right. Because that—once you've got—once you started
22 asking those questions you would, you would presumably be
23 given the answers if they knew them?

24 A. Yes.

25 Q. Yeah. All right. So that's, that's with Mr. Flemming-Holder,
26 all right?

27 A. Yes.

1 Q. And then after that, about a half an hour later or 41 minutes
2 later if that record is correct, you're now in a meeting with a
3 number of others, yes, you've told us Mr. Wei—

4 A. Yes.

5 Q. —um, Mr. Piper and others, yes?

6 A. Yes.

7 Q. And in that meeting, were you asked anything about a risk
8 assessment—

9 A. No.

10 Q. —in that meeting?

11 A. No.

12 Q. Bearing in mind that we're now pushing ten o'clock, knowing
13 what you know now, that Mr. Boodram emerged from the pipe
14 at about 5.45, something like that, all right, what were the—
15 what was the likelihood of anybody being alive, in your mind,
16 at ten o'clock?

17 A. Highly unlikely.

18 Q. Were you willing to risk, either your own life or anybody
19 else's, in effecting a rescue of anybody who is highly unlikely
20 to be alive?

21 A. As a diver or my own?

22 Q. I'm sorry?

23 A. As a diver or my own?

24 Q. I, I, I'm sorry I just didn't catch that.

25 A. Right, so, the question you asked was if I would have been
26 willing to risk my life—

27 Q. Yes.

1 A. —or anybody else's.

2 Q. Yes, bearing in mind we're now, what is it, four plus hours after
3 Mr. Boodram has come out of the pipe and nearly seven hours
4 after the incident.

5 A. Yes.

6 Q. Would you be willing to risk yourself or others to effect a
7 rescue of somebody who you think highly unlikely to be alive?

8 A. No.

9 Q. You were asked a little about the time that it took between your
10 being first alerted to this just before I think six o'clock, forgive
11 me, no, I think it's just before five o'clock, yes, literally
12 minutes before five o'clock when you were first told about the
13 incident and asked to attend. Do you remember?

14 A. Yes.

15 Q. So let's, for the sake of a couple of minutes call it five o'clock,
16 all right? So five o'clock you first learn of this and you're
17 asked to attend, you told us you did the best you could to speed
18 yourself up to get there, you realized it was an emergency. But
19 between that time and arriving at the Paria site, you told us you
20 went first of all to Heritage and I asked you about how far it
21 was—

22 A. Yes.

23 Q. —and so on. So, just so that I understand this please, was there
24 anything to prevent you being informed en route what the
25 issues were and what might be done to effect a rescue? I mean,
26 were you on the phone, for example? Were you available on
27 the telephone?

1 A. I had my phone but I was not in communication with anyone
2 from Paria.

3 Q. No, no. I appreciate that there's no evidence to suggest that
4 you did actually speak to anybody at Paria, but, I simply want
5 to know whether or not you were available to be called—

6 A. Yes.

7 Q. —by Paria or anyone else?

8 A. Yes.

9 Q. And, had you been called, would you have been in a position to
10 have provided them with such expertise or knowledge as you
11 had?

12 A. Yes.

13 Q. But that didn't happen?

14 A. No.

15 Q. So the hours of delay between, if that is the right expression,
16 between your first being alerted and arrival at Paria, would not
17 have prevented them from speaking you to if they had wished
18 to do so?

19 A. No it would not have.

20 **Mr. Chairman:** All right. Thank you. That's quite a lot so if
21 anybody wants to ask any questions in particular, Mr.
22 Peterson—

23 **Mr. Peterson SC:** One question.

24 **Mr. Chairman:** Yes, of course.

25 **Continued Cross-Examination By Mr. Peterson:**

26 Q. Following from that last question, nothing prevented Mitchell,
27 your supervisor, Mr. Fortune, Heritage, anybody calling you.

1 Anything prevented you, as a human being, from volunteering
2 knowing that there's a diving emergency and you have 25
3 years' experience? Calls work—phone calls work both ways
4 unless your phone was on one way?

5 A. Sir, in my opinion the emergency was being managed by the
6 resources available so—

7 Q. I know and I'm not—

8 A. —I, I, who-

9 Q. I get that.

10 A. So who would I have called?

11 Q. I am dealing with the human side of you, a diver, brother divers
12 missing, nobody ain't calling you, according to your evidence,
13 you must say—for example if I hear Mr. Mootoo missing;
14 nobody ain't have to call me. I calling around everybody I
15 know, who could dive, who could fly, who could do whatever,
16 let's look for Jason. You didn't do any of that?

17 A. Sir, so, who was I to call? It's a question.

18 Q. Mr. Fortune, to say, "Ey, you only tell me activate", your
19 supervisor, "Ey you only tell me activate so and so and so. I
20 have a boss man a HSE man called Mr. Holder. What Holder
21 and them doing? Anybody, what we doing, what we doing?
22 Who missing? How many men missing?" Divers missing,
23 brothers missing, anything like that?

24 A. No.

25 Q. On reflection, you should have done that, right? Come on?

26 A. [*Shaking head*]

27 Q. On reflection as a human diver.

1 A. Sir, in knowing the little that I know now, yes.

2 Q. The little you know?

3 A. Yes.

4 Q. Okay. Thank you.

5 **Mr. Peterson SC:** I'll leave that there, Mr. Chairman.

6 **Mr. Chairman:** Mr. Ramadhar.

7 **Mr. Ramadhar:** Just a few questions, Sir, and I'm very
8 grateful to Mr. Peterson's cross-examination.

9 **Cross-Examination By Mr. Ramadhar:**

10 Q. So, Mr. Seales, did it ever come to your attention that the
11 survivor, Mr. Boodram, had given an indication as to how deep
12 into the pipe he would have been?

13 A. No.

14 Q. You appreciate the pipe at its full length was like quarter mile,
15 correct?

16 A. Yes.

17 Q. You knew that—

18 A. [*Inaudible*]

19 Q. From before?

20 A. Yes.

21 Q. That is quite intimidating a distance, isn't it?

22 A. Yes.

23 Q. Yeah. So in answer to Mr. Peterson, when you spoke about the
24 difficulties, you appreciate if it was a thousand feet in, that will
25 be very difficult, correct?

26 A. Yes.

27 Q. But if it was less, it would be less difficult?

1 A. Yes.

2 Q. And if it was far less, for instance, less than 150, maybe 160
3 feet, that is doable with all of the difficulties that would have
4 been identified, correct?

5 A. Less difficult.

6 Q. Thank you. And doable? And doable?

7 A. Yes.

8 Q. Thank you.

9 **Mr. Ramadhar:** Most grateful to you, Sir.

10 **Mr. Chairman:** I think Mr. Wilson had some questions and
11 then I'll come back to counsel.

12 **Examination By Commissioner Wilson:**

13 Q. Morning again, Mr. Seales. I just have three direct questions.
14 So I heard that your official title in Heritage is Dive Supervisor
15 and client representative.

16 A. Yes.

17 Q. And client representative.

18 A. Yes.

19 Q. Have you had any formal training to be a client representative?

20 A. Yes.

21 Q. From which institution?

22 A. JFD.

23 Q. Sorry?

24 A. JFD, James Fisher—

25 Q. JMB [*sic*] okay, great. So, you—

26 **Mr. Chairman:** Now move the microphone the other way, so
27 right, okay?

1 **Examination By Commissioner Wilson:**

2 Q. All right, um, are you aware of your obligations as a client
3 representative under your training or industry best practice as
4 you quoted?

5 A. Yes.

6 Q. Okay. I'll go here, just a slightly different question to the room.
7 I heard you mention your awareness that an ICT was stood up
8 but, um, and hopefully I'm not repeating the question but, um,
9 when you arrived at Paria, what upon your arrival indicated that
10 an ICT was stood up and an incident was being managed?
11 What—

12 A. I would have taken it for granted that it's industry best practice.

13 Q. Okay.

14 A. So when I was taken upstairs and introduced to the personnel I
15 wasn't formally introduced identifying each—

16 Q. Uh-huh.

17 A. —individual's role.

18 Q. Uh-huh.

19 A. But it was assumed.

20 Q. So you only identified—just to be clear, you only felt like an
21 incident was being managed when you was taken upstairs?

22 A. Yes.

23 Q. And that's when you first became aware that an ICT is stood
24 up?

25 A. Yes.

26 Q. And an incident is being managed. Being aware of your roles,
27 responsibilities and/or obligations as a client representative, not

1 as a dive supervisor, I don't know or I'm going to ask how
2 much experience you've had in terms of managing an
3 emergency response?

4 A. None.

5 Q. Any training or awareness, not even diving related, but any
6 other sort of training or familiarization courses?

7 A. No.

8 Q. All right. And I think what came out into the room, but I'd also
9 like to test with you, at any point in time did you feel, as a
10 client representative, that you felt that you could have injected
11 yourself into the IMT, given that you are a subject matter
12 expert?

13 A. No.

14 Q. No.

15 A. Based on my assumptions of, again, I didn't know what
16 resources were available to Paria's team, who they were in
17 communication with and what LMCS had in place.

18 Q. I understand that.

19 A. Right?

20 Q. Um, but it would be more the injection of your expertise—

21 A. Yeah.

22 Q. —into the conversations. Was that—what I'm asking then is
23 not your awareness, your awareness of those resources would
24 come after your offer—

25 A. Yes.

26 Q. —for your consideration, that would come after you inject
27 yourself into the ICT conversations and stuff?

1 A. Yeah.

2 Q. Yeah? All right. My third question would be around the
3 decompression chamber.

4 A. Yes.

5 Q. I heard that a request was made for that but also I heard that the
6 decompression chamber was no longer required. Who
7 indicated that, that the chamber no longer required?

8 A. I would have been informed through Heritage personnel that—
9 via the doctor, so it was a communication.

10 Q. Okay, so there was a doctor or a hyperbaric doctor—

11 A. Yes.

12 Q. —involved in that decision?

13 A. Yes, so that—

14 Q. That decision didn't come from you?

15 A. No.

16 Q. Okay, great, and that doctor was part of Heritage's emergency
17 response, if you're aware?

18 A. No, I'm unaware, so, again, I was just facilitating requests.

19 Q. Uh-huh.

20 A. So, communication and requests came from individuals through
21 Heritage, yeah.

22 Q. Understood, understood. Thank you. Right.

23 **Mr. Chairman:** Mr. Maharaj.

24 **Mr. Maharaj SC:** Yes. I just have a few questions.

25 **Further Examination By Mr. Maharaj SC:**

26 Q. In answer to Mr. Peterson, when he asked you, well, why you
27 didn't offer some advice, some men are missing, men need to

1 be rescued, you said you were aware that the ICT was
2 activated?

3 A. Yes.

4 Q. And therefore you couldn't do that, right? You remember—

5 A. Yes.

6 Q. —you said words to that effect? If you were invited by the ICT
7 to give the ICT advice on rescue efforts for these men, would
8 you have done that?

9 A. Yes, but it would have required going to the site.

10 Q. It would have required?

11 A. Going to the site and being more informed and involved.

12 Q. Yes. And if you were permitted to do all of that by the ICT,
13 would you have been prepared to do that?

14 A. Yes.

15 Q. Yes. And you would have been able to answer some of the
16 questions that were asked of you today as to the considerations
17 in having a rescue plan for that particular situation on that day?

18 A. Yes.

19 Q. But you were never asked to do that?

20 A. No.

21 Q. As a matter of fact, according to paragraph five of your
22 affidavit, you were asked specifically to mobilize Mitchell's
23 Professional Diving Services Company Limited to report to and
24 provide support, if required, at Paria Trading Company
25 Limited?

26 A. Yes.

27 Q. And you kept to your instructions, what you were instructed to

1 do?

2 A. Yes.

3 **Mr. Maharaj SC:** That's all for this witness.

4 **Mr. Chairman:** Yes. Thank you. Right. We'll take lunch
5 and resume at half past 2.00 please? [*Crosstalk*] I'm sorry,
6 yes, that's right. You are free to go, Mr. Seales, forgive me it's
7 been a long morning. Thank you very much. I appreciate you
8 coming and you're now free to go and you can stay or leave as
9 you please, all right, but thank you very much. Thank you. All
10 right, yes, we'll rise now and we'll resume at half past 2.00
11 please, half past 2.00

12 **1.36 p.m.:** *Enquiry suspended.*

13 **2.32 p.m.:** *Enquiry resumed.*

14 **Mr. Chairman:** All right, good afternoon. Yes. Given the,
15 um, time we've taken this morning, and that we have time on
16 Monday, I have released two of the witnesses for this afternoon,
17 that is, Mr. Andy Johnson and Mr. Anderson Gill. They've
18 been released for this afternoon so we have two witnesses to get
19 through, I've had a request that we rise by 5.30 and let's see if
20 we could make that happen. All right, thank you very much.
21 Yes, Mr. Maharaj.

22 **Mr. Maharaj SC:** Our next witness is Mr. Krishna Fuentes
23 and Mr. Ronnie Bissessar will do the summary.

24 **Mr. Chairman:** Yeah, there's no actual summary, is there?

25 [*Pause*]

26 [*Mr. Krishna Fuentes enters Enquiry room and is sworn*]

27 **Mr. Fuentes:** I, Krishna Fuentes, solemnly swear that the

1 evidence I shall give to this Commission in this case shall be
2 the truth, the whole truth and nothing but the truth.

3 **Examination By Mr. Chairman:**

4 Q. All right, good afternoon, Mr. Fuentes.

5 A. Good afternoon, Sir.

6 Q. Thank you for coming. I see you've brought a file with you.
7 All right, now, first thing I should say to you is this, is that in
8 the first instance at any rate you'll not be allowed to utilize that
9 file to answer any questions, all right, save where you feel you
10 can't answer the question without consulting some note or
11 whatever you might have. Do you follow? At the consequence
12 of your relying on anything that you look at in that file will
13 mean that anybody else interested in asking you questions
14 would also be able to look at your file. Do you follow?
15 Because you can't have something private in front of you
16 without us knowing what it is. All right?

17 A. Okay.

18 Q. So this, I'm anxious to impress upon you as it is with everyone,
19 is not a memory test. You're not required to remember dates
20 and times and things like that without assistance, all right, if
21 that assistance is available. However, you've not provided a
22 witness statement for us. What we do have is email
23 correspondence. Mr. Bissessar who sits opposite you there is
24 going to summarize that correspondence so that you can hear
25 what it is that we have of what you say about the matter
26 hitherto.

27 Listen carefully to what he says. If he gets something

1 inaccurate, you'll tell me at the end of what he has to say all
2 right? Otherwise, if you accept that what he says is a fair
3 summary of the position then you'll say so. What will then
4 happen is, Mr. Maharaj who sits next to him will ask you a few
5 questions, all right? When he is finished any other barrister
6 who I permit will be permitted to ask you some questions, all
7 right?

8 I want to apologize to you. I think you've been here on
9 several occasions and so, um, I appreciate your coming and I
10 know that sometimes it's very inconvenient but I appreciate
11 your coming, so you put that file to one side. If you need to
12 refer to it, you refer to me first and I will consider it, all right?

13 A. I will gladly share this. It's a page with notes, diving
14 documents, references, diving laws and I will gladly share it
15 with the room.

16 Q. Well, Mr. Fuentes, if you need it—put it into your file please?
17 If you need it for any purpose just tell me, all right? So you'll
18 be asked some questions in due course and if you need to refer
19 to it in order to answer the question, you say that to me and then
20 we'll see where we go, all right? You put that to one side
21 please for the moment? Thank you.

22 Could we have some water for Mr. Fuentes if he needs it,
23 like most witnesses? I have a little stash here of my own. You
24 can give him that one would you please? All right, Mr.
25 Fuentes, there's bottled water if you need it.

26 A. Thank you.

27 Q. Okay. So listen first of all to what Mr. Bissessar has to say all

1 right?

2 **Mr. Bissessar:** Thank you, Chairman. Mr. Krishna Fuentes is
3 an IMCA Diving Supervisor, a dive system auditor and a diving
4 client representative. Mr. Fuentes did not provide a witness
5 statement to the Commission nor did he accept the
6 Commission's invitation for him to be interviewed by the
7 Commission's legal team.

8 By letter dated 17th October, 2022, this is at page one six
9 six of the correspondence bundle, the Secretary to the
10 Commission invited Mr. Fuentes to be interviewed. By an
11 email sent on 18th October, 2022, and this is at page three one
12 five seven of the supplemental witness bundle which is on the
13 screen, Mr. Fuentes responded advising that he was not directly
14 involved in the accident and asked to be removed from any
15 further investigation of the incident. The full email is as
16 follows. It's a fairly brief email, Chair, and I'll just read it out.

17 "Good evening, Ms. Sinanan. Thank you for your email
18 dated 17th October, 2022. As per our conversation
19 today, this is my response: As you already know, my
20 name is Krishna Fuentes of Diego Martin. I have 24
21 years' experience in the diving industry with
22 qualifications as an IMCA diving supervisor, a dive
23 system auditor and a diving client representative. In your
24 email to me, there was a letter attached. The paragraph
25 three implied that I was directly involved in the Paria
26 diving incident that occurred on February 25th, 2022.
27 This statement is not factual, as I was not involved in that

1 project in any way, nor was I involved in any aspect of a
2 rescue or recovery operation of the bodies. On February
3 27th, 2022, I received a telephone call from Patricia King
4 requesting my participation in a diving procedure and
5 risk assessment. This was scheduled to take place on the
6 same day at 1600 to 1630 hours. The review was solely
7 and specifically focused on a diving operation by LMCS
8 to recover three scuba bottles from inside the 30-inch
9 pipeline at Paria and nothing more. This had absolutely
10 nothing to do with a rescue mission. February 27th, 2022
11 was the first time that I was ever contacted by Paria Fuel
12 Trading in my 49 years of existence. I attended the
13 team's online meeting at 1600 hours that day. My two
14 points of input at that meeting were, one, the three scuba
15 bottles that were inside the 30-inch pipeline would not be
16 able to clog the pipeline if they decided to pump water
17 from the other end of the pipeline. Two, that it would
18 have been detrimental to send a diver inside of the 30-
19 inch pipeline without the required PPE and additional
20 safety measures in place. It was my honest opinion,
21 based on industry operating standards, combined with my
22 experience in the field, that this may have resulted in
23 injury or a further loss of life. I was asked to fill out a
24 NDA document which I complied with. I was asked my
25 opinion solely on making that dive to recover three scuba
26 bottles, and absolutely nothing else. In service to my
27 country and industry I participated and gave my

1 requested opinion free of charge out of goodwill. The
2 emails that were sent to me from Mr. Paul Yearwood of
3 Paria fuel are all attached as supporting documentation.
4 This includes the meeting invitation, the diving
5 procedure, risk assessment and a document that includes
6 my comments on the diving procedure that was written
7 by LMCS. The LMCS procedure clearly states that the
8 operation was to recover three scuba bottles. The above
9 information defines my involvement in a scuba bottle
10 recovery operation. As such, based on this information, I
11 ask that you remove me from any further investigation
12 relating to this incident. Please feel free to contact me
13 for any clarifications. Thank you.”

14 By further letter dated 20th October, 2022, and this is at
15 page 168 of the correspondence bundle, the Secretary requested
16 Mr. Fuentes to, inter alia, reconsider the Commission’s request
17 for him to be interviewed. On the 25th of October, 2022, and
18 this is at page one seven zero of the correspondence bundle
19 which can be put on the screen, Mr. Fuentes responded in the
20 following terms.

21 “Good morning, Ms. Sinanan. I refer to previous
22 correspondence ending with your letter dated 20th
23 October, 2022. I am very concerned that having
24 provided you with all the facts relating to my
25 involvement which made clear that I was nowhere near
26 berth 6, Pointe-a-Pierre on 25th February, 2022, you
27 persisted in insisting that I was directly involved in the

1 tragic incidents which occurred on 25th February, 2022.
2 You, on behalf of the Commission, appear to have
3 already formed a view adverse to my interest. That being
4 the case, I have consulted my attorney and decline to
5 participate further, by either attending an interview or
6 providing a statement as you have suggested. I have
7 already provided you with all the information that I have
8 in my possession and there is nothing further that I wish
9 to say. Please be guided accordingly.”

10 Thereafter, in obedience to a witness summons, Mr.
11 Fuentes made himself available to the Commission. The
12 witness summons was issued on the 9th of November, 2022 and
13 it's at page 10 of the witness summons bundle.

14 Mr. Fuentes, do you agree that what I have presented is a
15 true and faithful summary of your correspondence with the
16 Commission?

17 **Mr. Fuentes:** Yes I agree.

18 **Mr. Bissessar:** Thank you.

19 **Examination By Mr. Chairman:**

20 Q. All right, thank you very much for that. Mr. Fuentes, may I
21 reassure you that there is no adverse inference to be drawn or
22 conclusion that has been drawn to your interests by this
23 Commission at all. The only reason you're here is because we
24 feel that you are in a position to provide us with some
25 additional assistance, all right? I don't anticipate that will take
26 very long. If you listen to what Mr. Maharaj has to ask you and
27 you answer his questions and then those of the others, I'm sure

1 you'll be gone within a short space of time.

2 A. Thank you.

3 Q. Mark what I say, if there is something that you want to refer to,
4 ask me first and then we will see where we go. All right?

5 A. [*Nodding*]

6 **Mr. Chairman:** Mr. Maharaj.

7 **Examination By Mr. Maharaj SC:**

8 Q. Mr. Fuentes, after this incident which occurred on the 25th of
9 February, 2022 last year, you have been retained by Paria as an
10 expert client representative to assess diving plans for Paria. Am
11 I correct?

12 A. Somewhat. Not retained but on a freelance basis, when—to
13 review diving documentations.

14 Q. And have you been—have you done any such review since
15 your retention?

16 A. Yes I have.

17 Q. How many?

18 A. Twice.

19 Q. Twice.

20 A. Two documents, two, two diving operations.

21 Q. Okay.

22 A. And it's not retention. I don't get a retainer or anything of the
23 sort.

24 Q. Well how you want to describe it?

25 A. On a freelance basis.

26 Q. Freelance basis.

27 A. Yes.

1 Q. So in other words, you do it and you do not get any payment?

2 A. I get paid for it.

3 Q. Or you get paid for it?

4 A. Yes. On a freelance basis.

5 Q. On a freelance basis.

6 A. Not a retention basis.

7 Q. Okay.

8 A. There's a difference.

9 Q. Okay. All right.

10 **Examination By Mr. Chairman:**

11 Q. You're not employed as an employee?

12 A. No.

13 Q. You're a free-standing—

14 A. Independent—

15 Q. —enterprise of your own, independent, and they engage you
16 from time to time as and when they need you?

17 A. Correct.

18 Q. Right; and you've done that on two occasions.

19 A. Okay.

20 Q. For which you've obviously been paid or you're—

21 A. It's in the process.

22 Q. Well, well, yeah, I know what you mean, right? [*Laughter*]

23 **Mr. Chairman:** All right.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. Okay. Now you consider yourself an experienced diver?

26 A. Yes. I have 24 years—

27 Q. Twenty-four years'—

1 A. —in [*Inaudible*]

2 Q. —experience?

3 A. Yes.

4 Q. Can I ask you scuba diving with scuba?

5 A. In, in—

6 Q. Are you a commercial—

7 A. In my early days of diving I may—I would have done some
8 scuba diving.

9 Q. But are you a commercial diver?

10 A. I'm a commercial diver.

11 Q. And how many years' experience as a commercial diver?

12 A. I have 12 years as a diver and 12 years of oversight supervisory
13 experience.

14 Q. And as a commercial diver with experience—

15 A. Yes.

16 Q. —and having regard to your total experience as a diver—

17 A. Yes.

18 Q. —you would have known that there have been diving to rescue
19 persons from confined spaces?

20 A. Can you repeat that, Sir?

21 Q. As a diver with experience—

22 A. Yes.

23 Q. —that you have stated—

24 A. Yes.

25 Q. —you are aware that there have been rescue of divers from
26 confined spaces?

27 A. Globally there could have been rescues of divers from confined

1 spaces. I'm not—you have like factual information, like actual
2 cases?

3 Q. Okay, I'll take your answer.

4 A. All right.

5 Q. Do you consider—well can—do you think that you can do a
6 rescue from a confined space?

7 A. Could I look in there?

8 **Examination By Mr. Chairman:**

9 Q. All right, what do you—what is it you want to ask at? I mean,
10 it's a question really that's personal to you, isn't it? You're an
11 experienced diver. Do you believe you are able to effect a
12 rescue from a confined space?

13 A. Okay.

14 Q. It would depend on all kinds of parameters, but—

15 A. All right, um—

16 Q. —it's very broad question.

17 A. It's a very broad question. [*Pause*] The possibility exists to
18 rescue a diver from a confined space. Right?

19 Q. Right.

20 A. This, this, this, this incident goes a bit further and deeper than
21 just a confined space.

22 Q. Mr. Fuentes—

23 A. This—

24 Q. —pause there for a minute. I think you'll find it much easier if
25 you just confine yourself to answering the question that's been
26 asked, which is, is it possible to rescue people from a confined
27 space and your answer I think is yes. Obviously it will depend

1 on the parameters of what that confined space is?

2 A. Yes, but this was more than a confined space.

3 Q. Yeah, well we're not talking about this one at the moment.

4 A. This was a physically confining space, which is even—

5 Q. Mr. Fuentes—

6 A. —a more of a risk.

7 Q. —we're not dealing with this one yet. He's asking you
8 generally first of all, all right?

9 A. Okay, go ahead.

10 Q. If we come to the specifics, if he comes to the specifics, you'll
11 be able to tell us all about it.

12 A. Okay.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. The next question, Mr. Fuentes, would you not agree with me
15 that it is possible to rescue a diver from a pipeline that is 30-
16 inch in diameter?

17 A. Diving in pipelines is not a thing. Honestly, it's—divers don't
18 go into pipelines. There's no task on the installation of
19 pipelines, the repair of pipelines, the inspection of pipelines,
20 there's no task that requires a diver to go inside of a pipeline.
21 All work is done on the outside of a pipeline.

22 Q. I agree with that, Mr. Fuentes.

23 A. Right? So dive—entering a pipeline is not a thing. We do not
24 go inside pipelines.

25 Q. Okay, but suppose there is an accident and a diver ends up
26 inside a pipeline, and the question of rescuing that diver arises,
27 do you think from your experience, if there's a 30-inch

1 diameter pipeline and that the diver is inside that pipeline and
2 there is water in the pipeline, okay, obviously there's water,
3 let's say the pipe is even filled with water, do you think that it is
4 possible to rescue a diver from that pipeline? It is possible,
5 whether it is possible?

6 A. A rescue diver would have had three thing against—three
7 things against him. It's a penetratory high-risk activities, right?
8 It's, it's a penetration dive, one. Two, into contaminated
9 waters; three, with the possibility of further Delta P.

10 Q. Okay.

11 A. Right?

12 Q. I take that.

13 A. Okay.

14 Q. So those are the risks that would have to be considered?

15 A. Major risk, yes.

16 Q. Right. And there could be a consideration of those risks and
17 there could be a—if it is possible the dive can take place?

18 A. With the proper gears and steps, additional steps, safety steps in
19 place, yes.

20 Q. Thank you very much.

21 **Mr. Chairman:** Does anyone have any question of this
22 witness? I see shaking heads. It is shorter than you might—ah,
23 I believe there is. Yes. Mr. Mootoo.

24 **Cross-Examination By Mr. Mootoo:**

25 Q. Good afternoon, Mr. Fuentes.

26 A. Good day.

27 Q. My name is Jason Mootoo. I represent the interest of Paria.

1 A. All right.

2 Q. And Heritage.

3 A. Okay.

4 Q. Just a few questions for you—

5 A. Sure.

6 Q. —by way of clarification. In answer to Mr. Maharaj you said
7 with further steps being taken. What are those steps?

8 A. Can I look at my page of notes, please?

9 **Examination By Mr. Chairman:**

10 Q. What are they?

11 A. What are what?

12 Q. What are the page of notes? What is it?

13 A. The answer to his question.

14 Q. You can't remember it?

15 A. You said it's not a memory game.

16 Q. No, that's true, but you wrote the notes. You wrote the notes.

17 A. Right.

18 Q. You had them just before you came into this building, yes?

19 A. Well, may I look at my page, please?

20 Q. Well, if you think that that is the only way in which you can
21 answer the question—

22 A. It is the best way.

23 Q. The best way?

24 A. And I can give him all the information that way.

25 Q. All right.

26 A. I may omit something with—

27 Q. No, no, it's not—you're, you're, you're right to remind me

1 exactly what I said to you, it is not a memory test so can I have
2 a look at the note first, please?

3 A. You?

4 Q. Yes, me.

5 A. All right, excuse me.

6 Q. No, no, wait there.

7 A. Okay.

8 *[Document retrieved from Mr. Fuentes and handed to Mr.*
9 *Chairman]*

10 Q. This is all you want to look at, is it?

11 A. Yeah.

12 Q. Right, thank you. *[Perusing document]*

13 A. More, more towards the bottom of the page.

14 Q. Yeah, I understand. It's really the part in the box that you've
15 created at the bottom, yes, I understand. Yes I have no
16 difficulty with you using this to remind yourself of what you
17 wrote on it. But—and if anyone else wants to see it they're
18 welcome to do so. Thank you.

19 *[Document returned to Mr. Fuentes]*

20 A. Thank you.

21 Q. Yes, perhaps you'll repeat the question, Mr. Mootoo, so that he
22 can—

23 A. All right, could you—

24 Q. —in order to—

25 A. —please repeat the question once more?

26 **Mr. Mootoo:** Sure.

27 **Continued Cross-Examination By Mr. Mootoo:**

1 Q. It may be slightly different but in answer to Mr. Maharaj I
2 believe you said the rescue, I'm using my words, a rescue might
3 be possible, provided that certain steps were undertaken.

4 A. Right.

5 Q. Could you indicate what those requirements would be?

6 A. Okay. For, for example, the contaminated water scenario, what
7 is actually is in—was in that pipe is unknown to a point. In that
8 case it should be looked—we should look at it as a worst-case
9 scenario. From a diving perspective, divers should have a full
10 contamination suit to enter that pipe with, with an appropriate
11 headpiece, diver's helmet, suited for the job, designed for
12 contaminated waters. In terms of a penetration dive, additional
13 steps such as a wet tender in place at the 90—

14 Q. Sorry, can I ask you to explain what is a wet tender?

15 A. All right. So for the diver to enter the—he would enter the
16 riser, descend, past the 90 degrees and start to travel along a
17 horizontal section of pipe to an unknown distance. Right? Um,
18 divers' umbilicals get snagged very easily so once a diver goes
19 beyond that, he himself may be unrecoverable because his
20 umbilical could get hung up on the 90.

21 **Examination By Mr. Chairman:**

22 Q. You mean the umbilical as it goes from—

23 A. Correct, round the bend.

24 Q. As he goes round the bend?

25 A. Yes.

26 Q. Yes.

27 A. Yes. Ease—it happens very easily.

1 Q. And going into the pipe?

2 A. Yeah, correct.

3 Q. Yes. In cases like that, you put an additional diver at that bend
4 to tend his umbilical however far he needs to go. So that's,
5 that's what a wet tender is.

6 **Continued Cross-Examination By Mr. Mootoo:**

7 Q. Okay, understood.

8 A. Right? Um—

9 **Examination By Mr. Chairman:**

10 Q. And is that the position at each time that umbilical goes around
11 the bend, at each place you would have someone, ideally
12 someone placed to tender the umbilical?

13 A. Ideally, yes, but, to, to, for that to actually be done is, is almost
14 impossible then you, you have three, four divers in the water
15 the same time which, which is a no no. It's, it's not done.

16 Q. Right, we've heard some things about you know there's this
17 hyperbaric chamber or—

18 A. Right.

19 Q. —habitat over the pipe?

20 A. Yes.

21 Q. So the umbilical we're told would have to come from the shore
22 down into the—

23 A. Right so you'll have someone at the entry point—

24 Q. Yes.

25 A. —and depending on the distance horizontally that he needs to
26 go, you would need a tender there as well.

27 Q. So you might need one under the water as it comes into the

1 chamber, yes. As it comes into the hyperbaric chamber before
2 it goes into the pipe.

3 A. Yes, yes.

4 Q. Yes.

5 A. Someone to tend his umbilical there.

6 Q. To tend there; and somebody in the chamber as he goes into the
7 pipe?

8 A. Possibly.

9 Q. Right, yeah. Yes so that's three or four minimum really?

10 A. Or they could—if, if—I have not seen—

11 Q. Stop looking at him.

12 A. I have not seen this chamber—

13 Q. Yes.

14 A. —so it, it could have been possible to coil his umbilical there—

15 Q. Right.

16 A. —and have one person tend it down inside the riser.

17 Q. So there are other ways of doing it—

18 A. Yes.

19 Q. —that might have avoided the necessity of having that many
20 tenders?

21 A. But the risk, the risk would be his umbilical getting snagged on
22 the 90.

23 Q. Yeah, I got you. Thank you very much.

24 **Mr. Chairman:** Yes, Mr. Mootoo.

25 **Mr. Mootoo:** Right.

26 **Continued Cross-Examination By Mr. Mootoo:**

27 Q. You were identifying the other, other requirements?

1 A. Right, um, a third umbilical on board, so you have three dive
2 umbilicals so if one diver penetrating, one diver tending, you
3 need a standby diver on deck just in case anything goes wrong
4 with any of those two divers.

5 **Mr. Chairman:** Standby diver.

6 **Mr. Fuentes:** Right?

7 **Mr. Chairman:** Standby diver. That's what you're—

8 **Mr. Fuentes:** Yeah.

9 **Mr. Chairman:** That's right, is it? Yes. Standby diver. Yes.

10 **Mr. Fuentes:** Where they have—

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. With his own umbilical, right?

13 A. Sorry?

14 Q. Standby diver with his own umbilical?

15 A. With his own umbilical. Yeah. So a third umbilical.

16 Q. Yes?

17 **Examination By Mr. Chairman:**

18 Q. Is that right? I mean, if somebody's inside the habitat and
19 they've got, which is I understand it about 20 feet into the water
20 thereabouts, would scuba not be sufficient for that, a tank
21 breathing—because, first of all, he's in, he's in a—

22 A. Scuba is, scuba is if, if you, you want to go to Tobago to look at
23 the reef, that's what scuba is for.

24 Q. I do actually, but, that aside—

25 A. That's the only use—

26 Q. Yeah.

27 A. —a good use of scuba.

1 Q. Well, first of all, the person inside the habitat, the person—I
2 mean, all the works were being carried out inside the habitat
3 without any equipment at all because it's a dry—well not dry
4 but you know what I mean they don't need—

5 A. It's dewatered.

6 Q. It was, it was pressurized and they were breathing air.

7 A. It was dewatered.

8 Q. Dewatered? Is that what it's called?

9 A. Yes.

10 Q. Right. Okay, thank you. So that remained the same, so why
11 would it be necessary for the person who is tending, wet
12 tending, to be wearing an umbilical at all?

13 A. No, no, no he won't be wearing an umbilical.

14 Q. Right.

15 A. If anything goes wrong with the two divers that are inside the
16 pipeline—

17 Q. Right.

18 A. Then you need to send—or have someone to be able to get to
19 them.

20 Q. You mean to go down—a third diver—

21 A. Yes.

22 Q. —to go in to rescue the two divers who are already in—

23 A. Yes.

24 Q. Right. Would they not just be on a rope and pulled out?

25 A. Sorry?

26 Q. Would they—those divers not be on some sort of harness with a
27 rope to pull them out if anything went wrong?

1 A. They may have been pulled out, or they may have been snagged
2 and not be able to be pulled out. I can't say that.

3 Q. Right. Okay. Anyway, from your point of view you think
4 you'd need—the safe course would be to have a third diver with
5 an umbilical who could go in and get them?

6 A. Yeah.

7 Q. Right, okay, I've got you. Thank you very much. So, Mr.
8 Mootoo's right when he says with his own umbilical.

9 **Mr. Mootoo:** Thank you.

10 **Continued Cross-Examination By Mr. Mootoo:**

11 Q. Yes, any additional requirements?

12 A. And they would have had to have a sufficient quantity of, of air
13 to make a penetration dive.

14 **Examination By Mr. Chairman:**

15 Q. Er, you need—

16 A. As well as they had a compressor or if they were using—

17 Q. You mean either by way of a—well, a compressor for the
18 umbilicals?

19 A. Correct, yes.

20 Q. And then spare tanks to take with them—

21 A. Yes.

22 Q. —these little mini tanks that will help them out if the umbilical
23 goes wrong?

24 A. Now, if, if they were using big banks to supply the divers, they
25 would have had to have an enough supply to make a penetration
26 dive.

27 Q. Right. But, so that I understand that—

1 A. If it was compressor supplied, then they would have had an
2 unlimited amount of air.

3 Q. Yes.

4 A. All right.

5 Q. So that's in the umbilical?

6 A. Yes, to supply the umbilical.

7 Q. Right, to supply the umbilicals. But would they need also
8 additional spare tanks—

9 A. Yes, on their backs.

10 Q. —that they would take with them? Just in case?

11 A. Definitely, yes. Every dive needs that.

12 Q. Right.

13 A. Every dive.

14 Q. So if the umbilical went wrong, got snagged—

15 A. You crack your valve—

16 Q. —torn, they turn on the valve and they got their own source of
17 air. Got you.

18 A. And you, yeah, and then you—

19 Q. And then you get them out?

20 A. —you abort your dive, yes.

21 Q. Got you. Thank you very much.

22 **Continued Cross-Examination By Mr. Mootoo:**

23 Q. Any other requirements?

24 A. No, that, that, that's, that, that's it.

25 Q. Okay. Are you aware as to whether full contamination suits are
26 red—I think the term you used was full contamination suits?

27 A. Yes.

1 Q. —are readily available in Trinidad?

2 A. No they're not.

3 Q. They are not available?

4 A. They're not available.

5 Q. Readily or at all?

6 A. They may have a contractor that may have a old one laying
7 around.

8 Q. Right?

9 **Mr. Chairman:** One laying around.

10 A. But to say go into a store to buy it or to get it here, no.

11 Q. No, okay.

12 A. No.

13 **Examination By Mr. Chairman:**

14 Q. Right, so, so that I understand what you're saying, this
15 contamination suit, right, is not one that's available anywhere
16 on Trinidad, as far as you know?

17 A. That you can—as a, as, as, far as I'm aware, it's not readily
18 available.

19 Q. Right.

20 A. I said a contractor may have one laying around. I don't know
21 what condition it would have been.

22 Q. Have you seen one in Trinidad in your 24 years of working
23 here?

24 A. Yes.

25 Q. Have you seen one?

26 A. Probably seen, seen one, yeah.

27 Q. You've seen one. Where is that?

1 A. Where was this? Laying around in someone's warehouse. I, I
2 can't recall where it was.

3 Q. Thank you.

4 **Continued Cross-Examination By Mr. Mootoo:**

5 Q. Right. The Enquiry has received some evidence about risks
6 associated with a rescue attempt in this pipeline and the
7 methodology that would be employed in order to effect a
8 rescue. So I just want to take you to some of those areas now
9 and I'm going to ask you whether you agree with some of the
10 evidence that has been given here. It's been suggested, that, for
11 the rescue to be effected, and on the basis that—the undisputed
12 basis that there were certain items in the pipeline, like diver's
13 tanks and so on—

14 A. Like, like, like what?

15 Q. Diver's oxygen tanks.

16 A. Okay, yes.

17 Q. What would have to happen is that when a rescue diver goes in,
18 he would have to retrieve the equipment, if there's blockage,
19 one by one, each item, and then take it out and then re-enter the
20 pipeline, so to do it in a methodological manner. Do you agree
21 with that?

22 A. That the scuba tanks would have blocked a rescue?

23 Q. No. That in order to rescue the men, one should employ a
24 procedure and the procedure would be if the diver goes into the
25 line and encounters a blockage, or a tank, if he can free the
26 blockage—

27 **Mr. Chairman:** Can I ask you, Mr. Mootoo, to skip the word

1 blockage for the moment?

2 **Mr. Mootoo:** Tank.

3 **Mr. Chairman:** Let's just deal with each item if you want to,
4 but, a tank in the way.

5 **Mr. Mootoo:** Yes.

6 **Examination By Mr. Chairman:**

7 Q. So he's going down, he's doing the rescue using your own
8 criteria, and obviously it's a risk, but he's going down and he
9 encounters a tank, a scuba tank—

10 A. All right.

11 Q. —all right, presumably with the spider attached to it, all right?

12 A. Right.

13 Q. So, um, would he have to remove that first by going back
14 again?

15 **Continued Cross-Examination By Mr. Mootoo:**

16 Q. In circumstances where, if he—

17 A. If, if I were—

18 Q. —he has his umbilical attached, he has a tank on him as well,
19 and he has to go further in the pipeline, does he remove that,
20 take it out and then come back in?

21 A. He would have to make that call at that point in time, that diver.

22 Q. Okay. Why would he—

23 A. On, on, on his comfort level.

24 Q. Right.

25 A. If he feels comfortable slipping by the tank—

26 Q. Right?

27 A. —and continue, he, that will, that will be his call at that point in

1 time.

2 Q. In order to do it safely, what would your recommendation be
3 that he take it out?

4 A. Not really, not particularly.

5 Q. Okay.

6 A. No.

7 Q. But if he encountered more and more equipment, more and
8 more tanks along the way, would you accept that continuing to
9 enter further into the pipeline becomes more risky without
10 removing those items?

11 A. Yes, that sounds logical. The more, the more debris that's there
12 is the more things that can go wrong.

13 Q. Yes. And, in terms of entry into the pipeline, we've heard some
14 evidence that if a diver were to go in, he would have to go feet
15 first as opposed to headfirst. Would you agree with that, for the
16 purpose of effecting a rescue?

17 A. That would depend on the diver.

18 Q. Okay. Would your recommendation be feet first?

19 A. I am uncertain. I, I, I not sure.

20 Q. Okay.

21 A. I don't—it, it would depend on the size of the diver as well.

22 Q. Okay.

23 A. I would send a kind of small—

24 **Examination By Mr. Chairman:**

25 Q. Send a small diver.

26 A. A small diver.

27 Q. And a small diver, yes.

1 A. Yes. We have small divers.

2 Q. Yes. Well, I'm sure. Can I ask you this? I'd suggested to
3 somebody else before, and the first diver in, you know, you've
4 told us about having a tender, a wet tender at the 90-degree
5 bend.

6 A. Yes.

7 Q. And I was suggesting it might be possible for the first diver to
8 go in headfirst, the second diver feet first so that when the first
9 diver who's gone in is coming, backing out, the second diver
10 might be able to assist him. I mean, the problem is this, isn't it?
11 On the one hand, you're going to effect a rescue much more
12 effectively if you're headfirst?

13 A. Correct.

14 Q. Right?

15 A. Yes.

16 Q. On the other hand, getting yourself out of the pipe afterwards
17 once you've—let's say you've found somebody and you're
18 pulling them out, when you get to that bend you've now got to
19 come out, there's only one way out for you—

20 A. One way out.

21 Q. —that's, and that's upside down isn't it?

22 A. Yes.

23 Q. Your, your, your feet are going to be coming out of the top of
24 the pipe first?

25 A. Correct.

26 Q. And that might need some, somebody at the bend might be able
27 to help you with that to a degree, but even that person's feet, if

1 they went in the way I'm suggesting, their feet would be at the,
2 at the, at the wrong end as it were, yes?

3 A. Right, yes.

4 Q. So, I mean, it's really—I could see why you're suffering with
5 same dilemma that I would. Um, I mean clearly it would be
6 safer for that rescue diver to go in feet first, I think—I don't
7 think there's any dispute between, between us on that. The
8 question is how, how efficacious would it be for a diver to go in
9 feet first of all to try and rescue someone.

10 A. To try and rescue someone.

11 Q. As it's been pointed out to us, that person may be injured. He
12 may be feet first himself?

13 A. Correct.

14 Q. Or feet after, as it were, so it's foot to foot. What would you
15 then be able to do in 30 inches of pipe?

16 A. In zero visibility.

17 Q. Yeah, and, and maybe zero visibility, quite.

18 A. Not, not, maybe, definitely.

19 Q. Definitely. Well we know that there was some water in the first
20 part of the pipe and that there was some visibility because
21 we've seen the camera going in with some visibility, so we
22 know that there was, certainly to start with, some visibility. I'm
23 not suggesting it's as good as it can be if we're just diving in
24 the ocean. But, it wasn't completely dark. It became that, I
25 suspect, as it became thicker with oil, but, um, yes, I mean, so
26 you wouldn't make a judgment call on that? You'd leave that
27 to the individual diver?

1 A. Individual diver at that point in time.

2 Q. Yes. All right, thank you very much.

3 **Mr. Chairman:** Thank you, Mr. Mootoo.

4 **Mr. Mootoo:** Thank you, Mr. Fuentes. No further questions.

5 **Mr. Fuentes:** Okay.

6 **Mr. Chairman:** Or, hands are coming up now. Well, I'm not
7 sure I'm going to allow this. Um, you had your opportunity,
8 chose not to. Tell me what it is please, that you want to ask,
9 Ms., Ms., um—

10 **Ms. Alfonso:** Thank you, Mr. Chairman. Mr. Chairman, I
11 actually did raise my hand, um, when you asked originally
12 for—

13 **Mr. Chairman:** Not very high, obviously.

14 **Ms. Alfonso:** But I'm shorter than Mr. Mootoo, I apologize.

15 **Mr. Chairman:** All right, Ms. Alfonso. Do you have any—

16 **Ms. Alfonso:** Right. And I, I would not—I would not, I would
17 not say that I raised my hand if I did not, in fact, raise my hand.

18 **Mr. Chairman:** No, no, I do—I wouldn't think that for a
19 moment. If you did, I'm sure you did and it's my fault for not
20 seeing you.

21 **Ms. Alfonso:** And next time I would stand so that—I'm not,
22 um, I'm not blessed with, um, with great height.

23 **Mr. Chairman:** Very well. I will permit you, of course, to ask
24 questions. Ms. Alfonso will ask you some questions as well, all
25 right?

26 **Ms. Alfonso:** Thank you, Mr. Chairman.

27 **Cross-Examination By Ms. Alfonso:**

1 Q. Good afternoon, Mr. Fuentes.

2 A. Good afternoon.

3 Q. My name is Nyree Alfonso and I represent the interest of the
4 SWWTU. I want to go back to that full contamination suit that
5 you may or may not have seen some number of years ago in a
6 warehouse. The purpose of—I, I, I don't understand; if you
7 could assist me. The purpose of the contamination suit would
8 be what?

9 A. To prevent oil from—and other contaminants from making
10 contact with the diver's skin.

11 Q. Uh-huh.

12 A. And it's mated to the hat so it also prevents entry of gases or
13 liquids accidentally into the diver's helmet.

14 Q. Okay, so please assist me further, Mr. Fuentes. I imagine a
15 commercial diver would be wearing a full wet suit, yes?

16 A. Pardon?

17 Q. I imagine a commercial diver would wear a full wet suit?

18 A. Sometimes, not all the time.

19 Q. Okay.

20 A. Sometimes they just wear coveralls. Many divers in Trinidad
21 only wear coveralls.

22 Q. Okay, thank you for that. I really didn't know that. Maybe too
23 much television.

24 A. Okay.

25 Q. So that if, um, one of the commercial divers, if any commercial
26 diver had to enter this pipeline, they could wear a full wet suit.
27 Would that not protect them, their skin from—

1 A. No that's porous. That's—

2 Q. —contact with the oil?

3 A. No, a wet suit is porous material.

4 Q. A wet suit is porous material?

5 A. Yes.

6 **Mr. Chairman:** That's why they call it a wet suit—

7 **Ms. Alfonso:** Oh yes.

8 **Mr. Chairman:**—as opposed to a dry suit—

9 **Ms. Alfonso:** I, I was just—

10 **Mr. Chairman:**—which will keep out water.

11 **Ms. Alfonso:** And that was my next—

12 **Continued Cross-Examination By Ms. Alfonso:**

13 A. So, so the contamination suit will keep—he will actually be dry
14 on the inside.

15 Q. Okay. So my next question the Chairman just alluded to.
16 Okay, so is an alternative to a wet suit a dry suit?

17 A. An alternative?

18 Q. Okay, so let me be clear. If it is that—

19 A. Yes.

20 Q. —generally—I accept entirely what you say, Mr. Fuentes, that
21 a full contamination suit—

22 A. All right.

23 Q. —is not generally available in Trinidad and Tobago?

24 A. Right.

25 Q. So if, if a rescue had or an entry, let me forget rescue, if an
26 entry into this pipe had to be made—

27 A. Yes.

1 Q. —in default, for want of a better term, of having access to a full
2 contamination suit, could one wear a dry suit to protect the
3 diver's skin as you say?

4 A. Yes.

5 Q. Okay.

6 A. Providing it can mate to the helmet.

7 Q. Okay. Well that would depend on what kind of equipment was
8 available?

9 A. Right.

10 Q. So it will be possible—and dry, okay I should ask that question.
11 Are dry suits generally available to a commercial diver in
12 Trinidad?

13 A. No.

14 Q. No?

15 A. Well, I don't know, I don't—I'm not certain if any contractors
16 have them. I'm not privy to their—

17 Q. Okay.

18 A. —to their assets. Um, we don't use dry suits in Trinidad.

19 Q. Okay.

20 A. The temperature is not required, is—we don't use it.

21 Q. Okay. It's for cold temperatures or some—

22 A. It's for freezing waters, yes.

23 Q. Freezing waters.

24 A. And contaminated waters.

25 Q. And contaminated waters.

26 A. Yes.

27 Q. Okay. So—and I'm, I'm corrected by the Chairman and

1 yourself, and I'm thankful for that, so a wet suit would allow
2 some interaction between the diver's skin and whatever he's
3 diving in?

4 A. Yes.

5 Q. Okay.

6 A. Not some, well, it's porous.

7 Q. Okay, so a lot?

8 A. Yeah.

9 Q. A lot?

10 A. Whatever is on the outside will get on the inside.

11 Q. I see.

12 A. Yeah.

13 Q. Now, you spoke of the word, "contamination". We are talking
14 about the contents of the pipe as contaminants, yes?

15 A. Yes.

16 Q. Okay. So that is—I think if my reading was correct I recall my
17 early reading, that pipeline had previously carried crude oil.
18 You know that to be true or you don't know?

19 A. I believe I heard that. I, I cannot confirm it.

20 Q. Okay. So if—okay let's say it's hydrocarbons, so it could be
21 crude, it could be refined product.

22 A. Right.

23 Q. But it would be some kind of hydrocarbon?

24 A. Hydrocarbon.

25 Q. Okay. So—

26 A. And condensate.

27 Q. And condensate. Now you're letting me know that I didn't do

1 chemistry at high school.

2 A. Right.

3 Q. Okay, so, um, that being said, would there be a substantial
4 danger to a diver exposed to that environment for an hour, two
5 hours?

6 A. Oil is toxic.

7 Q. Oil is toxic?

8 A. And it releases toxic fumes. It is toxic.

9 Q. I'm aware of the toxic fumes.

10 A. Toxic, yeah.

11 Q. But, so if, if—so if you got oil on your skin for an hour or
12 two—

13 A. Miss, it is toxic.

14 Q. Okay. Well, okay. So—

15 A. Toxic is poisonous.

16 Q. Okay, yes, and—but there are some things which are going to
17 kill you that are toxic and some things are not going to be so
18 good for you and will not kill you. So, let—let's, let's start. So
19 if you were exposed to what we believe might be the type of
20 contents in this line, for an hour or two, do you think with your
21 experience of 23 years, I believe, or 24, that would lead to a
22 fatality?

23 A. The possibility exists.

24 Q. Oh, so that if a diver went down in a wet suit into the
25 environment, he will be exposed to death because oil is in
26 contact with his skin?

27 A. Not only the oil, the fumes entering his helmet, hydrogen

1 sulfide, we have to assume the worst.

2 Q. Okay. Mr. Fuentes, the—okay, so we spoke about umbilicals
3 earlier, yes? The air that a rescue diver or a diver entering—I
4 say I don't want to use rescue—

5 A. Right.

6 Q. —a diver entering that environment, the environment we think
7 that was there, he will be breathing what, not from the
8 umbilical?

9 A. Yes.

10 Q. His umbilical?

11 A. Yes.

12 Q. Air, I'm sure that's not the technical—

13 A. Yes, yes, air from his umbilical—

14 Q. Okay.

15 A. —through the helmet, yes.

16 Q. Okay. So are you suggesting that noxious fumes from the line
17 contents would be interacting—he would be breathing that
18 instead of what is in the umbilical?

19 A. It is possible, because depending on the diver positions himself
20 and the angle he looks up within the helmet, fumes can enter
21 the helmet through the neck down.

22 Q. Okay.

23 A. Or, or liquids in this case.

24 Q. Mr. Fuentes, so these full dive helmets and the lighter versions
25 that they have now which are, I don't know, band mask and so
26 on—

27 A. Yes.

1 Q. —those allow external liquids—

2 A. Yes.

3 Q. —and fumes to enter?

4 A. Yes.

5 **Commissioner Wilson:** Can I offer some clarification?

6 **Mr. Fuentes:** It can happen. It happens.

7 **Ms. Alfonso:** I would be happy—

8 **Commissioner Wilson:** Yes I'd like to offer some
9 clarification. What you're trying to refer to is called NORM
10 and it is a consideration if you're going to dive into a pipeline.
11 NORM, the acronym is Naturally Occurring Radioactive
12 Material, and you'd find that type of material within pipelines
13 with the vintage in Paria. It is a hazard that divers would have
14 to take into account if entering that pipeline. Without a hazmat
15 suit and KMB mask and the mask that you're referring to, they
16 are being phased out in terms of being used for the exact reason
17 that is being identified., you'd have a lot more ingress
18 coming in with that band mask. I agree with you that you'd be
19 breathing air from the surface but NORM is a credible factor
20 that has to be considered when entering a pipeline of the
21 vintage that we have at Paria. Yeah?

22 **Ms. Alfonso:** Okay thank you for that, Commissioner Wilson.

23 **Continued Cross-Examination By Ms. Alfonso:**

24 Q. So, Mr. Fuentes, Mr. Boodram who came out of the pipeline
25 after two, two and a half, more than two hours, more than two
26 and a half hours, and he did come out covered in oil, so I'm not
27 suggesting that he didn't come out with some material from

1 inside the pipeline. It does—I, I, I—well I want to be hesitant
2 to say he was carried to hospital in an ambulance, he was
3 treated at the San Fernando General Hospital, I think if I follow
4 from his evidence he remained with much of that oil on him for
5 a day or 2. I don't know, perhaps the—

6 **Mr. Chairman:** Three.

7 **Ms. Alfonso:** Three, three. I'm corrected by the Chairman.

8 **Continued Cross-Examination By Ms. Alfonso:**

9 Q. So he was exposed to the same environment that we, we, we are
10 theorizing what it would be because clearly it had—if they—
11 clearly it had water in the pipe.

12 **Mr. Chairman:** I just want to know where this is going. What
13 the witness has said—just a moment, Mr. Fuentes. What the
14 witness has said is that in order for him to ameliorate the risks
15 as he saw it, he identified to Mr. Mootoo, three separate
16 features, one of which included a contaminated water—full
17 contamination suit. That's my note of it. From what it—what I
18 understand him to mean by that is he wants a—he would want
19 to consider a suit that would be able to protect the diver from
20 the very thing that Mr. Wilson has identified called NORM, as I
21 understand it a relatively new phenomenon, not new in its
22 existence but recognized as a potential danger and a perfectly
23 reasonable concern, it seems to me.

24 Does it really matter whether not the particular suit lets in
25 a little bit on one side or a little bit on another side, or does it
26 really matter what the basis of that contamination is? He's just
27 giving you his opinion as an expert of 24 years that that is a

1 consideration and that it should be considered. I'm not sure
2 what you're asking, what is it you want him to say.

3 **Ms. Alfonso:** Well, there's nothing that I want him to say
4 because I said Mr. Fuentes is a diver and I am not, but if—

5 **Mr. Chairman:** Yes, but you're asking medical kinds of
6 questions. I'm not going to permit you to ask—

7 **Ms. Alfonso:** No I'm not asking any medical type question.

8 **Mr. Chairman:** What is it you want?

9 **Ms. Alfonso:** If Mr. Fuentes has indicated that it would be
10 toxic and lead to death to have this, er, whatever the line
11 contents to be in contact with the line contents, and really—

12 **Mr. Chairman:** Well, you're not suggesting it's not toxic, are
13 you?

14 **Ms. Alfonso:** No.

15 **Mr. Chairman:** Right.

16 **Ms. Alfonso:** But certainly, as I said, there are some things that
17 are toxic, but if you're exposed to them for a short period of
18 time—

19 **Mr. Chairman:** Sure.

20 **Ms. Alfonso:**—they will most certainly not kill you.

21 **Mr. Chairman:** Of course. Look, the bleach next to my
22 lavatory seat is toxic, but that's not really the point, is it? What
23 Mr. Fuentes is saying is that it is a proper consideration before
24 asking a diver to go into a pipeline with material of that kind,
25 and—so, so that's fine.

26 **Ms. Alfonso:** Well then let me ask Mr. Fuentes that direct
27 question, Mr. Chairman.

1 **Mr. Chairman:** All right.

2 **Continued Cross-Examination By Ms. Alfonso:**

3 Q. So Mr. Fuentes, if these things that you have outlined this
4 afternoon were present, you know, all the tenders, you know,
5 the tenders in the water, the tender on thing, proper umbilicals,
6 proper air compressors and so on, and the only diver's suiting
7 that was available would be a wet suit, would you be able to
8 advise or would you be able to advise on a dive plan to go into
9 a pipeline like that, with that equipment, minus the full
10 contamination suit because we say that's not available, and the
11 dry suit is not generally available or in use in Trinidad?

12 A. Miss, you've confused me with that question.

13 Q. Okay. Okay. I—

14 **Examination By Mr. Chairman:**

15 Q. Can I, can I see if I can help, Mr. Fuentes? I think what's being
16 asked of you is this? All other things being equal, would you
17 have been in a position, do you think, to have given some sort
18 of dive plan for this rescue if you had been asked?

19 A. Could you say that once again, Mr. Lynch?

20 Q. Yes. Do you think you would have been able, if you'd been
21 asked, would you have been able to come up with your own
22 dive plan for a rescue? Do you think you would have been able
23 to do that if someone had asked you?

24 A. I would have had to been—for me to do that rescue I think I
25 would have been—I, I needed to have been the supervisor—

26 Q. Yes.

27 A. —there and then—

1 Q. Yes.

2 A. —at that point in time.

3 Q. On the berth?

4 A. Yes.

5 Q. Yes.

6 A. At the time of the incident.

7 Q. Right. So when it actually happened?

8 A. And for the few minutes afterwards. The 5, 10 minutes after
9 that. Then I could have attempted a rescue.

10 Q. A rescue plan?

11 A. But, yeah, but—

12 Q. Well whether it would go ahead or not would depend on a
13 number of factors which you've already identified in answer to
14 Mr. Maharaj and to Mr. Mootoo and to me. All right? And I
15 think everybody understands that this is not straightforward on
16 any view.

17 A. Right.

18 Q. And you've been very fair in identifying things that concern
19 you as an expert before you would consider going into the pipe.
20 Can I ask you this, which arises a little from what has been
21 asked of you? I get the impression, so I need you to correct that
22 if I've got it wrong, all right?

23 A. Okay.

24 Q. I get the impression that the things that you have identified
25 would ameliorate and mitigate some of the dangers as you saw
26 them. All right? But that much of that would also depend on
27 the individual diver. Would he be prepared to take this risk or

1 that risk or whatever it is, and it would be a matter for him
2 having pointed out what those risks are?

3 A. Absolutely.

4 Q. Would you agree with that?

5 A. It would be a personal decision on that diver at that point in
6 time.

7 Q. Right. So, for example foot first, headfirst that sort of thing?

8 A. Yes.

9 Q. Whether he wears a particular type of suit—

10 A. Are you willing to go?

11 Q. Sorry?

12 A. Are you willing to go?

13 Q. Are you willing to go. I've got you, yes, yeah. Nobody could
14 be ordered—

15 A. No.

16 Q. —to go into the pipe, could they?

17 A. No.

18 Q. You wouldn't conceive of that I imagine. All right.

19 A. As a supervisor I would not ask anyone to go—

20 Q. No.

21 A. —where I would not go myself.

22 Q. Right. And you might even say to him, "Look, this is not a
23 good idea. Please don't do it."

24 A. Right. Right.

25 Q. "I want to do it please, let me go." You'd say, "Well it's on
26 you." Would that be a fair way of putting it?

27 A. No. If I say no—like if—

1 Q. If you say no, that's it.

2 A. —[*Inaudible*] I say no, is no.

3 Q. So because you're a diver supervisor?

4 A. Right.

5 Q. So once you say no that cuts it—

6 A. Dah is it.

7 Q. —off completely, no matter what they might say?

8 A. No matter what they might say.

9 Q. I've got you, right. And you would not be prepared to put
10 together a plan unless you were the diver supervisor?

11 A. Correct.

12 Q. Got you. Thank you very much for that.

13 **Mr. Chairman:** Ms., er—

14 **Ms. Alfonso:** One more question, um, Mr. Chairman.

15 **Mr. Chairman:** Right, thank you.

16 **Continued Cross-Examination By Ms. Alfonso:**

17 Q. Mr. Fuentes, diving into a confined area like this pipe that is
18 now the subject of this Enquiry, isn't that called penetration
19 diving?

20 A. Yes.

21 Q. Okay. Isn't the most common form of penetration diving,
22 diving into something like a pipe, something enclosed where
23 you don't have direct access to the surface?

24 A. It happens, there are instances, yes.

25 Q. They're instances?

26 A. Yes.

27 Q. And, um—

1 A. But, as I said, divers don't go into pipelines. That's not—that is
2 not a thing.

3 Q. Sorry?

4 A. We do not go into—divers do not go into pipelines.

5 Q. Okay. So—

6 A. That's not done.

7 Q. So the reason that I asked particularly about penetration diving
8 and the, and the, and the, you know, whether it would include
9 going into an area like the pipe because you said it wasn't a
10 thing.

11 A. For, for example, a wreck on the seabed—

12 Q. Yes.

13 A. —diver going, makes entry into it through a hatch, that, that is
14 penetration—that's what we call—that's penetration diving.

15 Q. Well I want to—where I got my information with respect to
16 penetration diving and so on is the—and I want to get the, I
17 hate acronyms, ADCI International Consensus for Commercial
18 Diving and Underwater Operations. You're familiar with that
19 standard?

20 A. Yes.

21 Q. Okay, so they actually say, the classic example of penetration
22 diving is diving into a pipeline and moving along the horizontal
23 in a pipeline in particular.

24 A. That was an example they gave but they didn't—

25 Q. They say it's the classic example. I'd want to say so.

26 A. It was an example but it was not, it was not a contaminated
27 pipeline with oil and there was no possibility of a Delta P.

1 That's an—in I—what—that document you referred to is it
2 refers to an ideal situation. This was not.

3 Q. And it also provides, to be fair, in the same guidelines for
4 diving where Delta P scenarios have happened and are possible.
5 You would agree?

6 A. Could you repeat the last bit?

7 Q. Okay. That same standard that I carried you to, also provides
8 diving in situations where there have been Delta Ps or where
9 Delta Ps are possible or probably or could occur. Would you
10 agree? That same, same AD, AD—

11 **Mr. Chairman:** Well, I'm going to stop this again, I'm afraid,
12 Ms. Alfonso.

13 **Mr. Fuentes:** Yeah, yeah please.

14 **Mr. Chairman:** Because, um, like, like Mr. Fuentes I'd like
15 my own file which had the document in it. If you're going to
16 refer to a document like this, you really do need to have it given
17 to us in advance, we can put it on the screen and then
18 everybody can understand exactly what it is you're saying
19 because, you know, making that assertion, and I'm sure you're
20 reading it accurately, but we need to read around it as well and
21 very often there are things, as you know, which might help
22 answer the question. So I, I, I—if you're going to rely on this I
23 would ask you to provide it to us, we can put it on the screen,
24 we can see what it says and, um—

25 **Mr. Fuentes:** I have it here.

26 [*Laughter*]

27 **Mr. Chairman:** I shoulda guessed. He has it.

1 **Mr. Fuentes:** I really do.

2 **Mr. Chairman:** I'm sure you do. If you tell me you do I'm
3 sure you do.

4 **Ms. Alfonso:** Mr. Chairman, in our defence we have, in fact,
5 supplied or assisted Dr. Glenn Cheddie with a witness
6 statement which contains the extracts of that particular
7 manual—

8 **Mr. Chairman:** Yes, well I haven't got his statement and,
9 er—er, look, Ms. Alfonso, really, if we're going to be dealing
10 with this specifically, I must have the document, I must have it
11 in advance, I don't want it sprung on me now and I'm grateful
12 to Mr. Fuentes for having it with him, but, it's no use to me as a
13 complete lay person to see a document like that just handed in
14 without my being given an opportunity to read it myself. And I
15 would wish to do that.

16 Now, if you want to rely on this, you're going to have to get a
17 copy to us, we can have it for Monday and then we can see
18 where we can take it from there and if you—and I won't stop
19 you from making any submissions about it in the opportunity
20 you're going to be given next week to make submissions. I'm
21 not sure that Mr. Fuentes can help you. If it's contained in the
22 document, it's contained in the document, and you can refer to
23 it, but you'll need to supply it us to, all right?

24 **Ms. Alfonso:** And, and I'm just indicating, Mr. Chairman, that
25 we have, and accepting immediately that it is belatedly but that
26 is because, as I said, we're only assisting somebody in putting
27 in a witness statement.

1 **Mr. Chairman:** Yeah, well I—you know, I'm not, I'm not
2 moaning about it being late. I'm concerned about cross-
3 examination of a witness, which I'm supposed to follow and
4 everybody else is supposed to follow, without having the
5 document. So, um, if you want to provide the document and
6 then make your points on it, please do.

7 **Ms. Alfonso:** I accept that, Mr. Chairman.

8 **Mr. Chairman:** All right? Thank you very much. Do I take it
9 that's your questions, then?

10 **Ms. Alfonso:** Yes indeed. Thank you to Mr.—

11 **Mr. Chairman:** Yes. I think, Mr. Ramadhar, you wanted to
12 jump in after your turn?

13 **Mr. Ramadhar:** Well—

14 **Mr. Chairman:** What is it you want to ask?

15 **Mr. Ramadhar:** Very simply this we heard about snags and I
16 just want to explore the, the—

17 **Mr. Chairman:** You want to explore what?

18 **Mr. Ramadhar:** The issue of the snagging, the ability to snag
19 on the umbilical.

20 **Mr. Chairman:** Well why didn't you ask when it was your
21 turn?

22 **Mr. Ramadhar:** Well, it only came out under cross from—

23 **Mr. Chairman:** Yeah, but that's not how it works. You know
24 that's not how it works.

25 **Mr. Ramadhar:** I'm entirely in your hands. I—

26 **Mr. Chairman:** Mr. Ramadhar, you know that you have an—
27 we have an order in which this is being done and you're out of

1 order to seek to make the cross-examination after Mr. Mootoo
2 has.

3 **Mr. Ramadhar:** Well, with all due respect—

4 **Mr. Chairman:** Are you applying to go out of turn as an
5 exception to the normal rule to be allowed to cross-examine this
6 witness after Mr. Mootoo? Is that your application?

7 **Mr. Ramadhar:** It is.

8 **Mr. Chairman:** Tempting though it is to refuse it, I'm going
9 to allow you.

10 **Mr. Ramadhar:** Thank you.

11 **Mr. Chairman:** Don't do it again.

12 **Mr. Ramadhar:** No I shan't and I'm hardly out of order
13 before is, is, um, Mr. Chairman.

14 **Cross-Examination By Mr. Ramadhar:**

15 Q. It is simply this. Mr. Fuentes, you speak of the curve, sorry, the
16 angle into the pipe where—

17 **Mr. Chairman:** It's called 90-degree bend.

18 **Mr. Ramadhar:** Ninety-degree bend.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. But it is not, as far as you're aware, is it, a literal 90-degree
21 bend. It's an elbow isn't it?

22 A. It's, it's a curve.

23 Q. A curve.

24 A. Yes.

25 Q. And the likelihood of snagging on a curve is far less than a
26 sharp-edged corner isn't it?

27 A. Umbilicals are caught on the side of a ship. A simple thing as

1 the side of ship—

2 Q. Yeah.

3 A. —will snag an umbilical.

4 Q. Right. And in the perfect world none of that would occur, the
5 snagging and so, but you appreciate that this is not a perfect
6 world and it was not a perfect scenario that evening?

7 A. Correct.

8 Q. And lives were at stake?

9 A. Yes.

10 Q. And therefore risks needed to be taken? It was not a perfect
11 environment. You agree with that? Lives were at stake.

12 A. I don't agree, um—

13 Q. Lives were at stake.

14 A. —the risks, risks needed to be taken is subjective, it's—

15 Q. Of course.

16 A. Yeah, yeah.

17 Q. And as you rightly pointed out, it depends on the willingness of
18 the person, the diver themselves, as to what they're willing to
19 take, risk wise?

20 A. In, in all safety courses, first aid courses that we go through, we
21 are always taught; make the area safe—

22 Q. Correct.

23 A. —first before you render assistance to anyone.

24 Q. And you would—

25 A. —and that doesn't specify if it's your family, your friend or
26 your foe.

27 Q. Yes.

1 A. Right?

2 Q. Appreciate all that?

3 A. Make it safe.

4 Q. We appreciate that. But do, do the best one can to save lives is
5 the highest priority, isn't it?

6 A. Sorry?

7 Q. Do the best that one can to be safe?

8 A. Preservation of life, of course, yes.

9 Q. Thank you so much. And in terms of—

10 **Mr. Chairman:** That includes the rescuer.

11 **Mr. Ramadhar:** Exactly the point.

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. So that the rescuer is entitled to make that decision in a large
14 part too, for his own well-being, what he considers too risky or
15 safe enough or worth the risk?

16 A. Please repeat that, Sir?

17 Q. Of course.

18 A. Please?

19 Q. There is a personal decision to be made by the rescuer—

20 A. Well—

21 Q. —that it may be too risky, it may not be risky at all—

22 A. Right.

23 Q. —or it is worth the risk.

24 A. Yes, but that is only after the dive team agrees to make the dive.
25 He can't—one diver can't just decide he—

26 Q. No, we know that. We know that.

27 A. —going to dive and res—the dive team, the supervisor in

1 charge come up with a plan and made this rescue.

2 Q. Thank you. We appreciate all of that.

3 A. Right.

4 Q. But at the end of the day there are a lot of personal decisions to
5 be made because the supervisor could say, "Yes I agree", but
6 the dive himself could say no, I do not.

7 A. Yes.

8 Q. Or the diver himself could say, "Yes I will."

9 A. Correct.

10 Q. Correct. Now, did you have any idea how far they needed to go
11 into the pipe to do the rescue?

12 A. If I had an idea?

13 Q. Yes.

14 A. They were—no I hadn't—

15 Q. Absolutely.

16 A. I had no clue.

17 Q. Right. You were clueless. So, in terms—

18 A. Clueless.

19 Q. —of the distance that one had to go, will determine the level of
20 danger to the rescuer, isn't it? The further—

21 A. The further, the more dangerous.

22 Q. Beautiful.

23 A. And the less one had to go, it would be less risk. Less, less
24 likelihood of a risk.

25 Q. Thank you very much. And in terms of to save four lives
26 maybe 150 feet into a pipe, right, with all the risks and possible
27 risks that you would have identified, do you think that is way

1 too much to ask to save four lives to go in 150 feet of pipe?

2 **Mr. Chairman:** I'm not sure it's a fair question. He doesn't
3 have—

4 **Mr. Ramadhar:** Ah good.

5 **Mr. Chairman:**—all the facts of the particular scenario.

6 **Mr. Ramadhar:** That is so true, yeah.

7 **Mr. Chairman:** He was never apprised of them, and I do think
8 it's a little unfair to—

9 **Mr. Ramadhar:** All right, I don't want to be unfair.

10 **Mr. Chairman:**—ask him to answer that question.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 A. Yeah, I can't answer that Mr. Ramadhar.

13 Q. Of course.

14 A. Sorry.

15 Q. I appreciate, I appreciate it may appear unfair. But, but, as
16 we—

17 **Mr. Chairman:** Well I've just said it is.

18 **Mr. Ramadhar:** Yes. Thank you.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 A. And as I said before the, the time for rescue would have been
21 immediate.

22 Q. Long gone, of course. And therefore what you're looking at
23 here, and that's the point, I'm so grateful, Mr. Chairman, it's
24 more academic now looking back on it. You didn't have to
25 deal with it in the moment? You agree?

26 A. Correct.

27 Q. Dealing with it in the moment where there is a possibility of

1 saving lives, very different from looking back upon it almost
2 academically, textbook, isn't it?

3 A. Uh-huh.

4 Q. You agree I with that?

5 A. Yeah.

6 Q. But the Friday evening when they were alive, was not a
7 textbook environment that you had to deal with. You had to
8 deal with real-world circumstances, correct? Eh?

9 A. Yeah, well lives were at stake.

10 Q. Thank you. And therefore rescue should have been a high
11 priority and a risk of course attends to that?

12 A. Again, preservation of life.

13 Q. Thank you. Both sides?

14 A. Both sides.

15 **Mr. Ramadhar:** Thank you so much, Mr. Chairman.

16 **Examination By Commissioner Wilson:**

17 Q. Good afternoon, Mr. Fuentes.

18 A. Good afternoon, Mr. Wilson.

19 Q. I've just been advised by my Chairman I need to say that we
20 know each other from previous jobs and you,—you recognize
21 me?

22 A. [*Inaudible*]

23 Q. All right, um, I just want to ask you a few questions coming out
24 of the enquiry in the room. I have an appreciation you wasn't
25 there on Friday but because of the conversations came into the
26 room I just want to also bring clarity to the room using your
27 expertise, if I may, and/or your opinions. We're talking about

1 the listing that or the components of a rescue that you would
2 consider that needed to be had. What I want to interrogate is,
3 um, once we are planning dives, do we have to consider the
4 manning levels or manning levels of, of—

5 A. Yes.

6 Q. In your opinion, what is the manning level if we—if a rescue
7 had to be enacted as you were describing utilizing the
8 components you have?

9 A. Seven, eight.

10 Q. I would've come on seven, right, as well. Um, because we, in
11 that scenario that you were describing to the Enquiry, utilizing
12 the surface air—

13 A. Yes.

14 Q. —and in-water tenders.

15 A. Yes.

16 Q. —we have to, or would you consider the ingress point
17 umbilicals have to go in the pipeline for, in water tenders, to
18 facilitate traversing the horizontal of the pipeline?

19 A. Yeah.

20 Q. You would?

21 A. Yeah.

22 Q. So, that pipeline is about 30 inches. How many people would
23 be ingressing the pipeline with umbilicals under the scenario
24 which you were interrogated earlier?

25 A. Well, anyone—well they would all be on umbilicals.

26 Q. Correct. Okay. Fair enough. So now I want to kind of—I'm
27 trying to picture the umbilicals going ingressed in a 30-inch

1 pipeline.

2 A. Uh-huh.

3 Q. It—

4 **Mr. Chairman:** Bring your microphone a little closer to you
5 so I can—yes.

6 **Examination By Commissioner Wilson:**

7 Q. So, having an in-water tender into the pipeline, umbilicals
8 going into the pipeline, would you consider if that now, two
9 divers are going in, ingress point, would pose some sort of
10 restricted access or restricted movement of the umbilicals?

11 A. Yes.

12 Q. Okay. And restricted access versus confined space, is there a
13 difference?

14 A. Yes.

15 Q. Okay. Do you care to explain the difference?

16 A. So physic—so physically confined space—

17 Q. Uh-huh.

18 A. —and a physically confining space, that's what you asked,
19 right? That is your question.

20 Q. Yeah, your comment on it, just as I listed—

21 A. So, for example, if this room were a storage tank or a oil
22 separator—

23 Q. Uh-huh.

24 A. —on land—

25 Q. Uh-huh.

26 A. —not designed for human occupation—

27 Q. Uh-huh.

1 A. —and there's a small entry hatch—

2 Q. Uh-huh.

3 A. —and you have to go in—you have to unbolt it, enter to go
4 inside to do an inspection—

5 Q. Uh-huh.

6 A. —as a—that's confined space entry.

7 Q. I'm following you so far.

8 A. If you ask that same inspector, just say we're working on land
9 now right on the surface, on the dry—

10 Q. Uh-huh.

11 A. —you ask that same inspector to go inside a 30-inch pipeline—

12 Q. Uh-huh.

13 A. —to inspect it, it is a confined space entry but—

14 Q. Uh-huh.

15 A. —it's also a physically confining space where he cannot rotate
16 180 degrees.

17 Q. Understood, yes.

18 A. And that's the difference.

19 Q. Okay. Thank you for that. So, with that restricted access into
20 the pipeline I now want to go to the positioning of a potential
21 rescue diver going in.

22 A. Uh-huh.

23 Q. You as a supervisor, I heard it come out into the room, if one
24 was to come across some sort of debris like a tank and stuff—

25 A. Yes.

26 Q. —if you would pass it along the body. Now, I want to walk
27 you through that. You are the dive supervisor, we have

1 communications, so you have all the things as Mr. Ramadhar
2 said, in the perfect world. We have the communication so your
3 diver indicates to you topside, come across something appears
4 to be a tank.

5 A. A scuba tank?

6 Q. Yes.

7 A. Right.

8 Q. Given this restricted access given the umbilicals, his equipment
9 in a 30-inch pipeline, as a supervisor, he might want to pass that
10 past his body but you, having direct communication with the
11 potential rescue diver and as a supervisor, ultimately do you
12 have the responsibility for that diver?

13 A. Yes.

14 Q. Would you advise him to pass the bottle beyond him, given the
15 restricted access that we're envisioning and/or would you
16 advise him to come out with the bottle?

17 A. It would depend.

18 Q. Okay.

19 A. If he could slip by easily, because remember this is a rescue,
20 time is of the essence—

21 Q. That's what I'm saying, it would be restricted access.

22 A. If he could slip by easily, easily enough for his comfort, go for
23 it.

24 Q. So let me provoke you a lil more.

25 A. Yes.

26 Q. Are you seeing if he could slip by easily or are you just going to
27 take his word or are you prepared to take that responsibility

1 because debris could now have that diver—

2 A. As a supervisor—

3 Q. Yes.

4 A. —listening to my divers I, I would be able to make that
5 judgment call at that point in time.

6 Q. Understood. Okay, so thank you for that.

7 A. All right.

8 **Examination By Mr. Chairman:**

9 Q. So, well I need to understand that.

10 A. All right.

11 Q. Because if, um—what you're saying and what I understood you
12 to say earlier—

13 A. Yeah.

14 Q. —was that this is matter for the individual diver. If he felt
15 comfortable doing it, that is to slip by that tank, you would be
16 comfortable?

17 A. Yeah.

18 Q. If he had any hesitation about it, you might say, "Look, I think
19 the best thing is get rid of that tank. Let's take it out."

20 A. Yes.

21 Q. And that's the approach you would take?

22 A. Yes.

23 Q. With all debris that he might come across?

24 A. Yes.

25 Q. You just said in answer to the question by Mr. Wilson, um, that
26 your concern is that the diver himself might be thinking, "Time
27 is of the essence and therefore I'm prepared to go past this—

1 A. Yeah.

2 Q. —this tank, and look for to rescue the men that are beyond it?

3 A. Yeah.

4 Q. And of course it's a bit cumulative as I think Mr. Mootoo has
5 suggested before that if there were more than one tank, once
6 you get to the second one, now it becomes a potential bigger
7 problem. The more debris there is, the more of a problem
8 might exist?

9 A. Yes.

10 Q. But each—at each point in the first instance your view is, as the
11 dive supervisor, that it would be up to the individual diver to
12 make a judgment call, and frankly he shouldn't be in that pipe if
13 he wasn't capable of making that judgment call. Is that, is that
14 the position?

15 A. Combined with my interpretation of that judgment call.

16 Q. Of what he says, yes. Yes, exactly.

17 A. Yes, how he says it.

18 Q. Yeah. Yeah, yeah. I, I, I, I entirely accept, ultimately, if you
19 say no that's it?

20 A. Yes.

21 Q. Yes, I get it. Thank you very much. Thank you. Mr. Wilson.

22 **Examination By Commissioner Wilson:**

23 Q. All right, so I wanted to go with the responsibility. So now I
24 want to deal with the positioning of a potential rescue driver
25 and potential fouling because, again, debris in the pipeline.
26 Potential for—

27 A. Yes.

1 Q. —fouling, so, that's why I saying if you're taking responsibility
2 of passing debris and the diver continuing, but as you said
3 you're prepared to take that responsibility. If a diver goes
4 headfirst and he has an in-water tender, and for some
5 unforeseen reason he goes unconscious, would you consider
6 retrieving that diver from that position an unconscious diver—

7 A. Uh-uh.

8 Q. —physics and physiology, his legs would pose a problem
9 pulling him back this direction?

10 A. It is possible, yes.

11 Q. So the positioning of the diver is a serious consideration into a
12 potential rescue?

13 A. Yes.

14 Q. Um, I would even offer, I don't know of the awareness, that
15 there are special harnesses for, as the lady from the SWWTU
16 for dives—

17 **Mr. Chairman:** Alfonso.

18 **Commissioner Wilson:** Ms. Alfonso, sorry, you know—he's,
19 he's, um, good with not remembering names. I can't—could
20 never remember it. So, mistake and can't remember.

21 **Examination By Commissioner Wilson:**

22 Q. So, um, so more so to your articulation around penetration
23 dives, in order in the unlikely event that a penetration dive
24 needs to be engaged—

25 A. Right.

26 Q. —all right, most penetration dives, in your opinion and
27 experience, they have been so processed out, it's only advised

1 to do to known standards, practices.

2 A. Yes.

3 Q. And to try and—because we have a saying in industry safety is
4 written in in blood.

5 A. Correct.

6 Q. So that's in our industry safety is written in blood—

7 A. Yes it is.

8 Q. —which drives a lot of the processes, procedures, standards and
9 trade associations by which we practice our trade?

10 A. Absolutely.

11 Q. So, in order to execute a penetration dive, that requires a
12 substantial amount of planning. In your opinion would you
13 agree?

14 A. To procedure and risk—heavily risk assessed.

15 Q. Yes. And is it a common thing in industry to dive into a
16 pipeline?

17 A. Into a pipeline?

18 Q. Yes.

19 A. No.

20 **Mr. Chairman:** He said it's not a thing?

21 **Examination By Commissioner Wilson:**

22 A. It's not a thing.

23 Q. Well, again, the standards address it, so, they address if we have
24 to go into a pipeline, so—um, but to your knowledge where I
25 was going with it is, to your knowledge, do those standards
26 employ any or communicate any limitations in the event divers
27 have to do a penetration dive, like limitations on the—

1 A. Umbilical length and stuff like that?

2 Q. No, like, um, maybe the diameter of a pipeline or—

3 A. Not that I, I—not that I'm aware of.

4 Q. Okay.

5 A. I've not—I don't recall seeing a limitation into the size of, of—

6 Q. Uh-huh.

7 A. —being allowed to—

8 **Examination By Mr. Chairman:**

9 Q. Well there's a physical limitation.

10 A. Yes.

11 Q. I mean, if there's a 12-foot pipe—12-inch pipe—

12 A. Yeah.

13 Q. —you're not going to be able to get inside.

14 A. Yeah.

15 Q. So, I mean, there's a physical limitation. I think what Mr.

16 Wilson's asked—

17 A. Yeah, I don't—but I don't think there's a written—

18 Q. Yeah.

19 A. —you know, physical limitation in, in any—

20 Q. Sure. I mean, obviously a 50 inch pipe would be a lot easier.

21 A. Yes.

22 Q. Because you could turn around with it?

23 A. Yes.

24 Q. Whereas a 30-inch pipe, you can't?

25 A. Yes.

26 **Examination By Commissioner Wilson:**

27 Q. Yes. So where I was going was if you are aware of any known

1 recommended practices in terms of penetration diving?

2 A. There's some reference in the ADCI documents—

3 Q. Yes.

4 A. —and, and IMCA documents—

5 Q. Yes.

6 A. —which both state they must be heavily risk-assessed—

7 Q. Uh-huh.

8 A. —and all risks removed before doing such.

9 Q. And I'd end it here. Even in addition to that, there's a
10 recommendation in our own voluntary guideline in the Trinidad
11 and Tobago Bureau of Standard, you know? So thank you, Mr.
12 Fuentes.

13 A. Okay.

14 **Mr. Chairman:** Mr. Maharaj?

15 **Mr. Maharaj SC:** No.

16 **Mr. Chairman:** Does anybody have anything arising from Mr.
17 Wilson's questions?

18 **Mr. Mootoo:** Yes.

19 **Mr. Chairman:** Just one minute.

20 **Mr. Mootoo:** There's only one question.

21 **Further Cross-Examination By Mr. Mootoo:**

22 Q. Is there, is there a limitation to your mind, whether by way of
23 standard or, or even applying your own experience, is there a
24 limitation on the length of an umbilical that you would use for a
25 penetration dive? And, if so, what would that be?

26 A. I do not recall ever seeing a limitation, as stated, a numerical
27 limitation on a penetration dive.

1 Q. Okay.

2 A. The excursion limit would be based on the length of umbilical.
3 The, the longer—the more umbilical divers paying out is the
4 more risk. There's more risk attached. You want him closer.
5 The further away he is, means he's further away from being
6 able to be rescued.

7 Q. Right, but in, in your—what I'm asking is, in your experience is
8 there a limitation that you would say, right, I am not going to
9 engage in an activity for a penetration dive that requires an
10 umbilical greater than X? And, if so, what would X be?

11 A. That would be a judgment call by the supervisor at the point in
12 time on the job, depending on the job on the scenario, yeah.

13 Q. Okay. Thank you.

14 **Examination By Mr. Chairman:**

15 Q. I mean, there's obviously an outer limit, isn't there? I mean,
16 you wouldn't want an umbilical that was a mile long?

17 A. No.

18 Q. No, quite.

19 A. Or you—

20 Q. So there's an outer limit. Precisely where that limit is would
21 depend on the circumstance?

22 A. Yes.

23 Q. Um, I mean here we know there would be a couple of bends
24 for—at least to go around in order to get into the horizontal
25 section of the pipe?

26 A. Horizontal. All right.

27 Q. Once in the horizontal section of the pipe we know two things.

1 It's very slippery so one—that would assume—one assumes
2 that that would make it easier for the pipe to pass—the
3 umbilical to pass along and it is straight?

4 A. Right.

5 Q. Which also makes it easier?

6 A. Yes.

7 Q. But it's still got to get round these bends, doesn't it—

8 A. Yes.

9 Q. —before it gets there, so, I mean, really, I think Mr. Mootoo is
10 asking you is, are you able to put a sort of final length on what
11 you would regard as safe if you were in the position as being
12 the supervisor on the day?

13 A. Off the top of my head, I could say a hundred feet.

14 Q. Right. So once you—

15 A. It's from what—and that's, and that's, and that's in an ideal
16 situation without contamination and without Delta P possibility.

17 Q. So the realities are that you would be very reluctant for anyone
18 to go beyond, particularly in this scenario, where we've got a
19 number of contaminants clearly in that pipe?

20 A. Yes.

21 Q. I mean, a lot of it was water. We know that that was the case
22 but there's clearly contaminants in there as well.

23 A. Yes, there will be.

24 Q. There will be [*Inaudible*]

25 A. I don't think the line was pigged. Was the line pigged and
26 cleaned? No.

27 Q. No.

1 A. I doubt that very much, so—

2 Q. No.

3 A. No.

4 Q. No it wasn't.

5 A. All right.

6 Q. So, the line was supposed to be full. It clearly wasn't. And
7 that's what caused—

8 A. That was the problem.

9 Q. —I suspect the Delta P.

10 A. That's the problem.

11 Q. Yeah, but, um—so that the issue really is, is, once you've got to
12 that 90-degree bend., how far would you allow someone to go
13 along the pipe before you say, "Well, you know, I think that's
14 probably far enough."

15 A. right.

16 Q. And, and you're saying the outer limit is about a hundred feet?

17 A. If, if I was supervising a diver?

18 Q. Uh-huh.

19 A. Yeah. Off the top of my head, yeah.

20 **Mr. Chairman:** Right, I hope that helps, Mr. Mootoo, yes.

21 **Mr. Mootoo:** Yes, very much, thank you.

22 **Mr. Chairman:** Thank you. All right, Mr. Maharaj, any other
23 questions? Well in spite of your reluctance, if I may say so,
24 Mr. Fuentes, you've been very helpful. Thank you very much
25 indeed for coming. I appreciate it.

26 **Mr. Fuentes:** I try to be helpful to everyone.

27 **Mr. Chairman:** Well, yes, well you certainly have been since

1 you've been here.

2 **Mr. Fuentes:** But it's—

3 **Mr. Chairman:** All right? Thank you.

4 **Mr. Fuentes:**—it's, it's the, it's, it's, it's the wording.

5 **Mr. Chairman:** Please take your file with you and you're free
6 to go. As I say, you can stay or go as you please. Can we take
7 5 minutes before we have the next witness, please? Thank you.
8 Yes, just go that way.

9 **3.59 p.m.:** *Enquiry suspended.*

10 **4.05 p.m.:** *Enquiry resumed.*

11 **Mr. Chairman:** All right, who have we got next?

12 **Mr. Maharaj SC:** The next witness is Mr. Osei Flemming-
13 Holder.

14 **Mr. Chairman:** Ah, yes. Page?

15 **Mr. Peterson SC:** One four nine zero.

16 *[Mr. Osei Flemming-Holder enters Enquiry room and is sworn]*

17 **Mr. Chairman:** Good afternoon, Mr. Flemming.

18 **Mr. Flemming-Holder:** Hi, good afternoon.

19 **Mr. Chairman:** Take the oath, please?

20 *[Mr. Osei Flemming-Holder sworn]*

21 **Mr. Flemming-Holder:** I, Osei Flemming-Holder, solemnly
22 swear that the evidence I shall give to this Commission in this
23 case shall be the truth, the whole truth and nothing but the truth.

24 **Examination By Mr. Chairman:**

25 Q. Yes, sorry to have kept you quite so long but hopefully we'll—I
26 intend to deal with you today, all right, so you'll be free to go.

27 A. No problem.

1 Q. So first thing is this Mr. Flemming-Holder, who is it that's
2 going to do the summary? All right. So Mr. Bissessar here is
3 going to summarize your evidence, all right? Please listen
4 carefully and, um, see if you agree with his summary? All
5 right? If not you'll tell me afterwards, um, and then once he's
6 finished Mr. Maharaj has a few questions for you and then
7 there'll be questions I suspect from one or two others of the
8 lawyers that are here, all right?

9 A. Sure.

10 Q. That's going to be the procedure. We're aiming for 5.30, all
11 right? So everyone have that in mind. That would be helpful.

12 **Mr. Chairman:** Yes, Mr. Bissessar.

13 **Mr. Bissessar:** Thank you, Chairman.

14 **Examination By Mr. Bissessar:**

15 Q. Mr. Flemming-Holder, I understand, before I summarize your
16 evidence, that you wish to make an adjustment to paragraph 27
17 of your witness statement?

18 A. Correct. The time that was stated there is in—

19 Q. Just one second. It's being brought up at—27 reads:

20 "At around approximately 8.00 p.m., I was called by
21 Collin to the office next to open area, the shipping
22 building."

23 Is that the sentence that you wish to make a correction to?

24 A. No, that was the one with Boodram's, um—the time that I was
25 called, um—

26 Q. Oh, I see.

27 A. So that was 9.55.

1 Q. If you can look at the screen and just tell us at what line of
2 paragraph 27 and the correction?

3 A. So right here this will be 9.55.

4 **Examination By Mr. Chairman:**

5 Q. Yes, that was the section he read so at around approximately
6 8.00 p.m., you want to change the 8.00 p.m. to 9.55?

7 A. Yeah.

8 Q. That's pretty precise. Did you get that from somewhere else?

9 A. No, no it was the—

10 Q. Yes, all right. We're going to change it from 8.00 p.m. to 9.55
11 is it?

12 A. That's correct.

13 Q. All right, thank you very much.

14 **Mr. Chairman:** Yes, Mr. Bissessar.

15 **Mr. Bissessar:** Thank you so much, Chairman.

16 Mr. Flemming-Holder is the Operations HSSE Manager at Heritage
17 and served as incident commander at Heritage from 13th
18 December, 2021 to 23rd January, 2022. He says he is trained in
19 major emergency management. Mr. Flemming-Holder
20 provided a witness statement dated 22nd September, 2022,
21 that's at WB 1490, to the Commission but declined to be
22 interviewed by counsel to the Commission.

23 At about 4.45 p.m. on Friday, 25th February, 2022 Mr. Flemming-
24 Holder received a telephone call advising of an incident at Paria
25 and that it required his support, as a result of which, at 5.33
26 p.m. he reported to Paria's shipping building spending most of
27 the time at the incident command post, ICP. He said he

1 attended meetings and discussions held by the ICT and Mr.
2 Collin Piper as incident commander. He also described his first
3 meeting with the ICT that Friday at 6.08 p.m. during which he
4 was the only Heritage representative present and said that there
5 was a scribe taking note of the discussions.

6 Mr. Flemming-Holder says that he reported the ICT
7 discussions to the Heritage executive team comprising its CEO,
8 Arlene Chow and Chief Operating Officer, Patricia King. Mr.
9 Flemming-Holder describes being part of some of the ICT
10 meetings and that plans changed as scenarios did, so that after
11 the rescue of Christopher Boodram the ICT's plans also
12 changed to search and rescue in the pipeline.

13 He explains that following Boodram's rescue the ICT
14 discussed different options and plans including, one, to
15 determine the conditions inside the pipeline via a borescope and
16 cameras, two, to send in a rescue team into the pipeline, three,
17 to pump down the line so that it would be emptied of fluid and
18 then to send a rescue team inside the dry pipeline and, four, to
19 cut the pipeline to extract the divers.

20 Mr. Flemming-Holder said that on Friday at 6.15 p.m. he
21 attended a virtual meeting of Heritage's executive team to
22 update them and was instructed to provide whatever support
23 was required by the ICT and to focus on logistics. Mr.
24 Flemming-Holder said he then requested a dive vessel and
25 Heritage responded by sending two vessels, the Gulf Stream
26 and the Spearfish. Mr. Flemming-Holder also made requests
27 for underwater lights, confined space entry experts and pumps.

1 He also explained that the main risks to a person entering
2 the pipeline was becoming stuck, and he began to document the
3 draft risk assessment but was called back to the ICP by Paul
4 Yearwood and never completed the risk assessment. He said
5 that on Friday at about 8.00 p.m. he was in a room with
6 someone holding a cell phone that was on speaker, and he was
7 informed that the person on the line was Christopher Boodram
8 who had been rescued and he heard Boodram saying that, one,
9 he was 80 feet down the horizontal side of the pipeline, two,
10 there was only one person behind him, three, he passed young
11 Kaz who looked broken up, four, he got through and got to the
12 vertical section of the pumps, and, five, Faizal Kurban helped
13 him.

14 Mr. Flemming-Holder recalls that the call lasted about 3
15 to 5 minutes and Collin Piper led the conversation which was
16 heard by the other persons in the room, including Michael Wei,
17 Randy Archbald, Mushtaq Mohammed, Paul Yearwood and
18 Nerissa. Heritage's Dive Supervisor, Rolph Seales, arrived at
19 about 9.00 p.m. and Mr. Flemming-Holder took him to the ICP
20 and updated him and was informed that two dive teams were on
21 their way. Mr. Flemming-Holder then described events in the
22 ICP and discussions in relation to Mitchell's Diving, Offshore
23 Technology Services Limited, that's OTSL, HHSL and Eastern
24 Divers Limited.

25 He said that on Saturday, 26th February, 2022 at about
26 1.08 a.m., he recalls Rolph Seales informing the ICT that based
27 on his review of the video footage that the dive supervisors

1 from OTSL and Mitchell's said that the risk was too high to
2 deploy their divers. Later, Mr. Vierra of HHSL, after
3 unsuccessfully deploying their line crawler, said that HHSL
4 was unable to perform a rescue of the divers.

5 Later, on Saturday 26th February, 2022 he says, in
6 preparation for returning to Paria for the night shift, he called
7 Rawle Arneaud, Heritage's operations and maintenance
8 manager, who told him that Eastern Divers had said, based on a
9 mock-up of the confined space entry into the pipeline that
10 Eastern Divers had prepared, they were not able to perform a
11 rescue. He reported to the ICP for the night shift at about 10.03
12 p.m. but there was not much in terms of logistic support for him
13 to provide at that stage.

14 Mr. Flemming-Holder continued providing logistic
15 support to the ICT on Sunday, Monday, Tuesday, Wednesday
16 and finally Thursday 3rd March, 2021, during which time he
17 updated the Heritage executive team.

18 Mr. Flemming-Holder, do you agree that what I have
19 presented is a fair and accurate summary of your witness
20 statement dated 22nd September, 2022 as amended today?

21 **Mr. Flemming-Holder:** Yes, with one clarification. So, when
22 I left, this is Rawle Arneaud's feedback, when I left that
23 Saturday morning the instructions to Eastern Divers was to
24 perform a mock-up. When Rawle gave me the handover he
25 said that it, um, it was too risky for them to enter. They never
26 did the mock-up so that's the just one correction.

27 **Examination By Mr. Chairman:**

1 Q. Can I be clear, is that a correction to this statement or a
2 correction generally?

3 A. So, that's a correction to really to the truth basically. So when I
4 left Paria, right, the last instruction—

5 Q. Which day are we talking about?

6 A. This is Saturday.

7 Q. This is on Saturday, right?

8 A. Correct. So, when I left Paria the last—in my handover to
9 Rawle, Eastern Divers was supposed to do a mock up in a 30-
10 inch to ensure that they could perform the rescue, right?

11 Q. Yes.

12 A. When I was handed over, Rawle told me that they could not
13 perform the rescue so I thought that they did the mock-up, so
14 I'm just correcting the statement based on that fact.

15 Q. Okay, thank you.

16 A. No problem.

17 **Mr. Chairman:** Yes, Mr. Maharaj.

18 **Examination By Mr. Maharaj SC:**

19 Q. Mr. Flemming, good afternoon.

20 A. Good afternoon, Sir.

21 Q. I just want to ask you a few questions. At paragraph four of
22 your witness statement, you said you served as an incident
23 commander at Heritage from 2021 to January, well, to January
24 2022.

25 A. That's correct.

26 Q. I want some help from you. From your experience as an
27 incident commander, would you say that the incident command

1 team, one of the main purpose of it is to prepare for an
2 emergency?

3 A. Yes it is, by conducting drills and also checking their
4 emergency response plans.

5 Q. And you conduct drills in respect of the—a possible emergency
6 scenario?

7 A. So it's based on risk scenarios, that is correct.

8 Q. Yes. And in Heritage, whilst you were there, how often you
9 would say the incident command team performed and conduct
10 drills?

11 A. So you have two factors in terms of drills, right? So you have
12 your field operations team, this is Heritage, you have your
13 incident command team and you have your business continuity,
14 your BST.

15 **Examination By Mr. Chairman:**

16 Q. Sorry, hang on. I want to make a note of that. Field operations
17 team?

18 A. Field operations team which will deal with emergencies on a
19 site, right?

20 Q. On the site?

21 A. Correct. Your IMT is called in based on the extent of the
22 emergency. If your FOT cannot handle that emergency and
23 your BST is also called in based on business continuity.

24 Q. Field operations team, what was the other team?

25 A. IMT and BST.

26 Q. Thank you.

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. So the field operation team would be the team that would have
2 the drills in respect to, let's say if you have a Delta P?

3 A. So, your field operations—so you're talking Heritage here now,
4 right?

5 Q. I know, I talking Heritage, yes.

6 A. So in your field operations team you will drill based on a drill
7 matrix. All right? So you may drill based on severe weather,
8 fire, gas release, um, et cetera, and that is to really check
9 preparedness, maintaining a state of readiness to ensure that
10 what are the gaps from your emergency response, you highlight
11 them and you close them out so that you always remain ready
12 in the event of an emergency.

13 Q. Well, let me ask a more focused question, all right?

14 A. Sure.

15 Q. As far as Heritage concerned, did it ever consider there would
16 be a scenario for Heritage to have a drill, I'm not talking about
17 Paria, for Heritage to have a drill for Delta P?

18 A. It would be based on a job or project. If you have a job or a
19 project you go through based on what is the risk, right, you look
20 at what are the scenarios, what is the methodology, you go
21 through that and then you develop an ERP to suit the job or
22 project.

23 Q. Yeah. Well, let me ask you this, then. Has Heritage, since you
24 were there as an incident commander of the team, ever had a
25 drill for a scenario of a Delta P hazard?

26 A. No.

27 Q. No. Okay.

1 **Examination By Mr. Chairman:**

2 Q. Mr. Maharaj asked you a few questions back how often you
3 would drill.

4 A. So, in Heritage we drill at least once a month, right? In prior
5 companies where I would have worked we would drill every
6 two weeks, two drills per week. So I was the—I've been an
7 incident commander probably for the last 11 years in different
8 companies.

9 Q. The importance of drilling, you've explained, because you need
10 to be ever ready in a hazardous environment in which you're
11 working?

12 A. Correct. You live on a time bomb.

13 Q. Yeah, thank you. Well put if I may say so. So there's really no
14 difference in these terms, when you're dealing with a site that is
15 Heritage's or indeed a site that is Paria's?

16 A. Correct. You need to do drills in order to make sure that you
17 can deal with emergencies. Emergencies are your last line of
18 defence and you need plans to make sure—

19 Q. Sure.

20 A. —that you could deal with them.

21 Q. So there hasn't been a drill that your—let's say you joined a
22 firm and you discover in your role in that firm as operations
23 manager, that there hadn't been a drill for a year, what would
24 be your reaction?

25 A. I would intervene with CCMER, we'd sit down with the
26 frontline teams and we would make sure and start drilling.
27 Would attend the drills, would see what are the feedback and

1 see what are the closure of actions.

2 Q. Yeah. And what would be your initial reaction on discovering
3 that there hadn't been a drill for a year?

4 A. Well you understand why there's no drill and then you show the
5 methodology of why—the importance of drilling.

6 Q. Thank you very much.

7 **Examination By Commissioner Wilson:**

8 Q. Good afternoon, Mr. Flemming.

9 A. Good afternoon.

10 Q. In all those drills that you've just identified at Heritage, did you
11 ever drill with Paria in a scenario as supporting Paria?

12 A. Negative, no.

13 Q. Thank you.

14 **Continued Examination By Mr. Maharaj SC:**

15 Q. At paragraphs 16 and 17 of your witness statement, you stated
16 that you refer to being requested by Collin Piper and Randy
17 Archbald to do a risk assessment for the possible rescue of the
18 divers from inside the pipe. Okay?

19 A. That is correct.

20 Q. Was that risk assessment ever done?

21 A. So the risk assessment was started, so. when Rolph came he
22 was briefed by myself, Paul and then he was briefed by the IC,
23 which is Mr. Collin Piper. After that he asked for us to do a
24 risk assessment since we had the dive expert on board with us.
25 We then left that building, the shipping building, and went to
26 HSE which is the HSE building which is probably 20 feet from
27 the building, and then we sat down, we contacted Ms. Catherine

1 Balkissoon and we had a discussion and started the risk
2 assessment, yes. So item number 17 details—

3 **Examination By Mr. Chairman:**

4 Q. Sorry, I want to keep a note of this because it's quite important.

5 A. Yes.

6 Q. Just so that I understand it you're using first names, not
7 everybody is as familiar with them as you are

8 A. Okay. So—

9 Q. So call and Paul and Rolph.

10 A. So Collin Piper, Randy Archbald, is who made the request.

11 Q. Right.

12 A. Paul Yearwood and Catherine Balkissoon.

13 Q. Right.

14 A. Rolph, myself and Paul went to the safety office to start the risk
15 assessment.

16 Q. Thank you.

17 A. Paul then left, Rolph, myself, Catherine and another person on
18 the line and we were doing a risk assessment looking at the
19 different scenarios with respect to how could you safely rescue
20 somebody within the pipeline.

21 Q. Sure.

22 A. That started at approximately 9.10 p.m. that night.

23 Q. Nine ten p.m.?

24 A. Correct.

25 Q. On the Friday night?

26 A. That's correct.

27 Q. So—it, it—I mean, after Paul had left it's you, Rolph and

1 Catherine Balkissoon?

2 A. And it had another person on the line, I can't remember their
3 name, as well with Catherine that was on the barge.

4 Q. Right. But, but they—those two were together on the barge?

5 A. Correct.

6 Q. Do you remember who they represented, even if you can't
7 remember their name?

8 A. So I know Catherine represented Paria.

9 Q. Right.

10 A. But I can't remember who was the next individual but we were
11 doing a risk assessment at that time.

12 Q. Right. Was it someone who was a diver?

13 A. We had Rolph who was the diver.

14 Q. Rolph who was the diver?

15 A. At that point in time.

16 Q. The person at the other end was it from a diving company, or
17 you—

18 A. I can't remember.

19 Q. All right, very well.

20 **Mr. Chairman:** Thank you.

21 **Continued Examination By Mr. Maharaj SC:**

22 Q. Right, now in your statement you said the risk assessment was
23 not done because this is because the need for the risk
24 assessment was overtaken by what emerged in the video
25 footage which was obtained by the ICT of inside the pipeline as
26 described later in the statement.

27 A. So just to correct that, so while we were doing the risk

1 assessment, right, Paul came back into the room and summoned
2 myself to the ICT. This is for the call with Christopher
3 Boodram. Because at that point in time we did not run footage
4 as yet. The only footage that was run was the PISL camera
5 which was 7.30 and that was—the light, we didn't get any
6 footage on that at that point in time.

7 Q. Well, in this statement you said the risk assessment was
8 overtaken by what emerged because of the video footage which
9 was obtained. At no place you said here that the risk
10 assessment continued.

11 A. So the—so at 9.10 we started the risk assessment, just to give a
12 timeline—

13 Q. Just answer me the question. At paragraph 17—

14 A. Yeah.

15 Q. —did you, did you say in your witness statement that the risk
16 assessment process continued?

17 A. When I went back to ICT the risk assessment process was not
18 continued because I was put on other duties.

19 Q. Okay. Now, um—

20 **Examination By Mr. Chairman:**

21 Q. So it stopped?

22 A. It stopped yes.

23 Q. And it stopped because Mr. Yearwood came to see you and said
24 we've got some video footage?

25 A. No, he came to see me to take me back to the ICT. That's when
26 way they had the discussion with Christopher Boodram around
27 close to ten o'clock.

1 Q. Right. So you'd already spend what, the—

2 A. About 35 to 40 minutes working on the risk assessment.

3 Q. Right spent 40 minutes working?

4 A. That's correct.

5 Q. Was that in writing in any place?

6 A. It was typed on a PC.

7 Q. Thank you.

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Now at paragraph 16 you said that the ICT communicated with
10 Catherine from time to time words to that effect. Well, in
11 fairness to you:

12 "A request was made by the ICT, Collin and Randy for
13 Paul, Catherine Balkissoon who was offshore, Rolph ant
14 I to do a risk assessment and there was the"—okay and
15 I'll read it for you—"for a possible rescue of the divers
16 from inside the pipeline. This is when I left the sipping
17 building to go to the safety office. We contacted
18 Catherine to join the discussions."

19 A. That is correct. So Catherine was contacted and we were
20 looking at the risk with respect to sending someone into the
21 pipeline, manoeuvrability, et cetera, at that point in time.

22 Q. And you contacted Catherine who was at berth 6?

23 A. Paul would have contacted Catherine who was at berth 6, and
24 she—

25 Q. Because you knew as a member of the ICT then that Catherine
26 was in communication with the LMCS divers?

27 A. She was at the berth. that's correct.

1 Q. And she was giving feedback to the ICT as to what the LMCS
2 divers were requesting?

3 A. She was giving feedback with respect to the risk assessment
4 because at that point in time I was not in ICT.

5 Q. Whilst you were at the ICT did you have any feedback from her
6 in—

7 A. Not directly. That would have come through either the
8 planning section chief, Michael Wei, or the IC. The first time, I
9 had contact with Catherine Balkissoon was to do the risk
10 assessment in the safety office.

11 Q. Well did she make any input in that risk assessment?

12 A. Yes she did. We started the risk assessment, we started the
13 discussion and her feedback was critical in terms of finding out
14 what was going on on the site.

15 Q. Well did she tell you, as part of that, that the LMCS rescuers
16 wanted to do a rescue?

17 A. Not at that point in time because, Sir, you need to assess before
18 you go to rescue.

19 Q. Now—

20 A. So that's why we were doing the risk assessment to assess.

21 Q. So around what time was this when this assessment was
22 requested?

23 A. Nine-ten.

24 Q. Nine-ten. Up to that time, did you have any information from
25 Catherine?

26 A. No.

27 Q. Did the ICT?

1 A. I didn't have any information from Catherine. I dealt strictly
2 with Mr. Michael Wei and Collin Piper based on requests for
3 resources.

4 Q. So you had no information about any rescue efforts?

5 A. Not at that time, no.

6 Q. Not at that time. Okay. Now you said you talked about the
7 video footage. I want to go to that—

8 **Mr. Chairman:** Before you do that, Mr. Maharaj.

9 **Mr. Maharaj SC:** Right.

10 **Examination By Mr. Chairman:**

11 Q. You said a moment ago that somebody was typing this
12 particular plan.

13 A. Yes.

14 Q. As far as they got—

15 A. Yes.

16 Q. —the risk assessment into a PC.

17 A. Uh-huh.

18 Q. Who was typing that?

19 A. Me.

20 Q. You?

21 A. Yes.

22 Q. Right. Is it still on your PC?

23 A. I would have to look for it.

24 Q. Would you mind doing that?

25 A. I will try.

26 Q. Right. Has no one asked you for this before?

27 A. No.

1 Q. No, all right. Well I'd be grateful if once you're finished here
2 today, I don't ask you necessarily to come back to the hearing,
3 but if you could find it for us please?

4 A. No problem.

5 Q. Send it to your lawyers. They'll then send it to, us all right?

6 A. Okay.

7 **Continued Examination By Mr. Maharaj SC:**

8 Q. Now, in respect of the video footage, you dealt with that at
9 paragraphs 37 and 38 and 39 of your witness statement.

10 A. That's correct.

11 Q. And at paragraph 37 you referred to HHSL Safety Systems
12 Limited? You see that on the slide?

13 A. So there were two video footage.

14 Q. Right.

15 A. So if you go back up to—

16 Q. Okay, I'm talking about the—

17 A. Okay, no problem.

18 Q. Okay. The, the one that you are talking about at paragraph
19 37—

20 A. No problem.

21 Q. —you would have seen there that you refer to Hull, right?

22 A. No that's not Hull that HHSL.

23 Q. Sorry, HHSL. All right. And then at paragraph 38 you said
24 Mr. Vierra of HHSL subsequently reported to the ICT in my
25 presence that they inserted the line crawler at berth 6 and
26 attempted to dislodge the dive cylinder but was unsuccessful.

27 A. Yes, that's correct.

1 Q. Now, the video the video footage, you saw the video footage?

2 A. Of HHSL?

3 Q. Yes.

4 A. Not at that time. So, as I said, there's two video footage.

5 Q. I know. Did you ever see the video footage of HHSL?

6 A. Way after.

7 Q. Huh?

8 A. After, another day.

9 Q. After. When?

10 A. Probably the Saturday afternoon or something.

11 Q. The Saturday afternoon. Now—but you have put in your
12 witness statement that the crawler was unable to dislodge the
13 dive cylinder.

14 A. That is what Mr. Vierra told Mr. Collin Piper that I overheard,
15 yes.

16 Q. So you would not know as a fact whether the crawler pushed
17 the video—pushed the tank and it caused the blockage?

18 A. No. The, the, the crawler would not have caused the blockage.
19 So if you go back to my statement, Atlantic LNG would have
20 run cameras, they arrived at 10.45, and at—before eleven
21 o'clock they came back and provided feedback that there was a
22 lodged cylinder at 45 feet into the horizontal section of the line.
23 HHSL came after Atlantic LNG, so there were two independent
24 video footage stating that there's blockage in line.

25 Q. Well, I want to—you said, um, I just want to take you to what
26 the operators of the crawler said about the crawler. If I go to
27 315—3155 of the supplemental witness statement bundle?

1 **Mr. Chairman:** Page, sorry?

2 **Mr. Maharaj SC:** I'm sorry, 3153.

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. It's dated December 16th, 2022. This statement, right? And its
5 heading: "The position of Crawler Operator", right, the position
6 and if you look at the second to last paragraph:

7 "At 4.02 a.m. we were looking at ways of moving the
8 tank. The operator began to gently push the tank in
9 attempts to get as much distance as possible into the pipe.
10 After several attempts in pushing the tank, the operator
11 was able to move the tank approximately 9 feet, then an
12 additional 7 feet and finally 3 feet for an overall total of
13 19 feet."

14 You see that?

15 A. Yes, I'm seeing it.

16 Q. And then if you go to page 3154—

17 A. Uh-huh.

18 Q. —on the first par—well the sec—at the beginning of the words:

19 "Our persistence resulted in an additional 2 to 3 feet
20 forward being achieved, however the tank showed
21 negligible signs of changing the orientation from a
22 vertical to a horizontal position which could have given
23 the crawler the clearance it needed to pass the tank. At
24 4.30 a.m. and 200.3 feet inside the pipe, having
25 exhausted all attempts to dislodge the dive tank, the
26 recording was stopped."

27 So, this shows that the crawler was pushing the tank for some

1 distance. Would you agree with that?

2 A. Based on the report, yes.

3 Q. Yes. Now it also showed, if I refer you to page three one five
4 five, yeah, this is for the 1st of—this would be for the—is it the
5 3rd? Sorry, the 1st of March which would be the Tuesday, at
6 page three one five five, if you look at the fourth paragraph:

7 “We then quickly realized that pulling excess tether out
8 of the case would be best suited as the rubber tracks on
9 the crawler were not getting sufficient traction due to the
10 residual oil on the surface of the pipe.”

11 So this suggests to me, and from what I read here, that it
12 couldn't go further because the traction on it, it couldn't get the
13 traction because of the oily substance. Am I correct?

14 A. Well based onto report, it suggests that, yes.

15 Q. Now, the, the—I also want to show you what was the state of
16 inside the pipe according to the note made by the—made at the
17 IMT. And if I take you to Volume II of the supplemental core
18 bundle—

19 **Mr. Chairman:** Page one five seven two?

20 **Mr. Maharaj SC:** At page one five four one.

21 **Mr. Chairman:** Four one?

22 **Mr. Maharaj SC:** It's at—at the bottom of the page it's at
23 202—yeah, this will be 2.02 a.m.

24 **Mr. Chairman:** So these are the handwritten notes.

25 **Mr. Maharaj SC:** Yes it is.

26 **Mr. Chairman:** Of the IMT?

27 **Mr. Maharaj SC:** Yes.

1 **Mr. Chairman:** Yes, thank you.

2 **Continued Examination By Mr. Maharaj SC:**

3 Q. And you see at 202 it says:

4 "Clear water, no sign of oil, no air space, difficult to tell
5 if any air space because of the position of camera."

6 A. I did not see this handwritten note. I could only report on what
7 I heard Mr. Vierra tell Mr. Collin Piper in my presence and
8 that's what I heard.

9 Q. Well this was the earlier, this was the earlier, um, note. Well,
10 this was the note of the Atlantic LNG camera because of the
11 time.

12 A. So based on the report that Atlantic LNG would have given to
13 Collin Piper in the room that I was in, was that they found a
14 tank lodged at 45 feet in the horizontal and the camera could go
15 no more. That is what I heard. And that's in my report.

16 Q. Okay.

17 **Examination By Mr. Chairman:**

18 Q. Can I ask you about that, you're a diver, are you?

19 A. No, I'm not a diver.

20 Q. You've never been diving yourself?

21 A. No, but I've overseen and supervise lots of diving activities
22 from tight space, et cetera.

23 Q. You're familiar with—

24 A. Yes.

25 Q. Can I just ask you, we've got 30-inch—you know the size of a
26 tank?

27 A. Yes.

1 Q. An air tank that's being used by scuba divers, don't you?

2 A. Correct.

3 Q. Right. And, um, well I suppose about from the desk about this
4 tall [*Demonstrating by raising hand above head*]?

5 A. Yes.

6 Q. Yes? Round what I suppose 10 inches maybe?

7 A. Correct.

8 Q. Something like that, isn't it? If it's full it's heavy, isn't it?

9 A. That's correct.

10 Q. And obviously if it's empty it's very light?

11 A. Correct.

12 Q. If it's full in a pipe filled with fluid, would it sit on the bottom
13 of the pipe?

14 A. I think it should.

15 Q. Yeah. And if it was empty, would it be floating?

16 A. It should be, it should have some level of buoyancy, yes.

17 Q. Yes, I mean it be—because, because now it's empty. It's got—
18 it's obviously much lighter and so the equilibrium between the
19 fluid that it's in and the weight of the tank, it would just float
20 along, wouldn't it?

21 A. It should.

22 Q. Right. So, two things we can understand, from what we've got
23 here, is that if the pipe was sitting on the bottom of the—if the
24 tank was sitting on the bottom of the pipe full, and the whatever
25 scope was being used was slipping because it's slippery, we
26 could understand why it probably couldn't push the tank along
27 very much. If on the other hand it had been used and was

1 floating, it would be relatively easy to push in the water,
2 wouldn't it?

3 A. Correct, but the first camera that Atlantic LNG sent in did not
4 have any traction or any push, just basically go into provide
5 video feedback of what is in the pipeline.

6 Q. Yes.

7 A. That indicated that the—a cylinder was blocking the pathway
8 and it was lodged.

9 Q. You see I struggle a little to understand how it could be lodged
10 on its own bearing in mind sort of what we're talking about. I
11 mean, how would that lodge itself inside a slippery 30-inch
12 pipe? I just—

13 A. That's what the footage give, showed, Sir.

14 Q. Well, what it did was to come up against—

15 A. A cylinder.

16 Q. —a tank?

17 A. Correct.

18 Q. Whether there was anything else behind it is another question,
19 isn't it?

20 A. Right and the pipe crawler also confirmed that there was a, that
21 there was a tank that was lodged as well, based on the feedback
22 that—

23 Q. No, no, no I follow what you're saying.

24 A. Right.

25 Q. What I'm asking you is for you to deduce what you can from
26 that. You see, if you've got a heavy tank which is full of air
27 and it's sitting on the bottom of the pipe and you've got some

1 sort of camera, either with crawlers or not, and you can't push it
2 out the way because it's going to be heavy isn't it?

3 A. Correct.

4 Q. But if it's been used and it's floating in the pipe, then it would
5 be relatively easy to push?

6 A. That is correct.

7 Q. You would just do that and it would be able to shoot along the
8 pipe, wouldn't it?

9 A. That is correct.

10 Q. Unless there was something the other side of it? Do you
11 follow? So when perhaps it got to the point, whichever camera
12 it was, and found that this tank couldn't move any further,
13 perhaps that was because there was something behind it? Was
14 that considered?

15 A. So that was thought of, but we had no verifiable evidence
16 because we never got around the tank.

17 Q. No but it's—I appreciate you couldn't get the other side of it.
18 That was the problem. You couldn't get the camera the other
19 side, but it doesn't prevent you from making deductions from
20 the evidence that you had. The evidence was, "We, we've a
21 encountered a tank." One of them I think you could actually
22 read the numbers on the tank, the fluid in the pipe was so clear
23 you could still—you could actually read the numbers on the
24 tank. Did you know that?

25 A. That's the correct, yes.

26 Q. Right. So you've got that far so it's almost certainly mostly
27 water, right? That tank is in mostly water. It's either sitting on

1 the bottom or it's got some buoyancy, one or the other?

2 A. Correct.

3 Q. If it's sitting on the bottom, and I've seen the video footage, it's
4 not, right, so it must have some buoyancy, there must be
5 something behind it to stop you being able to push it, don't you
6 think?

7 A. Correct, and that was thought of as well.

8 Q. Right. What do you think that might have been?

9 A. It could have either been a person or a plug.

10 Q. A plug?

11 A. It could—well it had to be something. It could have been a
12 person. The thinking was—

13 Q. Well—

14 A. —it could have been a person but we was not sure.

15 Q. Let's be clear, right, again using our best skills of deduction the
16 plug is sucked or pushed into the pipe?

17 A. Correct.

18 Q. Followed by—

19 A. Persons.

20 Q. —a whole range of tools and people.

21 A. Right.

22 Q. Right? So it was unlikely that this tank was coming up against
23 the plug?

24 A. So it could have been a person, yes. It was unknown at that
25 point in time.

26 Q. Of course it's unknown. Of course it's unknown. But the
27 question is, what could it reasonably be?

1 A. So the thinking was it could have possibly been a diver but
2 again there was no verifiable evidence to basically confirm that.

3 Q. What else could it be? Stab a guess.

4 A. I don't want to guess.

5 Q. No. All right, that's because it couldn't be anything else
6 realistically, could it?

7 A. I, I don't know. I can't say. It's not verifiable from the video
8 footage and I don't want to say something that I'm not sure
9 about.

10 Q. No, no. I, I—look, nobody's going to hold you to this, Mr.
11 Holder. The fact is, though, is that your task that day was to
12 assist them has best you could—

13 A. Correct.

14 Q. —in coming to a conclusion about the condition of the pipe and
15 whether a rescue was achievable.

16 A. That's correct.

17 Q. You'd sent cameras down, taken some time to achieve that but
18 you've got some cameras down into the pipe. You've
19 encountered these tanks and it's described as lodged or wedged
20 or various different descriptions given to it, but it's, it's really
21 difficult to conceive of a tank of its own just lodging itself in a
22 slippery 30-inch pipe, isn't it?

23 A. Well—

24 Q. Or so?

25 A. That's the footage that we saw, Sir, and that's the deduction
26 that we made.

27 Q. No. Well the deduction wasn't made. You didn't make any

1 deduction. All you said was it stopped there. The deduction to
2 be drawn from it is that there's something behind it stopping it
3 going any further. That's the deduction, isn't it?

4 A. And that was discussed, yes.

5 Q. And discussed to what end?

6 A. In terms of there's a tank that was lodged, there's the possibility
7 that there is a person or something behind there, which could
8 not be confirmed via camera.

9 Q. Right, but you—the possibility, well it was more than a
10 possibility, do you not agree, a probability?

11 A. It's probable but not confirmed.

12 Q. Unconfirmed but probable?

13 A. Correct.

14 Q. That would be a fair deduction to arrive at, wouldn't it?

15 A. Yes.

16 Q. So, perhaps, at that point whatever distance it got to at that
17 stage, there was a body or someone alive, who knows?

18 A. At that time that data was not confirmed or verified, Sir.

19 Q. So the likelihood is, isn't it, that the tanks of air would have had
20 the spiders attached to them, wouldn't they? You know what I
21 mean by the spiders?

22 A. Yeah.

23 Q. The various bits that you put in your mouth, the depth gauge,
24 all of that stuff yes, right?

25 A. Correct.

26 Q. So perhaps, since when you look at the video footage, all you
27 can see is the side or the back end of the tank, there was a, a, a,

1 a, er, spider attached to a man?

2 A. That was not confirmed.

3 Q. Well of course it's unconfirmed. Of course it's unconfirmed,
4 but what I'm asking you is what deductions were reasonably
5 made as to why it was that inside a 30-inch slippery pipe a tank
6 appeared to be wedged or stuck? What were the, what were
7 the—well did you arrive—the conclusion can I suggest that the
8 only reasonable conclusion could be that there was a man the
9 other side of it?

10 A. Possibly, yes, and that was discussed as I said.

11 Q. Well, it was more than possible. I think we'd already agreed it
12 was probable.

13 A. Correct.

14 Q. All right. Okay, thank you.

15 **Continued Examination By Mr. Maharaj SC:**

16 Q. But the risk assessment was stopped because of the video
17 footage?

18 A. No, the risk assessment, the process was stopped because of the
19 call by Boodram. When I reported to ICT after the call, I was
20 instructed to follow up on some other items and I never
21 resumed the risk assessment because the thinking at that time
22 was, after the video footage, that the dive companies would
23 complete the risk assessment, Sir.

24 Q. But that's not what you said at paragraph 17. You said:

25 "This is because the need for the risk assessment was
26 overtaken by what emerged in the video footage which
27 was obtained by the ICT of inside the pipeline and

1 described later in the statement.”

2 And later in the statement, later in the statement you described
3 at paragraphs 37, 38 and 39 that Mr. Vierra subsequently
4 reported to the ICT in my presence that they insert the line
5 crawler at berth 6 and attempted to dislodge the dive cylinder
6 but was unsuccessful. So the, the risk assessment was stopped
7 because the ICT interpreted the footage.

8 A. No, that’s incorrect. So, the time that we were doing the risk
9 assessment, my timing is probably a bit off, was 9.10 to around
10 9.15, 9.45, right? At that time only one camera was run into the
11 line and that was PISL and there was no visibility. Atlantic
12 LNG reported to Paria around 10.45 and that was the first time
13 that they had actual footage to see, and that was not available
14 until around eleven o’clock, right?

15 After that was looked at, Rolph was deployed to OTSL and Mitchell’s
16 to see if they could view the footage to basically establish a
17 rescue. The first sign of any video footage was after Atlantic
18 LNG run their cameras, not before.

19 **Examination By Mr. Chairman:**

20 Q. Right. But what, what, what Mr. Maharaj is asking you is,
21 well, you might be saying that now. That is not what you say in
22 your statement, so you need to correct your statement. Is that
23 your position.

24 A. Yes, Sir.

25 Q. Because you understand, don’t you, Mr. Holder, that this
26 Enquiry asked of Paria for its representatives and Heritage for
27 its representatives to provide statements. You’re represented by

1 the same—

2 A. Correct.

3 Q. —legal team, aren't you?

4 A. Yeah.

5 Q. Now, you were invited to come for an interview, you decided
6 on, no doubt on advice, and I don't wish to go behind that, not
7 to. All right? So you wrote your statements and sent them to
8 us.

9 A. Correct.

10 Q. Presumably you took some care and consideration in the
11 writing of those statements.

12 A. Yes.

13 Q. And indeed in your case you wrote your statement as late as the
14 22nd of September of this year. Correct?

15 A. Correct, yeah.

16 Q. [*Crosstalk*] Sorry? Last year, yes, forgive me. Last year—

17 A. Yeah.

18 Q. —22nd of September last year, and did you have any notes or
19 anything, any other documents to work with in the writing of
20 that statement?

21 A. Just some light notes, et cetera, in terms of, um, looking at and
22 writing back the statement, also checking with the scribe and
23 some of the conversations had with the Heritage team.

24 Q. Right. So you did what you could to access such information as
25 you could—

26 A. Correct.

27 Q. —in order to assist you to get this right?

1 A. Correct.

2 Q. And you did that because you knew it was important?

3 A. Correct.

4 Q. And then you say, you see, as Mr. Maharaj has pointed out to
5 you at paragraph 17:

6 "I began to document the draft risk assessment."

7 That's you telling me you're putting it on the PC?

8 A. Correct, yeah.

9 Q. "However, we were called back to the incident command
10 post by Mr. Yearwood and never completed the risk
11 assessment."

12 A. That is correct.

13 Q. And that's all correct, isn't it?

14 A. That is correct. The last part is where I erred.

15 Q. Yes. So Mr. Yearwood interrupts you, your task as you were
16 given, he interrupts you, and, um, you never actually complete
17 it as a result of that interruption?

18 A. Correct, I reported to the ICT.

19 Q. Just take the statement as it says it. This, you say, is because,
20 so you're now giving an explanation:

21 "This is because the need for the risk assessment was
22 overtaken by what emerged in the video footage that was
23 obtained by the ICT of inside the pipeline as described
24 later in this statement."

25 Right? So when you're writing this yourself, you know you're
26 going to go on to describe this later in the statement and you
27 say that the reason Mr. Yearwood interrupts your putting

1 together a risk assessment, he interrupts that, you get called
2 back to your, to the—the office—

3 A. To ICT.

4 Q. —to the ICT, and the reason why he's interrupted you is
5 because the whole process was overtaken by virtue of the video
6 footage that had arrived?

7 A. We didn't run any video footage. The only video footage that
8 was run at that time was PISL.

9 Q. I'm going to come to what you say the position is now, right?

10 A. Correct.

11 Q. Are you saying that that sentence, "This is because the need for
12 the risk assessment was overtaken by what emerged as a video
13 footage was obtained by the ICT inside the pipeline as
14 described later in this statement", are you saying that that
15 sentence is wrong?

16 A. At the time, yes. At the time I was—

17 Q. At the time of what?

18 A. So, based on the timing, right, from 9.00 to 9.50 we did not run
19 any video footage that was—that you could look at.

20 Q. Right. Just pause there. That sentence is wrong?

21 A. Yes it is.

22 Q. Right. So I can happily scratch that out—

23 A. Yes, Sir.

24 Q. —as having been completely wrong?

25 A. Yes, Sir.

26 Q. All right? So when you say in the previous sentence:

27 "I began to document the draft assessment, however we

1 were called back to the incident command post by Paul
2 Yearwood and never completed the risk assessment”—
3 why were you being called back to the command post by Mr.
4 Yearwood?

5 A. That was because of the call to Mr. Boodram.

6 Q. Right. So you were being called back in order to be party—

7 A. Yes, Sir.

8 Q. —to the call to Mr. Boodram?

9 A. Yes, Sir.

10 Q. Is that because Mr. Boodram would have been able to give you
11 some information which might have assisted you in making a
12 risk assessment?

13 A. Possibly, yes, Sir.

14 Q. Well almost certainly, isn't it?

15 A. Yes.

16 Q. Otherwise what's the point of you being there?

17 A. Correct.

18 Q. There's not lots of people listening right? So the point of you
19 being called back by Mr. Yearwood was to hear what Mr.
20 Boodram had to say?

21 A. That is correct.

22 Q. Because Mr. Boodram had come out of the pipe?

23 A. That's correct.

24 Q. And he was the best person who could tell you what was in the
25 pipe.

26 A. To hear his account of what happened, that's correct.

27 Q. Yes. So that you could return to your risk assessment armed

1 with that information?

2 A. That is correct.

3 Q. Did you return to your risk assessment?

4 A. No. After the call, um, the instruction was to verify where the
5 Atlantic LNG camera was in, to get an assessment, further
6 assessment of what was the conditions in the pipeline.

7 Q. So you've already got Mr. Boodram's account and now you're
8 going to wait for the camera's account, as it were?

9 A. To verify, yes Sir.

10 Q. Right. After you got the camera's account did you return to
11 your risk assessment.

12 A. No. Rolph Seales was sent to talk to the divers, two dive teams,
13 to look at the footage and complete the risk assessment to see if
14 they would complete the dive and they said it was too risky.

15 Q. Right, no, no, no. Was the risk assessment ever completed?

16 A. No, Sir.

17 Q. Right. So—

18 A. The risk assessment was completed by me and the team, no.

19 Q. No. And the one that you were typing into this, into your PC
20 did you give that to Mr. Seales to take to the divers?

21 A. I think I emailed it. I'll have to double-check.

22 Q. Please, could you do that as well, please?

23 A. As [*Inaudible*], yes.

24 Q. Because this this all new, you see?

25 A. Correct.

26 Q. This isn't in your statement. That's the point of asking you to
27 come for an interview. Do you understand?

1 A. Understand.

2 Q. We're doing this now on Friday afternoon at five o'clock
3 because you didn't come for an interview to iron out these
4 problems.

5 A. No problem.

6 Q. Well it is a problem, because we are all here on Friday
7 afternoon instead of two months ago. All right? So that part of
8 your statement is wrong and you want to change it?

9 A. Correct.

10 Q. Thank you.

11 **Mr. Chairman:** Mr. Maharaj.

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. You said that Mr. Rolph Seales was given some instructions?

14 A. So at—after the video footage from Atlantic LNG was looked
15 at, right, Collin Piper asked Rolph to go and speak to Mitchell's
16 and OTSL to have a look at the footage, look at the site, and
17 basically give feedback if they could perform a rescue. That—
18 he was dispatched at around midnight or—

19 Q. To give feedback if Mitchell and the—

20 A. OTSL could—

21 Q. Yes, on a rescue?

22 A. That is correct.

23 Q. Not if he was of the opinion that a rescue could be done?

24 A. Correct.

25 Q. Correct.

26 **Mr. Maharaj SC:** No further questions for this witness.

27 **Mr. Chairman:** Yes, just a minute.

1 **Examination By Mr. Chairman:**

2 Q. Before this, before you came to give your evidence and just
3 after you'd sworn your oath, you indicated that you wanted to
4 change a particular time—

5 A. Yes.

6 Q. —on your, um, in your statement and thee did that at paragraph
7 27. Do you remember you changed it from eight o'clock to
8 9.55?

9 A. To around 9.00, after 9.00 yes, Sir.

10 Q. Yes. Can I take it from that that you read this statement before
11 coming into this courtroom?

12 A. Yeah.

13 Q. And you didn't spot this error on paragraph 17 rather more
14 substantial than the time error on paragraph 27?

15 A. Yes, I did actually but I remembered—

16 Q. Could you tell us—

17 A. But I remembered the mock-up, and in reading the first part of
18 the statement I missed in terms of declaring that.

19 Q. So you did spot the error but you didn't say anything about it?

20 A. I missed it, yes.

21 **Mr. Chairman:** Yes, who else would like to ask Mr. Holder
22 some questions? Yes. Ms. Alfonso please?

23 **Ms. Alfonso:** Thank you, Mr. Chairman.

24 **Cross-Examination By Ms. Alfonso:**

25 Q. Good afternoon, Mr. Flemming-Holder.

26 A. Afternoon.

27 Q. Right, my name is Nyree Alfonso. I am the representative of

1 the SWWTU and I just have a couple questions to ask you.

2 A. Sure.

3 Q. I want to go to paragraph 14 of your witness statement which is
4 at—well, partially on 1492 and partially on 1493. You say
5 there, rescue efforts in the pipeline and the inspection of the
6 inside of the pipeline as a priority, so you say that was the
7 priority while you were, I don't want to say on duty, but while
8 you were re isn't in Paria's ICT unit. You saw that as the
9 priority?

10 A. So when I arrived the search and rescue at sea was going on.
11 When Mr. Boodram came out of the pipeline there was a
12 scenario change and now efforts were now directed to confined
13 space, understanding what was the conditions in the pipeline in
14 order to have a plan to rescue the individuals in the pipeline.

15 Q. Okay.

16 A. So that was the scenario change.

17 Q. Would you—okay, thank you. Would you agree in the time
18 that you were on duty, because you handed over to somebody
19 called Mr. Arneaud, yes?

20 A. That's correct.

21 Q. Right. So at the time—in the time that you spent there, would
22 you agree that the focus of the efforts going on was in respect
23 of inspection or, or finding out the, the con, the conditions in
24 the pipe rather than performing a rescue?

25 A. So for confined space, um, one of the requirements under
26 OSHA, IMCA, ROGP before you commit anyone or any team
27 to a confined space, it must be safe, suitable and sufficient.

1 You have to assess before sending any person into a confined
2 space. So, for confined space incidents, there are numerous
3 lessons learned on single and multiple fatalities. There's
4 something called stop, think, assess and respond, and that is
5 what the IOC did in terms of stopping to assess the conditions
6 into the pipeline. So I'll explain this. The confined space in the
7 habitat space is different from the confined space in THE
8 pipeline, right?

9 Q. Thank you.

10 A. The team had an emergency response plan for the habitat. It
11 did not have an emergency response plan for the pipeline, two
12 different scenarios. Same confined space but you have to, you
13 have more manoeuvrability in the habitat than in the pipeline
14 and you cannot use the same ERP for that. So, first thing the
15 IOC did, based on the scenario change, was stop and assess. I
16 need to understand what are the conditions in the pipeline. You
17 cannot send a rescuer in there and you don't understand
18 because it's not trial and error. You need to make sure and
19 understand what are the conditions in order to draft a proper
20 rescue plan. You cannot send a diver, bring him back out, send
21 a diver, bring him back out, no. It has to be pinpoint accuracy
22 and you need to know exactly what is required in order to
23 perform a rescue.

24 Q. Okay, and the way that you were going to achieve that is
25 getting camera footage, yes?

26 A. So the camera footage would have told you what was the
27 conditions in the pipeline, where the divers were and from there

1 you make further assessment because you have to give the dive
2 times teams that in order for them to do their necessary
3 emergency response plan, and rescue plan, before entering the
4 confined space.

5 Q. From your recollection, what is the time that the first camera
6 went in? Was that the borescope?

7 A. The first camera went in I believe around 7.30.

8 Q. Around 7.30.

9 A. Correct.

10 Q. That's the one without sufficient light?

11 A. That's correct.

12 Q. And the next one went in?

13 A. So Atlantic LNG reached on site about 10.45, briefed and I
14 think they were back probably by 11.30 11.45 with feedback to
15 the IC.

16 Q. I see. And that was the crawler that wasn't able—

17 A. No, the crawler came after.

18 Q. Oh, I see. And the problem with that—

19 **Mr. Chairman:** That second one was after twelve o'clock.

20 **Ms. Alfonso:** Okay.

21 **Continued Cross-Examination By Ms. Alfonso:**

22 Q. So that second one, the limitation of that was what, the length
23 of the cable? What was it?

24 A. So the second one basically was to dislodge the cylinder—

25 Q. Or, okay, right.

26 A. —in the—that was seen in the first video.

27 Q. Okay. And the crawler is the one that came in after midnight?

1 A. Correct, yes, because there were some issues in terms of
2 mobilizing HHSL, there were numerous calls until we got on to
3 them, and then they responded to Paria.

4 Q. But each of those cameras gave you an incomplete picture of
5 the conditions in the pipe, that'd be correct to say?

6 A. So it gave the conditions that we saw at that point in time and
7 we used—the IC and the team used that to make a decision.

8 Q. And what was that decision, Mr. Flemming-Holder?

9 A. So the decision, based on the video footage, was that there was
10 a cylinder that was lodged and we need to remove the cylinder
11 without again committing a person, and that's where the
12 crawlers came in.

13 Q. Okay, so the crawler was trying to dislodge the tank?

14 A. That is correct.

15 Q. It moved it 19 feet or something like that? Yes?

16 A. That is correct.

17 Q. Okay. But couldn't dislodge it further than that?

18 A. That is correct.

19 Q. Okay. I just want to be clear, Mr. Flemming-Holder. We have
20 had a lot of dive team names thrown around and you contacted
21 Eastern Divers?

22 A. So in, after—so let me just walk through scenario change. So
23 first search and rescue scenario change, getting footage, right,
24 then when Rolph went to ask the divers if they could do the
25 dive or not based on the footage, that was no. The next step
26 HHSL with the crawlers, right, they couldn't dislodge, they also
27 said that they could rescue. After they said that the next option

1 that was thrown out was to pump down and do a dry rescue.
2 then started to get looking at mobilizing pumps and was asked
3 in terms of if we know any confined space rescue teams,
4 Eastern Divers and Eastern Divers was contacted and told to
5 report to Paria.

6 Q. Okay. So you contacted—did you contact Eastern Divers the
7 dive company or Eastern—and I don't want to, I want to get the
8 name right, Eastern Emergency Response Services?

9 A. So Eastern Emergency Response Services was contacted by
10 Heritage and sent to Paria.

11 Q. And they are not divers?

12 A. They are, they are used in the industry to perform rescue.

13 Q. Okay.

14 A. They are, they are very competent in terms of rescue.

15 Q. In dry environments?

16 A. In dry environments.

17 Q. Okay. And, as far as you knew with the limited information
18 you had, the environment where the divers were was not dry?

19 A. That is correct. So the, the, the strategy at that time or the
20 thinking was to pump down the line and perform a dry rescue
21 because the dive teams which were consulted said that it was
22 too risky to enter the pipeline at that point in time.

23 Q. Well, the line was never pumped down?

24 A. So, pumps were mobilized, yes, right, so got through with
25 ROCL and pumps began to mobilize round 4.00 to 5.00 in the
26 morning, and then they were en route to Paria to effect that
27 strategy.

1 Q. As far as you know was that strategy employed?

2 A. So I left Paria at probably eight o'clock Saturday morning and
3 that's the plan that was discussed at that point in time. When I
4 came back on shift that plan was not put in place, no.

5 Q. Okay so Eastern Di—well, Eastern, let's make it easy, Eastern
6 Response?

7 A. Eastern did respond.

8 Q. No, no, no the name of the company is Eastern Response?

9 A. That's correct, yes.

10 Q. Right, right? I'm just trying to distinguish it between—

11 A. Okay.

12 Q. —Eastern Divers, right? They—I said they were never utilized
13 because it was not in—a dry environment was not created in the
14 pipeline?

15 A. So they also looked at the response as far as I know and I
16 believe they said it was too risky as well.

17 Q. Okay. But the environment for them to undertake their
18 duties—

19 A. It was not pumped.

20 Q. —that was not created?

21 A. Correct.

22 Q. Okay, thank you very much, Mr. Flemming-Holder.

23 A. No problem.

24 **Mr. Chairman:** Mr. Ramadhar, as you'll have probably
25 noticed my patience is running very thin at the moment so I
26 want to finish by 5.30.

27 **Mr. Ramadhar:** Thank you very much, Chairman.

1 **Cross-Examination By Mr. Ramadhar:**

2 Q. Good afternoon, Mr. Holder.

3 A. Good afternoon, Mr. Ramadhar.

4 Q. We appreciate certainly the difficult circumstances that you
5 were all placed under that afternoon and into the night where
6 this tragedy occurred, yes? So, you understand that nobody
7 expected perfect circumstances, correct?

8 A. Correct.

9 Q. Yes. You said something very interesting there that it should
10 be safe, suitable and sufficient before you move?

11 A. That's correct.

12 Q. You appreciate there are grades of safety, degrees of safety?

13 A. It depends on the risk.

14 Q. Always, always does. You crossed a road recently?

15 A. Yeah, and look left look right before crossing.

16 Q. Right, exactly. But there's always the risk, correct?

17 A. You only cross when there's no risk available.

18 Q. When there's no risk available, of course.

19 A. Correct.

20 Q. So that you will never cross a road, as an example if there is a
21 car maybe a mile away?

22 A. So to answer that question, Sir, right, there are road crossings,
23 there are traffic lights.

24 Q. Yes.

25 A. There are rules. You follow the rules in crossing the road so
26 you get to the next side safely.

27 Q. Beautiful. And of course you know there are persons who

1 sometimes take the risk and get killed?

2 A. Those are other persons. You're asking me the question.

3 Q. Yes.. No, but, you appreciate there are other persons who
4 sometimes take that risk, yeah?

5 A. And they get killed, yes.

6 Q. And they get killed.

7 A. That's correct.

8 Q. And there are others who take the risk to get to the other side
9 and reach across wholesomely, correct?

10 A. It depends.

11 Q. All right. So let's deal with what we're dealing with here
12 today. So we are—we're dealing with degrees of safety.
13 Explain what you mean by suitability or suitable?

14 A. So for confined space as per OSHAC, IMCA and all these other
15 standards, right, you need to make sure, one, that entry and exit
16 into a confined space is safe for persons who have to occupy
17 the space and also for persons who have to rescue. If it is not
18 suitable and sufficient—

19 Q. Uh-huh.

20 A. —you shall not send in a rescue team.

21 Q. Right, beautiful. So that the definition of suitable is it
22 objective?

23 A. So suitable will mean that, one, you have to, if it's a tank or a
24 pipeline it needs to be isolated, one.

25 Q. Right.

26 A. Two, it needs to be drained. Three, the atmosphere in there
27 must be at a certain percentage, 19.5 to 22.9 I believe, right,

1 you must check your lower—your short-term exposure limit,
2 your long-term exposure limit. You need to check heat stress,
3 et cetera.

4 Q. Beautiful.

5 A. You need to have a proper rescue plan. You need to identify
6 that the isolations are suitable to the persons who are entering.
7 You need to do a drill prior—

8 Q. Great.

9 A. —to ensure that all those things are working and there are
10 standards that govern that, yes.

11 Q. Right. Of all those things, which were you able to ascertain?

12 A. So based on the pipeline on that day—

13 Q. Yes.

14 A. —right, without going into the pipeline there were many
15 unknowns. You didn't know where the persons were, you
16 didn't know what was the condition inside the pipeline—

17 Q. Right.

18 A. —and you need to establish that before you—as per standard
19 before you send any individual into the pipeline, Sir.

20 Q. So if you know nothing, you would allow men to die?

21 A. So if you know nothing, right, you cannot send a rescue team
22 into a unknown condition and I'll, and I'll take you there. You
23 take me across the road, I taking you to emergency response
24 now, right?

25 Q. I going—I going with you.

26 A. So, first responder—

27 Q. Yes.

1 A. —right, you cannot respond to an medical emergency unless
2 the scene is safe. Major emergency management, you cannot
3 commit to a search and rescue team unless it is safe to commit
4 the search and rescue team else you are wilfully and recklessly
5 endangering your search and rescue team.

6 Q. Beautiful. So this is where we are now. So it's about liability
7 that you were more concerned with?

8 A. No. It's about making sure, as per the standard, Sir—

9 Q. Yes.

10 A. —that it is safe and suitable to commit a rescue team.

11 Q. We heard that.

12 A. Correct.

13 Q. There are degrees of safety we're talking about. You agree
14 with that?

15 A. So in major emergency management it's either it's safe or it's
16 unsafe. It have no degrees.

17 Q. Oh, really?

18 A. Yes, Sir.

19 **Examination By Mr. Chairman:**

20 Q. Is that really right? I mean, if you deem it to be unsafe does
21 that mean, well, you can never do it, then?

22 A. So if it is unsafe you have two options, right?

23 Q. Right.

24 A. If it you have a gas release and it is unsafe to send persons in,
25 you either shut down, blow down, allow it to dissipate, so you
26 monitor wind direction, et cetera, or you abandon the facility.

27 Q. Well, all right, that's a gas release. I mean, we're talking about

1 going into a pipe here, so you're, you're carrying out or at least
2 you got partway through carrying out a risk assessment. If you
3 deem that it is unsafe to go in the pipe, that's it, it is it? That's
4 the end? You don't go in?

5 A. So, one, the pipeline the camera went in, there was blockage,
6 right?

7 Q. No, no, no. Can you just—

8 A. Let me, let me address—

9 Q. No, you need to address my question first—

10 A. Uh-huh.

11 Q. —which is Mr. Ramadhar's question really. Answer that
12 question then you could have whatever rider you like, but, is it
13 the case that once you determine it is unsafe, that is the end of
14 it?

15 A. So if it is unsafe you find another means to protect the rest of
16 the individuals.

17 Q. Right. So you look for ways to make it safer?

18 A. So if it—so if, again, if it is not safe for you to deploy a search
19 and rescue team, if you blow down and it's not safe, if you have
20 other scenarios and it's not safe, you either evacuate or you
21 abandon the facility or the, or the—based on the emergency.

22 Q. I know all of that. I think what you're trying to get at, and what
23 I'm trying to understand because Mr. Ramadhar has asked it
24 and it seemed to me relevant, is it say, you're doing the risk
25 assessment as you started?

26 A. Correct.

27 Q. You told us you did? You start by saying, well going in that

1 pipe is unsafe right? That's a given, I suspect. Nobody would
2 think it was safe to walk—to climb into a pipe that only 30
3 inches in diameter. So you're looking for ways, are you not, to
4 make it safer rather than safe. It is never safe, is it, to climb
5 maybe a hundred feet into a pipe that's only 30 inches in
6 diameter?

7 A. Correct, and how you make it safe by ascertaining what is
8 going on in the pipe via video surveillance and then making a
9 plan on that video surveillance to—

10 Q. No, no, you're not hearing my question. My question is, it is
11 never safe to go into the pipe? There's always an inherent
12 danger going in maybe a hundred, 200 feet into a pipeline like
13 that. It is always going to be unsafe. The question is, to what
14 extent can you mitigate that?

15 A. So you risk assess it.

16 Q. Yes.

17 A. You get the, you get the equipment, so your risk assessment
18 will tell you if it is safe to enter or not based on the conditions
19 in the pipeline, yes or no.

20 Q. You see, I'm struggling with that concept. I am genuinely
21 struggling with it. If you say it's only—it's black and white,
22 it's either safe or unsafe, I don't understand how you get from
23 being unsafe to something that's safe—

24 A. So—

25 Q. —in the scenario that we're dealing with because it's not a
26 case, is it, of to take Mr. Ramadhar's example of crossing the
27 road, waiting until midnight, there are no cars on the road at all,

1 and then you can walk across the road then it's safe. This is not
2 that scenario, is it?

3 A. And I understand that, so to understand what is going on in the
4 pipeline, because there were lots of unknowns—

5 Q. Yes.

6 A. —right, you needed to, one, make sure and understand what are
7 the conditions—

8 Q. Sure.

9 A. —before committing a person to enter the pipeline and you risk
10 assess that—

11 Q. Yes.

12 A. —and you try to bring it as low as reasonably practicable—

13 Q. Ahh. There it is.

14 A. —and your risk assessment will let you know if it is safe to
15 enter or—

16 Q. Bring it as, bring it as low as reasonably practicable means,
17 doesn't it, you're making it safer. It's not that it ever becomes
18 completely safe. It's simply safer by putting in different
19 ameliorating features that would help to make it safer.

20 A. So, if you don't know the conditions in the pipeline, Sir—

21 Q. Well no, forget that for the moment.

22 A. Okay.

23 Q. All right? Whatever the conditions are, whatever the position
24 is, right, however far they are in the pipe, however many men
25 there are in there, in order to get from unsafe to safe in a pipe
26 like that is not—it's just not achievable. What you can do, and
27 what I understood you to be saying when you looked at a risk

1 assessment, was to say, How, do I get it as safe as I can make
2 it?" That's not safe. It's simply as safe as you can manage it,
3 isn't that—

4 A. Correct and that is under—

5 Q. [*Inaudible*] about it but there is a difference, isn't there,
6 between complete safety so that you're not prepared to let
7 anybody go into the pipe unless there is a 100 per cent
8 guarantee that they would never be injured? That's never going
9 to be achievable, is it?

10 A. That's not what I'm saying.

11 Q. No, good. Then—

12 A. What I'm saying is, all right, according to standards you have to
13 risk assess and you have to understand the conditions before
14 entering a confined space, regardless if it's a pipeline, a vat, a
15 separator, right?

16 Q. Right.

17 A. At the time of the incident, that was unknown.

18 Q. So in your view—

19 A. So you—so you have—

20 Q. So your view is, your view is that without knowing the
21 condition inside that pipe, it would never be safe enough to
22 send anyone in?

23 A. You need to ascertain what is the conditions and you need to
24 plan for those conditions before you send a human being to
25 rescue.

26 Q. All right.

27 A. That is what I'm saying.

1 Q. So when you started your risk assessment you had no idea what
2 the condition inside the pipe was, did you?

3 A. So we know that it had fuel, right, we didn't know where the
4 persons were, right, we didn't know if it had blockage or
5 anything like that, but we started the risk assessment, you have
6 to find those unknowns. Where are the individuals, what is the
7 condition in the pipe, how you're going to rescue, what is your
8 methodology of rescuing to develop your rescue plan. You
9 would not know that from standing on the surface and not
10 understanding the conditions in the pipe. You have to send
11 some kind of surveillance.

12 Q. Yeah, all right.

13 A. And what was used was a camera. Why would I risk or why
14 would somebody risk sending a human being if they're not
15 sure. You send a rescue team in when you are a hundred per
16 cent sure that they can safely rescue the people.

17 Q. Ah, right. So then we got to where we are.

18 **Mr. Ramadhar:** Yeah, one hundred—

19 Q. So what you're saying is you need to be—

20 **Mr. Chairman:** No, Mr. Ramadhar, I'm asking questions at
21 the moment.

22 **Mr. Ramadhar:** I beg your—I apologize. My apologies. I'll
23 take my seat.

24 **Examination By Mr. Chairman:**

25 Q. What you're saying is, you would not be prepared to let anyone
26 enter that pipe unless you're one hundred per cent sure?

27 A. Meaning if the risk is as low as reasonably practicable, Sir.

1 Q. That's not the same thing, is it?

2 A. So, coming—so you need to risk assess as low as reasonably
3 practicable to ensure that the person who is going to rescue can
4 return safely.

5 Q. Of course. Nobody's suggesting otherwise, but that's not the
6 same thing as being a hundred per cent sure which you just
7 said.

8 A. Well as low as reasonably practicable, because you need to
9 make sure that the rescuer could return.

10 Q. Well you have—rescues happen all the time all over the world.
11 I used to be involved in a rescue team in the mountains in
12 Austria. That doesn't mean that there is no risk associated,
13 when somebody falls off a mountain we could try and rescue
14 them. It doesn't mean for a minute that there is a 100 per cent
15 chance that when I start climbing that mountain I'm going to
16 come down uninjured. There is always a risk. There is always
17 a risk in effecting some kind of rescue, and that's what I was
18 trying to get at and it seems to me you've let the cat out the bag
19 when you say it has to be a hundred per cent. The reality is it's
20 never going to be a hundred per cent.

21 A. So, Mr. Lynch, there are a number of rescuers who have died—

22 Q. I know that.

23 A. —as well, based on—

24 Q. That's what the—that's part of a hazard of being a first
25 responder, isn't it?

26 A. But I—

27 Q. But rescuers do die. They die all the time. They don't stop

1 rescuing just because rescuers died. What they try and do is to
2 mitigate the risk, and mitigating the risk doesn't mean reducing
3 it down to 100 per cent so that you're sure there is no question
4 of anybody not being able to come out of that pipe alive. It's
5 simply not a realistic approach, is it?

6 A. But that's not what the standard say. The standard says that
7 you get it down to as low as reasonably practicable and
8 you're—

9 Q. Yes, that's not a hundred per cent.

10 A. Well you need to make sure that the rescuer could return.

11 Q. You need to make sure that you've done everything you can to
12 give him the best chance of returning.

13 A. And that's why you need to, one, understand the conditions in
14 the pipe.

15 Q. Well I understand all of that.

16 A. Risk assess it—

17 Q. I—

18 A. —build your emergency response plan so that when the rescuer
19 go—if he goes in, if it is low as reasonably practicable, he can
20 return, Sir.

21 Q. Do we agree that you were wrong when you said a hundred per
22 cent?

23 A. It's supposed to be as low as reasonably practicable, yes.

24 Q. It's not a hundred per cent, is it?

25 A. That is correct.

26 Q. Right. So you're wrong about that, aren't you?

27 A. It's as low as reasonably possible.

1 Q. Do you want to withdraw that?

2 A. No problem.

3 Q. Well, do you want to withdraw it or not?

4 A. So, again, when you're doing risk assessment it's supposed to
5 be as low as reasonably practicable.

6 Q. Yes. Do you want to withdraw your observation, which we
7 have on the transcript, because I don't want to rely on it later
8 on, do you wish to withdraw the suggestion that it has to be a
9 hundred per cent?

10 A. I will leave—I will withdraw it and leave it as as low as
11 reasonably practicable.

12 Q. So you're replacing 100 per cent with as low as reasonably
13 practicable?

14 A. Yes, Sir.

15 Q. With which I think we can both agree.

16 A. No problem.

17 Q. Thank you.

18 **Mr. Chairman:** Mr. Ramadhar.

19 **Mr. Ramadhar:** Thank you so much, Chairman.

20 **Continued Cross-Examination By Ms. Alfonso:**

21 Q. You withdraw it today, but on the 25th of February that was
22 your position, wasn't it?

23 A. No, Sir, so—

24 Q. Hold, hold, hold, hold, hold. It was not your position you
25 required a hundred per cent on the 25th of February?

26 A. No, Sir.

27 Q. Good. What percentage would have been good for you?

1 A. So as I said, right—

2 Q. It's a simple question. What percentage would have been good
3 for you?

4 A. So we need to assess the con—

5 Q. No, no we don't need. I'm asking you. We're not assessing
6 here. The men dead. What percentage would have been
7 adequate for you?

8 A. It would have been based on the assessment that the camera
9 gave and the emergency response plan.

10 Q. Yes. All right. Ad nauseam, what time your camera reach?
11 Forgive me please? What time your camera reach?

12 A. Sir there were, there were three cameras.

13 Q. What time your camera reach?

14 A. One came at 7.30, one came at 10.45 one came after 1.00.

15 Q. Right, right. So the seven—let's deal with the seven
16 something. You got any useful information from that?

17 A. No, because the light intensity was inadequate.

18 Q. That failed. Second one?

19 A. There was information from it, yes.

20 Q. Right, about the tank?

21 A. That is correct.

22 Q. Good. Knowing that there was a tank, you think that was a
23 prohibition that will cause the death of a rescuer?

24 A. So knowing there was a tank, you need to assess how you're
25 going to—if—what are the means to remove the tank so you
26 could get around the tank to get further information to know
27 what is the position of the persons in the pipeline.

1 Q. So up to the tank, up to that tank, you knew that you could
2 safely go?

3 A. So up to the tank was probably 105 feet.

4 Q. Thank you, but you knew you could safely go?

5 A. At that time—

6 Q. Right.

7 A. —possibly, yes.

8 Q. Did you send anybody up to 105 feet up to the tank to make a
9 physical assessment? Because you knew there was no danger.
10 You knew all you could have at that 105 foot length, didn't
11 you?

12 A. But we didn't know what was behind the tank, Sir.

13 Q. Of course. But you could go to that point and then assess from
14 there, physically look upon it or push the camera even further,
15 isn't it?

16 A. So the camera was pushed further—

17 Q. Right.

18 A. —and the pipe crawler was sent in to remove the tank—

19 Q. So, I—

20 A. Let me finish.

21 Q. No, no I want you to understand my question.

22 **Mr. Chairman:** No, no let him finish.

23 **Mr. Ramadhar:** All right, all right.

24 **Mr. Chairman:** He's entitled to finish. He's got—you've got
25 to let him finish.

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. Okay, so that we wouldn't misunderstand each other, go ahead

1 please.

2 A. So the purpose of the crawler was to attempt to dislodge the
3 tank without sending somebody in there.

4 Q. Right.

5 A. So you have a clear understanding what is behind the tank so
6 that you can build a proper plan as low as reasonably
7 practicable to rescue someone if that was possible.

8 Q. What time did the crawler go?

9 A. The crawler went in after midnight.

10 Q. Beautiful. What was the timeline in my mind, you HSSE
11 whatever you call yourselves, I'm not too sure, right, but health,
12 safety and what?

13 A. Environment.

14 Q. And environment. What timeline did you as a practically
15 minded experienced person believe that these men had that time
16 to live? What time frame were you working with?

17 A. I just, based on if they had tanks, probably five to six hours.

18 Q. Right. From the time of the accident?

19 A. Correct.

20 Q. And what time would that take you to?

21 A. So again, understand this Mr. Ramadhar—

22 Q. I don't have to understand. You answer the question. What—

23 A. But I answering your question.

24 Q. —time six hours after—

25 **Mr. Peterson SC:** Mr. Chairman, could the witness answer the
26 question?

27 **Mr. Ramadhar:** No, because you—

1 **Mr. Chairman:** Just a minute. First of all, Mr. Ramadhar's
2 right. He's asked you a straightforward question. You can
3 answer that question. You can add a rider, anything you want to
4 say afterwards, I don't have a difficulty with that, but he asked
5 you, he asked you what time did that take you to? And you've
6 said five to six hours was your estimate of the period of time
7 that you they—you thought they had air. He then asked you,
8 well what time does that take you to? So answer that question
9 and if you want to add something afterwards, you're more than
10 welcome to. Answer the question first, please?

11 **Mr. Peterson SC:** Mr. Chairman when he asked that question,
12 all the witness said in answering um, Mr. Ramadhar, and that
13 was—that exploded Mr. Ramadhar.

14 **Mr. Chairman:** That's as far as he got, is it?

15 **Mr. Peterson SC:** Yes. He doesn't—

16 **Mr. Ramadhar:** My name is not an answer to the question.
17 So, could you tell us the number, because I am very painfully
18 aware of the time frame we're working with.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 A. So Mr. Ram D-R, right—

21 Q. Okay, there we go.

22 A. So, understand this, it took three hours, the team were doing
23 such and rescue at sea, right? And then when the scenario
24 changed, and this is important, right, then they knew that
25 persons were in the pipeline. There was no response plan for
26 that at that point in time.

27 Q. Yes.

1 A. So for three hours search and rescue was at sea, not in the
2 pipeline. Search and rescue, in terms of understanding the
3 conditions, only came into effect after Mr. Boodram was found.
4 So post Mr. Boodram was understanding what was going on in
5 the pipeline in order to effect a rescue.

6 Q. Right. So are you—

7 **Mr. Chairman:** You still haven't answered his question, in
8 fairness.

9 **Mr. Ramadhar:** Yeah. Thank you.

10 **Continued Cross-Examination By Mr. Ramadhar:**

11 A. So in fairness, so three hours, right, it took from the time of the
12 incident for search and rescue, right, and it also took about three
13 to four hours for mobilization of equipment to find out the
14 conditions in the pipeline and again I say you cannot send
15 someone into a confined space without understanding, as was
16 reasonably practicable, what are the conditions as per the
17 standard, Sir.

18 Q. We're talking about the life of the men. You said five to six
19 hours. What time then, from the moment of the accident to the
20 time of their death, did you contemplate? Forget all the
21 difficulties you had in between. What time?

22 A. So the six hours would take you from 3.00 to nine o'clock in
23 the night.

24 Q. Thank you so much. So you knew by nine o'clock, if they were
25 not rescued, consider them dead?

26 A. Sir, that was not the consideration. We—

27 Q. I'm asking you from the simple maths.

1 A. So, Mr. Ramadhar, that was not the consideration. We were
2 trying to put things in place to safely rescue the guys by finding
3 out information.

4 Q. Yes. And while you're making hay the horse will perish,
5 correct? You know that statement?

6 A. Can you repeat?

7 Q. Let's move on. You worked in your mind with a time frame for
8 life up to nine o'clock, correct?

9 A. Six hours, if you have oxygen, yes.

10 Q. Yeah, six hours from three is nine, yeah? But you still needed
11 to assess further and you knew by seven something that there
12 was a tank impeding—

13 A. By eleven o'clock we knew that there was a tank impeding.

14 Q. So not—before that you didn't even know, correct?

15 A. No, Sir.

16 Q. Right. But you did know that Michael Kurban had gone into
17 that pipe and went some short distance in 15 feet beyond the
18 elbow, correct?

19 A. That's correct.

20 Q. Yes. You also knew, by Christopher's mere, um, um, existence
21 that life was sustained within, the pipe?

22 A. Yes.

23 Q. And you knew that he was able to come out of the pipe?

24 A. That is correct.

25 Q. Yes. You knew at some point in time as to how far, from
26 information he would have given, he and others would have
27 been?

1 A. So the information that was heard was he was two pipe lengths
2 from the elbow. Two pipe lengths from the elbow puts you at
3 where the lodged cylinder was, 45 feet into the horizontal, Sir.

4 Q. Beautiful, 45 feet from the elbow?

5 A. That's correct.

6 Q. Thank you. And that's the point. And there was no danger up
7 to the point of the lodged tank, from what you told us that you
8 learned that subsequently, correct?

9 A. We learned that based on the camera footage, yes.

10 Q. Yes. So while you're waiting for camera, men dying. You
11 agree with that?

12 A. So, Sir, there was too procedural breaches—

13 Q. Yeah, yeah, we're hearing about procedure now. I would—my
14 ques—

15 A. No, no, no. You need to listen.

16 Q. I don't have to listen to you. You have to listen to the question
17 and you'll answer it.

18 A. Wow.

19 Q. Yes it's wow, it's wow, because you made decisions that night.

20 A. Really?

21 Q. You meaning Paria, as your group.

22 **Mr. Chairman:** The process is a question and an answer, not a
23 speech.

24 **Mr. Ramadhar:** Thank you.

25 **Mr. Chairman:** Right? So can we have—

26 **Mr. Ramadhar:** Yes.

27 **Mr. Chairman:** You can make your speech next week so

1 dressing up a question as a speech or rather dressing a speech as
2 a question is not acceptable.

3 **Mr. Ramadhar:** Thank you very much.

4 **Mr. Chairman:** Please, Mr. Ramadhar, I really would like to
5 stop soon so—

6 **Mr. Ramadhar:** And so would I.

7 **Mr. Chairman:**—can you get to the point that you want to
8 make—

9 **Mr. Ramadhar:** Right.

10 **Mr. Chairman:**—and then he can answer it.

11 **Mr. Ramadhar:** Yeah.

12 **Continued Cross-Examination By Mr. Ramadhar:**

13 Q. So that you knew, from what you had learned from the live
14 person, the direct evidence, that the men, or at least Mr.
15 Kurban, would have been shortly beyond 45 feet?

16 A. He never got to 45 feet, Sir.

17 Q. Who didn't get to 45 feet?

18 A. Kurban.

19 Q. No, I'm talking about Fyzie Kurban the deceased.

20 A. So if he was right behind Mr. Boodram, right, the camera
21 would a picked him up before the lodged cylinder. He was not
22 picked up before the lodged cylinder.

23 Q. How far was the lodged cylinder?

24 A. Forty feet the elbow.

25 Q. That's the point.

26 A. Forty-five feet from the elbow.

27 Q. Thank you. So just beyond that? That's what we're talking

1 about.

2 A. But there's no conclusive evidence to substantiate what you're
3 saying.

4 Q. Right. You know what the conclusive evidence is? Four dead
5 men, right? And as His Lud—as the Chairman has painfully
6 made it clear to us all, that you had to do all that which is
7 practically reasonable to achieve success?

8 A. And while I hear that and understand, right, you also need to
9 follow the rules of confined space because it's a procedural
10 breach that created an undesirable event. Are we now saying
11 that it's okay to breach procedure again and recklessly endanger
12 a rescuer? No. You'll have to follow the rules of confined
13 spaces.

14 Q. Have you heard the evidence that you gave?

15 A. I heard the evidence I gave.

16 Q. Right. Up to the blockage there was no danger. You agree
17 with that?

18 A. Up to the blockage based on the footage, it was clear except the
19 lodged cylinder.

20 Q. Thank you. Right, so there was no danger. Correct. You agree
21 with that? I want to move very quickly on.

22 A. Well, that's what the camera would have shown.

23 Q. Yes, and—

24 **Examination B Mr. Chairman:**

25 Q. Did it, did you know whether Mr. Boodram had used a tank in
26 order for himself to get out?

27 A. He would have to.

1 Q. Right. So it wouldn't surprise you, given that he'd come out,
2 that there was a tank between him and Fyzie, would it?

3 A. It could have been, yes.

4 Q. Well, all most certainly was, wasn't it?

5 A. Yes, it was.

6 Q. Right. So perhaps behind that tank was Fyzie.

7 A. We didn't confirm that.

8 Q. No. You didn't.

9 **Continued Cross-Examination By Mr. Ramadhar:**

10 Q. You didn't confirm a lot? You agree you didn't confirm a lot
11 that night?

12 A. So we I only confirmed what the camera showed, Sir.

13 Q. You appreciate—

14 **Mr. Chairman:** Is there much more, Mr. Ramadhar?

15 **Mr. Ramadhar:** No, not at all, not at all.

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. Risk, the amount of risk you will take is dependent on the value
18 you see, isn't it?

19 **Mr. Chairman:** We've done this.

20 **Mr. Ramadhar:** No, forgive me let me. Let me hear—

21 **Continued Cross-Examination By Mr. Ramadhar:**

22 Q. Or the value you see. Did you value the lives of those four men
23 sufficiently—

24 A. So Mr. Ramadhar I value everyone's life.

25 **Mr. Chairman:** You didn't really expect a different answer to
26 that did you—'

27 **Mr. Ramadhar:** No.

1 **Mr. Chairman:**—Mr. Ramadhar?

2 **Mr. Ramadhar:** No, no.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. But the unknowns outweighed the value of their lives?

5 A. I disagree.

6 Q. Thank you.

7 A. So you need to confirm, right, before you again send someone
8 in to rescue and endanger them. They have to confirm the
9 conditions.

10 **Mr. Chairman:** Q. I think we understand your position,
11 Mr. Holder. You've made it very clear. Are there any other
12 questions of Mr. Holder? [*To Mrs. Persaud Maraj*] Do you
13 have any? Yes. How long do you think you're going to be?

14 **Mrs. Persaud Maraj:** Two questions.

15 **Mr. Chairman:** Two questions.

16 **Cross-Examination By Mrs. Persaud Maraj:**

17 Q. Good afternoon. My name is Kamini—

18 A. Hi, good afternoon.

19 Q. —Kamini Persaud Maraj and I'm for LMCS Limited. I heard
20 you said you have 11 years' experience in the IMT?

21 A. As an incident commander, yes.

22 Q. As an incident commander?

23 A. ICS.

24 Q. And how many incidents have you presided over as the incident
25 commander?

26 A. In Repsol a lot. So I would have done fires.

27 Q. You have any ballpark figure in your head, no, yes?

1 A. More than 15 probably.

2 Q. Any involving lives, actual saving of a life?

3 A. Medical treatment, outbreaks, gas, gas releases, yes, all
4 involved lives, 70 people 200 and something people, yes.

5 Q. All right. And then also earlier you were saying that during the
6 course of between 9.00, 9.15 whatever that timing was, you
7 were doing the risk analysis?

8 A. We started the risk analysis, that's correct.

9 Q. Do you recall how far or what the contents of that document
10 that you were typing up—

11 A. I would have to get back the document to see but I know we
12 would have gone probably about 35 to 40 minutes into the
13 document, yes.

14 Q. And, from the best memory that you can conjure at this
15 moment, do you remember how many pages you had?

16 A. No, we were still on the first page because we were discussing
17 manoeuvrability into the pipeline, how you're actually going to
18 rescue and looking at the risk associated with that.

19 Q. Okay. Thank you. That's it.

20 A. No problem.

21 **Mr. Peterson SC:** One question.

22 **Cross-Examination By Mr. Peterson SC:**

23 Q. Mr. Flemming-Holder, you are aware of the, well the removal
24 of the plug and all of that that caused a Delta P event? That's I
25 think accepted in this Enquiry by now?

26 A. Yes.

27 Q. The removal of the mechanical and inflatable plug, that would

1 require—well, just now, you're familiar with the permit to work
2 system I take it?

3 A. Very familiar.

4 Q. Yes. The removal of a plug in that scenario of that underwater
5 project—

6 A. Uh-huh.

7 Q. —would require a separate and distinct permit to work approval
8 for the removal of the plugs in that scenario, wouldn't it?

9 A. So, you're—so that's energy isolation, so yes.

10 Q. That's what?

11 A. That's energy isolation, so actually removing the plug which is
12 the barrier for vapours coming up to create an ignitable
13 atmosphere within the habitat and also prevent anybody from
14 getting in, so that it should be a separate permit risk assessment
15 emergency response plan based on the methodology, and if it is
16 supposed to be subsea, that is supposed to be properly risk
17 assessed with an emergency response plan, and if it is on
18 surface, same thing holds.

19 Q. And what is the thinking to have an independent, standalone
20 permit to work for the removal of the plug? Why is that a—

21 A. In order to control work.

22 Q. Thank you.

23 **Mr. Peterson SC:** Thank you, Mr. Chairman.

24 **Mr. Chairman:** Thank you. Mr. Maharaj [*sic*] just can I
25 remind you, you offered to check your computer—

26 **Mr. Maharaj SC:** Yes, Sir.

27 **Mr. Chairman:**—to find the partial risk assessment that you

1 were typing into the computer. I'd be grateful if you would do
2 that for me please and if you have it, as I say, pass it to the
3 lawyers.

4 **Examination By Mr. Chairman:**

5 Q. The question that you've just been asked in respect of the
6 removal of the plug requiring a separate permit to work, I think
7 there was a similar operation carried out on another riser two
8 years earlier in 2020?

9 A. Uh-huh.

10 Q. We've made a request for certain documents in relation to that.
11 Is it 2021? It's either 2020 or 2021. Somebody tell me.

12 **Mrs. Persaud Maraj:** 2020.

13 **Examination By Mr. Chairman:**

14 Q. But either way a very similar operation carried out by the same
15 firm, LMCS, on behalf of Paria, all right, and that involved
16 plucks as well as I understand it?

17 A. Okay.

18 Q. Can you find out for me please, I know you're Heritage rather
19 than Paria but perhaps you can convey this and I know Mr.
20 Peterson is listening to what I'm saying if there was a work
21 permit for the removal of the plug in that case?

22 A. I'll find out.

23 Q. Right? You can find out and somebody let me know if that is—
24 [*Crosstalk*]—or I'm told by Mr. Wilson, who knows more
25 about these things than, me an isolation checklist or certificate
26 Anything else? All right? Okay, thank you. So if that could be
27 just checked so that I could find out.

1 A. Okay.

2 Q. If it doesn't exist it doesn't. If it does, then, can I have it?

3 A. No problem.

4 **Mr. Chairman:** Right, look, thank you very much indeed for
5 coming. I appreciate it's quite late on a Friday afternoon and I
6 appreciate your being here, so, you're free to go and of course
7 you're at liberty then to watch or see any of this that you might
8 want to, but thank you for coming anyway. That is it for today.
9 Monday I set up a timetable already. Thank you. Please go.
10 I've set out the timetable. We'll start at 10.00 on Monday even
11 though we got now two extra witnesses, so what we were
12 hoping for was a short day but it won't be perhaps quite as short
13 as we thought. So that's where we are. Please all have a good
14 weekend I will see you all on Monday at ten o'clock. Thank
15 you very much Please feel free to go. I've got to tidy up my
16 own stuff. Thank you.

17 **5.39 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 14**

2 **10.03 a.m.:** *Enquiry Commenced.*

3 **Mr. Chairman:** Good morning, everybody. I trust everyone
4 had a good weekend. I see some smiling faces anyway. Can
5 you just give me a moment, please? I just need to—thank you.
6 I'm sorry to keep you a few minutes this morning. There has
7 been a few administrative matters to deal with. And can I bring
8 you up to date with where we are?

9 On Wednesday I had scheduled a start for 10.30, I
10 think—whether it was 10.00 or 10.30, it's now going to be
11 eleven o'clock on Wednesday, please. I think Mr. Ramadhar is
12 going to be the first to address us at the conclusion. I see he's
13 not here at the moment. But we will not start on Wednesday
14 until eleven o'clock. I don't think that will affect our timetable
15 otherwise, but just to tell everyone that that's the position.

16 Next is this, is we received a statement from Dr. Glenn
17 Cheddie, a diving—a commercial diving expert on Friday. It
18 was posted on the website at four o'clock on Friday afternoon.
19 I didn't actually read it until this morning. Others have read it
20 over the weekend. It is clear to me that this is a witness who
21 ought to give evidence. The witness has been supplied to us by
22 Ms. Nyree Alfonso on behalf of her clients, as I say, somewhat
23 late in the day, if I may say so. I'm reluctant to delay these
24 proceedings beyond that. I don't know whether everyone has
25 had a chance to see it or not.

26 Mr. Peterson, have you had an opportunity to see this?

27 **Mr. Peterson SC:** I didn't have an opportunity to see it, Sir. I

1 mean, I was on the website but I didn't see it.

2 **Mr. Chairman:** I'm not surprised. I mean, I wouldn't have
3 been looking at the website [*Crosstalk*].

4 **Mr. Peterson SC:** So I was looking at—because I'm working
5 mainly with soft copies. But I got the impression from Ms.
6 Alfonso last week that that was just somebody that she was
7 assisting on the side, so to speak. I didn't realize it was a
8 witness that she was putting forward. But I would look and see
9 what he has to say. So once it's relevant—

10 **Mr. Chairman:** Well, I think you should—at the moment I
11 have him scheduled to give evidence this afternoon. I would
12 entertain and hear any application that that should not happen.
13 But if you could, as best you're able, either through one of your
14 assistants or some other method, get an overview as to whether
15 or not you feel able to deal with any issues that arise from his
16 statement. I can tell you that my reading of it within having
17 gone halfway through it, it was no doubt in my mind that he
18 should give live evidence to give everyone an opportunity to
19 ask him questions if they wish to do so.

20 **Mr. Peterson SC:** We will look at it, Sir.

21 **Mr. Chairman:** What's your position, Mrs. Persaud Maraj:?

22 **Mrs. Persaud Maraj:** Good morning, Mr. Chairman. I, in
23 fact, I have now seen this statement this morning. In fact, I just
24 started reading it before we started, so I'm not sure—I've only
25 reached page 6 of it. So I know that there is relevant aspect, but
26 I'm not sure—

27 **Mr. Chairman:** Can I ask—I mean, as I say, I have him

1 scheduled for this afternoon. Ms. Nyree Alfonso has been in
2 touch with him and has told us that he's available this afternoon
3 to give his evidence. But let's say whilst that is obviously ideal
4 from our point of view, it may not be from counsel's point of
5 view, and if you needed more time I would entertain such an
6 application. But for the moment, he's scheduled for two
7 o'clock. I mean, there's two of you. Perhaps, your assistant,
8 Mr. Garvin Narine-Rampersad [*sic*—is that you, Sir?

9 **Mr. Ramsepaul:** Yes.

10 **Mr. Chairman:** Right. I don't know if he might read it whilst
11 we're conducting proceedings this morning to give you a view.

12 **Mrs. Persaud Maraj:** I simply don't have an appreciation of
13 what the content is, though, so that I can tell you—

14 **Mr. Chairman:** No, I follow that.

15 **Mrs. Persaud Maraj:** —if I require any time at this point in
16 time. But, yes, certainly, Mr. Ramsepaul can read that.

17 **Mr. Chairman:** Thank you. Can I address everybody who's
18 going to be addressing the Commission from Wednesday
19 onwards this week in any concluding remarks? We would
20 welcome suggestions dealing with the recommendations that
21 we are asked to make as to the future of the industry, so that in
22 the submissions that you might make to us in the course of the
23 remainder of this week, we would be grateful to receive any
24 suggestions that there might be which would assist in
25 ameliorating the kind of incident that happened with which this
26 Enquiry is involved.

27 So for example, the Union might wish to consider

1 minimum standards. There may be some consideration given to
2 communication by those representing the families. OSHA, I
3 understand, are going to be providing us with their suggestions
4 by Wednesday at lunchtime—is that right—by Wednesday
5 lunchtime, and that sort of thing would be helpful from
6 anybody who is addressing the Commission. So I ask you to
7 give that some thought, perhaps, before you address us.

8 Lastly this: we had arranged for the families to be given
9 an opportunity to address this Commission originally for
10 tomorrow. I brought that forward to today. I understand there
11 may be some concerns about that, and if there are, Mr.
12 Peterson, you'll no doubt make such applications as you think
13 appropriate.

14 Can I just say this, that this Enquiry is involved in trying
15 to find out why four people died and what happened once they
16 were sucked into this pipe. We are very mindful of the fact that
17 there are families left behind who are obviously directly
18 interested in the outcome of this Enquiry. It would be wrong,
19 in our view as presently formed and obviously subject to any
20 other application that may be made, but as presently formed, it
21 would be wrong to stifle any of them from saying what they
22 want to say within the confines of what I have described.

23 I am not prepared to allow some rant pointing the finger
24 at specific individuals or anything of that kind. On the other
25 hand, the fact that they have been deeply affected by this is
26 something which this Commission feels is appropriate for them
27 to be able to voice themselves rather than just on a piece of

1 paper, which gets lost in the mire of the tens of thousands of
2 pages that have been supplied to this Commission.

3 I have also indicated that I would not permit cross-
4 examination of any of these persons who wish to give their
5 evidence live. Their evidence will be by virtue of reading that
6 which has been supplied. It is not intended to give free rein to
7 anybody beyond that which they have set out in their
8 statements.

9 That is our preliminary view. Anybody who has an
10 objection to that course will, in no doubt, express it. But for the
11 moment, they are scheduled to give evidence this afternoon and
12 that is what I plan to permit to happen.

13 All right, that's where we are today. I think our first
14 witness for today—

15 **Mr. Peterson SC:** Mr. Chairman, yes, you're correct. I did—
16 as the tradition of the profession requires, I did alert Counsel to
17 the Commission we wish to take an objection to the family
18 members giving evidence. I don't know if now is the
19 appropriate time, at your invitation, or whether just before. But
20 I think if I were able to persuade you to change your mind then
21 it will save some inconvenience of travel.

22 The ground of my objection is grounded in really
23 relevance. I did consume part of my weekend perusing and
24 scrubbing and perusing the Terms of Reference, and the fault
25 may be mine, but I was unable to discover the relevance of that
26 testimony within the strictures of the Terms of Reference as set
27 up by this Commission.

1 **Mr. Chairman:** Right, just before you go, so that I'm clear
2 about the application being made, the application is an
3 objection to the evidence at all?

4 **Mr. Peterson SC:** Yes, it's an objection to the evidence.

5 **Mr. Chairman:** So all of the statements written by those who
6 are the families of the victims should be removed from the
7 Commission altogether?

8 **Mr. Peterson SC:** Yes, Sir. I could find no relevance with
9 respect to assisting this Commission, with respect to what
10 caused the incident or the management of it right after. I can't
11 find any probative value in that evidence with respect to the
12 Terms of Reference of this Commission. I am not unmindful of
13 what the families may have experienced, and I'm sure there will
14 be adequate fora for them to indicate their feelings and the
15 impact of it on them, but with respect to the strictures of the
16 Terms of Reference of this Commission, I find difficulty
17 placing that evidence in the Terms of Reference.

18 My submission is that it is irrelevant and it's of no
19 probative value to assist this Commission in its work, and the
20 only thing I could find in it may be prejudicial effect against my
21 respectful clients, and I say this with the greatest deference to
22 you, Mr. Chairman.

23 **Mr. Chairman:** Again, so that I'm clear about it, that which
24 we have already been provided with and has been available on
25 the website for now some time should be removed and your
26 invitation is that the Commission should ignore that which is
27 set out in those statements?

1 **Mr. Peterson SC:** Yes, Sir. It was submitted so one couldn't
2 prevent it being submitted. But with respect to the Terms of
3 Reference of this Commission, my respectful submission is that
4 it not be taken into account in the discharge of the Terms of
5 Reference of this Commission.

6 **Mr. Chairman:** Does anyone else want to align themselves
7 with that application? I see Mr. Ramadhar who does represent
8 some of the families and his assistant is not here. Is there
9 anybody from Mr. Ramadhar's team present?

10 **Ms. Boodan:** Yes, Mr. Chairman. I know Mr. Ramadhar is—

11 **Mr. Chairman:** Sorry, remind me who you are? I can't see
12 you, actually.

13 **Ms. Boodan:** I am Niara Boodan. I act along with Mr.
14 Ramadhar. Mr. Ramadhar is on his way. He should be here
15 within the next five minutes if the Chairman is minded to allow
16 some time for him to arrive.

17 **Mr. Chairman:** Why is he late?

18 **Ms. Boodan:** I can't say, Mr. Chairman.

19 **Mr. Chairman:** All right. Well, I won't make a decision as
20 yet. I'll wait to hear if he has anything to add. So we'll take an
21 appropriate moment to hear that. In any event, I want to give it
22 some consideration. I've already indicated our preliminary
23 view and I will consider whether or not what Mr. Peterson has
24 said—I will consider what Mr. Peterson has said and make a
25 decision.

26 Even if I don't give reasons immediately, I would
27 certainly make a decision by the return from our break this

1 morning, so that everyone knows what our position is. But,
2 perhaps, you'll bring Mr. Ramadhar up to speed when he
3 arrives.

4 **Ms. Boodan:** Yes, Mr. Chairman. No problem.

5 **Mr. Chairman:** All right. Well, thank you, Mr. Peterson.

6 **Mr. Peterson SC:** Thank you very much, Mr. Chairman.

7 **Mr. Chairman:** I see somebody has his hand up at the back.
8 Is that **Mr. Hosein-Shah**?

9 **Mr. Hosein-Shah:** Yes, Chair. Good morning.

10 **Mr. Chairman:** Good morning.

11 **Mr. Hosein-Shah:** Just a quick word from the Union. Mr.
12 Peterson has referenced the mandate of the Commission, but
13 insofar as it relates to the SWWTU's position, we'll be asking
14 that the families be able to give that testimony.

15 **Mr. Chairman:** You're opposing his application?

16 **Mr. Hosein-Shah:** Yes.

17 **Mr. Chairman:** Would you like to give some consideration,
18 then, to the points that he has raised, rather than just saying I
19 oppose. In other words, addressing specifically—

20 **Mr. Hosein-Shah:** Yes.

21 **Mr. Chairman:**—he says it has no probative value; he says
22 that it is potentially prejudicial to his client, and that it is
23 irrelevant to the issues that this Commission have to consider
24 utilizing the Terms of Reference that we are mandated to
25 consider.

26 **Mr. Hosein-Shah:** Yes.

27 **Mr. Chairman:** All right. You might wish to address those

1 matters.

2 **Mr. Hosein-Shah:** Yes. I haven't had the opportunity to fully
3 consider it, but in terms of the Terms of Reference of the
4 Commission, one of those mandates relate to examining the
5 role of Paria and LMCS in dealing with the incident. And
6 another aspect of the Commission—

7 **Mr. Chairman:** Which one?

8 **Mr. Hosein-Shah:** It's—

9 **Mr. Chairman:** I'm not going to do this now. I think that the
10 realities are—

11 **Mr. Hosein-Shah:** It's 12 on the website. I'm not sure on the
12 actual listing what it will be.

13 **Mr. Chairman:** Can I suggest that you give it some thought.
14 Mr. Ramadhar has just, I see, walked into the room—gives it
15 some thought. What I will do is, before we have our break, I
16 will hear any arguments from Mr. Ramadhar and yourself and
17 then give Mr. Peterson an opportunity to reply to those
18 arguments once you've formulated them. I appreciate it's just
19 been sprung on you now, but, please, give it some further
20 thought. Put your arguments together and then I'll hear them
21 before we have our break this morning. All right?

22 **Mr. Hosein-Shah:** Fair enough, Chairman.

23 **Mr. Chairman:** And then I'll make a decision during the
24 break.

25 **Mr. Hosein-Shah:** Grateful.

26 **Mr. Chairman:** Thank you. Can we then proceed to the next
27 witness who I understand to be—

1 **Mr. Maharaj SC:** Mr. Andy Johnson is the next witness, Mr.
2 Chairman—

3 **Mr. Chairman:** Yes. Thank you very much.

4 **Mr. Maharaj SC:**—1525; and the summary of that evidence
5 would be given by Ms. Vijaya Maharaj.

6 **Mr. Chairman:** Good morning, Mr. Johnson.

7 **Mr. Johnson:** Good morning.

8 **Mr. Chairman:** Let's have the oath taken.

9 [*Mr. Andy Johnson sworn*]

10 **Mr. Johnson:** I, Andy Johnson, solemnly swear that the
11 evidence I shall give to this Commission in this case shall be
12 the truth, the whole truth, and nothing but the truth.

13 **Mr. Chairman:** Mr. Johnson, thank you very much for
14 coming. Can I apologize for you having waited patiently, I
15 think, most of the day on Friday—

16 **Mr. Johnson:** That's correct.

17 **Mr. Chairman:**—and then we didn't get to you. So I
18 apologize for that. I know it's inconvenient, but I'm grateful
19 that you're here this morning, and Ms. Maharaj is going to
20 summarize your evidence. So please listen carefully to what
21 she says, and then assuming you agree with the summary, we
22 can then proceed from there. Mr. Maharaj then, will, I think,
23 have a few questions for you and then anybody else who might
24 want to ask questions.

25 I don't anticipate your evidence will take very long,
26 though I have said that before and I've been wrong. So forgive
27 me if that happens to be the case, but that's where we are.

1 Please listen to what Ms. Maharaj has to say.

2 **Ms. Maharaj:** Thank you. Good morning, Mr Johnson.

3 **Mr. Chairman:** What page number? Sorry.

4 **Ms. Maharaj:** It's at page 1525 of Volume IV, the witness
5 statement bundle.

6 **Mr. Chairman:** Thank you very much.

7 **Ms. Maharaj:** Mr. Johnson was interviewed by the
8 Commission. The witness statement was prepared for him to
9 review based on that interview and Mr. Johnson signed that
10 witness statement on the 22nd September, 2022. Mr. Johnson
11 is the Chief of Operations of Eastern Emergency Response
12 Services Limited.

13 Mr. Johnson is also a confined space trained technician.
14 Confined space rescue service is a service provided when
15 someone enters a space that is not configured for continuous
16 occupancy and there are certain hazards associated with the
17 space so in the event the individual is not able to exit on his
18 own, the Eastern Confined Space Team would be on standby to
19 rescue that person. Confined Space Technicians are not trained
20 to conduct confined space underwater rescuing. They are not
21 trained as scuba divers, and, therefore, water in a pipeline
22 would be considered an obstruction.

23 Where an operation requires a change from breathing air
24 to scuba air, confined space technicians are not trained for this
25 and would not be able to provide a rescue service. Eastern has
26 not, in the past, provided any rescue services in relation to
27 subsea maintenance works at any company.

1 At around 11.40 p.m. on Friday, 25th February, 2022,
2 Mr. Johnson received a telephone call from Arlene Chow, CEO
3 of Heritage, requesting the services of Eastern to conduct a
4 confined space operation. Mrs. Chow informed him that there
5 were four persons trapped in a pipe. That is all the information
6 he received at this point.

7 At around 11.43 p.m. on Friday, Mrs. Patricia King of
8 Heritage contacted Mr. Johnson via telephone and informed
9 him that a diagram of the piping was sent to his phone via
10 WhatsApp, and, also, that the Incident Command Centre would
11 be expecting his team. A photograph of the diagram sent to Mr.
12 Johnson's phone is attached to his witness statement as AJ 1.

13 At around 11.45 p.m., Mr. Johnson contacted Eastern's
14 operation scheduler Team Leader, Junior Armstrong, and
15 activated the rescue team. A rescue team of four persons was
16 activated with all the necessary equipment, which is ropes,
17 pulley, carabiners, skeds, and, also breathing air to conduct a
18 confined space rescue. Mr. Johnson stated that all of these
19 things would have been needed to get a person out of a
20 confined space, such as a pipe. The sked would have formed an
21 encapsulation around the person and ropes would have been
22 used as a mechanical advantage to hoist the person out of the
23 pipe.

24 At around 12.20 a.m. on Saturday, Mr. Johnson and
25 Emergency Response Team Leader, Peirre Culzac, arrived at
26 Paria. At approximately 1.25 a.m., the remaining Eastern team
27 members arrived on the compound. At around 1.25 a.m., the

1 Eastern team was briefed by the Incident Commander and
2 advised of the time that the incident occurred and the possibility
3 that Paria may want to engage the services of Eastern for a
4 rescue. In addition, the Incident Commander advised that due
5 to variables around the incident, Eastern should prepare
6 themselves for a retrieval and not a rescue due to the possibility
7 that the divers may have expired.

8 Mr. Johnson asked to be taken to the site to conduct a
9 visual and dynamic risk assessment. The Incident Commander
10 also pointed out a drawing on the board in that room. The
11 drawing showed a sketch of the pipe which had two elbows and
12 two uprights and indicated that the length of the pipe was 120
13 metres across the seabed.

14 At around 2.15 a.m., the Eastern team boarded a vessel
15 and was taken to the scene of the incident. They arrived at
16 Berth 6 at around 2.35 a.m. and were met by Paria personnel at
17 the scene who gave a breakdown of the incident location and
18 pipe diameter by Paria person on the pipe diameter. The
19 Eastern team conducted a scene size-up and gathered
20 preliminary information from the live video footage of the line
21 provided from the HHSL Safety Systems Limited remote
22 observation vehicles, an ROV.

23 Mr. Johnson stated that his duty as team leader is to
24 conduct a risk assessment to ensure that where he is sending his
25 team is safe. He stated that Eastern needed to see the actual
26 area that they would make an entry to establish diameter of the
27 pipe and to figure out if the area was safe. Mr. Johnson stated

1 that the diameter of the pipe was 40 inches and that was not a
2 lot of room to move. It was, therefore, a high risk.

3 In addition, Mr. Johnson says that the live footage
4 showed that the pipe, as far as the ROV was able to go, was
5 filled with water. As such, Mr. Johnson had a conversation
6 with the Eastern team and told them that there was no way they
7 could make an entry into the pipe. In addition, in Johnson
8 stated that in the footage there was something lodged there
9 preventing the ROV from going forward and his recollection
10 was that the camera was able to go about 120 feet into the
11 horizontal pipeline. As such, Mr. Johnson stated that he also
12 considered the blockage as a factor in his assessment, but the
13 most important factor was that they were not trained to do a
14 water rescue.

15 Mr. Johnson stated that whether the divers were alive or
16 not was not part of his assessment as Eastern does not
17 determine whether someone was alive nor do they pronounce
18 someone dead after a period. He stated that they are called to
19 perform a rescue.

20 At approximately 3.45 a.m., Mr. Johnson made contact
21 with the management team of Eastern and reported his findings
22 and concerns relating to the high level risk involved in
23 conducting the rescue. The management decided the risk was
24 too high and unacceptable for them.

25 At 3.45 a.m. Mr. Johnson returned to the Incident
26 Command Centre from the incident site and informed the
27 Incident Commander of his findings. He informed the Incident

1 Commander that due to the video footage from the ROV, there
2 was no way his team would be able to make entry to perform
3 the rescue operation as approximately 120 feet of the 1200-foot
4 pipeline was filled with water, and because of the water, the
5 rescue required a diving team. Mr. Johnson also advised that
6 the level of risk must be assessed by such team before sending
7 any more people in the line to prevent a reoccurrence and
8 increase the number of casualties.

9 At about 5.00 a.m. the Eastern team was placed on
10 standby offsite pending a further assessment of the incident site.
11 The Eastern team provided standby services for the next 12
12 hours. At about 7.00 p.m. they were called off the assignment
13 by the Incident Management Team. Mr. Johnson stated that at
14 no point during the period 25th February until the recovery of
15 the bodies of the divers did he or anyone from Eastern have any
16 communication or attend any meetings with anyone from Paria
17 or Heritage or any other company in relation to any rescue
18 operation other than those described in his witness statement.

19 Mr. Johnson, is that an accurate summary of your witness
20 statement?

21 **Mr. Johnson:** Could you please just clarify the diameter of the
22 pipe that you read there for me, please?

23 **Ms. Maharaj:** You said that you were—well, you said 120
24 feet of—

25 **Mr. Johnson:** No, diameter.

26 **Ms. Maharaj:** Oh, the diameter; 30 inches.

27 **Mr. Johnson:** Yes, correct.

1 **Mr. Chairman:** I thought you said 40 as well.

2 **Ms. Maharaj:** Sorry, apologies if I did, sorry.

3 **Mr. Chairman:** Yes. Right. With that caveat, are you content
4 that that represents a fair summary of your evidence?

5 **Mr. Johnson:** Yes, it is.

6 **Mr. Chairman:** Thank you very much. Mr. Maharaj?

7 **Examination By Mr. Maharaj SC:**

8 Q. Mr. Johnson, good morning.

9 A. Good morning, Sir.

10 Q. I just have a few questions for you. The first time you were
11 contacted by Paria was at 11.40 p.m. on Friday night?

12 A. That's correct.

13 Q. And all that you were told by the person who contacted you
14 was that there were four persons trapped in a pipe?

15 A. That's correct.

16 Q. You were not told whether they were trapped in a pipe under
17 water?

18 A. No.

19 Q. You assumed it was above on land?

20 A. Confined space; that's correct.

21 Q. Because according to you, your team was not—

22 A. Trained to do water rescue.

23 Q. —trained to do a water rescue from a pipe, a pipe under water?

24 A. That's correct.

25 Q. And it was not until 1.25 a.m. on Saturday that you were
26 briefed. And you were told by Paria, if I understand your
27 evidence correctly, to prepare for a recovery and not a rescue?

1 A. No.

2 Q. What—

3 A. We should prepare ourselves in the event. Because in our job,
4 even though Paria didn't say it, in our job we prepare for both.
5 We look at the incident and we prepare for both. It could be a
6 recovery; it could be a rescue, because it is a confined space.

7 Q. Okay. So that was a feeling coming from your team and not
8 from Paria?

9 A. Yes.

10 Q. Okay. I understand.

11 **Examination By Mr. Chairman:**

12 Q. But it was not until 1.25 that you became aware that it was
13 filled with water and/or hydrocarbons?

14 A. That's correct.

15 Q. Right. That was the first you knew of it?

16 A. That's correct.

17 **Mr. Chairman:** Right. Thank you.

18 **Mr. Maharaj SC:** I think that's all for you. Thank you.

19 **Mr. Johnson:** Okay.

20 **Mr. Chairman:** Yes, anyone else? Yes. Ms. Nyree Alfonso,
21 please.

22 **Ms. Alfonso:** Good morning. Thank you, Chairman.

23 **Cross-Examination By Ms. Alfonso:**

24 Q. Good morning, Mr. Johnson.

25 A. Good morning.

26 Q. My name is Nyree Alfonso, and I represent the interest of the
27 SWWTU. Just a few questions for you, Sir. You referred in

1 your witness statement to something called a dynamic risk
2 assessment?

3 A. That's correct.

4 Q. Okay. Could you assist me and tell me what that would have
5 entailed in relation to the situation you met on—well, in your
6 case I'll say the 26th February?

7 A. Okay. What a dynamic risk assessment really is, we go on the
8 scene and observe what is going on. We gather information as
9 to what has happened, when it happened, what are we dealing
10 with, and we do a dynamic risk assessment as to how we are
11 going to formulate our rescue plan in order to retrieve the
12 person from within the confined space.

13 Q. And I see from your witness statement you would have gone
14 and—you did a visual inspection in your risk assessment?

15 A. That's correct.

16 Q. Could you give me an idea, that risk assessment is something
17 that you have to document? It's something that you formulate
18 in your mind?

19 A. And that's why we say dynamic. Dynamic risk assessment is
20 done on the spot. It's done within time. So you go on the scene
21 and the scene change ever so often. So we're doing a confined
22 space into a vessel or into a pipeline. The drawing that we get,
23 it shows us a pipeline, but within that pipeline now, there is
24 obstructions. So let's say it have up/down bends, then we need
25 to change our risk assessment to suit that. Right? So it's done
26 within the space of time. So it's not written down, but there is
27 risk assessment that is written down for certain process and

1 procedures.

2 Q. So in the wee hours of the 26th February, Mr. Johnson, when
3 you say you did a dynamic risk assessment, you did something
4 within a quick period of time or it's something that took you
5 some time before you formulated what the Company's position
6 would be or your position would be?

7 A. So gathering the information, we did gather information as to
8 what we were dealing with. Yes, we know it was a pipe but the
9 pipe had water. Right? So by doing a risk assessment we
10 eliminate that we could possibly make an entry because of this
11 water.

12 Q. What I'm trying to get at, Mr. Johnson, did that take you 10
13 minutes, 15 minutes, a half an hour, an hour?

14 A. Within 10 minutes.

15 Q. Within 10 minutes?

16 A. Yes.

17 Q. Okay. And you did your visit inspection; you did your dynamic
18 risk assessment?

19 A. Yes.

20 Q. And is it that if you had found that there was some part that
21 Eastern Emergency Response could play, you would have
22 continued to do other things?

23 A. That's correct.

24 Q. In terms of your risk assessment?

25 A. That's correct.

26 Q. Okay. But you did a brief analysis—kind of lawyers' term,
27 sorry—brief assessment?

1 A. That's correct.

2 Q. And you were able to do that within 10 minutes?

3 A. Yes.

4 Q. Thank you, Mr. Johnson. I have tried to understand exactly,
5 and I want to get the word correct, Eastern Emergency
6 Response Services; there's a related company, Eastern Divers?

7 A. So it's a group of companies. Eastern Divers is one of the
8 companies; Eastern Emergency is one of the companies also.
9 So it's a group of companies.

10 Q. Okay. When you realize that, you know, this was a water
11 environment, an environment that contained water, sea water in
12 particular, did you reach out to anybody from Eastern Divers?

13 A. No, that's not my call. That's the call of the IC.

14 Q. The?

15 A. That's the call of the Incident Commander.

16 Q. Oh, thank you, thank you.

17 A. I can't call out anyone.

18 Q. Okay, okay, I see. At any point in time, Mr. Johnson, were you
19 told by somebody—as you say the ICT, either—well, let me
20 rephrase that—either from Paria's ICT or from anybody from
21 Heritage, because it is Heritage who contacted you.

22 A. Um-hmm.

23 Q. Did anybody tell you that the lines, the pipeline that you had the
24 diagram in your WhatsApp would be pumped down?

25 A. I think that may have been a conversation within the room that I
26 was in when we were getting the brief, but it was not a direct
27 conversation to me.

1 Q. Okay. So it was something discussed generally in the room
2 while you were there?

3 A. Yes.

4 Q. Okay. Because I had the impression when I read it, not in your
5 witness statement, that, you know, this was a plan that would
6 allow Eastern, your company, Eastern Emergency Response, to
7 enter that confined space because it would now be—well, the
8 water would be pumped out of it, so it would be a dry
9 environment.

10 A. Um-hmm.

11 Q. I had that impression. But you didn't get that impression when
12 you were there?

13 A. Well, we were placed on standby.

14 Q. Okay.

15 A. We were placed on standby. So if that—as I said, that was a
16 conversation within the room. Probably that was their mindset
17 or their thought pattern as to when it is pumped down, then we
18 would be engaged again.

19 Q. And, ultimately, Mr. Johnson, you formed the view that your
20 organization, yourself, and your team present in the early hours,
21 could not assist—

22 A. That's correct.

23 Q. —in entering the pipe?

24 A. That's correct.

25 Q. And I see by five o'clock—about five or so hours after your
26 first call out, you were placed on standby offsite?

27 A. That's correct.

1 Q. That means you returned to your base?

2 A. That means that we return to our base.

3 **Ms. Alfonso:** Thank you very much, Mr. Johnson. Thank you
4 for your answers.

5 **Mr. Chairman:** Mr. Ramadhar.

6 **Mr. Ramadhar:** Good morning, Chairman. Good morning,
7 Commission.

8 **Cross-Examination By Mr. Ramadhar:**

9 Q. Good morning, Sir.

10 A. Good morning.

11 Q. First of all, thank you for spending some time with us today.
12 You got to Paria at what time? Remind us. Was it around
13 12.30 a.m.?

14 A. It was around 12.00, 12.30, yes.

15 Q. And I'm quite interested in what you described as your
16 dynamic rescue plan. I love the word dynamic. Could you
17 explain what that means for us?

18 A. So as I indicated—

19 Q. And let me make it quite clear, no trick questions here. Simple,
20 I just want to—

21 A. The dynamic risk assessment is done on the spot—

22 Q. Yes.

23 A. —so we could have a risk assessment that govern us for a
24 particular job. But during the time of the incident, there are
25 changes that take place, so we need to modify the risk
26 assessment on the spot, so we look at the situation and we
27 tweak our response in a safe manner to suit that situation.

1 Q. I appreciate that so much. Now, you got to the actual site of the
2 accident at around, I understand 2.30, some two hours after
3 your first arrival at Paria?

4 A. Yes.

5 Q. Correct?

6 A. Yes.

7 Q. And before you got to the site, you were amongst Paria
8 personnel and personalities. Is that correct?

9 A. Yes.

10 Q. At their office?

11 A. At the Command Centre.

12 Q. At the Command Centre. And, of course, you being a
13 professional wanted to get as much information as you possibly
14 could. Yes?

15 A. Yes.

16 Q. So that, as you've just told us, the dynamic rescue plan will be
17 determined by changing circumstances. Correct?

18 A. Yes.

19 Q. You observed, of course, so that there'd be no uncertainty, there
20 was written information on a whiteboard in that room?

21 A. Not where I was located, Sir.

22 Q. They didn't show you a whiteboard with step by step what
23 happened or anything like that?

24 A. No. The onliest whiteboard I saw was with a diagram on it.

25 Q. With a diagram?

26 A. Yes.

27 Q. Was it brought to your attention that from earlier in the day

1 Paria's view was that the likelihood of survival was limited?

2 A. No.

3 Q. No. Was that of interest to you?

4 A. Of course, it was of interest to me.

5 Q. As I say, no trick question. And you appreciate as a
6 professional, who we respect, that when divers go missing
7 under water there's a high level of urgency that is required to
8 rescue them?

9 A. I can't speak to diving rescue, Sir, because I do not have that
10 competence.

11 Q. Thank you so much. So your company was called for what
12 purpose?

13 A. Confined space rescue.

14 Q. Right. So when you got there, you did not have the expertise,
15 as you are telling us now, to ascertain the urgency that may be
16 required for divers under water in perilous conditions? Is that
17 what you're telling us?

18 A. Come with that question again?

19 Q. Certainly. When you got there, you did not have the expertise,
20 as you just told us, to determine even the urgency that may be
21 required to rescue divers who may have found themselves in
22 great difficulty under water?

23 A. Okay. So I'm going to repeat myself. As I indicated, I was told
24 it was a confined space rescue. Divers in the pipe and divers in
25 the water was not a conversation. Right?

26 Q. So you did not—I beg your pardon. Do finish.

27 A. After which I arrived—we were given a diagram on the board

1 indicating that the divers were in the pipe. Right? No water
2 was discussed. Right?

3 Q. Yeah.

4 A. So if we have divers in a pipe, a dry pipe, it's a confined space
5 rescue.

6 Q. Thank you so much. So nobody at Paria even gave you an
7 inkling—let's get this clear—that there was water in the pipe.
8 Correct?

9 A. Right.

10 Q. They didn't give you an inkling of information that there may
11 have been oil in the pipe?

12 A. I knew there were oil in the pipe.

13 Q. Who did you learn that from?

14 A. It's a riser.

15 Q. I didn't ask you that. From whom did you learn that there was
16 oil in the pipe?

17 A. No one.

18 Q. Thank you. So as far as you are concerned, the information that
19 you were fettered with was that men were in a pipe, as far as
20 you are concerned, without water and possibly some oil.
21 Correct?

22 A. Correct.

23 Q. Yes. And you were to use that information to come up with a
24 dynamic rescue plan?

25 A. No.

26 Q. Eh?

27 A. No.

1 Q. Well, a dynamic assessment—

2 A. The information that I would use to come up with my dynamic
3 rescue plan would be the information that I am seeing in front
4 of me; not the information that they are giving me. Right? All
5 I would—

6 Q. Oh, beautiful. Thank you. I could understand why you
7 wouldn't trust what they had to tell you. I could understand
8 that. You have to make your own assessment?

9 A. Correct.

10 Q. So by 2.35 you were first on the site. Correct?

11 A. That's correct.

12 Q. You went into the water?

13 A. No, I did not.

14 Q. You went into the pipe?

15 A. No, I did not.

16 Q. So you got other information?

17 A. From the visual camera. If you read the statement—

18 Q. No, no, no. Sir, you're here; live evidence.

19 A. From the visual camera, the ROV, I would have seen that there
20 were water in the pipe.

21 Q. Beautiful.

22 A. That is where I draw my conclusion from.

23 Q. And your conclusion was that there was water in the pipe?

24 A. Correct.

25 Q. What else?

26 A. Something stuck in the pipe.

27 Q. Something?

1 A. Yes.

2 Q. You didn't know what it was?

3 A. Yes, I knew what it was.

4 Q. What was it?

5 A. A breathing air bottle.

6 Q. Not a welded piece of metal that could not be removed?

7 A. A breathing air bottle, sir. That's what I saw from the camera
8 footage.

9 Q. Right. And as far as you know, breathing air bottles can be
10 mobile. You could push it and it will move in water?

11 A. Okay.

12 Q. Not okay, I'm asking you; you're the expert. You were called
13 in.

14 A. No, I'm not the diving expert, Sir.

15 Q. No, not diving. You're the man who had to make assessment to
16 come up with a rescue plan?

17 A. For confined space rescue.

18 Q. Yes, of course.

19 **Mr. Chairman:** Just a moment, just a moment.

20 **Examination By Mr. Chairman:**

21 Q. Mr. Johnson—

22 A. Sir.

23 Q. —if when you were first called, which I understand to be
24 shortly before midnight between the Friday and the Saturday
25 morning, yes?

26 A. Uh-huh.

27 Q. If you had been told by the person who called you, "Look, Mr.

1 Johnson, we have a pipe filled with water and hydrocarbons in
2 which four men are stuck. We have no idea whereabouts in this
3 pipe, but they're under water and/or hydrocarbons", are you
4 able to assist. What would your response to that enquiry have
5 been?

6 A. No.

7 Q. Thank you. So you would not have been there at all if you'd
8 been told what the position was from the beginning, would
9 you?

10 A. Correct.

11 Q. So it really doesn't matter that once you got there and having
12 then discovered that that was the position, whatever
13 contribution you could make was going to be virtually zero?

14 A. Zero.

15 **Mr. Chairman:** Thank you very much. Is there really
16 anything more that we can extract from this witness, Mr.
17 Ramadhar?

18 **Mr. Ramadhar:** Just bear with me a few moments. I shan't be
19 long.

20 **Continued Cross-Examination By Mr. Ramadhar:**

21 Q. So in terms of the—you chose, learning all that you did then,
22 that you couldn't do a rescue. Correct?

23 A. Yes.

24 Q. Yes. And from your experience from whatever source, you
25 knew this accident occurred at what time?

26 A. When I got the call.

27 Q. No, no, I didn't—I beg your pardon. I put it inelegantly. What

1 time you learn the accident to have occurred?

2 A. Minutes to 12.00 on Friday night.

3 Q. So you had no idea that this thing occurred around three
4 o'clock?

5 A. No. I was on work. I was on work practically whole day. I left
6 Guayaguayare and headed to Point Fortin in which on my way I
7 got a call.

8 Q. Of course. I know that's a serious journey. I appreciate that.
9 What I'm asking you, whilst at Paria or on the site, did you
10 learn as to what time the accident actually occurred?

11 A. Oh, you're now asking the question. Yes, I did.

12 Q. Oh, you want to play it this way? Okay.

13 A. No, no, no.

14 **Mr. Chairman:** I think there's a little misunderstanding
15 between the two of you.

16 **Examination By Mr. Chairman:**

17 Q. Mr. Johnson, were you ever told, Mr. Johnson, that this incident
18 in which these men were trapped in the pipe occurred at about
19 half past 2.00 that afternoon?

20 A. At the IC.

21 Q. Right. So when you were at the IC that's when you were told
22 that?

23 A. Yes, yes.

24 Q. So you didn't get to learn that until you arrived at the site?

25 A. That's correct.

26 **Mr. Chairman:** Does that help, Mr. Ramadhar?

27 **Mr. Ramadhar:** So generous of you, Sir.

1 **Continued Cross-Examination By Mr. Ramadhar:**

2 Q. Now, with common sense, you appreciate when you learnt that
3 there would have been water in that pipe, that men would have
4 needed air to survive? Correct?

5 A. Correct.

6 Q. Yes. Did you know whether they had viable tanks and how
7 long—there are two parts of this question—whether if first you
8 knew that they had viable tanks and how long at best those
9 tanks would have lasted in terms of oxygen?

10 A. No.

11 Q. No. At the time you got to the scene at 2.35, what was your
12 view of the likelihood of survival of these men in this pipe
13 since around three o'clock?

14 **Mr. Chairman:** How could he possibly answer that question?
15 He's not a dive expert. He has no idea how much air is in a
16 tank; how long a person can live with a tank; how much air is in
17 the pipe; if there is any air in it. None of this concerns him.

18 **Mr. Ramadhar:** Well, that is the point.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Why were you called?

21 **Mr. Chairman:** Well, the fact—

22 **Mr. Ramadhar:** Thank you very much.

23 **Mr. Chairman:** I share your view, Mr. Ramadhar, that there
24 was no need to call him at all. But that we have managed to
25 establish. Had he been told what the position was, he wouldn't
26 have even gone. He would have joined the rest of the revelry,
27 no doubt, for the Carnival that was existing in the course of that

1 week.

2 **Mr. Ramadhar:** He must have been too tired to have enjoyed
3 it that day.

4 **Mr. Chairman:** Oh, there were none. I'm told there was
5 none. Yes, of course, we were all ridden with Covid. Right.
6 Look, I don't think we could take this any further.

7 **Mr. Ramadhar:** One last question, one last question.

8 **Mr. Chairman:** Which is?

9 **Continued Cross-Examination By Mr. Ramadhar:**

10 Q. Your company, of course, would have billed Paria by now,
11 haven't they?

12 A. I do not know. I do not work accounts. I have no information
13 as it relates to accounting.

14 **Mr. Ramadhar:** Oh, thank you so much.

15 **Mr. Chairman:** Does anyone else have any questions for Mr.
16 Johnson? Could there be any other questions for Mr. Johnson?
17 No. I suspect not. Thank you.

18 **Mr. Peterson SC:** We don't have any, Sir.

19 **Mr. Chairman:** Right. Thank you. Mr. Johnson, for all the
20 time that you've waited to give your evidence, that is it. All
21 right? I'm very grateful for you attending, and you're free to
22 go. Thank you very much.

23 **Mr. Johnson:** Thank you very much, Sir.

24 **Mr. Chairman:** Thank you. Before the next witness is called,
25 Mr. Ramadhar, have you been brought up to speed with the
26 objection to certain evidence being given to this Commission
27 by Mr. Peterson on behalf of Paria?

1 **Mr. Ramadhar:** I have, in fact, been informed by Ms. Boodan
2 that Paria is taking a position that the families ought not to be
3 given any audience, whether in writing or so.

4 **Mr. Chairman:** Correct. Correct.

5 **Mr. Ramadhar:** I find it shocking.

6 **Mr. Chairman:** Well, just before how shocking you find it,
7 are you in a position to be able to deal with that objection at this
8 time or do you want more time?

9 **Mr. Ramadhar:** I think it would be better if we had a little
10 more time, but I shan't, if it should inconvenience the
11 Commission—

12 **Mr. Chairman:** I will hear the application before we have our
13 mid-morning break, please. I say I'll hear your response to the
14 application before our mid-morning break. So you will have to
15 do two jobs at once. All right? And I'll also hear from Mr.
16 Hosein-Shah who has indicated he also takes a position.

17 So before the break, which would probably be in the
18 course of the next 40 minutes or so, I would hear that
19 application. All right. Thank you.

20 Our next witness then, please, is, I think, Mr. Anderson
21 Gill. I got that right? Yes. Thank you. He's a commercial
22 diver with Hull Support Services. Yes? I think he's here. Yes.
23 Mr. Anderson Gill, the oath is going to be administered now, so
24 she's taking [*Inaudible*]

25 [*Mr. Anderson Gill sworn*]

26 **Mr. Gill:** I, Anderson Gill, solemnly swear that the evidence I
27 shall give to this Commission in this case shall be the truth, the

1 whole truth, and nothing but the truth.

2 **Mr. Chairman:** Mr. Gill, thank you very much for coming. I
3 know you were inconvenienced on Friday so I apologize for
4 that.

5 **Mr. Gill:** It's okay.

6 **Mr. Chairman:** All right. Well, thank you anyway for
7 coming this morning. I don't anticipate your evidence will take
8 very long.

9 Mr. Bissessar who sits opposite you is going to give a
10 summary of your evidence. All right? So listen carefully to
11 what he has to say and then at the conclusion of that if you
12 agree with it, we'll then be able to proceed. Mr. Maharaj will
13 have a few questions for you and then anybody else who might
14 want to ask you something. All right? Thank you very much,
15 Mr. Bissessar. What page are we on?

16 **Mr. Bissessar:** Thank you, Chair. Page 2998. It's of the
17 supplemental witness bundle.

18 Mr. Anderson Gill was interviewed by Counsel to the
19 Commission and on 17th November, 2022, gave a witness
20 statement to the Commission which is at WB or SWB2998.

21 Chair, with your permission I will actually read the
22 witness statement. It's fairly brief.

23 **Mr. Chairman:** All right.

24 **Mr. Bissessar:** I Anderson Gill of Carenage Commercial
25 Diver say as follows: I am a Commercial Diver and I was
26 certified in 2008 by the Professional Diving Centre in South
27 Africa. In 2018 I received my certificate of diving medic from

1 Institute National de Plongée Professionnelle in Marseilles,
2 France. I also received a First Aid and Commercial Diver
3 Certification in 2018 from INPP, as well as certification as an
4 Approved HSE/Recognized IMCA Surface Supplied Top-Up
5 Diver—and he's exhibited copies of his certificates. These
6 qualifications mean I am accredited as an internationally trained
7 Commercial Diver and I can dive with mixed gases, which is
8 called saturation diving.

9 There are about 19 commercial divers in Trinidad and
10 Tobago who are similarly qualified, which allows us to dive for
11 international oil and gas companies particularly those which
12 operate off the East Coast of Trinidad. Generally, commercial
13 diving relates to diving at depths in excess of 150 feet.

14 I provide diving services to Hull Support Services
15 Limited and other companies as an independent contractor. I
16 have worked with Hull since 2008 and generally, I assist in
17 relation to the inspection of and removal of debris from the
18 seabed before a pipeline is installed. I also assist in
19 maintenance and repair works on the pipelines and other
20 confined space projects.

21 I was not involved in the rescue of any of the divers
22 following the incident on 25th February, 2022. My only
23 involvement was on, I believe, 6th and 7th March, 2022, when I
24 was retained by Hull as part of a team of commercial divers to
25 detach the crane hook which was then attached to the habitat,
26 which was resting on the seabed approximately 50 feet below
27 off Berth 6.

1 The team comprised Anthony Nivet (Supervisor), Emile
2 Eligon, Mario Waldron, Roger Rose, and myself. The dive was
3 completed in about 15 minutes and Emile Eligon actually did
4 the dive to remove the crane hook from the habitat. This dive
5 was based on a surface supply of air, which means that oxygen
6 was generated on the vessel with an umbilical providing
7 communication, lighting, and rope.

8 I recall on Friday 25th February, 2022, at about 5.00 p.m.
9 or so, I received a text message for divers for an emergency
10 rescue. I was taking my children for swimming classes so I
11 could not respond.

12 And Mr. Gill certifies that the facts stated in his witness
13 statement are true and correct to the best of his knowledge,
14 information and belief. Thank you, Chairman.

15 **Mr. Chairman:** Thank you. Yes, Mr. Maharaj.

16 **Examination By Mr. Maharaj SC:**

17 Q. Mr. Gill, were you asked at any time by Paria to give any
18 advice in respect of a rescue operation of men who were
19 trapped in a pipeline?

20 A. No.

21 Q. If you were asked by Paria to give such an opinion, would you
22 have been prepared to consider giving such an opinion?

23 A. Yeah. Yeah, I am.

24 Q. And based on your experience as a diver, would you have had
25 any experience in either diving or giving opinions in respect of
26 persons trapped in a pipeline?

27 A. No.

1 Q. Or any person trapped underwater?

2 A. No, that's not—

3 Q. In a confined space?

4 A. No, no. No, no.

5 **Mr. Chairman:** I'm sorry, I missed that. I was speaking to
6 my colleague.

7 **Mr. Maharaj SC:** He said no to the question of any persons
8 trapped under water in a confined space. He never gave an
9 opinion on that.

10 **Examination By Mr. Chairman:**

11 Q. You didn't or you wouldn't?

12 A. I didn't.

13 Q. You didn't. All right. Thank you.

14 **Continued Examination By Mr. Maharaj SC:**

15 Q. But notwithstanding the fact that you have not given an opinion
16 in the past, would you consider yourself to be equipped with the
17 knowledge as a diver to consider giving such an opinion
18 depending on the circumstances?

19 A. If I had the right team, yeah.

20 Q. Yes. Okay. And if you were asked on the Friday, 25th
21 February, last year, to give such an opinion, you would have
22 obviously tried to get the team and give such an opinion?

23 A. Yeah.

24 **Mr. Maharaj SC:** No further questions.

25 **Mr. Chairman:** Yes. Does anybody else have any questions
26 for Mr. Gill? Yes, Ms. Nyree Alfonso.

27 **Ms. Alfonso:** Thank you, Chairman.

1 **Cross-Examination By Ms. Alfonso:**

2 Q. Good morning, Mr. Gill.

3 A. Morning.

4 Q. My name is Nyree Alfonso. I am the representative of the
5 SWWTU, and I just have a couple questions to ask you.
6 Following from my learned Senior, Mr. Maharaj, I see you have
7 experience in maintenance and repair works on pipelines?

8 A. Yes.

9 Q. Okay. Have you had the occasion—and I'm not talking about
10 rescue—to yourself in the course of your duties go into a
11 pipeline?

12 A. No.

13 Q. Okay. Can you tell me, Mr. Gill—well, following from Mr.
14 Maharaj's question as well, if you had the right equipment, if
15 you had the right team, and you'd been able to put together a
16 team of similarly qualified persons as yourself, would you
17 consider entering into a pipe to conduct a rescue?

18 A. Once they could fit, yeah.

19 Q. Once what?

20 A. Once they could fit.

21 Q. Once you could fit?

22 A. Yeah.

23 Q. Okay. And your fellow team members are not too big?

24 A. Yeah.

25 Q. Okay, I got you. Thank you very much for that, Mr. Gill. Mr.
26 Gill, just one last question for you. Do you recall—I
27 understood that you could not yourself—you received a text

1 message on the Friday requesting—or a text message
2 requesting divers for an emergency rescue. You recall that in
3 your witness statement. Yes?

4 A. Yeah, yeah.

5 Q. Okay. Mr. Gill, you recall who that text message came from?

6 A. It's a group ah divers. We have a group we does communicate
7 in.

8 Q. You have like a WhatsApp group?

9 A. Yeah, a WhatsApp group.

10 Q. Okay. So there was an emergency amongst your brother divers
11 and the group—

12 A. That, yeah, divers trap in a pipeline and they looking for divers;
13 the Coast Guard requesting divers.

14 Q. Okay. So the group was reaching out to available divers who
15 could assist?

16 A. Yeah.

17 Q. But I note that you couldn't assist?

18 A. No, no.

19 Q. Okay. Thank you very much, Mr. Gill. Thank you for your
20 time.

21 A. Okay. You're welcome.

22 **Mr. Chairman:** Anyone else?

23 **Mr. Peterson SC:** No, Sir.

24 **Examination By Mr. Chairman:**

25 Q. I want to ask you something which you haven't actually been
26 asked to deal with up until now. But in water, a person weighs
27 or appears to weigh rather less than they do on land?

1 A. Yeah.

2 Q. Much to the pleasure of those of us who are a little overweight.
3 But the fact is, is that that is true also of all obstacles in water?

4 A. Yeah, everything will have ah air—some kind ah air in it, so we
5 have lighter—

6 Q. And obviously, sea water is different from water in a lake
7 because there's salt in sea water which makes you more
8 buoyant. All of us who swim know that you can swim perhaps
9 a little farther in sea water than you can in fresh water. Yes?

10 A. Yup.

11 Q. And so, there are all kinds of factors which impact on your
12 buoyancy in water?

13 A. Yeah, correct.

14 Q. And that applies equally to the tanks that divers use for diving?

15 A. Yes.

16 Q. Scuba diving?

17 A. Scuba tanks, yes.

18 Q. I have one here. This one's full of air.

19 A. Yes.

20 Q. So it feels quite heavy. If there's any doubt you can tell there's
21 air in it.

22 A. Yeah, there's pressure in it, yeah.

23 Q. In water picking this up out of it—it's quite heavy as I say—but
24 in water, depending on how much air is in it, it can find a point
25 of buoyancy, can it not?

26 A. Yeah. As the pressure goes down the tanks get buoyant.

27 Q. If this was in a pipe with air in it, fully filled tank, the

1 likelihood is—let's deal with sea water, all right; forget
2 anything else. If that were in a pipe with sea water, would that
3 sit, do you think, on the bottom of the pipe?

4 A. Yeah, it would.

5 Q. It would, wouldn't, it; just lay on the bottom?

6 A. Yeah.

7 Q. If it were empty and partially empty, it may find a point of
8 buoyancy, might—

9 A. It should start to—

10 Q. Start to float?

11 A. Yeah. Because even if it on your back and yuh diving, yuh
12 could tell your tank reach 1000 psi; it does come off yuh back.
13 So you doh hah to watch yuh gauge. Yuh could feel the tank
14 actually leaving yuh back knowing you reach 1000 psi,
15 automatically, if yuh accustomed diving, you could know that.

16 Q. Right. All I'm trying to establish or understand, really, because
17 my knowledge of diving is very limited, and I've had to rely on
18 everybody else. But there is a suggestion, you see, that one of
19 these tanks was lodged in the pipe, stuck in the pipe. Now, the
20 pipe is 30 inches. This is 28. [*Mr. Chairman demonstrated*
21 *with hoop*] I'm trying to understand how it's possible for that
22 tank to lodge itself in a pipe that's 30 inches in diameter in such
23 a way that it could not be pushed.

24 A. What was pushing it?

25 Q. Well, some sort of camera or ROV was pushing it along, you
26 know, a crawler of some kind.

27 A. Probably the power of the crawler, the force the crawler had to

1 push it forward, probably.

2 Q. Right. So if it's filled with air, if that tank was filled with air,
3 and was laying on the bottom of the pipe, it would still be
4 relatively heavy, wouldn't it, even for a crawler to push it
5 along?

6 A. I don't know. I don't know what is the crawler exactly to say
7 what. The crawler couldn't crawl over it?

8 Q. Well, yeah, I think that's a different question. I'm just trying to
9 establish—we've had some evidence, you see, that this tank
10 was in some way lodged in the pipe such that it couldn't be
11 moved, and we know that the pipe inside was coated with a
12 very slippery, slimy, oily surface, that no doubt have been
13 accumulated over years of the pipe having been containing oil?

14 A. Yeah, but answering that question without seeing the crawler or
15 knowing what is the crawler, would be almost difficult to know
16 the ability of the crawler, nah.

17 Q. No, I follow that. It depends on the force of the crawler.

18 A. Yeah.

19 Q. But just in terms of a full, partially full, or empty tank, your
20 understanding would be that if it was full it's laying on the
21 bottom of the pipe and probably could be slid along. If it were
22 partially full, it might find a point of buoyancy.

23 A. Yeah.

24 Q. And it might be at an angle.

25 A. It would be lighter, yeah.

26 Q. And if it was empty, it would be floating.

27 A. Not floating, but the buoyancy will be more—

1 Q. A point of buoyant, I see—

2 A. Just to do what you want; you could push it up; push it across.

3 Q. It would be relatively easy?

4 A. Yeah.

5 Q. I mean, touch it and it would move, wouldn't it?

6 A. Yeah.

7 Q. All right. Just for completeness' sake, this is a regulator. I've
8 been calling them spiders, because scuba divers have two more
9 pipes that come out of this rather than just the two that we see
10 on this one. There are four pipes. You get an additional one of
11 these.

12 A. They does call dah working regulator.

13 Q. Yes, another regulator. And then you get also another pipe that
14 connects to your BCD, which you can then inflate. All right. If
15 this were in the pipe as well, either attached or unattached,
16 presumably attached, that might, I suppose, provide some
17 additional reason why it might get caught up on the inside
18 somehow. Yes. Thank you very much.

19 A. Okay.

20 **Mr. Chairman:** Does anyone else have any questions arising
21 from that little exercise which I've taken upon myself?

22 **Mr. Mootoo:** Certainly. Just one question.

23 **Mr. Chairman:** Of course.

24 **Cross-Examination By Mr. Mootoo:**

25 Q. The Chairman has put to you that if the tank was—I understood
26 the question if the tank was lying flat in the pipe. But if the
27 tank was horizontal in the pipe, given the diameter of the pipe

1 and the size of the tank, would you accept that it could become
2 stuck in that position?

3 A. Stuck; again, it depends on the forces. It could never lodge. It
4 could always—as I say, is a slippery pipe. If the tank even at
5 this angle and you push here, the tank would skate and end up
6 this way, lengthways inside the pipeline. It would never—

7 Q. Can you just lay that tank flat in that hoop for me, please?

8 **Mr. Mootoo:** Not you, Mr. Chairman. [*Laughter*]

9 **Mr. Chairman:** I would have done the exercise myself but the
10 fact that that hoop is actually only 28 inches, and so, it wouldn't
11 be a fair exercise. It's not exactly round either. So, I mean, I
12 think we can measure this and you might want to consider it
13 with this on.

14 **Mr. Peterson SC:** No, don't ask him to put on the spider; not
15 on the tank, you know, on himself.

16 [*Mr. Chairman puts the spider on the tank*]

17 **Mr. Chairman:** So that would be—you should bear in mind
18 there would be an additional pipe coming from the top and from
19 the bottom.

20 **Continued Cross-Examination By Mr. Mootoo:**

21 Q. Right. So I don't know if you're in a position to tell us, Mr.
22 Gill, but with the additional apparatus connected to that tank,
23 would it be fair to say that the distance between the base of the
24 tank and the top of the apparatus is in the order of or exceeds 30
25 inches? Are you able to say?

26 A. No.

27 **Mr. Mootoo:** Okay. No further questions for this witness.

1 **Mr. Chairman:** We can measure it, Mr. Mootoo. I think it
2 would be sensible to do that. But I think we also need to bear
3 in mind that the images that we do have of the inside, Mr. Gill
4 hasn't seen those; we have. The pipe isn't standing upright
5 in—the bottle isn't standing upright in the pipe. It is at a slight
6 angle as I recall it, in the pipe. So that's where I think we are.
7 But I'm perfectly happy to have that measured and to make
8 whatever representations you wish about it. As I say, the
9 spiders that scuba divers use—

10 **Examination By Mr. Chairman:**

11 Q. And, Mr. Gill, I think you've confirmed this—has two
12 additional pipes coming out of that breathing that the regulator
13 that I've just connected—

14 A. The octopus and the BCD hose.

15 Q. Yeah, yeah, spider or octopus. Anyway, it has two additional
16 pipes coming from it. Thank you very much.

17 **Mr. Chairman:** Does anybody else have anything to ask?
18 [Pause] All right. Thank you very much indeed. Mr. Maharaj,
19 anything else?

20 **Mr. Maharaj SC:** No.

21 **Mr. Chairman:** All right. Just before we call Mr. Donawa
22 next, I'm asked for a 5-minute break and we'll have a 5-minute
23 break. Thank you very much.

24 Thank you very much for coming, Mr. Gill. I'm glad it
25 was short and sweet. Thank you. We'll rise for 5 minutes.
26 Thank you.

27 **11.10 a.m.:** *Enquiry suspended.*

1 **11.15 a.m.:** *Enquiry resumed.*

2 **Mr. Chairman:** Thank you. Mr. Donawa I believe is next. Is
3 he not? Yes. Thank you. How long do we anticipate Mr.
4 Donawa to be?

5 **Mr. Maharaj SC:** I would just be about 10 or 15 minutes with
6 Mr. Donawa.

7 **Mr. Chairman:** Should we hear the application now, then,
8 before dealing with Mr. Donawa, and then I at least have that in
9 my mind—

10 **Mr. Maharaj SC:** I think that might be the best thing.

11 **Mr. Chairman:** Yes. Mr. Ramadhar seems to have gone
12 walking again.

13 **Mr. Trebouhansingh:** Good morning, Mr. Chairman. He just
14 stepped out to use the washroom. He shall be back.

15 **Mr. Chairman:** I'll wait a moment. I think we have, in any
16 event, a response from Mr. Hosein-Shah on behalf of the
17 Union?

18 **Mr. Hosein-Shah:** Yes, Chair.

19 **Mr. Chairman:** Are you ready to deal with that now?

20 **Mr. Hosein-Shah:** I wouldn't say ready, but we can deal with
21 it.

22 **Mr. Chairman:** Ready enough?

23 **Mr. Hosein-Shah:** Ready enough.

24 **Mr. Chairman:** Okay, good, very well. Let's make a start
25 then, shall we, while we're waiting for Mr. Ramadhar?

26 **Mr. Hosein-Shah:** I'm not quite sure whether the Procedural
27 Rules can be put on the screen or whether you have a hard copy

1 of it, but I'll be referring to the Procedural Rules.

2 **Mr. Chairman:** Yes, we do. We can have the Rules put on
3 the screen. No problem.

4 **Mr. Hosein-Shah:** Sorry, chair, you will let me know when
5 you have it before you.

6 *[Pause]*

7 **Mr. Chairman:** It's coming up on the screen in a moment.
8 While that's being done I've got it in front of me.

9 **Mr. Hosein-Shah:** Sure. If I can take you to Rule 4(a)(xii).

10 **Mr. Chairman:** Yes, I got it.

11 **Mr. Hosein-Shah:** Yes. So rule 4(a)(xii) of the Procedural
12 Rules provides that one of the mandates of the Commission is
13 to examine the role played by Paria and LMCS in dealing with
14 the incidents. And I also want to go to beyond examining. The
15 Commission is tasked with making observations and
16 recommendations with respect to the appropriate best practices
17 and policies and/or procedures to be utilized by companies such
18 as Paria and LMCS in response to these types of incidents, and
19 that mandate is found at Rule 4(b)(iv) of the Procedural Rules.
20 Now, clearly, the Commission is entitled—

21 **Mr. Chairman:** Just a moment. Let me just read it.

22 **Mr. Hosein-Shah:** Yes.

23 *[Pause]*

24 **Mr. Chairman:** Yes.

25 **Mr. Hosein-Shah:** Yes. So clearly, the Commission is entitled
26 to receive evidence with respect to those matters or which will
27 assist the Commission in fulfilling its mandate, and the mandate

1 we're looking at right now is the response and the role and how
2 these incidents were dealt with.

3 Now, the general rule for receiving such evidence is to be
4 found at Rule 23 of the Procedural Rules. And the rule is this:

5 "The Commission may receive evidence in such or any
6 form that it considers to be helpful..."

7 That's the word I want to focus on, "helpful".

8 "...in fulfilling the terms of reference whether or not such
9 evidence would be admissible in a court of law."

10 So the test is one of helpfulness, not necessarily relevance.
11 Though, in our respectfully submission, the evidence is
12 relevant. But just for the sake of putting the relevant matters
13 before the Commission, the test is one of helpfulness. And then
14 the second limb of the general rule is that the Commission is
15 not bound by the rules of admissibility as would be found, for
16 example, in the court of law.

17 Now, to be fair, the rules do mention relevance at Rule
18 43. So if you can bring that up. In the context of relevance, the
19 Rule provides that the resolution of such objections is that the
20 Commission shall give such weight to that evidence as you, the
21 Commission, deem appropriate. There are no exclusionary
22 wording—sorry. There's no exclusionary wording contained in
23 that. It is a matter of weight for the Commission to determine
24 and the Commission is perfectly in a position to determine the
25 weight of the evidence to be given by the families.

26 But in considering relevance—so should the Commission
27 not be minded to accept those, I guess, technical arguments, in

1 considering the relevance of the evidence, when we look at
2 dealing with the incident and responses to the incident, clearly,
3 those considerations would involve how LMCS and Paria dealt
4 with the families, and that would involve communication; that
5 would involve support; and it will involve quite naturally the
6 impact to the families.

7 This Commission has heard evidence with respect to how
8 LMCS and Paria dealt with the families. In fact, a core part of
9 the evidence of the ICT involved the opening of channels of
10 communications, communicating with the families, the
11 provision of psychological support, and financial support in the
12 form of—I believe it was groceries and a Massy card. So that
13 is evidence that the Commission has already heard.

14 In considering that evidence and in applying it to the
15 mandate, for example, in dealing with policies which may be
16 recommended or procedures which may be recommended by
17 this Commission, and having regard to the evidence that has
18 been heard thus far, which has thus far been considered to be
19 relevant, clearly, consideration must be given to the evidence of
20 the families who were directly involved, who received or were
21 involved in those deliberations. That evidence would be
22 directly relevant to those matters. The Commission can't
23 necessarily hear from one side and exclude the families
24 entirely; that would be a quite unfair proposition.

25 So that, just to summarize, the position of the Union is
26 that, one, the evidence is helpful within the meaning of the
27 rules; two, the evidence is relevant. And in any event the

1 Commission is entitled to hear whatever evidence it deems fit,
2 and it will ascribe whatever weight it considers necessary to
3 that evidence.

4 And unless there's anything else I can assist the
5 Commission with, those are our respectful submissions.

6 **Mr. Chairman:** Thank you very much. That's helpful. Mr.
7 Ramadhar.

8 **Mr. Ramadhar:** First of all, let me congratulate my learned
9 colleague for so clearly stating the authority and responsibility
10 of this Commission to allow such evidence. In fact, I want to
11 suggest that to do otherwise would be to perpetuate the accident
12 and the consequences of the accident.

13 If one is to take the narrowest and illogical view that the
14 accident ended on the 25th, going into the 26th, and on the
15 27th, and possibly onto the 28th February, one would be
16 missing the point altogether, because this Commission is fully
17 entitled to look at, not just the causes, but the consequences of
18 the accident. And if I may reference the Terms of Reference
19 literally at 2, and if I will be permitted to read it to you:

20 "To make such findings, observations—

21 **Mr. Chairman:** Just a moment. Just a moment.

22 **Mr. Ramadhar:** I beg your pardon, Sir.

23 **Mr. Chairman:** Where are we?

24 **Mr. Ramadhar:** At Terms of Reference of this Commission.

25 **Mr. Chairman:** Right, one and two.

26 **Mr. Ramadhar:** Yes. At 2.

27 **Mr. Chairman:** Yes.

1 **Mr. Ramadhar:** I shall read with your permission?

2 **Mr. Chairman:** Yes.

3 **Mr. Ramadhar:**

4 "To make such findings, observations, and
5 recommendations arising out of its deliberations as may
6 be deemed appropriate in relation..."

7 And I take you directly to vi:

8 "Making any other recommendations that may be
9 deemed necessary in the circumstances."

10 So under your Terms of Reference, I fully endorse and adopt
11 the arguments put forward by my learned friend, Mr. Shah.

12 And I'm making the bigger point that we cannot have an
13 accident or an incident without fully appreciating the
14 consequences, and the consequences is not just on Paria.
15 Indeed, the ultimate consequence would have been the loss of
16 human life and the loss to a daughter, Aliyah Henry, to her
17 mother Tia Seepersad, to the wife of Fyzal Kurban, the two
18 sons of Fyzal Kurban and the daughter of Fyzal Kurban.

19 They have to live on with an injury that has been inflicted
20 upon them, thankfully not physical, but yet worse than that, an
21 emotional injury that they could never, never heal. One can
22 only hope and pray that they could heal. So, therefore, this is
23 directly relevant to the accident and its consequences. And to
24 suggest that it does not fall within the confines of the authority
25 of this Commission would be to miss the point altogether.

26 This is a Commission, not for the lawyers, not for the
27 Commissioners, not for the Parias and the companies. This is a

1 Commission for the people of Trinidad and Tobago. And if the
2 people of Trinidad and Tobago need to hear who these men
3 were, that their lives mattered, and there are consequences on
4 their families—and we've heard from Mr. Mushtaq that the
5 lawyers stopped him from engaging in any meaningful remedy
6 moving forward. And I want to say upfront—and I know it's
7 not this group of lawyers; there's another group of lawyers
8 hired by Paria to deal with this. So this is directly relevant.

9 This amounts to what the Courts admit on a daily basis in
10 criminal proceedings and in other places: victim impact
11 statements. And I'm really surprised that my noble and
12 generous friend, Mr. Peterson, of course I am sure acting only
13 under instructions, will take this position to not allow the
14 country to know who these dead men were, what they
15 represented. And more importantly to suffocate the voices of
16 those who are so powerless—and I want to thank all those who
17 have assisted on this side representing the families—that
18 they're powerless and they're victimized to hear this, because
19 I've spoken—there are members of the family here today,
20 Yusuf Henry's family, and they are appalled to know that such
21 a position could be taken.

22 Mr. Nagassar's wife is also here. Because they are
23 interested in this. This is their Commission. This is their
24 Enquiry paid for by taxpayers' dollars. And if my friend, of
25 course, Mr. Peterson, will say, well, we have to go within the
26 confines of law and the remit of this Commission, it is directly
27 within Terms of Reference 2(vi) because the accident and its

1 consequences continue in the hearts and in the beings of those
2 who are left behind; those who are intimately connected; the
3 families and the wider relatives and the citizens of this country.

4 Unless I could assist you any further. Thank you.

5 **Mr. Chairman:** No. Thank you very much. Anyone else
6 from the various teams who want to say anything before I
7 return to Mr. Peterson after having asked Mr. Maharaj if he has
8 anything? No?

9 Mr. Maharaj, is there anything you want to say in
10 response to the application made by Mr. Peterson?

11 **Mr. Maharaj SC:** Mr. Chairman, it would seem to me that the
12 Terms of Reference permit the Commission to hear the
13 representations of the family, and in particular the Terms of
14 Reference which says that the Commission may make any other
15 recommendations that may be deemed necessary in the
16 circumstances.

17 **Mr. Chairman:** Yes.

18 **Mr. Maharaj SC:** It would seem to me that it would be an
19 abdication of the responsibility of the Commission not to allow
20 the families of the deceased persons to say what they want to
21 say on this occasion. That's all I have to say.

22 **Mr. Chairman:** Yes. Thank you.

23 Mr. Peterson, I invite you, obviously, to reply. Can I just say
24 this, that in relation to the specific Terms of Reference this
25 Commission have been given, I made very clear, I think, on the
26 very first day that it sat when I as the Chairman introduced the
27 issues to the Enquiry that I did not regard myself in any event

1 as being confined by them, but merely that they were the Terms
2 of Reference, and if I considered it appropriate to view any
3 other facts that might be of assistance in coming to the
4 necessary conclusions in this Enquiry, we would look at them.

5 I raise that because I don't regard myself necessarily as
6 bound by each and every clause and the wording of each and
7 every clause. I regard that as the primary source of our
8 responsibility, but if there were anything outside that, that was
9 necessary for the purposes of identifying issues that needed
10 tackling and/or recommendations that needed making, we
11 would look at them.

12 I say that just so that you're aware that I wouldn't
13 necessarily regard myself as being totally bound by them. All
14 right?

15 **Mr. Peterson SC:** Well, Mr. Chairman, I was under the
16 mistaken impression that the Terms of Reference is what
17 grounds and guides and circumscribes the jurisdiction of the
18 Commission.

19 **Mr. Chairman:** Grounds and guides, not circumscribes.

20 **Mr. Peterson SC:** Well, we seem to, respectfully, have a
21 different view on that, Sir, and I respect yours.

22 The point is that the Terms of Reference—as Counsel—
23 let me put it first up front. As counsel it's my duty to assist the
24 Commission not to exceed its Terms of Reference, if I am of
25 that respectful view. So I have a duty to assist the Commission.
26 I don't have the liberty of some of the other Counsel to make
27 speeches about emotion, and public, and all of that. That may

1 be fine, but the Terms of Reference as they stand—and my
2 experience has been—and the law has supported me—that if
3 after Terms of Reference have been issued and there's an
4 occasion to widen them to give wider jurisdiction, there's
5 always amended terms that are issued.

6 So I looked at the Terms of Reference when Mr.
7 Chairman indicated last week, the indication that where you
8 were going with the family, and I considered all what some of
9 the lawyers say about ventilating, and all of that; I considered
10 that. But then I also considered my duty as Counsel. And
11 when I marry it against the Terms of Reference, I came to the
12 percolated view that I had to assist the Commission because
13 this Commission is born out of section 7 of the Act and the
14 Terms of Reference, and it being out of the Statue, it gives it its
15 life and its jurisdiction circumscribed by the settled Terms of
16 Reference from Her Excellency the President. And that is what
17 informed my assistance—what I consider to be an assistance to
18 the Commission today, to object to that evidence as being
19 outside the Terms of Reference.

20 Let me also say there is no intent by my client, and by
21 extension me, to stifle any voice. That is not the reason for this
22 application or this objection. It is purely as a Counsel in the
23 Commission to assist the Commission.

24 Mr. Ramadhar referred to another team of lawyers in
25 some other proceedings. I understand just aside that there are
26 pre-action protocol letters, and all of that. So there's no
27 stifling. There will be full ventilation of that elsewhere, I

1 gather, but I'm not involved in that—well, at least at this stage.
2 That is not a plug for reconsideration elsewhere. But the point
3 is, Sir, that—so there is no intent to stifle anyone. It's just—

4 **Mr. Chairman:** But do you accept that that actually is the
5 effect of your application?

6 **Mr. Peterson SC:** Well, Sir, that's what we live by in courts
7 every day, that we have to stand by the law and the
8 consequences will flow therefrom.

9 **Mr. Chairman:** But this isn't a court, is it? I mean, I
10 appreciate we're governed by many of the rules of the court.

11 **Mr. Peterson SC:** It's not a Court, Sir.

12 **Mr. Chairman:** But it is a public Enquiry designed to bring
13 out all of the issues for the public's consideration as well as our
14 own. They should be entitled, shouldn't they, to hear all of the
15 things that impact upon the ultimate decisions that we will need
16 to make. I have in mind particularly, and, of course, nobody
17 else has suggested that this evidence is evidence which might
18 be given outside of the Terms of Reference. That was my
19 suggestion. And I, perhaps, put it rather inelegantly when I
20 suggested that we are not bound by the strictures of its terms.

21 I mean by that the terms themselves give us a very wide
22 latitude in its interpretation, so that when you look to, as has
23 been pointed out to me both by Mr. Maharaj and Mr. Hosein-
24 Shah, that paragraph 2(vi) of the terms make clear that we are
25 to make such findings, observations, and recommendations
26 arising out of these deliberations as may be deemed appropriate
27 in relation specifically to making any other recommendations

1 that might be deemed necessary in the circumstances.

2 And one of the factors that we are engaged in is the level
3 of communication between Paria and the families of those who
4 were still in the pipe. And that it seems to us is a proper
5 consideration.

6 **Mr. Peterson SC:** Sir, I understood the temptation that Mr.
7 Shah fell prey to when he ran to the recommendations in aid of
8 his submission. The recommendations are usually born out of
9 what the Terms of Reference gave jurisdiction to enquire into.
10 Having executed the Enquiry pursuant and in faithfulness to the
11 terms, then out of that, recommendations are born. But one
12 doesn't seek to pray the recommendations in aid of expanding
13 the Terms of Reference.

14 But, Sir, I don't know how much more time you could
15 spend on it, but that's my respectful submission and guidance.

16 **Mr. Chairman:** I appreciate that. Thank you very much. I
17 will make my decision after we've had our break. I will
18 probably reserve the reasons until tomorrow or a day later, but
19 I'll make my decision today so that everyone knows what the
20 position is. All right? Thank you very much.

21 Can we have the next witness, Mr. Donawa, please?

22 **Mr. Maharaj SC:** Mr. Antonio Donawa—and Mr. Bissessar
23 would do the summary.

24 **Mr. Chairman:** I see Mr. Hosein-Shah's hand up. Can I help
25 you?

26 **Mr. Hosein-Shah:** Sorry, Chair. I didn't want to interrupt my
27 friend, but there was one slight mischaracterization of my

1 submissions by him. I did not merely rely on subrule vi. I
2 relied on the mandate at 4(a)(xii) and 4(b)(iv) in making my
3 submissions.

4 **Mr. Chairman:** Yes. No, I know you did. I have a note of it.
5 That's fine.

6 **Mr. Hosein-Shah:** Yes. Thank you. I just wanted that
7 clarification. Thank you.

8 **Mr. Chairman:** I took careful note of what you submitted,
9 **Mr. Hosein-Shah.** Thank you.

10 **Mr. Hosein-Shah:** Grateful, Chair.

11 **Mr. Chairman:** Right. Mr. Donawa, please.

12 [*Mr. Antonio Donawa sworn*]

13 **Mr. Donawa:** I, Antonio Donawa, solemnly swear that the
14 evidence I shall give to this Commission in this case shall be
15 the truth, the whole truth, and nothing but the truth.

16 **Mr. Chairman:** Yes. Thank you for coming, Mr. Donawa. I
17 think you were here once before, were you not?

18 **Mr. Donawa:** No.

19 **Mr. Chairman:** Right. I know that certainly you asked to be
20 put back to this week rather than last week because you were
21 away. I'm happy to have accommodated you, not least because
22 had you been here the likelihood is you wouldn't have been
23 called anyway. So I think it's just as well. Thank you for
24 coming.

25 What's going to happen now is this. Mr. Bissessar is
26 going to read a summary of your evidence. All right? So listen
27 carefully to that. If you agree that it's correct you'll tell him so,

1 and then Mr. Maharaj will have some questions for you. But
2 before that happens—so between your summary and Mr.
3 Maharaj asking you questions, we're going to take our normal
4 morning break, 15 minutes or so. I know we had a short break
5 but that was for different reasons. All right? So we're going to
6 do that and then we'll resume again after that break. All right?

7 **Mr. Donawa:** That's acceptable.

8 **Mr. Chairman:** What I would like to think we might be able
9 to achieve is to conclude your evidence if we can before the
10 luncheon adjournment, even if it means eating into it for a little
11 bit. All right? Let's see where we go anyway. All right?
12 Thank you very much.

13 Mr. Bissessar.

14 **Mr. Bissessar:** Thank you, Chairman.

15 Mr. Antonio Donawa was interviewed by the legal team
16 to the Commission and his witness statement dated 31st
17 October, 2022 is at witness bundle 2785.

18 Chairman, rather than summarizing, it's a fairly short
19 statement. I will actually read the content.

20 **Mr. Chairman:** Yes, please. But can you just remind me
21 again, please, the page number?

22 **Mr. Bissessar:** 2785, Volume IV, the witness bundle.

23 I Antonio Donawa of Cascade, Port of Spain, says as
24 follows:

25 I am an Executive Director at Offshore Technologies
26 Solutions Limited (OTSL) with responsibility for its subsea
27 services including all diving and remotely operated vehicle

1 (ROV) services. OTSL which began to trade in May 2005 now
2 operates from Sea Lots, Port of Spain, and its principal business
3 is marine construction and diving. Before the COVID-19
4 Pandemic, OTSL had about sixty (60) permanent staff.

5 OTSL does not presently have any contractual
6 arrangements with Paria other than as a registered contractor.
7 By letter dated 20th August, 2022, I provided a brief statement
8 to the Commission in relation to the events which occurred on
9 25th February, 2022. I now wish to amplify what I said in that
10 letter, a copy of which is attached as AD1.

11 That afternoon (meaning 25th February, 2022) I received
12 a telephone call from someone at Heritage asking whether
13 OTSL had any divers working at Heritage. I cannot recall who
14 called or the exact time but I did say that OTSL did not have
15 any divers at Heritage and all its divers were accounted for.

16 Later that afternoon I was contacted by OTSL's Chief
17 Executive Officer, Mr. Ian Bertrand, who told me that Heritage
18 wanted OTSL to provide diving support for missing divers. I
19 told Mr. Bertrand that he should tell Heritage to immediately
20 notify the Coast Guard.

21 Between 5.30 p.m. and 6.00 p.m. there was a telephone
22 conversation between me and Conan Beddoe. I cannot recall if
23 I called him or he called me. Conan was a commercial diver
24 and he was at Paria's location. I recommended to Conan that a
25 hyperbaric physician should be in attendance. I asked Conan
26 whether he or Paria required any support and he told me that
27 they seemed to have had enough there. I told him that OTSL

1 was arranging to come down to berth 6 on Heritage's
2 instructions.

3 At about 7.00 p.m. I received a telephone call from
4 George Viera of EOG who told me that Paria's Michael Wei
5 was looking for an ROV and I told him that I would contact
6 Wei. I did, in fact, contact Michael Wei almost immediately
7 after the call and described the appropriate equipment to go into
8 the pipeline to look for the survivors. I explained that OTSL's
9 ROV would not be fit for purpose based on the size of the ROV
10 and the diameter of the pipeline.

11 I also suggested to Wei that he call Anthony Viera of
12 Hummingbird Safety Systems Limited, HSSL, to provide them
13 with its compact crawler system as it would reach further than
14 OTSL's ROV which would have buoyancy issues and stir up
15 debris in the pipeline which would affect visibility. I
16 subsequently telephoned and spoke to Anthony Viera of HSSL
17 who confirmed that he had, in fact, spoken to Michael Wei.

18 Later that night Michael Wei telephoned me. He told me
19 that he wanted me to speak to his incident team and I agreed for
20 him to put me on speaker phone. I was introduced to his team
21 but I cannot recall them now. They asked me what could have
22 happened to the divers and I believe what I said was that they
23 encountered a Delta P incident. They did not appear to
24 understand what a Delta P incident was, so I explained it and, in
25 fact, after my explanation I sent a video to Michael Wei
26 showing a crab being sucked into a pipeline because of a Delta
27 P incident and another giving a detailed scientific explanation.

1 I also explained in the telephone call that Delta P means
2 that extreme volumes of water were forced upon you like being
3 water boarded but with much larger volumes. I recalled asking
4 whether the pipeline was dry, meaning no liquid, and that
5 someone from the incident team said that it was dry.

6 I then said that this meant that the pipeline was under a
7 pressure of approximately two atmospheres. One of the
8 incident team members said, no, it is only 7 psi, but I explained
9 that it was 7 psi at ambient, meaning at the surface, but not at
10 minus 40 or 50 feet where the divers were.

11 My teleconference lasted about 10 to 15 minutes and I
12 asked Michael Wei to call me if he needed more information. I
13 did not speak to Michael Wei or anyone at Paria after this
14 teleconference.

15 A few days later before the retrieval of the bodies, I was
16 asked by OTSL's CEO, Mr. Bertrand, to join a telephone
17 conversation he was having with Heritage. I did join, although
18 I do not recall the exact date. It was me, Mr. Bertrand, and Mr.
19 Osei Flemming, Heritage's HSE Lead, and several others
20 whose names I do not recall. The purpose of the call was to
21 discuss the possibility of doing a penetration dive into the
22 pipeline to search for survivors. I advised of the safety issues
23 as there was no way to confirm that the pipeline was totally
24 equalized and flooded and free of the possibility of a Delta P
25 event.

26 I also discouraged the idea of drilling holes into the
27 pipeline to search for the divers; this was Heritage's idea. And

1 I also discouraged the idea of cutting the pipeline as drilling
2 holes and cutting the pipeline would not confirm that the
3 pipeline was totally equalized and flooded and free of the
4 possibility of a Delta P incident.

5 The meeting ended and Heritage said it would get back to
6 OTSL. They never got back to me and I do not know whether
7 they communicated with OTSL.

8 I was a member of the Trinidad and Tobago Bureau of
9 Standards Specification Committee for its revision of the 1997
10 standard for commercial diving and commercial diving training;
11 this was in 2007 or so for about a year. I made several
12 contributions and the committee devised a draft and voluntary
13 standard which, in my view, was consistent with international
14 best practice that would serve the national interest. I recall that
15 the draft standard did get to the public comment stage, but it
16 was never implemented.

17 Mr. Donawa certifies that the facts stated in his witness
18 statement are true and correct to the best of his knowledge,
19 information, and belief.

20 Thank you, Chairman.

21 **Mr. Chairman:** Yes. Thank you very much. What we'll do
22 then is to take our short break now.

23 Mr. Maharaj, I'll consider the submissions that have been
24 made. I'll come back at ten past twelve and make my ruling.
25 As I say, I'll probably reserve reasons. But I'll do that at 10
26 past 12.00, please.

27 So can you take a break now. I know you've been

1 waiting all morning. I'm sorry about that, but the reassurance is
2 that now you've been called, you will be finished. All right?

3 So we'll come back at 10 past 12.00, please. So take a
4 break and we'll see everyone then. Thank you.

5 **11.49 a.m.:** *Enquiry suspended.*

6 **12.15 p.m.:** *Enquiry resumed.*

7 **Mr. Chairman:** All right. Before Mr. Donawa comes back,
8 we have made a partial decision as to the evidence. I have
9 reviewed the evidence of Vanessa Kussie, Jamie Menodath-Ali,
10 Catherine Ali, Aliyah Henry, Tia Gopaul, and a statement that
11 is said to be from the Kurban family. I would like that to be
12 identified precisely who that is in due course.

13 Our decision is this, is that the evidence of Vanessa
14 Kussie, Jamie Menodath-Ali, and Catherine Ali, together with
15 somebody who will be identified, I anticipate, from the Kurban
16 family, are admissible and relevant to this Enquiry, and as such,
17 their evidence will be given in the manner in which I have
18 described. The reasons for that decision will be given
19 tomorrow morning. I have reserved, at the moment, our
20 decision in relation to Aaliyah Henry and Tia Gopaul. They are
21 respectively the daughter of Yusuf Henry and the mother of
22 Aliyah Henry. And in those circumstances, we will consider
23 them a little further before making a final decision on the
24 admissibility of their evidence.

25 So that's the decision we've reached at the moment. As I
26 say, reasons for the decision will be provided first thing
27 tomorrow morning before we hear the evidence. I normally

1 type it and hand it down to everybody who is interested, but I
2 may not have time to type it all up myself, and if not, it will
3 come a little later in type form. But we'll see where we go, but
4 I'll certainly give my reasons tomorrow morning, and I will
5 decide, together with my Co-Commissioner Mr. Wilson, as to
6 whether or not to admit the evidence of Aaliyah Henry and Tia
7 Gopaul in that same ruling.

8 All right, that's where we are at the moment. So can we
9 next have, please, back Mr. Donawa? Thank you.

10 Yes, Mr. Maharaj.

11 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

12 **Mr. Chairman:** You're still on oath, Mr. Donawa, and now
13 Mr. Maharaj is going to ask you some questions. All right?

14 **Examination By Mr. Maharaj SC:**

15 Q. Mr. Donawa, good day. I just want to ask you a few questions.

16 A. That's fine.

17 Q. OTSL is a company which is engaged in, and has been engaged
18 in marine diving?

19 A. Correct.

20 Q. And based on your statement, am I correct that up to midnight
21 on Friday 25th February, 2022, there was no specific request
22 from Paria to OTSL to assist Paria in a rescue of divers from
23 the pipeline?

24 A. As far as I am to understand, we were on standby awaiting
25 instructions at that time.

26 Q. Standby awaiting instructions?

27 A. Yes.

1 Q. And at—

2 **Mr. Chairman:** From Paria?

3 **Mr. Maharaj SC:** From Paria.

4 **Mr. Donawa:** This is what I understand.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. And that on Saturday, 26th February, at 5.30 a.m., OTSL was
7 told by Paria that they were no longer required to be on
8 standby?

9 A. I was told by my team that the vessel will be leaving the site.

10 Q. I'm sorry?

11 A. I was told by my team that the vessel will be leaving the site. I
12 was not told in those words what you are saying.

13 Q. Mr. Ian Bertrand is an officer of OTSL?

14 A. Yes. He's the CEO of the company.

15 Q. Okay. Can I—I want to refer you to what he said in his witness
16 statement at the supplemental witness bundle 2842 at paragraph
17 9.

18 *[Document shown to Mr. Donawa]*

19 At paragraph 9 he says:

20 “At about 5.30 a.m., OTSL was told by Paria that it
21 (OTSL) was no longer required to be on stand-by. These
22 instructions came from Paria to captain Mario Dyer and,
23 as a result, the vessel left Berth 6 at Point-à-Pierre and
24 proceeded to Heritage's base at Point Fortin arriving
25 there at about 7.20 a.m.”

26 You would accept that?

27 A. If that's his statement I have to.

1 Q. Yes. Now, according to your statement at paragraphs 12 to 14,
2 when Mr. Michael Wei telephoned you about—as you stated
3 there, Mr. Wei didn't seem to understand what Delta P was?

4 A. That's correct.

5 Q. And you had to explain it to him?

6 A. Yes. Maybe the terminology was something that he was not
7 familiar with.

8 Q. But you had explained that it was—involved differential
9 pressure?

10 A. Yes, I did.

11 **Examination By Mr. Chairman:**

12 Q. Can I ask you. You say maybe the terminology was something
13 he was not familiar with. But was he familiar with the concept?

14 A. That I can't answer, because I just merely explained what I
15 meant by Delta P.

16 Q. Yes. Did he appear then to understand what you were saying?

17 A. One would consider that he was getting an understanding of
18 what I was explaining. So I can't say yes he understood or no
19 he didn't. Maybe because—in my statement I told him I would
20 send him some information to further explain what it was.

21 Q. Right. Because, obviously, the expression Delta P might not be
22 an expression that people have heard, and certainly, it wasn't
23 one I was familiar with until I became involved in this matter.
24 The concept, however, was one that I was familiar with; just
25 didn't understand it would be Delta Ps. But if you're telling
26 someone or seeking to educate someone on something like that,
27 there's either an appearance that they understand what you're

1 saying and have heard it before or there isn't. Are you able to
2 help us about that?

3 A. It's a bit challenging when someone is on the other end of the
4 phone.

5 Q. No, I suppose that is—

6 A. Right? If it's a face-to-face discussion you would see that
7 facial expression that comes with that explanation. It's like—

8 Q. Fair point, fair point. I understand what you're saying. So
9 you're not able to say one way or the other whether he actually
10 understood the concept or appeared to understand that concept
11 before you were explaining it to him?

12 A. I would have to say yes to that. But, you know, in my mind of
13 him being in—running a plant with tanks, and so on, that there
14 would be some concept of differential pressure rather than
15 Delta P. In our environment in diving, Delta P, it's a clear
16 understanding what that is, you know.

17 **Mr. Chairman:** I got you.

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. Okay. So let me take you to your statement at paragraph 12.
20 You have it there before you?

21 A. Yes, I do.

22 Q. "They asked me what could have happened to the divers
23 and I believe what I said was that they encountered a
24 Delta P incident. They did not appear to understand what
25 a Delta P incident was so I explained it and, in fact, after
26 my explanation..."

27 You sent a video. And then you went on, and you gave that

1 you also explained in the telephone call what it meant, and then
2 you said at paragraph 14, “I then said that this meant that the
3 pipeline was under a pressure”, and one of the incident
4 members said something, and then you explained again.

5 A. Correct.

6 Q. So would you not say, reflecting now on what happened, in that
7 conversation, they didn't appear to understand what you were
8 talking about, and you had to explain it?

9 A. I couldn't tell you that for certain. I'm on a telephone call with
10 someone and that's difficult. So I can surely tell you that you
11 have experienced Delta P, and you may not even know what it
12 is. A water bottle on an aircraft coming down in for landing
13 and when you get there—it was like this [*Mr. Donawa*
14 *demonstrated*] and when you've landed it's like this. [*Mr.*
15 *Donawa demonstrated*]

16 That's Delta P. You've experienced it because I know
17 you've been on an aircraft; I've seen you on one. But the
18 relevance of it is I try my best to explain what it is, because I
19 used a term, a loose term that is a familiar term in our
20 environment. It's a jargon but it comes from physics:
21 differential pressure; Delta P, as we call it. I did my best to
22 explain what it is, but I don't know if anyone got it or didn't get
23 it.

24 Q. Well, I suppose if anyone is on an aeroplane and the door
25 opens, they'll know that there's a Delta P.

26 A. But that's Delta P in the opposite direction.

27 Q. Okay. At paragraph 19, you said you advised of the safety

1 issues as there was no way to confirm that the pipeline was
2 totally equalized and flooded and free of the possibility of a
3 Delta P event. Well, I know you didn't have all the facts. So
4 this was an opinion and the best you could have given with
5 what you had at the time.

6 A. Yes.

7 Q. Well, we have in these proceedings an opinion on that from the
8 In-Corr-Tech from one Mr. Zayed Khan, President and CEO of
9 In-Corr-Tech. And that is at page 1534 of the supplemental
10 core bundle. And I want to read it to you and you'll tell me
11 whether you can dispute that.

12 **Mr. Chairman:** Paragraph?

13 **Mr. Maharaj SC:** Page 1534, paragraphs 4 and 5. Have you
14 got 1534 paragraphs 4 and 5?

15 **Mr. Chairman:** Sorry. Yes, you mean the further report that's
16 been added to.

17 **Mr. Maharaj SC:** Yes. He was specifically asked.

18 **Mr. Chairman:** Got it. Yes, thank you.

19 **Continued Examination By Mr. Maharaj SC:**

20 Q. You have it before you, Mr. Donawa?

21 A. I can see it, yes.

22 Q. Okay, you can see it, sorry.

23 "Prior to Mr. Christopher Boodram's rescue the entire
24 system stabilized and equalized itself at both ends of
25 SL36, and thus allowed Mr. Boodram to negotiate the
26 pipe without any disruptions as the system was static.
27 This condition was the best opportunity to attempt a

1 rescue.”

2 Then they talked about something else about the blank. Well,
3 in the light of what this expert said, would you accept that or
4 would you deny that?

5 A. Well, this is after the fact.

6 Q. Yes.

7 A. But if this had to apply during the 25th, I would say that this
8 does not apply. All right? And I would go further to say that
9 even after Mr. Boodram was able to negotiate and get out, are
10 based on his statement—so this is after he was deposed—there
11 was no way to certainly know that the pipeline had no Delta P,
12 and there was some form of Delta P that existed if there was a
13 video that you presented to the public of them communicating
14 in an environment that had air. So there is some form of Delta
15 P. We don't know what that Delta P is.

16 Q. But there can always be a form of Delta P but it may not be a
17 Delta P that would be so pressing to prevent persons from going
18 back in the pipe?

19 A. But there's no gauge to tell you what that is. There's no
20 scientific way of telling you if there is or isn't.

21 Q. So you are saying that in spite of Mr. Boodram coming out and
22 he is saying that the system stabilized and was static, you are
23 disputing this opinion?

24 A. If he said it was stabilized and static, he was so frightful and
25 probably so concerned at the time—

26 **Mr. Chairman:** No, no, no, no.

27 **Mr. Donawa:** Mr. Boodram or Mr. Zayed Khan?

1 **Mr. Chairman:** Yes.

2 **Mr. Donawa:** Prior to Mr. Boodram's rescue, Mr. Khan or the
3 In-Corr-Tech Report is saying that it's stabilized. And I'm
4 saying, no, there's no way for you to know if there is a Delta P.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. What Mr. Khan is saying that the fact that Mr. Boodram could
7 have come out of the pipe when he came out, and just before he
8 came out the system had stabilized and that is why he could
9 have come out of the pipe.

10 A. Oh, I see where you're going at.

11 Q. So he's giving an opinion in respect of what happened on that
12 day.

13 A. On the individual?

14 Q. Yes.

15 A. Okay. At that point in time, he was able to negotiate himself
16 out.

17 Q. Yes, it may be that you didn't understand. What happened, Mr.
18 Boodram was able to come out of the pipe. He came out and
19 when he came out the system stabilized.

20 A. Well, you are trying to tell me that the entire pipeline stabilized
21 based on this report. Is that correct?

22 Q. No. I am not an expert.

23 A. I know. I said based on the report.

24 Q. Yes, based on the report?

25 A. I would say no.

26 Q. You would say no?

27 A. Yeah, in my opinion.

1 Q. In your opinion?

2 A. Yes.

3 Q. What are your qualifications, Mr. Donawa?

4 A. I am not an engineer.

5 Q. You're not an engineer?

6 A. But the only way for you to know that there's no Delta P, right,
7 is for you to gauge the pipeline and to know that it's now
8 equalized on either side. During—and I'm going beyond the
9 report—there is some form of air in the pipeline. Correct? At
10 some juncture during the 25th to when the individuals were
11 taken out the pipeline, right. We know this for a fact.

12 Now, paragraphs 4 and 5, based on the question you are
13 asking me for Mr. Boodram, he may not have been subject to
14 Delta P in that area of the pipeline. But there's nothing to say
15 that there was not Delta P in any other area of the pipeline.
16 Because if there's air, right, there is the potential for Delta P.

17 Q. Well, Mr.—I don't know how much you know of how this
18 incident happened. The Delta P occurred in the hyperbaric
19 chamber, which caused them to be sucked into the pipeline.
20 And then according to this opinion, the fact that they were
21 sucked into the pipeline during a Delta P, right, and he was able
22 to come out, and this opinion is saying that the fact that he was
23 able to negotiate the pipe and come out, there was a static
24 situation; it had stabilized. And you are saying you do not
25 agree with that?

26 A. I don't agree with that.

27 Q. But you would agree with me that you do not have the

1 qualifications of an engineer?

2 A. That is correct.

3 Q. Right, okay.

4 **Mr. Maharaj SC:** No further questions.

5 **Examination By Mr. Chairman:**

6 Q. But you are a diver?

7 A. I have been running diving operations and doing risk
8 assessments for diving operations for over 30 years.

9 Q. Over 30 years?

10 A. Over 30 years. If you were to calculate man-hours it's
11 enormous.

12 Q. You know your onions?

13 A. Yes.

14 Q. Yes, right. Can I ask you this. Referring to your paragraph 13,
15 please, you see there you say you're dealing with explaining on
16 the telephone call, Delta P. First of all, can you recall when that
17 telephone call was?

18 A. I believe it might have been around 7.00, roughly. I can't be a
19 hundred per cent.

20 Q. I wouldn't hold you to the minute. But that's your best guess?

21 A. It was somewhere in that time because I was shocked at the
22 time I was being called by Mr. Viera.

23 Q. When you say shocked, what do you mean?

24 A. Well, you know it's after 6.00, so I'm assuming it was around
25 7.00.

26 Q. You used the word "shocked". Why were you shocked?

27 A. Well, I would not have expected a call from Mr. Viera on an

1 afternoon when I'm not doing any work for his company.

2 Q. You mean you were surprised rather than shocked?

3 A. Yes, yes.

4 Q. Because of the timing of the call?

5 A. Yes, correct.

6 Q. And you go on in that paragraph to say this:

7 "I recall asking whether the pipeline was dry meaning no
8 liquid and that someone from the incident team said that
9 it was dry."

10 Do you see that?

11 A. Yes. So I would like to correct. Thirteen, when Mr. Wei and
12 his team was speaking to me it was around—it might have been
13 closer to ten.

14 Q. Ten o'clock?

15 A. Yes. Because I had spoken to him around 7.00 or 7.30
16 thereabouts and told him if he needed me he can call me at any
17 time. I'm available.

18 Q. Right. And that's all you said at seven, seven o'clock-ish?

19 A. Right, yes, when I spoke to Mr. Wei after Mr. Viera spoke to
20 me.

21 Q. Right. Let me just get this right.

22 A. Yes, yes.

23 Q. So around seven o'clock—I'm going to write this—around
24 seven o'clock, spoke to Wei and told him call me if you need
25 me?

26 A. Yes.

27 Q. And at ten o'clock, 10 plus, yes, sometime after ten o'clock—

1 would that be fair?

2 A. Correct.

3 Q. That's when you had the call with Mr. Wei and the team?

4 A. Yes.

5 Q. Yes?

6 A. Correct.

7 Q. And that's when you were explaining Delta P and all of this
8 stuff. Yes?

9 A. Yes.

10 Q. And you sent them a video of a crab being sucked into a hole?

11 A. Yes, I sent that earlier so that he can share.

12 Q. You had sent that earlier?

13 A. So he can have a—

14 Q. I've seen one like that where there's a piece of piping and
15 there's like a little grille on the top of the pipe. This little crab
16 is going along the top of the pipe, and the Delta P obviously
17 exists, and literally, the whole crab was sucked into the tiny
18 mesh of this pipe.

19 A. Correct. Actually, what you've seen there was something that
20 was simulated. They cut a groove in a pipeline and they had a
21 crab walk by just to demonstrate this situation. This is an
22 unfortunate situation that divers are exposed to working on
23 ships, working on drilling rigs. I mean, it's situations—

24 Q. It is arguably the singly most common cause of death in
25 commercial diving?

26 A. Well, it's not the most common cause. It accounts for about
27 quarter of the deaths in the diving industry globally, and that

1 was statistics, not very recent, but I can give you that as an
2 indication of what can happen.

3 Q. Certainly, a prevalent cause, and dangerous, because it's
4 unseen?

5 A. It is extremely unseen.

6 Q. All right. Next, I wanted to ask you about this, please. If a
7 Delta P event occurs as it did in this case, there is no doubt
8 about that now, such that it sucked tanks like this which weigh
9 quite a lot when they're full, and everything else that was in
10 that habitat into the pipe within, on the face of it, seconds, the
11 force is obviously very considerable?

12 A. Yes.

13 Q. I wouldn't begin to estimate the kind of force that we're talking
14 about, but very considerable. All right?

15 A. Yes.

16 Q. And these men get sucked into this pipe. It then somehow
17 stabilizes itself, because—we know that again, as a matter of
18 fact, because the water that had come into the habitat has now
19 subsided again; the pressure that's being applied to the habitat
20 has as it were—made it appear as if nothing had happened. Do
21 you follow?

22 A. Yes.

23 Q. So we see this incident occurring in the sense that within a
24 second or two, the suction is created, everything goes blank,
25 and then when somebody goes down a little while later into
26 the—I mean literally within minutes back in the habitat, they all
27 look like nothing's happened.

1 A. Yes.

2 Q. So it stabilizes itself quite quickly or appear to. We know that
3 Mr. Boodram is in the pipe for probably the better half of two
4 and a half hours, and you've made the observation that he was
5 breathing whatever air was in that pipe from air pockets that
6 existed. And you say that the very fact that there was an air
7 pocket existing in that pipe would lend support to the view that
8 there might be a yet further Delta P event. Is that right?

9 A. That is correct, because there may have been other air pockets
10 or volumes of air within the pipeline structure.

11 Q. Right.

12 A. So if that pipeline had a different topography on the bottom,
13 meaning that some parts were shallower than others, there may
14 have been a large enough volume of air in that section of the
15 pipeline to cause a Delta P.

16 Q. I follow. So there remained in your mind, at any rate, a
17 potential for a second Delta P event?

18 A. Correct.

19 Q. Would there have to be something to trigger it? Would
20 something have to happen to the condition that as it was
21 stabilized of its own motion, stabilizing itself, would something
22 have to happen to change that?

23 A. Yes. We can speculate whatever. So as an example—

24 Q. I'm not asking you to speculate. If you answer please, first of
25 all, the question?

26 A. Yeah.

27 Q. Would something have to happen to change the condition that it

1 was in for that secondary Delta P event to take place?

2 A. Yes.

3 Q. Right. And one can now, you say, speculate. We could, I
4 suppose, open the flange at one end. We might stop the
5 pressure on the habitat at the other end. Would those sorts of
6 things might change the condition in the pipe?

7 A. Well, in this case as further in my statement, it says drilling
8 holes or cutting the pipeline, if you had done any of that in any
9 of those areas you would have engaged a Delta P if there was
10 air in that area. No one knows if there was air or what the
11 volume of air was in that section of the pipeline.

12 Q. Right. Or, indeed, what pressure the water—even if there
13 wasn't air in that area, if there was water in that area, what
14 pressure that water was under, if it was different to the pressure
15 of the water at the bottom of the ocean?

16 A. Generally, that would have equalized, but it's the question of
17 where there was air encapsulated or trapped in any segment of
18 the pipeline.

19 Q. What happens if I opened the flange at one end?

20 A. If you opened the flange at one end?

21 Q. Yes.

22 A. You would have started equalizing but you would have had to
23 start it flooding the pipeline to remove—to help move whatever
24 air was in the—

25 Q. Just the act of opening?

26 A. Yeah. It would contribute to equalization.

27 Q. Right. So it might have created a secondary—

1 A. Yeah.

2 Q. So you wouldn't have recommended that as a good idea?

3 A. No, at Berth 5 I would have said yes.

4 Q. What?

5 A. You can open the flange at Berth 5.

6 Q. Because?

7 A. Because it would help equalize the pipeline. It would take any
8 air out of the pipeline.

9 Q. But you got men in the pipe breathing it?

10 A. Well, we didn't know that at the time.

11 Q. Well, we do now.

12 A. So, so—

13 Q. Just a minute. We know that Mr. Boodram came out of the
14 pipe and said he was breathing in a vac in an area in the pipe,
15 and the others were in there.

16 A. So in that case I would not remove anything.

17 Q. Right. That's what I'm saying. That's why I'm asking.

18 A. Yes.

19 Q. Removing the flange at Berth 5 might have—if there was the
20 potential for a second Delta P, might have actually triggered it
21 in your mind?

22 A. Potentially.

23 Q. Potentially.

24 A. Yes.

25 Q. I mean, all I'm asking, really, is an event has to take place for a
26 secondary Delta P, if there was one, to be triggered. It doesn't
27 just happen of its own volition, does it?

1 A. Correct.

2 Q. Right. So something has to happen. Whether it's taking the
3 flange off one end, boring holes in the pipe, or taking the
4 pressure off the habitat, any of those might have triggered it?

5 A. Correct.

6 Q. Correct. In your view—in your opinion?

7 A. Yes.

8 Q. All right. So I understand that. When you were told—going
9 back to paragraph 13—when you were told by someone that the
10 pipe was dry, what do you think of that? You see it says:

11 "I recall asking whether the pipeline was dry meaning no
12 liquid and then someone from the incident team said that
13 it was dry."

14 Was it your understanding or were you being told at that point
15 that those who were in that IMT, in that team, were suggesting
16 to you that before this event the pipe was completely empty?

17 A. Yes.

18 Q. Well, that was an obvious Delta P risk, wasn't it?

19 A. Yes.

20 Q. If the pipe was completely empty?

21 A. Correct.

22 Q. The sensible course here was to have that pipe flooded whether
23 with water or oil or whatever it was, with fluid at any rate?

24 A. Well, that would be one of the processes to remove the Delta P
25 in any risk planning exercise.

26 Q. Right. Let's be clear. The sensible course to prevent any
27 potential for Delta P is to make sure that that pipe is completely

1 full: water, oil, whatever it is, but it's filled?

2 A. Correct.

3 Q. Not air?

4 A. Correct. That will remove the differential pressure.

5 Q. Right. In that way, if you pull the plug out it wouldn't make
6 any difference?

7 A. Correct, absolutely.

8 Q. Gotcha.

9 A. If it's fill of oil, then you'd have an oil spill, because there is a
10 differential—

11 Q. Forgive me, I'm all for anti-pollution, but let me be clear, I'd
12 rather we spilt a little oil in the water than we're losing four or
13 five men.

14 A. Well, agreed.

15 Q. Right. Okay. Well, thank you very much.

16 **Mr. Chairman:** Are there any other questions, please?

17 Yes, Mr. Ramadhar.

18 **Cross-Examination By Mr. Ramadhar:**

19 Q. Thank you very much, Mr. Donawa, and we are grateful for the
20 witness statement which you had provided.

21 **Mr. Ramadhar:** Chairman, could I ask that his paragraph 3 be
22 put on the screen, please?

23 **Mr. Chairman:** Paragraph 3?

24 **Mr. Ramadhar:** Thank you.

25 **Mr. Chairman:** Yes.

26 **Continued Cross-Examination By Mr. Ramadhar:**

27 Q. Could you read that to us, please?

1 A. Would you like me to read it to you?

2 Q. Yes.

3 A. "OTSL does not presently have any contractual
4 arrangements with Paria other than a registered
5 contractor at the time."

6 Q. And you understand presently to mean at present?

7 A. That is correct.

8 Q. So you've had contracts before?

9 A. As OTSL with Paria, yes, I believe so.

10 Q. Thank you. And you're still on the list of registered contractors
11 in anticipation of future possible work. Is that accurate?

12 A. That is accurate and correct.

13 Q. Yes. You appreciate you've said to Mr. Maharaj in answer to a
14 very important question where you disagreed that at some point
15 in time the Delta P had stabilized?

16 A. Correct.

17 Q. Yeah. Well, you appreciate that that could not be accurate?
18 That statement—

19 A. My statement?

20 Q. Disagreeing—hold on—disagreeing with another person that
21 the Delta P had stabilized?

22 A. I don't understand your question.

23 Q. Well, I will help you.

24 A. Can you break it down for me?

25 Q. Of course. Delta P is a static position?

26 A. Yes.

27 Q. Yes. And stability means what to you?

1 A. Stability?

2 Q. Yes.

3 A. Still.

4 Q. Eh?

5 A. Still.

6 Q. Still. So at the time when Mr. Boodram exited, there was no
7 effective Delta P that forced him back into the pipe. Let me put
8 it like this, so we could be clear. There was no Delta P event
9 that prevented him from escaping death from that pipe?

10 A. Okay.

11 Q. Not okay. I want to hear you. You agree?

12 A. What do you want me to agree with?

13 Q. Whether, in fact, there was no Delta P event that prevented him
14 from being rescued whether on his own accord—

15 A. Well, clearly, there was not any restriction for him to get out. I
16 don't know what force was against him at the time.

17 Q. Beautiful. But you have disagreed with Mr. Zayed Khan that at
18 a relevant time the Delta P event had stabilized?

19 A. I disagree that there was no Delta P existing in the pipeline.
20 That's what I said.

21 Q. Well, forget now what Mr. Khan said and let's deal now with
22 your expertise of all these many years—

23 A. Okay.

24 Q. Right—that there was no prohibition as a result of a Delta P
25 event to allow one of the divers to escape? Isn't that correct?

26 A. Well, at the time I don't know exactly where Mr. Boodram was
27 in the pipeline and where he was found at the time he was

1 found. Right? His statement, as you've said, that there was
2 nothing restricting him from leaving the pipeline.

3 Q. Beautiful. Now—

4 A. So let's go with that.

5 Q. Let's go with that. You followed with some interest, I imagine,
6 I mean, the day you were called in as an expert to find out as
7 much as you can up till today all that you could have about the
8 conditions in that pipe and the rescue and who came out or—
9 because you're a Trinidadian and you care. Isn't that correct?

10 A. I don't see the relevance of your statement. So try and break it
11 down for me. Explain it differently.

12 Q. I'll break it down. You care about what happened that day?

13 A. Yes, I do.

14 Q. Yes. Because you're a past contractor and hopefully a future
15 contractor for Paria. Correct?

16 A. No, no, no, no, I don't agree with that statement.

17 Q. Well, let me help you a little bit. So you are a contractor and
18 you are not interested to find out if Paria has procedures that
19 could cause harm or danger to your employees?

20 A. Listen—

21 Q. I'm listening.

22 A. Anybody that engages myself or my company, we will do the
23 necessary risk and risk management to deal with those
24 scenarios and situations. So the question you said was, am I
25 caring about what had transpired that day? Yes, I do care.

26 Q. Thank you.

27 A. And I do care about the families, and their loss, and so on, and

1 so forth. But as to exposing somebody else to additional risk—

2 Q. Who ask you 'bout that? I'm not on that. You came here with
3 a tract? You came here with a programme to tell us that? Who
4 asked you that?

5 A. Well, I retract what I just said.

6 Q. Oh, because it just came out. You came here with a mission to
7 hindsight the awfulness of that day to try and justify it, isn't it?

8 A. I disagree with you, Sir.

9 Q. Well, let me explain why I will say so. Knowing that you care,
10 you paid attention to what was, you know, what's in the public
11 domain. Correct?

12 A. I'm listening.

13 Q. Listen good. Yuh would have heard on radio, did you not,
14 audio of the four men vital and alive within the pipe?

15 A. I have heard it, yes.

16 Q. Yes. So you knew that Christopher who escaped was in the
17 same location where he could have spoken with those other
18 men. Correct?

19 A. Was Christopher's voice on the video?

20 Q. Yes.

21 A. I am not aware. I'm just asking you a question.

22 **Mr. Chairman:** He's only making an enquiry. He's allowed
23 to ask.

24 **Continued Cross-Examination By Mr. Ramadhar:**

25 Q. Yes.

26 A. I'm not familiar with Christopher's voice or any of the others.

27 Q. Right. But seeing that you care and yuh paying attention, it

1 would have come to your attention as you are sitting here today
2 that Christopher, upon his escape, said words to the effect, “Go
3 back; the men right behind”. And in particular: “Fyzie right
4 behind me; the men right there; go and get them”. Correct?

5 A. Correct.

6 Q. Yeah. So that it wasn't like he was spread some hundreds of
7 feet away from the other men in a different Delta P
8 environment. You agree?

9 A. Let me say something here.

10 Q. Well, please, that's why I'm asking the question; so say
11 something.

12 A. You are speaking to me like if I was there when Fyzie came
13 out. I was not there.

14 Q. Sir, Fyzie never came out; he died.

15 A. Not Fyzie, sorry, sorry. Excuse me, excuse me. When Mr.
16 Boodram came out. Right? Excuse me for the misnaming of
17 Mr. Boodram.

18 Q. Of course.

19 A. We were not there.

20 Q. We know that.

21 A. The OTSL was not there. So we don't know and we didn't
22 have those details. Right? But if we are now going through the
23 process of processing this situation, right, then if Mr. Boodram,
24 Say “Go back; Fyzie is right there”, then the incident process
25 and the emergency response plan by Fyzie's and Mr.
26 Boodram's team should have kicked in.

27 Q. Thank you.

1 A. Right? Where and whatever as a caring individual who has
2 done many of these types of works, where is the emergency
3 process that the rest of Mr. Boodram's team could have gone
4 immediately. Because this is—when you're doing a diving
5 response, emergency response, it's immediate.

6 Q. Thank you.

7 A. Immediate. Now, now, I'm not talking about immediate—

8 Q. Yuh realize—

9 A. Just now—

10 Q. Pause, pause for a moment.

11 A. Wait, wait—

12 **Mr. Chairman:** One at a time, please.

13 **Mr. Donawa:** I believe I'm speaking.

14 **Mr. Chairman:** Just a moment, just a moment. Both of you,
15 please, just a moment. I can only—

16 **Mr. Ramadhar:** Don't watch meh so [*Inaudible*]

17 **Mr. Chairman:** I can only keep a note, and we can only have
18 a record of the events if one of you speaks at a time. Mr.
19 Ramadhar, he's giving his explanation. If he goes too far I will
20 stop him.

21 **Mr. Ramadhar:** Thank you.

22 **Mr. Chairman:** He's giving his explanation. Let him give it,
23 please.

24 **Mr. Donawa:** So therefore, an emergency response plan
25 should have kicked in. Not anyone else's other than Mr.
26 Boodram's, Fyzie, and the others. Whatever emergency
27 response plan or process for assisting a diver that has been

1 injured, trapped, or any incident related to that team member,
2 should have kicked in immediately without any waiting for a
3 third party, or fourth party, or fifth party; nothing.

4 **Continued Cross-Examination By Mr. Ramadhar:**

5 Q. Let's blame the dead.

6 A. No. That not what I'm saying.

7 Q. Yes.

8 A. No, that's not what I'm saying. So if that's the way you wish,
9 then that is it.

10 Q. I don't wish anything.

11 A. Then that is it. But that is not what I'm saying.

12 Q. All right. Well, let's—

13 A. So don't say blame the dead. It's not the dead. At the time
14 they weren't dead. At the time they were doing a job to the best
15 of their ability and they should have had that emergency
16 response that is necessary to help their counterparts in times of
17 this situation.

18 **12.55 p.m.**

19 Q. Thank you so much. You appreciate that the incident occurred
20 around three o'clock?

21 A. That's the time I'm, I'm—

22 Q. Yes.

23 A. —I'm told.

24 Q. You appreciate that Mr. Boodram came out around 5.00, 5.30
25 thereabouts?

26 A. Yes.

27 Q. Yes. You appreciate, notwithstanding the team may not have

1 had a plan or whatever to execute, that there were others who
2 should have taken some responsibility to help rescue the men,
3 yeah?

4 A. Not without a plan.

5 Q. Right.

6 A. A plan has to be put in place—

7 Q. Yeah.

8 A. —to do what you are saying.

9 Q. Right. So that when, when Boodram came out, at that point in
10 time would have been the perfect moment moving forward
11 from that time to execute a plan?

12 A. But by whom?

13 Q. Well we'll come to that. You are defending Paria [*Inaudible*]
14 as you are?

15 A. I am not defending anyone.

16 Q. Well it sounds much like that, Sir.

17 A. Well this is what I would have done, if—

18 Q. Yeah.

19 A. —I, as the individual—

20 Q. Yeah.

21 A. —was running a programme such as that.

22 Q. There you go.

23 A. And it has—

24 Q. Would it surprise you—

25 A. It has nothing to do with Paria, Sir.

26 Q. Of course not. Money to come, isn't it? Contracts to be made?

27 A. I, I, I—

1 **Mr. Peterson SC:** Chairman, this is not—

2 A. —I disagree with that and I don't think that is your right to tell
3 me something like that.

4 Q. I am putting it to you that you expect further work.

5 A. Well, you could—

6 **Mr. Peterson SC:** Mr. Chairman, with the greatest of respect
7 to my friend, Mr. Ramadhar, this is not my witness but you
8 can't be making wild allegations like that unless you plan to
9 call evidence to back it up. It's insulting to a witness who has
10 come to assist the Commission, I don't know how, by what
11 means he came, whether by subpoena or whatever, but I can't
12 sit here and hear this being done uninterrupted.

13 **Mr. Chairman:** First of all, the suggestion is being made to
14 you that the reasons why you're saying what you're saying is
15 because you are hopeful of obtaining further work, through
16 OTSL, with Paria. Is there any truth in that at all?

17 **Mr. Donawa:** Absolutely not.

18 **Mr. Chairman:** Right. Well then we'll move on. Mr.
19 Ramadhar.

20 **Mr. Ramadhar:** Thank you.

21 **Continued Cross-Examination By Mr. Ramadhar:**

22 Q. So standing, sitting as you are today, you have, you have such a
23 capacity to know and to tell all of us on the record under your
24 oath that that pipe hadn't stabilized at the time when
25 Christopher came out?

26 A. I said it was of my opinion—

27 Q. Yes.

1 A. —that there still was Delta P—

2 Q. Of course.

3 A. —there. I am not an engineer. You had an engineer do the
4 work to say that Mr. Boodram came out on his own power,
5 right, and steam, because there was no Delta P, right? I say and
6 what I said was, there was no way to know that there was any
7 additional Delta P within the pipeline.

8 **Examination By Mr. Chairman:**

9 Q. Right. So that I'm clear about that, Mr. Donawa, are you
10 saying that it is your belief that there was a Delta P in the
11 pipeline, an existing Delta P in the pipeline, or that there was a
12 risk that there was still a Delta P?

13 A. There is a risk that there was still Delta P in the pipeline.

14 Q. Right. So your position is, it may not have been, but my—I had
15 to—I would take the view that there was a risk of a Delta P
16 event that could occur in that pipeline?

17 A. Correct, and diving is a risk-based management program.

18 Q. No, no, I understand, I understand entirely that. So your
19 position is, “Before I was prepared to—before I would be
20 prepared to commit anybody going into that pipe to effect a
21 rescue, I would have to consider the question of whether there
22 was a risk of a secondary event by way of Delta P”?

23 A. Correct.

24 Q. That's your position, isn't it, right?

25 A. That is my position.

26 **Mr. Chairman:** Okay.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. You appreciate that this is an imperfect world, nobody is
2 infallible?

3 A. I don't know how to answer that question.

4 Q. So you think it's a perfect world?

5 A. I never said so.

6 Q. I'm asking you.

7 A. Well, I can't answer that question. I don't know how to answer
8 you.

9 Q. You think there's anybody that's infallible?

10 A. I'm sure you're not infallible, so if you're not infallible—

11 Q. I'm very fallible—

12 A. —I'm not infallible.

13 Q. Beautiful. So that your opinion, your opinion is not necessarily
14 a hundred per cent accurate?

15 A. And nor is yours.

16 Q. You, you want to, you want it that way?

17 A. No, I don't want it that way.

18 Q. Good.

19 A. But the of the matter is it's my opinion.

20 Q. Your opinion but you appreciate your opinion could be wrong?

21 A. And I appreciate that my opinion can also be correct.

22 **Mr. Chairman:** Yeah, well it will be for us to decide what
23 evidence we accept or don't accept.

24 **Mr. Ramadhar:** Thank you.

25 **Mr. Chairman:** He's a man of 30 years' experience in the
26 field and he's entitled, it seems to us, to an opinion based on
27 that. What weight we give it compared to the rest of the

1 evidence is a matter entirely for us.

2 **Mr. Ramadhar:** Thank you so much Mr. Chairman.

3 **Continued Cross-Examination By Mr. Ramadhar:**

4 Q. Now. You appreciate that up till today, there was no
5 confirmation that there was a clear and present danger and an
6 existing Delta P, up till today, after the accident. With all the
7 experience that you've had, all the knowledge that you've come
8 with.

9 A. My information was based on the communication with the
10 Heritage team at the time.

11 Q. Heritage?

12 A. Yes. I think that's what my statement says. Right? This has
13 nothing to do with Paria. Right? This is the Heritage team. I
14 had no communications with Paria, right? This is the Heritage
15 team because the Heritage team was lending assistance to the
16 Paria team, right? So our communication was clearly and only
17 with Heritage, my own.

18 Q. And who—

19 A. As to, as to the rest of my team who are part and parcel of
20 supporting Heritage, I, I don't know what communication they
21 had.

22 Q. Thank you very much.

23 A. Okay?

24 Q. So thanks for that bit that we overlooked. So are you at present
25 engaged in any contract with Heritage?

26 A. If we are?

27 Q. Engaged in any contract with Heritage?

1 A. Yes we are.

2 Q. Thank you. Who did you speak with, if at all, from Paria to get
3 any information that evening?

4 A. I didn't speak with anyone—

5 Q. Thank you.

6 A. —From Paria.

7 Q. So you appreciate the quality of your information was not of the
8 best source?

9 A. Define that.

10 Q. Well, your live and direct information from somebody who is
11 on site is best than that information which is relayed through a
12 third party?

13 A. Well, our point of contact was the Heritage command person
14 who was, I—if I'm not mistaken and you'll have to find out on
15 your own—was part of that incident team with Paria.

16 Q. And who is that? Who is that person?

17 A. What, what do you mean who is that person?

18 Q. From Heritage?

19 A. Well Heritage, that's Osei Flemming. It's in my statement.

20 Q. Thank you.

21 A. Right?

22 Q. We're interested in the—

23 A. And that's the only communication that I've had with anyone
24 from Heritage.

25 Q. Thank you so much. Mr. Flemming. Now, could we—

26 **Mr. Ramadhar:** Forgive me, the paragraph Mr. Maharaj, from
27 Mr. Zaid Khan's opinion, could we have that brought forward,

1 please?

2 **Mr. Chairman:** Just before you deal with that—

3 **Examination By Mr. Chairman:**

4 Q. Can I ask you, you said in your statement, Mr. Donawa, that
5 you had a conversation with Mr. Osei Flemming, Heritage
6 HSE's lead, and then you said, "and several others whose
7 names I do not recall"?

8 A. Yeah. I don't want to—I don't know who they were.

9 Q. No, but were they Heritage people?

10 A. Yes.

11 Q. Or were they Paria people?

12 A. As far as I know they were Heritage people.

13 **Mr. Chairman:** Right, thank you. Sorry.

14 **Mr. Ramadhar:** Sir?

15 **Mr. Chairman:** Yes.

16 **Mr. Ramadhar:** Or, thank you so much.

17 **Continued Cross-Examination By Mr. Ramadhar:**

18 Q. Look at that paragraph marked four and five, yes? Is it visible
19 to you and clear?

20 A. Yes it is.

21 Q. Could you read it to us please?

22 A. Why don't you read it to me?

23 **Mr. Chairman:** He's asked you to read it.

24 **Mr. Donawa:** All right. "Prior to Mr. Christopher Boodram's
25 rescue"—would you like me to continue?

26 **Mr. Chairman:** Yes.

27 **Mr. Donawa:** Yes, thank you.

1 **Continued Cross-Examination By Mr. Ramadhar:**

2 Q. Do you see why we—

3 A. “—the entire system stabilized and equalized itself at
4 both ends of SL36 and thus allowed Mr. Boodram to
5 negotiate the pipe without any disruptions. As the
6 system was static, the condition was the best opportunity
7 to attempt a rescue to remove the—as removing the blank
8 at berth 5 or shutting down the compressor would have
9 released the stored potential energy”—and I’m assuming
10 it’s the compressor at the habitat—“for the compressed
11 air and thus disturb the equilibrium thereby implying any
12 divers air pockets.”

13 Q. Imperil?

14 A. “...imperil any divers in air pocket.”

15 Q. All right, let’s look at the first line. Tell me which part of that
16 first line you disagree with?

17 A. Which part of this first line?

18 Q. Yes, the first line four and five.

19 A. When—let me ask you a question, all right?

20 **Mr. Chairman:** No, no, no I’m afraid you can’t.

21 **Mr. Donawa:** Okay.

22 **Mr. Ramadhar:** If you—

23 **Mr. Chairman:** Just a moment please, Mr. Boodram [*sic*], if
24 you don’t—Mr. Donawa. If you don’t understand something—

25 **Mr. Donawa:** Yes.

26 **Mr. Chairman:**—by all means you can say you want
27 clarification.

1 **Mr. Donawa:** All right, yes.

2 **Mr. Chairman:** What you can't do is ask questions of counsel.
3 If you have a problem you can ask me, all right?

4 **Mr. Donawa:** Yes, sure.

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 A. So, can you repeat your question, please?

7 Q. Certainly. Which part, which—that first line, which part of it
8 you disagree with?

9 A. Well, this is after the fact.

10 Q. Sir, you gave an opinion. Let's hear—

11 A. But this is—this is after—this here is after the fact of my
12 communication with the Heritage team.

13 Q. I'm not—

14 A. So, so at that time—

15 Q. Uh-huh.

16 A. —at that time we didn't have this information. So you're
17 asking me to comment—

18 **Examination By Mr. Chairman:**

19 Q. No, no, no—yes, we understand—

20 A. Right.

21 Q. —there's a distinction between what you were telling Heritage
22 on the day in question and the days that followed.

23 A. Right, yeah.

24 Q. What you've been asked, both by Mr. Maharaj—

25 A. Yes.

26 Q. —and now Mr. Ramadhar, is, what is it about this particular
27 paragraph that's being drawn to your attention that you disagree

1 with. All right? And so the way in which Mr. Ramadhar is
2 doing it I suspect is taking you through it line by line to see
3 which parts of it you disagree with.

4 A. Right. So, so, to allow Mr. Boodram to come out the pipeline,
5 he would have—the, the flange was off at berth 5. I'm just
6 seeking clarity.

7 Q. No.

8 A. No.

9 Q. And I am anxious that we are clear that, um, you have made an
10 assertion—

11 A. Uh-huh.

12 Q. —that when this paragraph was brought to your attention by
13 Mr. Maharaj that you disagree with it. As I understood what
14 you were saying was you disagreed with the suggestion that the
15 entire system had stabilized and equalized itself at both ends of
16 SL36. That is what I understood you to be disagreeing with.
17 Have I understood you correctly?

18 A. Yes.

19 Q. You're saying that there remained a latent Delta P potential in
20 that pipeline?

21 A. Correct.

22 Q. Is that the extent to which you disagree with that paragraph?

23 A. Correct.

24 Q. There's nothing else with which you disagree?

25 A. No.

26 Q. Thank you.

27 **Continued Cross-Examination By Mr. Ramadhar:**

1 Q. Would you just permit me? I appreciate what His Ludship—

2 **Mr. Chairman:** No, I won't. I'm not going to allow you to go
3 through it line by line. We've established what needs to be
4 established.

5 **Continued Cross-Examination By Mr. Ramadhar:**

6 Q. Maybe I missed it. What exactly you disagree with in that
7 paragraph?

8 **Mr. Chairman:** I've just made it clear and he's just agreed.
9 The part that he disagrees with is that the entire system
10 stabilizes and equalized itself at both ends of SL36. In other
11 words, he is of the view—

12 **Mr. Ramadhar:** Yes.

13 **Mr. Chairman:**—that there remained a potential for Delta P in
14 the pipeline at that time.

15 **Continued Cross-Examination By Mr. Ramadhar:**

16 Q. Yeah. We appreciate there's always a potential for anything,
17 but do you disagree hat at that time when he escaped that pipe
18 that the system was static?

19 A. No. I don't disagree with—

20 Q. Right.

21 A. —I don't agree with it.

22 Q. Do you disagree that the condition was the best opportunity to
23 attempt a rescue as removing the blank at berth 5 or shutting
24 down the compressor would have released the stored potential
25 energy from the compressed air and thus disturb the equilibrium
26 and thereby imperilling divers in the air pockets? You disagree
27 with that?

1 A. I, I really don't know how to answer your question.

2 Q. It's either you disagree or agree.

3 A. It's not as simple as that. You're talking about—

4 Q. No, no, there is a statement—

5 A. You're talking about, you're talking about what, me putting
6 people in a pipeline or somebody else putting—

7 Q. No. Nobody asked you about that.

8 A. I'll disagree. My—I have answered you and I will answer you
9 again. I do not agree with it.

10 **Examination By Mr. Chairman:**

11 Q. Well, we need to be clear what it is that you're disagreeing
12 with.

13 A. I, I, um—

14 Q. Mr.—

15 A. Yeah, go ahead sorry. My apologies.

16 Q. Mr. Donawa—

17 A. Go ahead.

18 Q. —Mr. Donawa, we need to understand precisely what it is that
19 you disagree with. I had understood you to say that you agreed
20 with everything in that paragraph except that you did not accept
21 that the, um, the entire system had stabilized and equalized
22 itself at both ends of SL36. You took the view that there
23 remained a latent or a risk of a latent Delta P event—

24 A. Correct. And in my—

25 Q. Nothing else about that paragraph, read it again to yourself
26 please, there's nothing about that paragraph with which you
27 disagree other than that? That's what I understood you to say

1 to me—

2 A. Yes.

3 Q. —a few moments ago.

4 A. Correct.

5 Q. That remains the position, is it?

6 A. Yes.

7 Q. Right.

8 **Mr. Chairman:** Well I think we've flogged that particular
9 horse as much as we possibly can, Mr. Ramadhar.

10 **Mr. Ramadhar:** Thank you very much.

11 **Continued Cross-Examination By Mr. Ramadhar:**

12 Q. Did it ever come to your attention that efforts were made to
13 endeavour a rescue but that Paria ordered it not to go forward,
14 close to that time?

15 A. I am not aware of that.

16 Q. No. And from your wide experience, your 30-odd years in the
17 diving business, what time frame, if you had an emergency like
18 that, would you consider it necessary to actually endeavour a
19 rescue?

20 A. As immediate as possible. Therefore the procedure and the
21 planning and the process would have catered for that.

22 Q. Thank you so much.

23 **Mr. Ramadhar:** I have nothing further for this flogged
24 witness.

25 **Mr. Chairman:** I clearly should have catered for that.

26 **Mr. Ramadhar:** Correct.

27 **Mr. Chairman:** Yeah. All right, are there any questions from

1 anyone else?

2 [*Ms. Nyree Alfonso raises her hand*]

3 **Mr. Chairman:** Well, you've had your opportunity, if I may
4 say so Ms. Mootoo—ah, Ms. Mootoo. I've done that again,
5 haven't I, because I was coming to you—no, Ms. Nyree
6 Alfonso. I asked earlier and you didn't put your hand up and
7 I'm not—what I'm not going to permit is this, if somebody asks
8 questions that come after you for you to then go back and see if
9 you can clarify it. You didn't have your hand up.

10 **Ms. Alfonso:** Mr. Chairman, that actually wasn't—there's no
11 question that evolves out of Mr. Ramadhar's cross that I had—I
12 had two or three questions to ask, but Mr. Ramadhar was
13 already on his legs when I was putting up my hand.

14 **Mr. Chairman:** Well, I did ask.

15 **Ms. Alfonso:** And I—this time I admit I was slow. The last
16 time you didn't see me but I say this time I apparently was too
17 slow.

18 **Mr. Chairman:** I looked specifically at you because I was
19 accused of not seeing you last time. Noting that it's quarter
20 past 1.00 are you—have you got 5 minutes or so? Is that it?

21 **Ms. Alfonso:** And I—Mr. Chairman, I can assure you in 5
22 minutes I would be, er—my questions to Mr. Donawa would be
23 completed—

24 **Mr. Chairman:** All right—

25 **Ms. Alfonso:**—and answers thereto.

26 **Mr. Chairman:**—subject to that, does anyone else have
27 questions? No? All right. Well Mr. Wilson may have and Mr.

1 Maharaj may want something, but, can we have your 5 minutes
2 of questions please? And then—

3 **Ms. Alfonso:** Thank you very much, Mr. Chairman.

4 **Mr. Chairman:**—hopefully we can take lunch.

5 **Cross-Examination By Ms. Alfonso:**

6 Q. Good afternoon, sorry, Mr. Donawa.

7 A. Afternoon.

8 Q. Mr. Donawa, you are aware that Gulf Stream Eagle was
9 somewhere in the location next to these pipelines at berth 5 and
10 berth 6, yes, at some point in time?

11 A. Er, yes, they were, they were in—at the facility.

12 Q. At the facility?

13 A. Yeah.

14 Q. Okay. And Mr. Donawa, could you give us an idea how—
15 we've already heard that they departed without any
16 participation, but could you give us an idea how this vessel is
17 outfitted—

18 A. Um—

19 Q. —what kind of equipment she has on her?

20 A. She has a full surface air diving system with hats, dive hats,
21 hoses, cameras.

22 Q. Umbilicals?

23 A. Yes, umbilicals as well.

24 Q. You have any idea of the length of the umbilicals available on
25 the Gulf Stream Eagle?

26 A. Typically, depending on the water depth, they will either be 300
27 feet. If it's deeper than, than, you know, a couple hundred feet

1 then we would go with longer umbilicals, 600 feet.

2 Q. Okay, so somewhere between 300 and 600 feet?

3 A. Well in this case when the vessel was at Paria, because we were
4 working at Heritage, we would have had 300-foot umbilicals on
5 board.

6 Q. Okay. And do you have any idea how many umbilicals?

7 A. Generally two and a spare.

8 Q. Two and a spare. So three?

9 A. Yes.

10 Q. Okay, thank you, Mr.—Mr. Donawa, could you—okay, I
11 accept what you say with regard to Delta P and I'm not in a
12 position to believe or disbelieve you, but, would you be able to
13 assist as to whether if there was a potential of a second Delta P,
14 if you disagree with the In-Corr-Tech findings, would that be, I
15 think I heard the terminology from another witness, a minor
16 event, a significant event, a, you know, would that be equally
17 powerful as the original event which caused the five divers to
18 be sucked into the pipe?

19 A. It's a very difficult thing to say because it's, it's un, unseen and
20 for me to answer that question and say it's either in one of those
21 three categories is extremely challenging.

22 Q. Okay.

23 **Mr. Chairman:** I would go further and say it's
24 impossible, isn't it?

25 **Mr. Donawa:** Yes.

26 **Continued Cross-Examination By Ms. Alfonso:**

27 Q. And maybe I got it wrong but you'll correct me I'm sure. Did

1 you mention you didn't have a gauge, there was no way to
2 gauge the, the air pressure in the line or the pressures in the
3 line?

4 A. At that time, you already had one end open, one end closed.
5 You weren't going to be certain where, where that pressure was
6 going to receive that pressure reading from.

7 Q. Okay. So there would be no mechanism or equipment that you
8 could introduce into the pipeline—

9 A. And that's, that's why—

10 Q. —that would assist you with that?

11 A. No. That's why I had suggested immediately to the team that
12 called it's—to get an ROV, a crawler, into the pipeline because
13 that was the fastest way to mobilize something to get some
14 information or to find a, um, anything or anyone or—and, and
15 they found debris that was blocking the way. So that, that's
16 why I recommended a crawler instead of an ROV.

17 Q. You'll accept that the debris was a tank?

18 A. Um, I haven't seen the video.

19 Q. Okay.

20 A. That's what I've heard.

21 Q. You've heard that there was debris? Okay.

22 A. I've heard that it was a tank.

23 Q. A diving tank?

24 A. But I, I don't know what it was.

25 **Ms. Alfonso:** Okay, thank you Mr. Donawa.

26 **Mr. Donawa:** You're welcome.

27 **Mr. Chairman:** Thank you. All right, anything arising from

1 that? All right. Well there is—before I pass to Mr. Wilson just
2 a couple of things, please?

3 **Examination By Mr. Chairman:**

4 Q. First of all, mobilizing a crawler into the pipe wouldn't tell you
5 if there was a latent Delta P issue, would it?

6 A. No.

7 Q. Right.

8 A. It would not.

9 Q. Thank you. And secondly this, is that when you in your
10 paragraph 19 of your statement, please have a look, it says, "I
11 advised of the safety issues as there was no way to confirm that
12 the pipeline was totally equalized and flooded and free of the
13 possibility of a Delta P." That was the position then, wasn't it?
14 That's what advice you were giving them then?

15 A. Yes.

16 Q. But that was predicated on your being told previously that the
17 pipe was completely empty of fluid?

18 A. Yes.

19 Q. Thank you. Did you—when did you, if ever, discover that, in
20 fact, there was a considerable amount of fluid in the pipe or
21 may have been?

22 A. This, this was after the fact. This was—

23 Q. Long time later?

24 A. Yeah, yeah this was when Mr. Boodram was giving his
25 recollection or information—

26 Q. Right.

27 A. —with the sketches, et cetera.

1 Q. What, when he was in the—

2 A. No, this is post.

3 Q. Days, weeks, months?

4 A. I would think it was a, a week later, if I, if I recall.

5 Q. Long after the event had closed?

6 A. Yes.

7 Q. That is to say the bodies had been recovered?

8 A. Yes.

9 Q. Right, thank you very much. So, I just need to be clear, that
10 opinion that you expressed, that you gave to the Heritage team,
11 was predicated on the fact that you had been told the pipe had
12 been cleared of all liquids—

13 A. Correct.

14 Q. —prior to the Delta P event?

15 A. Yes.

16 Q. Thank you very much. Mr. Wilson, I think, has a question for
17 you?

18 **Examination By Commissioner Wilson:**

19 Q. Good morning, Mr. Donawa.

20 A. Good morning, Mr. Wilson.

21 Q. In your 30 years of planning and risk assessment of subsea
22 scopes diving, have you ever planned a dive for an inspection
23 along the pipeline?

24 A. Yeah, yes we have.

25 Q. And so on the topic of Delta P, let me back it back, in that
26 planning, what are some of the risk you had identified to the
27 operator and/or if an operator would identify a risk to you just

1 in the inspection of a pipeline?

2 A. All right, so a pipeline inspection what we typically would do is
3 to ensure that the vintage of the pipeline, how old it is.

4 Q. Uh-huh.

5 A. Um, because you can, you can have a, a—during an inspection
6 you may clean an area and there may be so much corrosion that
7 it, it, it had—develops a leak during the inspection. We've,
8 we've also catered for, in that risk assessment process, to
9 ensure that the pipeline is not void of a liquid.

10 Q. Okay.

11 A. All right? Um, if the operator—

12 **Examination By Mr. Chairman:**

13 Q. Sorry, say that again?

14 A. Void of a liquid. Meaning there is—

15 Q. Not void of a liquid.

16 A. Yeah, yeah, not void of a, meaning that there is liquid in the
17 pipeline. We ensure that there's liquid in the pipeline, ensure
18 that there's an equal to the bottom pressure, saltwater bottom
19 pressure.

20 Q. Sorry, just again, before you're conducting the inspection of the
21 outside of a pipe, you would want to know the vintage, how old
22 it is?

23 A. Yes.

24 Q. Because if you're scraping off some part of the pipe that is
25 obviously corroded or whatever like that, it might then create a
26 hole?

27 A. Yes.

1 Q. Which might have the effect of creating a Delta P?

2 A. Yeah, if the—if that pipeline is in fact empty or out of service.

3 Q. Yeah, I've got that. That's one of the first things that you
4 would want to make sure of?

5 A. Yes.

6 Q. And when you say the pipeline should not be devoid of liquid,
7 in other words it should be full?

8 A. Yes.

9 Q. And when I say full I mean do we mean by that approximately
10 full or completely full?

11 A. Completely full. It could be at a lower pressure but once it's
12 full of liquid.

13 Q. Full?

14 A. Yes.

15 **Mr. Chairman:** Thank you. I'm sorry.

16 **Examination By Commissioner Wilson:**

17 Q. Is that industry practice?

18 A. Generally industry practice states to avoid all Delta P scenarios.
19 Over the years that has developed from incidents that have
20 occurred and lessons learned from those incidents.

21 Q. All right. So, where I want to go with that is, um, in your
22 experience and planning, and I want to kind of factor in human
23 conditioning, human thinking—

24 A. Yes.

25 Q. —what you're conditioned to through that experience and/or
26 industry practice. Are there any standards that point to a
27 pipeline should not be void anywhere along the length of the

1 pipeline?

2 A. Um, well, in standards such as, um, OGP 411, IMCA there's
3 always a section—

4 Q. Just a second, sorry, could you clarify OGP 411, IMCA for
5 the—

6 A. Yes. So OGP 411 is the standard for diving under the oil and
7 gas producers.

8 Q. Uh-huh.

9 A. And IMCA is the International Marine Contractors Association
10 and also the Association of Diving Contractors International,
11 the ADCI.

12 Q. Uh-huh.

13 A. All of those people who put standards out have included a
14 section in there for Delta P or for recognition for planning in
15 Delta P—

16 Q. Uh-huh.

17 A. —or working in a Delta P environment. So, they don't tell you
18 what those scenarios are but they, they give you the guidelines
19 what you need to do to look for Delta P, all right, or to cover
20 those Delta P scenarios, that Delta P exists in not just pipelines
21 alone, right? They exist in other areas.

22 Q. Okay. Just taking into account what you just said, just in
23 layman terms, those standards really granular, diving next to a
24 pipeline, what needs to be considered. I'm asking it a different
25 question but from the standards side?

26 A. Yeah from the standards side without going into verse and
27 paragraph—

1 Q. Uh-huh.

2 A. —they, they will identify within those standards that what
3 certain working conditions should be based on how you
4 proceed at that work. So you're not going to go do scuba where
5 Delta P could be exist—can exist, right? They've moved away
6 from those things. Right? They've outlined that. Scuba is not
7 for working at depths beyond a certain depth. Scuba is not for
8 working in working environment dives, meaning cutting,
9 burning, grinding, scuba is not meant for working around
10 pipelines.

11 Q. Well, where I was going with it is it's, um, the condition of the
12 pipeline rather than methodology of dive?

13 A. Right, yes. So the condition of—they, they don't say don't
14 work in a pipeline because it's 40 years old or 50 years old.

15 Q. No, not the vintage.

16 A. Right.

17 Q. In terms of the contents and that kind of thing.

18 A. The particulars of—

19 Q. The most granular—

20 A. Or, okay.

21 Q. The most granular thing when you're taking into consideration
22 the risk control.

23 A. Right.

24 Q. Like, do you, how do you—like there's the risk control
25 hierarcree [*Phonetic*].

26 A. Uh-huh. Hierarchy.

27 Q. Hierarchy. Thank you. Mr.—

1 A. It's lunch. So you start with, I don't know if you're familiar
2 with that hierarchy.

3 Q. I'm not familiar with it the way you are outlining the—so what
4 you're doing is the granular risk. So what it says is if you a
5 diving next to a pipeline the risk in your risk matrix is higher.

6 Q. No, not the risk matrix, the hierarchy where we, um, and I offer
7 for your consideration where it starts with eliminate, engineer
8 out, straight down to PPE, if you're aware of that hierarchy.

9 A. Right, well, yes. So I know at some people where they do their
10 risk, some tasks had catered where doing that task it's a fatality
11 and from that—

12 Q. Uh-huh.

13 A. —you then move up to what are you going to do to reduce that
14 or remove that?

15 Q. Yes.

16 A. And then you take it to the next level.

17 Q. Yes.

18 A. So it's the upside down pyramid.

19 Q. Yes.

20 A. You start at the worst case scenario and you work your way
21 down as to what ifs. So, for example, if I were doing a job like
22 this, I would say we start at the highest risk, death, and then we
23 work are way down to mitigate what that risk is.

24 **Commissioner Wilson:** Thank you for that.

25 **Mr. Chairman:** This all presupposes recognizing
26 Delta P as an issue in the first place?

27 **Mr. Donawa:** Correct.

1 **Mr. Chairman:** Mr. Maharaj—oh sorry, you're finished? Mr.
2 Wilson has—

3 **Examination By Commissioner Wilson:**

4 Q. So moving on from that point, I just want to touch base on the
5 Gulf Stream Eagle. Do you know whilst they were standing by,
6 and I appreciate they were just standing by and they were—did
7 that team take any consideration to the incident that they were
8 responding to?

9 A. Well, meaning? They were asked—

10 Q. Meaning that—

11 A. They were asked to head to Pointe-a-Pierre.

12 Q. Uh-huh.

13 A. Right? Um, details—

14 Q. No, I'm talking about when they got on site—

15 A. Or on standing by?

16 Q. —they were standing by?

17 A. Sorry.

18 Q. Were they—did they start to try to pull together a plan, given
19 the information that they had whilst they were standing by?
20 Are you aware of any?

21 A. As far as I'm aware of they weren't.

22 Q. They just arrived and told to stand by?

23 A. Yes. Okay.

24 Q. Thank you for that. The last one, when you, when you were
25 engaged by Heritage, did anyone, or the person contacting you,
26 identify that it was the Heritage IMT or ICT contacting you?

27 A. No. They did not outline it like that.

1 Q. Okay.

2 A. What it was is I was not part of that contact team because the
3 way are business unit is set up, they contacted Mr. Bertrand.

4 Q. Uh-huh.

5 A. Then Mr. Bertrand, if he needs input from me, he will contact
6 me, which he did.

7 Q. Okay.

8 A. Right? So they were asked to provide support—

9 Q. Uh-huh.

10 A. —to Mr. Bertrand. Mr. Bertrand then called me, I then said yes
11 we should. We need to support as best as we can and we let the
12 asset leave Heritage under Heritage guidance—

13 Q. Right.

14 A. —for what needs to be done.

15 Q. And finally, if I could tease out of you that conversation with
16 Mr. Bertrand, he just—what was that conversation like in terms
17 of giving you information for the incident?

18 A. Um, it was, it was very, um, limited—

19 Q. Uh-huh.

20 A. —as it—everything was happening so quickly, right, um, they
21 wanted us to, to head, head up and, and, take instructions as we
22 arrived and which we did.

23 Q. Or, take instructions. Okay, thank you for that. Right.

24 **Mr. Chairman:** Yes, Mr. Maharaj. Sorry, I should have—

25 **Mr. Mootoo:** Yes, Mr. Chairman, I just have one or two
26 questions or really one question arising out of your questioning
27 in relation to paragraph 19.

1 **Mr. Chairman:** Of course. Sorry, I should have invited
2 anybody who wanted to—out of that. Please do.

3 **Mr. Mootoo:** Thank you.

4 **Cross-Examination By Mr. Mootoo:**

5 Q. Good afternoon, Mr. Donawa.

6 A. Good afternoon.

7 Q. My name is Jason Mootoo and I'm one of the attorneys for
8 Paria. The chairman asked you in relation to question 19
9 whether the advice that you—forgive me, paragraph 19 of your
10 statement—

11 A. Yes.

12 Q. —whether the advice you gave was premised on the
13 information that the line was dry and I believe you said yes?
14 My question to you is this. Would you—would that advice, the
15 safety advice you gave in paragraph 19, would that advice have
16 remained the same if you were told that the, not that the line
17 was dry but that air pockets remained in the line?

18 A. You're going to have to break that that down for me a lil bit.

19 Q. Sure.

20 A. So I can—yeah.

21 Q. Okay. Up at paragraph 13 of your witness statement you were
22 told—your evidence is you were told that the line was dry.

23 A. Correct.

24 Q. At paragraph 19 you say you gave certain advice as to safety
25 issues. You told the Chairman that those—that advice which
26 you gave was based on your understanding that the line was
27 dry. My question to you is, would that advice have remained

1 the same if you were told not that the line was dry but that air
2 pockets remained in the line?

3 A. So, paragraph 19 was based on the meeting with Heritage when
4 they called us in to discuss a recovery.

5 Q. Yes.

6 A. Right. Um, and the concern was that would, there—for us, was
7 that there were still air pockets in the line or can have air
8 pockets in the line.

9 Q. Okay, am I therefore understanding you to say that whether the
10 line was completely dry—

11 A. Uh-huh.

12 Q. —or whether it was partially dry—

13 A. Right.

14 Q. —and air pockets remained, your advice that there were safety
15 concerns would have remained?

16 A. Yes.

17 **Mr. Mootoo:** Thank you.

18 **Mr. Chairman:** Yes.

19 **Cross-Examination By Mr. Hosein-Shah:**

20 Q. Good afternoon, Mr. Donawa. Just two quick things.

21 **Mr. Chairman:** Does it arise—

22 **Mr. Hosein-Shah:** Yes.

23 **Mr. Chairman:** Does it arise from questions I myself or Mr.
24 Wilson have asked?

25 **Mr. Hosein-Shah:** Mr. Wilson.

26 **Mr. Chairman:** All right.

27 **Continued Cross-Examination By Mr. Hosein-Shah:**

1 Q. In response to Mr. Wilson's question with respect to the use
2 scuba in certain environments, what would be your opinion on
3 the use of scuba in a habitat environment?

4 A. Absolutely not.

5 Q. And what would be the appropriate equipment?

6 A. Complete surface supplied hat and hose.

7 Q. Sure. And then, finally you mentioned two standards in
8 response to Mr. Wilson, the OGP 411 standard and the IMCA
9 standard.

10 A. Yes.

11 Q. Would you be in a position to provide copies of those standards
12 to the Commission?

13 A. I can.

14 Q. Thank you.

15 **Mr. Chairman:** They're available online.

16 **Mr. Hosein-Shah:** I tried to pull the IMCA one but it has a
17 pay wall.

18 **Mr. Chairman:** Or, you have to be a member? Talks to Mr.
19 Wilson. [*Crosstalk*] We'll get it.

20 **Mr. Hosein-Shah:** Thank you.

21 **Mr. Chairman:** Mr. Maharaj, I just want to make a note of
22 what was said.

23 **Examination By Mr. Chairman:**

24 Q. So you told Mr. Hosein-Shah that in answer to his question
25 about working with scuba in the habitat you said absolutely not
26 working in the habitat with scuba.

27 A. There should be no work done with the scuba.

1 Q. Yeah, I understand that. No scuba. Surface supply only?

2 A. Yes correct.

3 Q. And hat?

4 A. Hat, hat, er, a diving hat which is a solid like a helmet.

5 Q. Could you have look at the one we've got? [*Mr. Donawa*
6 *shown helmet by Mr. Wilson*]

7 A. That is it.

8 Q. Do you mean that?

9 A. That is correct. That is designed to take a impact. It's designed
10 to provide free and clear air flow.

11 Q. Looks like it's designed to break your neck, frankly. Can
12 you—

13 A. Well, yeah, if you try to run around.

14 Q. It's an extremely heavy piece of equipment.

15 A. Correct.

16 Q. Is it your evidence that that should be worn in a dry
17 environment whilst the person is carrying out work?

18 A. No, not in a, not in a—in, in that case there's a different set up
19 for that.

20 Q. Right.

21 A. There's a full face demand.

22 Q. When you say a hard hat—when you said hat, you don't mean
23 that someone should have to be wearing that working in a dry
24 environment?

25 A. No. They go into the habitat with that, they put on a dry mask
26 and a head shield.

27 Q. All right. So they would—in order to get into the habitat they

1 go down into the water on the side, wearing a helmet like that?

2 A. Yes.

3 Q. Come up into the habitat which is now dry?

4 A. Good.

5 Q. They remove that helmet, take that off, yes?

6 A. Correct.

7 Q. Breathing the air that is in the habitat?

8 A. Well, it depends on the type of work that they're doing, so they
9 should be harnessed and—

10 Q. Leave aside the harness thing. I—

11 A. But yes.

12 Q. So I just want to be clear what you're saying, okay? The man
13 who's going into the habitat to do the work has to wear a
14 helmet like that to go down—

15 A. Yes.

16 Q. —10 feet or whatever it is, not very far but about 10 feet
17 down—

18 A. Yes.

19 Q. —come up into the habitat.

20 A. Correct.

21 Q. When he comes up into the habitat, he's now in a dry
22 environment?

23 A. Correct.

24 Q. This thing is weighing on his shoulder. I mean, it's heavy, isn't
25 it?

26 A. Right.

27 Q. Now he's got to take that off.

- 1 A. Uh-huh.
- 2 Q. And he's got to put something different on?
- 3 A. Yes.
- 4 Q. Has he taken that down or is that in there already?
- 5 A. No, it should be set up in the habitat.
- 6 Q. Set up in the habitat? So he takes that off, puts that where,
7 hooks—on a hook somewhere?
- 8 A. Yes, there will be a stand or—they outfit the habitat
9 appropriately.
- 10 Q. Right. While he's doing that, he's got—has he got to
11 disconnect the air?
- 12 A. No, no. That stays connected to the air at all times.
- 13 Q. This does, the helmet?
- 14 A. Yes.
- 15 Q. But when he takes that off his head is he—now, what air is he
16 breathing?
- 17 A. He has—he will use a full face light—
- 18 Q. No, no, he has to put that on?
- 19 A. Yes, he's breathing the air—
- 20 Q. [*Inaudible*] the two?
- 21 A. Yeah, and that's connected to—through a hard point in the
22 habitat to the surface.
- 23 Q. All right. But when he takes that off, what air is he, breathing?
- 24 A. He can breathe the air in the habitat for a short period of time.
- 25 Q. Right. Okay. So he's now—taken out—I just want to be clear,
26 he's taken that off?
- 27 A. Yeah.

1 Q. He's now, like I am, perhaps not wearing a tie?

2 A. Yes.

3 Q. But he's in there without any breathing equipment other than
4 what's in the habitat?

5 A. Yes. And the risk, and the risk assessment will define what
6 needs to be worn at what periods of time.

7 Q. Okay. And then he's now putting on a different kind of mask.
8 Is it full face mask?

9 A. Yes.

10 Q. And he's got some sort of—

11 A. Head protection.

12 Q. Head protection, right, whilst he's in the habitat?

13 A. Yes.

14 Q. Then he can carry on the work, and that sort of mask is a lot
15 lighter than that, is it?

16 A. Extremely.

17 Q. Yeah, okay, thank you. I just needed to be clear to understand
18 what you're saying. All right, so, surface air supply only and a
19 hat to access the habitat. Yes. And then change to a
20 lightweight hat whilst carrying out the work. Have I got that
21 right?

22 A. Correct.

23 Q. Thank you. And that is something which, in your view, should
24 be standard in this kind of work?

25 A. Yes.

26 Q. And that should be recognized not only by those who are
27 performing the work but those who are asking for the work to

1 be performed?

2 A. That's what the standard's supposed to do.

3 Q. Yeah. Thank you very much indeed.

4 **Mr. Chairman:** Mr. Maharaj.

5 **Further Examination By Mr. Maharaj SC:**

6 Q. Mr. Donawa, I only want to—I want to ask you one question in
7 respect, and that has to do with your opinion that there was a
8 risk of a secondary Delta P. We had evidence here that after
9 Mr. Boodram came out, Mr. Michael Kurban went into the
10 pipeline and he came out and he was okay. Do you still
11 maintain your opinion that there was a risk of a second Delta P.

12 A. Yes I do.

13 Q. Okay.

14 **Mr. Maharaj SC:** That's it.

15 **Mr. Chairman:** All right, thank you very much. Well, that
16 will be it then for lunch. It's a little bit late for lunch, I'm
17 afraid, folks. So thank you very much, Mr. Donawa, for
18 coming. You're free to go and do as a you please now. All
19 right?

20 **Mr. Donawa:** Okay, thank you.

21 **Mr. Chairman:** You can go. What I'm going to say is, can we
22 have a slightly shortened lunch? Would we be content with 20
23 past 2.00? Yes? Good. I hear no dissenters. So 20 past 2.00
24 please, when we will first, I believe, hear from the witnesses
25 who I have approved can give their evidence in relation to the,
26 um—as family members, with the two reserved as I've
27 indicated. So that's what we will do when we return. Thank

1 you very much. Twenty past 2.00 please?

2 **1.40 p.m.:** *Enquiry suspended.*

3 **2.27 p.m.:** *Enquiry resumed.*

4 **Mr. Chairman:** Okay, I'm sorry to have kept you. A couple
5 of issues arose which I had to deal with. Right. So the first
6 witness, I understand, Mr. Maharaj, is going to be Vanessa
7 Kussie, is that right?

8 **Mr. Maharaj SC:** Yes.

9 **Mr. Chairman:** Where do I find it, please? Actually I've got
10 it separately. Yes, I've got it. I've got it. That's fine.

11 [*Ms. Vanessa Kussie enters enquiry room and is sworn*]

12 **Ms. Kussie:** I, Vanessa Kussie, solemnly swear that the
13 evidence I shall give to this Commission in this case shall be
14 the truth, the whole truth and nothing but the truth.

15 **Mr. Chairman:** Please, take a seat. Ms.—am I pronouncing
16 your name correctly, it's Vanessa Kussie.

17 **Ms. Kussie:** Kussie.

18 **Mr. Chairman:** Now pull that down towards you a little and
19 bring the whole thing a little bit towards you, all right? That's
20 it. Now that bottle of water is there for you to use, all right, and
21 I know that this is not going to be easy for you.

22 **Ms. Kussie:** No, it's not.

23 **Mr. Chairman:** We appreciate your coming along to tell us
24 what you have to say. You are unrepresented. That's not a
25 problem. I'm here to look after you, all right?

26 **Ms. Kussie:** Yes.

27 **Mr. Chairman:** So you take your time. You've provided a

1 statement to us which is in the bundle and everybody here has
2 it. All right? What you need to understand, Ms. Kussie, is
3 there's not a single person here who does not have a
4 considerable degree of sympathy for your position, all right?
5 So you take your time, just pause if you need to pause, it's
6 entirely up to you because I understand what you're going to do
7 is you're going to read the statement that you've provided for
8 us, all right? It's got a few pages so take a little while. And
9 you just take it—you want a break you just ask me for a break.
10 All right? You want to pause for a minute, take a drink of
11 water, you do that. All right? This is intended to provide you
12 with the best possible environment in which you can give your
13 evidence for everyone to hear. All right?

14 **Ms. Kussie:** Yes.

15 **Mr. Chairman:** So make sure you speak clearly because
16 we've got to hear what you have to say. As I say, pull that
17 thing right towards you a little bit. That's it.

18 **Ms. Kussie:** Yes, Sir.

19 **Mr. Chairman:** You've got the statement in front of you,
20 haven't you?

21 **Ms. Kussie:** Yeah.

22 **Mr. Chairman:** All right? So you start when you're ready, all
23 right, and tell us what it is that you've put into that statement
24 for us all to consider. All right?

25 **Ms. Kussie:** This is my statement that what I've been going
26 through since February.

27 **Mr. Chairman:** Well you start off by telling us at—

1 **Ms. Kussie:** Yes.

2 **Mr. Chairman:**—paragraph one, I am the common-law wife—

3 **Ms. Kussie:** Wife of—

4 **Mr. Chairman:**—of the late Rishi Nagassar.

5 **Ms. Kussie:** Rishi Nagassar.

6 **Mr. Chairman:** Right.

7 **Ms. Kussie:** [*Inaudible*]

8 **Mr. Chairman:** Take it from there if you would, please?

9 **Ms. Kussie:** What I want to say, Sir, is that prior to this what
10 I'm going to say now, my husband and I had this conversation
11 before this tragedy had happened two days before it had
12 happened. So I were like a detective asking him questions, and,
13 when it came to reality it was my nightmare. So what I'm
14 stating here is what I had went through personally.

15 **Mr. Chairman:** Yes.

16 **Ms. Kussie:** Okay?

17 **Mr. Chairman:** Right. Well that's what we want to hear.
18 Yes.

19 **Ms. Kussie:** I, Vanessa Kussie, state as follows. I am the
20 common law wife of the late Rishi Nagassar. We were together
21 for 13 years. Our son, Nashhik Ranveer Nagassar is three years
22 old. Rishi was also known as Ryan at home and as Blacks at
23 work. I called him Ryan. Ryan was a diver. He was a
24 permanent employee of LMCS. He worked for LMCS for over
25 25 years.

26 Friday, 25th February, 2022. On the 25th February, 2022
27 I received a phone call about 5.00 p.m. from my sister-in-law,

1 Ria. She asked if Ryan was at home or at work. I told her he
2 went to work. I heard the trembling of her voice and she asked
3 if anyone called from LMCS. I said no. I asked her what
4 happened. She took a few minutes to answer. She said she did
5 not know how to tell me but she understood there was an
6 accident at work and Ryan, her brother, and others were sucked
7 into a pipeline Fuel Company Limited, Paria. She said that she
8 knows this because she knows someone out at sea who called
9 her and told her they had known Ryan as her brother and he's
10 one of the persons who was sucked into the pipe. This was the
11 first phone call I received.

12 About half an hour later, I got a phone call from someone
13 asking me to call a fisherman at sea. I had known this guy. His
14 name's Avinash. I waited and called him on my phone. He
15 told me that he had to tell me my husband died and he gave his
16 condolences to me. He told me they were looking for Rya's
17 body out at sea. I asked him how he got his information. He
18 said his coast guard—his friend, called him, told him they were
19 looking for bodies out at sea and they alerted all fishermen to
20 help look for them.

21 I then called LMCS' office but no one answered. I also
22 called some of Ryan friends. Nobody picked up. I started
23 panicking. My uncle Allan, a local councillor, called me. He
24 heard my voice and asked if I was sick. I told him no. He hung
25 up the phone and I called my mom and within minutes my
26 family was at my home. They heard my screaming. I was
27 screaming so loud, the corners of my street could have heard

1 me. I pounded the ground, I rushed to my son, Nashhik. I
2 picked him up. I went to my prayer room and I started to pray.

3 I kept calling Ryan's phone. I keep begging God to let
4 him answer his phone, but it kept ringing out. My uncle Allan
5 came and his wife Shamilla came out. He asked me what I
6 wanted to do. I just wanted to be at Paria. I told my uncle this.
7 Everyone who was at my home left. We would head up to
8 Paria. Within about half an hour or so we were at Paria, Pointe-
9 a-Pierre. This is about 6.30 to 7.30—7.00 p.m., sorry. When I
10 got there, I was still shaking.

11 My uncle Allan went up to the security at the entrance.
12 There were four of them. He told them he understood there was
13 an accident and we came to find out. He told them I was the
14 wife of Rishi. The reply from the security was this is the first
15 time they are hearing about an accident and they didn't know.
16 My uncle Allan asked the security officers for a phone number
17 to call a secretary at Paria. They said they had nothing to give
18 him. They didn't know the phone number at the office. He told
19 them, the security officers, he was a local government
20 councillor for Couva/Tabaquite/Talparo but they told him they
21 didn't have any number for him.

22 By this time we saw vehicles coming in and out of the
23 compound. We were right outside by the security booth on the
24 road. My uncle stopped a few vehicles and asked if there were
25 an accident inside. One person who said he works for Paria he
26 told us he understood there was an accident, the guys are
27 trapped in the pipeline but they are hearing knocking so don't

1 worry, Ma'am. He said they, Paria, was trying to help rescue
2 them. I then relaxed a little bit based on what I heard. My
3 uncle, Allan, told him Rishi Nagassar is my husband. The man
4 said, don't worry, Ma'am, we are going to get help. We are
5 going to get help for them. Help is on its way.

6 About five or 10 minutes or so, a few of LMCS workers
7 going into the compound, I saw them. I stopped them. One of
8 them known as Brown, he's one of Ryan's friends. He said he
9 cannot say much because Paria wasn't giving any information
10 about what is going on inside. Another person who was with
11 him, who's also an employee at LMCS, told me they were
12 stopped from getting help from the coast guard. I felt they
13 didn't want to scare me and were giving me like small details.

14 In less than half an hour, we saw an ambulance coming
15 out of Paria and, when they were halfway through, my uncle
16 Allan stopped the driver. He asked the driver if there were any
17 accident that took place in there. The driver said he didn't
18 know exactly what is going on but he can only say that
19 someone took—get took out from a pipe. He wasn't even sure
20 if was a pipe or if he got injured but he was full with oil. They
21 took him to San Fernando General Hospital. We asked him if
22 the person they took out was Rishi or what was his name. He
23 said he don't know. We should go to Sando hospital if we want
24 to find out.

25 My uncle asked him if there was someone in the
26 ambulance at that time. He said no. My uncle asked if he knew
27 someone we could call. He told us to hold on a few minutes.

1 When I found out, it was Christopher Boodram who came out.
2 My uncle Allan went back to the security and said, “All these
3 vehicles going in and out of this—for the second time, an
4 ambulance is coming out of the compound” and they still
5 saying no accident, they still don’t know anything about what is
6 going on and not even number to call the secretary. He said, “A
7 big company like this and you don’t have a number to call
8 someone and there is no one to help us to give us information?”

9 One of the security ladies came out, two others came out
10 after her. They told us we can park inside the car park. There
11 are two other vehicles inside there. She said she doesn’t know
12 if there are families of the victim. My uncle Allan just nodded.
13 We went into the compound in the car park. There were two
14 vehicles parked inside. I saw Ryan’s van.

15 **Mr. Chairman:** That’s when you told your son, Nicholai, to
16 walk with you?

17 **Ms. Kussie:** I told my older son, Nicholai, to walk with me by
18 the van. He held my hand and walked by the van hugging me.
19 We were both crying. I held on to his van and I begged God
20 not to let anything happened to him. I said please let this be a
21 dream. Don’t let this be happening. We stayed at the car park
22 until 4.00 a.m. on the 26th February, 2022. No one from Paria
23 came at and spoke to me. No one from LMCS called me or told
24 me what happened.

25 Saturday 26th February. We went home to shower,
26 change our clothes and were taken back. From like the vehicles
27 we went to be taken back with my uncle Allan and others, my

1 brothers and my sister, my cousins, everybody, we just went up
2 back to Paria. Nobody went to work. My son, Nicholai and
3 Nigel also went. My brothers Chase and Navin, my sister
4 Anisa as well as her husband, everybody just headed back to
5 Paria. The security said the car park is full. We can park and
6 wait at side by the road.

7 The security had no information this morning. Part of the
8 barrier was up at the car park and we still went and we drove
9 inside and parked. We went under the shed in the car park. I
10 think it's a breakfast shed. There were no chairs but some of us
11 brought our own chairs. There were other families there. The
12 Kurban family was there. Faizal Kurban's wife, Celisha, and
13 her sister were present. His son, Michael, was also there. They
14 spoke to me and shared what information they had. I believe
15 that because of the state I was in they didn't want to frighten me
16 with too much details.

17 They told me based on the information they had, there
18 was a swirl in the water at first thinking they were—the men
19 were at sea. They said then that they realized the men were
20 trapped into the pipeline and there was a suction. They said
21 that Ryan got sucked in first into the pipeline. They, the
22 Kurbans, also said some people from inside Paria heard
23 pounding on the line. They said Paria also didn't wanted the
24 Kurbans to go inside the compound.

25 Michael told me when Christopher came out he told him
26 his father was right behind and they didn't want to try and save
27 his father and the rest of them—they did went to save his father

1 and the rest of them but the hose was too short. He said they
2 came back out to get equipment and then they were stopped by
3 the coast guard. We waited outside under the shed. I saw
4 someone parked in the car park across from where we were. I
5 assumed it was another family. I walked by, asked who they
6 were related to. They were Yusuf Henry's mother and sister.
7 His father and stepfather also were there.

8 None of the families had any information from Paria or
9 LMCS. Everyone was just there being supportive to each other
10 hoping we would get chance to go into the compound.
11 Nicholas and his brother, Michael, were trying to get into the
12 compound but they were denied. They were told they needed
13 to get a pass. Members of the public start coming in to drop
14 water, chairs, food for the families. This started as the incident
15 was being reported in the news. The media also came at the car
16 park. Paria turned away trucks, tents, toilets and chairs.

17 The Oilfield Workers Trade Union (OWTU) also came to
18 give us support. They spoke to Paria and told them the ladies
19 who were in the car park had to go all the way to KFC,
20 Church's Chicken, to use the washrooms. Paria then permitted
21 toilets and the tents and chairs to be delivered to them. Many
22 times just so we were at the car park the security told us we
23 weren't supposed to be there. The police also came to the car
24 park. Some of the officers had guns. The OWTU spoke to the
25 police. The OWTU tried to give us hope, encourage us to be
26 strong. The OWTU was getting their information through some
27 resource from the workers at the compound at Paria.

1 Around lunchtime, someone from Paria came to the car
2 park to let us know Paria wanted to have a meeting with us at
3 the Petrotrin Sports Club but the meeting would be held at 2.30
4 p.m. At the meeting, 2.30 p.m., the immediate families were
5 there. One member of the media who I know as Ms. Radica
6 was present. She started to record the meeting but she was
7 asked to stop. Everyone was asked to turn off their phone. I
8 think after the arguments within both companies and family
9 they were asked—they can record after.

10 Minister Stuart Young, Mr. Mushtaq Mohammed and
11 Mr. Collin Piper were present. Minister Young said they were
12 doing everything in their power to get the divers out. Mr.
13 Young said we had his word on that. He looked at Mr. Piper
14 and Mr. Mohammed and he asked them if he was right and they
15 said yes. They are doing what they can at the moment to get
16 the divers out. Mr. Mohammed laughed. He chuckled, he bent
17 down his head and laughed. People were annoyed by his
18 laughter. Someone asked him what the joke was about? We
19 were in a crisis. I told them, “I have a little baby waiting home
20 for his dad and all you can do is laugh?” People asked
21 questions about the pipeline. Most of the time the Kurbans
22 were asking questions. Minister Young could not have
23 responded to any of the questions. He didn’t know the details
24 of the pipe.

25 Mr. Mohammed, Mr. Piper answered the questions.
26 They were arguing back and forth. I cannot recall all the
27 question and answers. Paria did not give us any detail of any

1 rescue plan. They didn't know who was there. Yusuf, Faizal
2 and Ryan's families were in attendance. I can't recall if anyone
3 from LMCS was there. This meeting lasted about two hours.
4 We signed our names, put our telephone numbers on a sheet of
5 paper. When the meeting ended, we went back to the car park.

6 After the meeting, a person named Tara called me. She
7 said she was a secretary at Petrotrin, sorry, Paria. She told me
8 that Paria wanted to communicate by WhatsApp or email rather
9 than speak with me on the phone. The other families didn't
10 want this. We wanted answers. We didn't want to be texting.
11 We wanted Mr. Mohammed or Mr. Piper to come out and speak
12 to us. Tara kept calling me three to four hours during that day
13 and every day forward. As the hours passed by to say there was
14 no update, Paria was trying its best to rescue the divers. That's
15 what Tara told me. This information I got all through the night.

16 I stayed under the shed the whole time to go home just
17 change and come back. Sunday, 27th February, 2022.
18 Sometime between 7.30 a.m. to 8.30 p.m. Sunday 27th
19 February, 2022 we heard it through the news that instead of
20 recovery Paria is now moving to recovery. I then called Tara to
21 confirm. This is how we found out about the change in plan.
22 We stayed in the car park all day Sunday.

23 Monday, 28th February, 2022. On Monday, Tara called
24 me in the afternoon before it got dark, whilst I was in the car
25 park at Paria. She told me they recovered three, bodies, and
26 one was Rishi Nagassar, Yusuf Henry and Faizal Kurban. I
27 remember I started like seeing dark. There was a generator

1 close by which I tried to grab because I knew I was going to
2 fall. When I called my sister, Anisa, who was not too far from
3 me. My sister and my uncle Allan came looking for me at that
4 time. My family held me as I fainted. Someone brought a
5 chair, put me to sit down.

6 Coming out of the daze, my sister asked who called me.
7 I told her what Tara told me. They then put me into my
8 brother-in-law, Inky's, car. We were trying to get me to come
9 out of the daze. The media was there. I recall some persons
10 were quarrelling with the media to get away from me. Faizal
11 Kurban's wife, Celisha, also came out and asked me who told
12 me the bodies had been recovered? I told her it was Tara. My
13 sister, Anissa then took my phone from me and took messages
14 from Tara on that day forward.

15 Tuesday, 1st March, 2022. I left home 6.00 a.m. on
16 Tuesday, 1st March, 2022 to go to the Forensic Science Centre
17 in St. James to identify Ryan's body. The body I viewed was
18 swollen very badly and covered in oil. I could not recognize
19 the body. It was eventually determined the body was Kazim
20 Ali Jr. and not Ryan based on the clothing. My family,
21 including my uncle, remained under the tent all day Tuesday. I
22 went home after viewing the body.

23 Wednesday, 2nd March, 2022. I went to Paria car park
24 on Wednesday, however, Paria didn't want me on the
25 compound. During one conversation with Tara, a man took
26 away the phone from her, told me very roughly that it doesn't
27 make sense I am at the car park. When there is news they

1 would let me know. I told him I am not going anywhere, I'm
2 staying right there. Come move me. During this time, Tara and
3 I had a few words and I know I did gave her some Trini nice
4 slang and I did apologize to her the next morning.

5 At some point, there were a meeting with LMCS and
6 families. I can't recall if this was on Tuesday or Wednesday.
7 Mr. Kazim Ali Sr. told us he did try to help in any way he
8 could. He said he tried many times to get through to Paria but
9 Paria keep asking him to show a plan for a rescue which he did.
10 He said Paria kept him going to his office to do a rescue plan to
11 show Paria what they have. He said Paria keep tuning him
12 down, telling him it would not work, even though he had divers
13 who were willing to go in. He said he tried everything in his
14 power to get through to the coast guard but they stopped
15 LMCS. Michael Kurban also told me there were two speed
16 goats came with divers with gears to help but the coast guard
17 pointed guns at a distance to shoot anyone who came closer.
18 There were no more news on Wednesday from Paria.

19 On Thursday, I, together with all my family, about 12.20
20 a.m. my uncle, my mom, were at my home. They left that time.
21 I went upstairs with my sons. My phone rang about 12.35 a.m.
22 I recognized the number from the time the phone was ringing.
23 It was Paria. Tara called. She said, "Condolences. We have
24 found Rishi." She said that I should go to the Forensic Science
25 Centre 7.30 a.m. the next morning which I did. I went with my
26 brother-in-law, Inky, my eldest son, Nicholai and my uncle
27 Allan.

1 A lot of people had been telling me Ryan died first so his
2 body would be decomposed by the time, he would be in pieces.
3 Tara had also told me they wanted to make sure they would do
4 their very best to take him out in one piece. Everything Tara
5 told me I stopped believing. After I had seen the body on
6 Monday, I prayed and prayed because I kept begging God
7 please don't let Ryan come out in pieces.

8 I put myself to view the worst but I was able to identify
9 his body in less than 10 seconds. He looked normal. I formed
10 the view that he died not too long ago. I identified him based
11 on his clothes and a scar he had on the back at a previous
12 accident he had from a falling gate not too long ago home at my
13 house. Ryan's body looked like to me like if you take a bucket
14 a water and you just throw it on my husband. He was not
15 swollen. He was nowhere into decompose, nowhere.

16 I would like to add that Ryan was the breadwinner of the
17 family. I am a housewife. He is the only father my elder boys
18 knew. I loved him. He loved them as their own. We were
19 together for 13 years. He started building a home for us. We
20 were going to get married this year. We were going to do
21 something to invite everyone. He said he wanted a real
22 wedding. This year he said we were going to finish the house.
23 All his friends used to give him jokes about when he's going to
24 get married.

25 Our son, Nashhik, was Ryan eyeball. For years we
26 wanted to have a child. We got pregnant 12 years ago. I had a
27 miscarriage. We named her Nicolette, so he kept dreaming for

1 this child. Finally we did have our own son. Ryan was so
2 happy when he found out I was pregnant. He did everything for
3 me. This had been a great loss to my family. My second son,
4 Nigel, he's not speaking with anyone. He just shakes his head
5 and nod if anyone talks to him. My other son, Nicholai, he's
6 always with me all the time. They are not the same children.

7 **Mr. Chairman:** Take a moment. Take a moment, Ms. Kussie.
8 Self-evident, it's not easy. Thank you very much indeed for
9 coming. I appreciate your evidence very much and we'll be
10 taking it into account in our decisions that we have to make.
11 All right? Thank very much for coming. You can stay or leave
12 as you choose, all right? But if you want to stay you know
13 where you sit at the back.

14 **Ms. Kussie:** I'll stay, Sir.

15 **Mr. Chairman:** Thank you very much indeed.

16 **Ms. Kussie:** Because I want to give the other families support.

17 **Mr. Chairman:** Of course. Of course, thank you.

18 *[Ms. Vanessa Kussie leaves witness table]*

19 **Mr. Chairman:** I think, Mr. Maharaj—

20 **Mr. Maharaj SC:** Mrs. Catherine Ali.

21 **Mr. Chairman:** Is it Catherine Ali.

22 **Mr. Maharaj SC:** Page 1597.

23 **Mr. Chairman:** What of Ms. Jamie Manodath-Ali?

24 **Mr. Maharaj SC:** *[Inaudible]* her page number is 1593.

25 **Mr. Chairman:** Thank you, yes.

26 *[Mrs. Jamie Manodath-Ali sworn]*

27 **Mrs. Manodath-Ali:** I, Jamie Manodath-Ali, solemnly swear

1 that the evidence I shall give to this Commission in this case
2 shall be the truth, the whole truth and nothing but the truth.

3 **Mr. Chairman:** Yes, please take a seat.

4 **Mrs. Manodath-Ali:** Good afternoon.

5 **Mr. Chairman:** Thank you very much for coming. You are
6 Jamie, is that—

7 **Mrs. . Ali:** Yes.

8 **Mr. Chairman:** I've got that right? And you're the wife of
9 Kazim Ali?

10 **Mrs. Manodath-Ali:** Yes.

11 **Mr. Chairman:** And you provided a statement to us dated the
12 28th of September of this year—last year, I should say, yes.
13 Thank you, as I say, for coming. I know it's not going to be
14 easy but if you would do your best, as I say, that statement that
15 you've provided, you have it in front of you, do you?

16 **Mrs. Manodath-Ali:** Yes I do.

17 **Mr. Chairman:** Yes. If you'd read it then for us? Thank you
18 very much.

19 **Mrs. Manodath-Ali:** Good afternoon. I, Jamie Manodath-Ali,
20 say as follows. I am 41 years old. I live—I'm a registered
21 nurse and I work mainly at the Eric Williams Medical Sciences
22 Complex paediatric ward as a certified paediatric nurse. I am
23 the wife of Kazim Jeremiah Ali Jr. who, on the 25th of
24 February, 2022, with four others, survived an accident on a
25 project at the berth 6 Pointe-a-Pierre only to be abandoned to
26 die with three others some 40 hours later in a pipeline in Paria
27 Fuel Trading Company Limited's Paria premises, on Paria's

1 instructions.

2 We have one infant child together, Aedamiur Maria Ali
3 born the 11th of December, 2018. Around 4.00 p.m. on Friday,
4 25th February, 2022 my father-in-law, Mr. Kazim Ali Sr., came
5 to my home and told me there had been an accident. When I
6 saw his face I knew it was serious. He said there was an
7 accident and that Kaz and four other workers were believed to
8 be in the pipeline. He told me the names of the other workers.
9 He told me that it was serious and there could be fatalities and
10 rescue efforts were being undertaken. I asked him whether they
11 had oxygen, how much they had and how long they would last
12 there for.

13 Right after hearing this I got my daughter and I prayed.
14 Within 5 minutes, my father-in-law got a call and told me that
15 one person was out. He told me it was Christopher Boodram
16 and he said that everyone was alive and there was hope. My
17 father-in-law told me that Christopher Boodram had emerged
18 unaided from the line to the top of the riser from where he was
19 assisted into a boat to go ashore. I knew the other divers and I
20 was also familiar with the LMCS team who were at the scene.
21 All of them were able-bodied men, including my husband. The
22 sea was his life. I felt that they were good at what they did and
23 they would find a way out.

24 At this time, I contacted a friend at the San Fernando
25 General Hospital accident and emergency department and was
26 assured that they were going to be on standby all night to attend
27 to Christopher Boodram and the others when they came out. I

1 also packed a hospital bag for my husband for when they came
2 out.

3 On the 25th of February, 2022 there was no
4 communication from Paria to me. All the communication that I
5 had was through my father-in-law and I also kept in touch with
6 LMCS employee, Rudolph Gonzales, also known as Matthew
7 who was at the scene. I called him about every hour. I was
8 informed by Kazim Ali Sr. that LMCS personnel were trying to
9 coordinate a rescue effort. He told me that there were a number
10 of divers on site and this information also came from my
11 husband's friend, Dave Ali, and some of my husband's friends
12 who also went out to the site to render assistance. I am aware
13 that Michael Kurban tried to dive but was stopped.

14 After this I was informed by Kazim Ali Sr. that LMCS
15 personnel and volunteers were not being permitted to conduct
16 any rescue operations and that such operations were being
17 handed over to the Trinidad and Tobago Coast Guard.
18 Throughout the night of the 25th February, 2022 on the
19 morning of Saturday, 26 February, 2022 I kept in contact with
20 Kazim Ali Sr. and Rudolph Gonzales who was on the barge at
21 berth 6. Both kept telling me that they were still waiting on
22 permits from either the Trinidad and Tobago Coast Guard or
23 Paria to conduct rescue operations. Mr. Kazim Ali Sr. said he
24 was urgently pushing for immediate rescue operations.

25 At around 4.00 p.m. on Saturday, 26th February, 2022 I
26 went to the main gate at Paria's head office and met with family
27 members of the other workers who were waiting on information

1 regarding rescue. I stayed for about half hour. I was looking
2 for relatives of the other workers in order to speak with them. I
3 only knew Vanessa, Rishi Nagassar's wife. She said they were
4 just waiting and no one else knew what was going on.
5 Everyone present was upset because of the lack of information
6 and because nothing was being done to rescue them, the men.

7 My father-in-law was in a meeting with personnel of
8 Paria at this time. He told me that personnel from Paria had to
9 meet with me, wanted to meet with me to provide an update and
10 would come to my home. I then headed home. Around 6.00
11 p.m., Paria's General Manager, Mr. Mushtaq Mohammed and
12 his party, his security, Nerissa Davis and another person, came
13 to my residence. This is the first time that anyone from Paria
14 made contact with me. A number of my husband's friends who
15 had been out at the site on Friday and all day on Saturday were
16 present for this meeting.

17 The General Manager informed me that they were
18 switching to recovery efforts and this was met with an almost
19 violent, meaning angry, reaction, because, as far as his friends
20 were concerned, they had witnessed no rescue attempts being
21 made nor was any effort made to determine whether my
22 husband and his co-workers were still alive. I thought that such
23 a decision to move to recovery without any determination of
24 survivors was premature and cruel.

25 He was saying—what he was saying was not what I
26 wanted to hear. It was noise to me. I only heard clearly—the
27 only thing I heard clearly was switching from rescue to

1 recovery. Paria's corporate communications officer, Nerissa
2 Davis, who was also present at my home, she promised to keep
3 me updated regularly, but this did not happen. I next heard
4 from her via WhatsApp when she sent me a press release on
5 Sunday, 27th February at 4.58 p.m.

6 I messaged her at 9.24 p.m. on Sunday. I ask her, "What
7 is the latest update? You promised updates throughout the
8 night. None was sent. It has been more than 24 hours since
9 you spoke to me and the situation remains the same." She
10 responded at 12.01 p.m. on Monday, 28th February, 2022 and
11 said, "Dear Jamie, this is Nerissa. If you are available I would
12 like to provide an update, please?" I think I may have missed a
13 call from her before she sent this message. I spoke to her
14 subsequently and she told me that Paria had started pumping
15 operations from berth 5.

16 I asked Mr. Kazim Ali Sr. to find out whether we could
17 go to the site when the recovery was being done as I was still
18 hoping my husband and his friends would emerge alive. He
19 informed me that no one was being allowed at the site and that
20 all phones and cameras were being taken from onsite personnel
21 by Paria and that the recovery area was screened off. No one
22 from LMCS was present at the recovery efforts. I was holding
23 out hope. We were considering going out with a friend's boat
24 to the site but Paria would not allow anyone there.

25 I can't recall who informed me of the recovery of the
26 bodies on Monday, 28th, 2022. I remember the Prime Minister
27 saying that four bodies had been recovered when only three had

1 been recovered. My mother, my mother-in-law, my sister-in-
2 law, my husband's sister, went to the Forensic Sciences Centre
3 to identify my husband's body. This was the first day my
4 daughter had ever been sick and I stayed home with her.

5 Having worked in a large hospital, I have heard of and
6 seen many people rescued from near impossible situations like
7 burning vehicles and buildings, road accidents. I find it a
8 callous disregard for human life to claim it was too dangerous
9 to rescue them, particularly as a bruised and injured Christopher
10 was able to make his way unaided from the air pocket to the
11 surface and is still alive.

12 **Mr. Chairman:** Yes. Well thank you very much indeed for
13 coming.

14 **Mrs. Manodath-Ali:** Thank you.

15 **Mr. Chairman:** I know it's not easy for you, so, thank you so
16 much. You're free to go and obviously you can sit at the back.
17 Thank you.

18 *[Mrs. Jamie Manodath-Ali leaves witness table]*

19 **Mr. Chairman:** Mr. Maharaj, is it Catherine Ali now? Thank
20 you. One five nine seven I think.

21 *[Mrs. Catherine Ali enters Enquiry area]*

22 **Mr. Chairman:** Hello.

23 *[Mrs. Catherine Ali sworn]*

24 **Mrs. C. Ali:** I, Catherine Ali, solemnly swear that the evidence
25 I shall give to this Commission in this case shall be the truth,
26 the whole truth and nothing but the truth.

27 **Mr. Chairman:** Thank you so much for coming, Mrs. Ali.

1 Mrs. Ali, you're the mother of Kazim?

2 **Mrs. C. Ali:** Yes.

3 **Mr. Chairman:** And obviously the wife of his dad, Kazim Ali
4 Sr.

5 **Mrs. C. Ali:** That's correct.

6 **Mr. Chairman:** I know it's not easy but we appreciate your
7 coming very much indeed so take your time. If you need a
8 break just ask, all right? I think you have a copy of your
9 statement—

10 **Mrs. C. Ali:** I do.

11 **Mr. Chairman:**—that you provided by us in front of you, yes?
12 Thank you. If you'd just tell us what you've put in that
13 statement please?

14 **Mrs. C. Ali:** Yes. I am the mother of Kazim Jeremiah Ali Jr..
15 On Friday, the 27th of February—25th of February, 2022 at
16 approximately 4.15 I learned about a serious accident in Pointe-
17 a-Pierre involving our son and four workers through a phone
18 call from my husband, Kazim Sr. He had trouble getting
19 through to me as I was on the road to Toco. I understood from
20 the phone call that there was a serious accident and that five
21 divers were missing, including Kazim. I understood that I
22 should come home immediately.

23 I had just arrived in Toco and returned immediately to
24 Marabella to the home of my son and his wife, Jamie, arriving
25 at about 7.00 p.m. I was brought up to date on what had
26 happened by my husband and I learned of the survivor,
27 Christopher Boodram, had brought himself, he had returned to

1 the surface unaided and of the interruption of the rescue plans
2 for bringing the other four men to the surface. I was informed
3 that Christopher Boodram brought himself unaided and was
4 assisted out of the pipe. He said that the other divers were all
5 alive in the pipeline and to go for them and he promised that he
6 would go back for them.

7 I was in regular contact with my husband and he
8 provided me with updates. LMCS personnel remained on site
9 Friday evening waiting for rescue dive permits, listening to the
10 missing divers communicating distress calls. Several dive
11 vessels and volunteer divers came to the berth No. 6 site to
12 render assistance to rescue the men from the pipe. Paria still
13 refused to allow rescue and, in desperation, LMCS workers on
14 the barge contacted the media to agitate and pressure Paria to
15 take or allow action.

16 On the 25th February, I was party to phone calls between
17 my husband, Kazim, and Paria fuel trading Company Limited
18 arguing for work minutes to allow a dive rescue by LMCS
19 divers and/or the many dive experts gathered at berth 6
20 volunteering their service and having all the resources on site. I
21 was in the same room as my husband while he was on those
22 phone calls and his telephone was on speaker. I don't recall
23 who he was talking to on the phone at Paria.

24 My understanding is that LMCS was seeking to perform
25 a rescue on Saturday, Sunday and Monday. Also, Paria seized
26 all documents on the LMCS barge which included certain
27 permits to work. Paria's multiple decisions to violate the rights

1 to human life and the right not to be subjected to cruel and
2 inhuman suffering, remain unconscionable. Paria made these
3 decisions as those inside the pipe continued tapping out distress
4 calls well into Saturday, demonstrating proof of life.

5 Paria instructed the Trinidad and Tobago Coast Guard to
6 enforce their decision not to rescue and armed members of the
7 coast guard boarded the LMCS barge and carried out Paria's
8 instructions. These were the updates which were given by
9 LMCS personnel who were out there on the site to my husband.
10 I heard a conversation between my husband and another person.
11 The person said they heard tapping, they heard SOS code. I
12 heard Kazim tell them to respond by tapping back so they
13 would know they were heard. He said tap louder and see if
14 they tap louder and then tap softer to see if they tap softer.
15 They subsequently informed Kazim that when they tapped
16 louder, a louder tap was returned and when they tapped softer, a
17 softer tap was returned. For me, interactive communication
18 was established conveying that the divers were alive. The
19 tapping transmitted meaning and the divers in the pipe were
20 making SOS sounds and wanted to live.

21 Throughout Saturday the 26th and Sunday the 27th, I
22 witnessed as LMCS (had) ongoing discussions between Kazim
23 Ali Sr., his brothers Imtiaz, and Haseeb Ali and former senior
24 Petrotrin staff. This team also attended meetings with Kazim to
25 convince Paria management to implement the rescue plan for
26 the four men. This team was trying to do everything they could
27 to address situation given the urgency of the situation. They

1 prepared for the meeting with Paria, returned from the meeting
2 with Paria in order to put things in place requested by Paria and
3 then returned again to Paria.

4 Three days of meetings, including in-person
5 commitments from experienced commercial volunteer rescue
6 divers failed to change Paria's resolve not to conduct any
7 rescue mission or to issue LMCS permits to resume the rescue
8 of our people. They lied in their communications, claiming
9 they were doing everything possible. Dismissed Christopher
10 Boodram's urgent request to go back for them who were
11 waiting to be rescued and did not respond to the continuous
12 tapping out of distress calls. In a deadly runaround, pretending
13 to be serious about rescue, yet having decided on recovery,
14 Paria caused severe suffering to those in the pipeline, those on
15 site and those ashore. The strain of holding tensions, bristling
16 to act urgently and outraged by deliberate delay, generated
17 friction, anguish and torture.

18 On Saturday morning we met with family and friends
19 who were locked outside Paria's gates, witnessed and objected
20 to police harassment to disperse us and sought information and
21 counselling for them. LMCS provided trauma support through
22 printed material, a hotline and introduction to a psychotherapist
23 and sessions with trauma team professionals of the Franciscan
24 Institute and Stress Relief Laser Therapies. Paria never
25 contacted me directly with respect to the incident.

26 I identified the body of our only son, Kazim, on Tuesday
27 the 1st of March at St. James. Kaz and his father were very

1 close and proudly ran LMCS together. It was wrong to bar a
2 father from saving his son and wrong to bar Michael Kurban
3 from saving his father. All four LMCS men have families and
4 friends who love them. Kaz and his wife, Jamie, are still in
5 love.

6 Paria's process lacked justice and integrity. There was
7 no leadership, preparedness or morality in Paria's decisions that
8 killed four LMCS men who waited excruciatingly in the pipe
9 until they could breathe no more.

10 **Mr. Chairman:** Thank you very much indeed for coming.
11 Your evidence is much appreciated. All right? You can stay or
12 go as you please obviously. Thank you once again.

13 *[Mrs. Catherine Ali leaves witness table]*

14 **Mr. Chairman:** We've reserved our position on two other
15 witnesses. I understand that there is evidence from a member
16 of the Kurban family and a statement has been provided to us.
17 Am I right that it is Celisha Kurban who's going to read that
18 statement? *[Crosstalk]* Is it Mr. Ramadhar who's going to read
19 it?

20 **Mr. Ramadhar:** Yes.

21 **Mr. Chairman:** Mr. Ramadhar.

22 **Mr. Ramadhar:** *[Inaudible]*

23 **Mr. Chairman:** I think it would be more convenient if you sat
24 down so we can all hear what you're saying.

25 **Mr. Ramadhar:** Thank you.

26 **Mr. Chairman:** And I'd be grateful if you would just read the
27 statement and no more.

1 **Mr. Ramadhar:** Thank you very much. Statement by the
2 Kurban family and certainly from Celisha Kurban, the wife of
3 the deceased Faizal Kurban.

4 On the 25th of February, 2022 Faizal Kurban left home
5 to go to work 8.00 a.m. in the morning. In the afternoon, his
6 wife, Celisha Kurban, got a call from his son, from her son,
7 Nicholas, saying that Faizal and his diving team were stuck in a
8 pipe at work but it hasn't been long and that not to worry, that,
9 quote "We will get them out. It was all okay, just a mishap at
10 work." Hours later, the family members gathered at a parking
11 lot in Paria's compound waiting on news of Faizal's
12 whereabouts.

13 Within two hours family members of the other divers
14 came to the parking lot awaiting news as well. They heard no
15 more news. However, all the family members knew that so
16 many people were on site, including Faizal's other son,
17 Michael, and Nicholas who are experienced in the diving field
18 among people who work with Faizal on a day-to-day basis, his
19 colleagues, his friends, so there was hope. There was hope for
20 hours. All the family members expected that the divers were
21 being helped and they would be rescued and everything would
22 be fine until around 8.00 p.m. when Michael called from on
23 site, saying that things weren't looking good.

24 Despite that call, Celisha had all hope that her husband
25 would be okay, utmost faith that he and his friends would come
26 out of the pipe alive, just that it would take a little more time.
27 She believed that all hands were on deck given the gravity of

1 the situation and that, because of that, there was no way the
2 divers wouldn't be rescued. All family members were awaiting
3 in the car park expecting to see the divers alive as soon as they
4 had been rescued. Faizal had gone to work on similar jobs over
5 the span of more than 30 years and had come back home safely
6 every time, so it was very easy to hold on to hope.

7 Most of the days on Saturday, Sunday and Monday were
8 spent at the Paria car park as well. The media was present
9 every day getting the story out to the public which we
10 appreciated. Many rights activists helped as well in getting the
11 story at there and it showed when members of the public and
12 friends brought food, drinks, shelter and lights and many
13 donations from various other local businesses offering
14 assistance in any way they can, whether that be anything they
15 needed, waiting in the car park or for reaching out for help for
16 the men stuck in any way they could.

17 This effort from friends, family members, bystanders and
18 members of the public continued until Monday evening. There
19 was a meeting with Paria on Saturday where they told us they
20 were trying their best. After that, Paria communicated
21 periodically with Faizal's family via WhatsApp but the
22 communication was sparse and vague and not very helpful. If it
23 weren't for personal communication with LMCS workers, they
24 would not have been privy to any updates. The only times they
25 heard from Paria after that were their official statements that
26 were issued for the public which was not enough. They
27 expected more communication and help from Paria but it was

1 not given.

2 After the news on the 28th, all came crashing down.
3 Their lives changed forever. We lost Faizal. All the good
4 times became just memories. He was a family man, his family
5 was the most important thing to him. Everything he did was for
6 his family and his family is who they are because of him. We
7 owe everything to him. He loved us and we continue to love
8 him. He always knew how to have a good time. He is missed
9 every day, especially during the recent Christmas season which
10 was without much joy or happiness but passed with an air of
11 sadness.

12 Many acts of kindness and donations were offered to us
13 during the season from members of the public and local
14 companies, however, it should be noted that Paria has made no
15 such effort. Just after the Christmas season came what would
16 have been Faizal's and Celisha's 34th wedding anniversary,
17 which was a day of heartache and grief for Celisha and later
18 this month would have been his birthday which will be a day
19 full of low spirits or his family. Without the tremendous
20 support from her family members, especially Celisha's brothers
21 and sisters from hours waiting in the car park to present day,
22 she would not have been able to cope as well as she has thus
23 far. His family will not rest until justice is served.

24 Thank you, Chairman.

25 **Mr. Chairman:** Thank you very much. Well that is all the
26 evidence from the victims that we will hear, the victims'
27 families, that we'll hear today and maybe at all, we'll see. In

1 the interim, we have evidence, I think, from Dr. Cheddie, yes,
2 thank you very much. Is he ready and available to give
3 evidence now?

4 **Mr. Maharaj SC:** Thank you, yes, his statement is at 3232. I
5 think given the shortness of time we'd not be able to do a full
6 summary of his evidence but we're going to, I think, is it you,
7 Mr. Bissessar?

8 **Mr. Bissessar:** [*Inaudible*]

9 **Mr. Chairman:** Right, thank you.

10 **Mr. Peterson SC:** Mr. Chairman, is he being allowed to give
11 evidence and return for cross-examination? Because, speaking
12 for myself, I have not been able to read his statement far more
13 to digest it.

14 **Mr. Chairman:** Well, I, um—just a moment, Mr. Cheddie.
15 Take a seat. I indicated this morning that we had received this
16 on Friday and I made clear that we were concerned about this
17 evidence being provided late. I did invite anyone to express
18 any objection to his evidence being given this afternoon which I
19 had indicated we were going to seek to do. I've had no
20 objection up until now, Mr. Peterson. I mean, we are struggling
21 under the same or labouring under the same time constraints as
22 have you and I do understand that it has been served extremely
23 late. Nonetheless, I took the view with the team that this was
24 important evidence that needed to be heard before this
25 Commission.

26 **Mr. Peterson SC:** Well, yes, Sir, I could not even make that
27 determination but what I thought why I did not object earlier is

1 that he would be called, so we use up some of the time this
2 afternoon instead of losing all of it, and we tag him on to In-
3 Corr-Tech tomorrow so we finish all the evidence tomorrow.
4 So I did not think it was prudent—

5 **Mr. Chairman:** Are you asking for time to the extent that you
6 would wish to reserve your position until tomorrow?

7 **Mr. Peterson SC:** Yes, Sir, but I'm not objecting—that's the
8 point I'm making.

9 **Mr. Chairman:** Right.

10 **Mr. Peterson SC:** I'm not objecting to him being called so we
11 could use up the time today.

12 **Mr. Chairman:** Let me ask, since he is here, if Mr. Cheddie
13 do you, forgive me Dr. Cheddie, are you available tomorrow
14 morning? [*Yes indicated*] You are. Well that, I think, will then
15 take care of your particular issue, Mr. Peterson. I understand it,
16 let me say straightaway, I'm just slightly disappointed that you
17 didn't express this earlier because we could have made separate
18 arrangements for that. Be that as it may I think it makes some
19 sense for you to be able to reserve your cross-examination, if
20 you have any, till tomorrow morning. Dr. Cheddie is available
21 tomorrow morning, so that's what we'll do. What I will ask,
22 though, I think we were scheduled tomorrow morning to start at
23 10.00, were we, or 10.30?

24 **Mr. Peterson SC:** Nine-thirty tomorrow and 11.00 on
25 Wednesday.

26 [*Mr. Chairman confers with Ms. Sinanan*]

27 **Mr. Chairman:** I think we were 10.00. I think we were 10.00

1 but we will be now 9.30 to give you that extra bit of time. Is
2 everybody else in a position to be able to ask Dr. Cheddie such
3 questions as they might feel is necessary today? Good. Well
4 that's what we will do then. You'll go last and you can go
5 tomorrow morning—

6 **Mr. Peterson SC:** Yes, Sir.

7 **Mr. Chairman:**—at 9.30. Dr. Cheddie, would you mind then
8 coming and taking the oath please?

9 *[Dr. Glenn Cheddie sworn]*

10 **Dr. Cheddie:** I, Glenn Cheddie, solemnly swear that the
11 evidence that I shall give to this Commission in this case shall
12 be the truth, the whole truth and nothing but the truth.

13 **Mr. Chairman:** Right, please take a seat. Perhaps a bottle of
14 water can be provided for—it is doctor, is it?

15 **Dr. Cheddie:** Yes.

16 **Examination By Mr. Chairman:**

17 Q. Well, Dr. Cheddie, thank you for coming. What's going to
18 happen next is Ms. Maharaj, who sits opposite you, is going to
19 not summarize your statement, because we've not had it long
20 enough to undertake that task, so what she's going to do is to
21 read what we regard as being the salient aspects of your
22 statement or the paragraphs that represent the salient aspects but
23 the whole of your statement is available for everybody. It has
24 already been made available for everybody so please listen to
25 those extracts that are read to us all and then, at the conclusion
26 of that, Mr. Maharaj, who sits next to her, will ask you a few
27 questions, all right, and we'll proceed in that way, reserving

1 your final part of your evidence till tomorrow morning at 9.30.
2 So thank you very much indeed.

3 **Mr. Chairman:** So, Ms. Maharaj if you'd just help us with
4 those extracts?

5 **Ms. Maharaj:** Thank you. Dr. Cheddie's witness statement is
6 dated the 6th of January, 2022 and it's at page three two three
7 two of the supplemental witness statement bundle. At
8 paragraph one he says:

9 I have over 30 years' experience as a dive professional
10 and have been involved in the diving industry in the Caribbean,
11 Canada, England and the United States of America. I am now a
12 retired commercial diving instructor and Association of Diving
13 Contractors Incorporated commercial diving supervisor. I have
14 over 100 logged hours of commercial diving and over 3,000
15 hours as a scuba diver. I have trained and certified hundreds of
16 persons in the areas of scuba diving, commercial diving and
17 underwater welding, and he sets out his certifications in that
18 paragraph.

19 At paragraph two he states that he is also the managing
20 director of Underwater Works Incorporated Limited. Between
21 the years 2009 to 2018, UWIL through me offered training to
22 persons who were desirous of becoming qualified commercial
23 divers. Upon the completion of the course of study and
24 required training at UWIL the said persons were certified as
25 commercial divers. At present, UWIL provides training and
26 certification for persons who wish to acquire Professional
27 Association of Diving Instructors (PADI) scuba diving

1 certifications and recreational diving.

2 At paragraphs five to 10 of his witness statement, Dr.
3 Cheddie sets out his involvement on the 25th of February, 2022
4 with respect to the incident and he states as follows. At around
5 2045 hours on the 25th February, I received a call from Mr.
6 Rolph Seales. Mr. Seales was one of my commercial diving
7 students and I knew that he worked for Heritage. He informed
8 me that four divers were sucked into a pipeline operated by
9 Paria. I asked who those divers were and heard two names I
10 was familiar with as being my former students. These persons
11 were Faizal Kurban and Rishi Nagassar. Both Mr. Kurban and
12 Mr. Nagassar were trained as commercial divers by UWIL.

13 I immediately enquired from Mr. Seales as to whether the
14 divers were on scuba equipment and he responded in the
15 affirmative. I told Mr. Seales that the divers ought not to have
16 used scuba equipment for commercial diving operations. I
17 asked Mr. Seales as to the nature of his call. Mr. Seales
18 informed me that he was contacting me with respect to my
19 ROV, remotely operated vehicle, with underwater camera
20 system and asked whether I could utilize same for the purposes
21 of finding the missing divers. I asked Mr. Seales what the
22 diameter of the pipeline was, and, upon learning same, I
23 advised Mr. Seales that my ROV was 36 inches wide with
24 cameras and other accessories and therefore would not fit into
25 the pipeline.

26 I further informed Mr. Seales that my ROV had only
27 arrived two days prior and was not yet completely assembled. I

1 further informed Mr. Seales that I remained available to help
2 and assist with respect to the rescue of the divers. Mr. Seales
3 responded stating that he would let me know. I then told Mr.
4 Seales that an air umbilical ought to be inserted into the
5 pipeline as soon as possible in order to assist the trapped divers
6 who may be able to reach same.

7 During the course of Mr. Seales' commercial diving
8 training at UWIL, he would receive training with respect to the
9 rescue of drivers in penetration diving. I'm unaware as to
10 whether such training was utilized with respect to this incident.
11 Further, as part of the commercial training received by Mr.
12 Kurban managed Nagassar at UWIL, they ought to have known
13 that the use of scuba equipment for commercial diving
14 operations is discouraged and inherently dangerous. We train
15 our divers not to use scuba for such operations.

16 At paragraphs 11 to 14 of his witness statement, Dr.
17 Cheddie sets out the responsibilities of the client and the
18 contractor with respect to the tendering and evaluation for
19 commercial diving operations. At paragraph 14 he says:

20 "A dive contractor must ensure the safety of its divers.
21 And it is the first responder in the event of an emergency
22 occurring during an operation. A dive contractor must
23 always be ready to implement its emergency response
24 plan. In such cases whether your divers are required the
25 dive contractor must be able to identify such personnel
26 and arrange for such personnel to attend on site as soon
27 as possible."

1 At paragraph 13 she states:

2 “The client is not expected to have the expertise to
3 execute the required job. In evaluating a tender, the
4 client is required to be assisted by technical personnel in
5 the area and an independent qualified dive superintendent
6 supervisor or, if available, a diving client representative.
7 No more than one diving superintendent is required for
8 the purposes of evaluating the risk assessments, job
9 safety analysis and emergency response plan submitted
10 by the contractor. A dive superintendent also verifies the
11 contractor divers’ tank qualifications, divers’ names,
12 divers’ oxygen current certification, divers’ logbooks and
13 the equipment that the contractor intends to use to
14 complete the job safely. The dive superintendent must
15 therefore have, one, have knowledge of the relevant
16 diving standards, planning and execution of surface
17 diving projects, including the responsibility for the safety
18 and health of the dive team. He/she should have a diving
19 supervisor qualification and be able to assist and advise
20 other diving supervisors. Two, have a thorough
21 knowledge of the system and relevant equipment
22 including related operational and emergency procedures,
23 and, three, have sound knowledge of the diving
24 management system and relevant manuals needed on the
25 job site specific for dive safety.”

26 At paragraph 14 he stated:

27 “The dive superintendent is required to attend the

1 finalization of risk assessments and job safety analysis
2 meetings of the contractor prior to the execution of the
3 job and must be present during the execution of the job.
4 The dive superintendent is specifically working on the
5 client's behalf to ensure the contractor is adhering strictly
6 to its duties.”

7 At paragraphs 15 to 30 of his witness statement, Dr.
8 Cheddie sets out in detail the reasons for his views that the job
9 on the 25th of February ought to have been done utilizing
10 commercial diving equipment and not scuba. At paragraph 15,
11 he says:

12 “The job on the 25th February involved commercial
13 diving with respect to repairs to oil pipeline. The job
14 required commercial divers utilizing commercial diving
15 equipment and not scuba equipment. The contractor for
16 this job was LMCS and the client was Paria.”

17 At paragraph 16 he stated:

18 “From my review of documents filed before this
19 commission Mr. Kurban and Mr. Nagassar were trained
20 as commercial divers by UWIL and acquired commercial
21 diver certification. At my request searches were made of
22 the membership register of the Professional Association
23 of Diving Instructors by my son, Nikolai Cheddie, who is
24 a PADI master instructor. From those searches he was
25 able to confirm that Mr. Christopher Boodram and Mr.
26 Kazim Ali Jr. were certified as scuba divers by PADI.
27 With respect to Yusuf Henry, Mr. Henry commenced

1 training for PADI scuba certification in August 2021 and
2 attended one session. He did not return thereafter and did
3 not complete the course of training. Mr. Henry is not
4 PADI certified and his name does not appear on the
5 PADI membership register.”

6 On the issue of rescue of other possible rescue operation,
7 Dr. Cheddie gives the following evidence from paragraph 35
8 onwards.

9 “When the divers became trapped inside the pipeline at
10 berth 6 the best time to attempt a rescue would have been
11 on 25th February with the use of commercial divers and
12 commercial diving equipment. From my reading of the
13 witness statements, a rescue operation was feasible and
14 could have been undertaken on the 25th February. There
15 were suitably qualified divers who could have served as
16 members of the dive team once they were willing to do
17 so, namely and in the following capacities, one, Conan
18 Beddoe, diver entering into the pipeline, two, Cory Mark
19 Crawford in-water tender and standby diver, three,
20 Conrad Beddoe topside standby diver, four, Ronald
21 Ramoutar topside diver tender and five, Michael Kurban
22 topside dive tender. Dive supervisors would have been
23 available from the two dive vessels, Gulf Stream Eagle
24 and Waterworld which were on site at the time. Mr.
25 Ramoutar could have served as an additional in-water
26 tender and standby diver and additional topside dive
27 tenders could have been found from those on the vessels,

1 on the dive vessels, namely Waterworld operated by
2 Subsea Global Solutions, LLC. These divers, even
3 though they could not enter the water, could have
4 assisted in the tendering of the divers and the setting up
5 of the surface supplied dive spread. There was also
6 suitable commercial diving equipment available. There
7 were two vessels with total surface supplied diving
8 equipment. I can attest that I have trained surface
9 supplied divers off the Gulf Stream Eagle, a vessel
10 operated by Offshore Technology Solutions Limited, and
11 that the said vessel was equipped with surface supplied
12 equipment. I've also been on Waterworks and I've seen
13 their surface supplied equipment which would have been
14 suitable. To the best of my knowledge, divers attached to
15 the Trinidad and Tobago Coast Guard would not have
16 been trained, qualified or able to conduct penetration
17 diving within a pipeline. Mr. Michael Kurban and Mr.
18 Andrew Farah, at least by the time of the arrival of the
19 other commercial divers, would not have been permitted
20 to act as divers or dive supervisors with respect to the
21 rescue operation. They would have been traumatized at
22 the time and penetration diving requires divers without
23 added stress. Preventing Mr. Michael Kurban from
24 entering the pipe using the dive hookah was correct. A
25 dive hookah was not made for penetration diving and the
26 condition of the hookah topside compressor, together
27 with its capacity to provide adequate air to specific

1 depths to the diver within the pipe was unknown at the
2 time. A penetration dive must be continuously risk
3 assessed. A risk assessment, including mitigation
4 measures, ought not to have taken longer than 30 minutes
5 and it would have been possible to generate a plan within
6 that time frame. The risk assessment through job safety
7 analysis is not meant to be overly detailed and should be
8 kept to short sentences. The risk assessment would have
9 included the personnel involved, the gas volume
10 requirement for the air to be supplied, the lengths of
11 continuous umbilical available, US Navy Dive Tables,
12 on-call hyperbaric facility, medical hyperbaric doctor on
13 call, potential hazards within the pipeline, failure of the
14 diving equipment, changes in water conditions within the
15 pipeline, matters which would lead to the abandonment
16 of the rescue. The plan to conduct a rescue in the event
17 that the rescue diver became tapped or otherwise failed to
18 keep continuous communication with the dive supervisor
19 and the entry, this will be feet first, the hindrance would
20 be that the surface supply diver will have to crawl
21 backwards until he reaches the first diver, however, this
22 helps as now he can grab the diver and attempt to get air
23 to him or have topside pull both up to the surface face
24 front.”

25 At paragraph 43 he states:

26 “It could have been deduced that there existed no
27 unmovable brokerages between the entrance of the

1 pipeline and the location of the divers within the pipeline
2 by the fact that Mr. Boodram was able to make his way
3 to the top of berth 6. Mr. Boodram did so
4 notwithstanding that he nursed injuries and a suitable
5 commercial diver would be certainly able to navigate the
6 conditions within the pipeline. Mr. Kurban was also able
7 to make his way a few feet past the elbow of the pipeline
8 and make his return to the top of berth 6.”

9 At paragraph 47 he stated:

10 “The final call to perform the penetration dive would
11 have been with the expert divers, and the call to abandon
12 the dive, once started, would be with the rescue diver or
13 the dive supervisor. Upon arriving at the location of each
14 trapped diver, the rescue diver would provide a breathing
15 apparatus in the form of an extra umbilical with mask
16 attached or a small bailout bottle with a mask and
17 regulator attached to the trapped diver and retrieve the
18 diver. The dive tenders would pull the rescue diver and
19 trapped diver out of the pipeline. This process would be
20 repeated until all divers were rescued. In the event that
21 the trapped divers were unresponsive the rescue diver has
22 the call to attempt to remove him or abandon the dive.
23 With respect to the possibility of a Delta P incident
24 during the rescue, the best conditions to effect a rescue
25 would have been on Friday or the early morning hours of
26 Saturday morning. In any event, commercial divers are
27 trained to deal with and mitigate against the possibility of

1 a Delta P incident.”

2 He then refers to section five one seven of the ADCI manual
3 which sets out—

4 **Mr. Chairman:** Before you move on, would you read
5 paragraph 46 please?

6 **Ms. Maharaj:** Yes.

7 “In light of the information provided by Mr. Boodram
8 and Mr. Kurban and the competency of the commercial
9 divers available awaiting the arrival of a camera,
10 borescope of ROV would have been wasting precious
11 time on conditions which were already permissible for a
12 rescue. The use of a ROV camera is a mitigating
13 measure but it is not compulsory. The rescue diver
14 would have been equipped with a camera in any event as
15 part of his umbilical and would have provided live video
16 feed to the dive supervisor.”

17 And then at paragraphs 50 to 53 Dr. Cheddie refers to the
18 code of practice for safety in commercial diving operations and
19 he states as follows.

20 “I was a member of the committee appointed to review
21 the code of practice for safety in commercial diving
22 operations. This standard is outdated, inadequate and not
23 in line with the international standard on commercial
24 diving. A new standard was drafted by the Trinidad and
25 Tobago—being the Trinidad and Tobago Standard
26 Commercial Diving Operations Requirements for Safety.
27 I believe that had the draft standard been mandatory, the

1 tragic deaths of Mr. Ali, Mr. Nagassar, Mr. Kurban and
2 Mr. Henry would not—could have been avoided. Clause
3 5.1.1.2 of the draft standard would have prohibited the
4 use of scuba for this operation and would have, in any
5 event, required the divers to be tethered. Clause 5.1.1.3
6 of the draft standard would have prohibited the use of
7 divers in commercial diving operations who were
8 certified by a recreational diving agency. The ADCI
9 manual recognizes PADI as one such recreational
10 agency.”

11 Dr. Cheddie, do you agree with the what I’ve just read
12 out as representing a true and correct—

13 **Dr. Cheddie:** Yes.

14 **Ms. Maharaj:** Thank you.

15 **Examination By Mr. Chairman:**

16 Q. It clearly isn’t everything obviously it’s selected paragraphs.

17 A. That’s so.

18 Q. But as I indicated earlier, the entirety of your statement has
19 been placed before everyone and they have had an opportunity
20 to consider it, so, if anybody wants to ask you anything about
21 any part of it, they’re being allowed to do just that. All right?
22 So, Mr. Maharaj, now, who is counsel representing the
23 Commission is going to ask you some questions.

24 **Examination By Mr. Maharaj SC:**

25 Q. Good afternoon, Dr. Cheddie.

26 A. Good afternoon.

27 Q. I just want to ask you a few questions. You mentioned at

1 paragraph 36 the name Conan Beddoe. Do you know Conan
2 Beddoe?

3 A. No I don't know him personally.

4 Q. But you know of him?

5 A. I know of him and of his diving capabilities.

6 Q. And how would you describe him? What are his, um, as far as
7 you're concerned his qualifications and experience?

8 A. Excellent. I have, um—he is a certified commercial diver and
9 from what I understand he did sat diving and I've known
10 about—heard about him in the industry itself.

11 Q. In the industry. Cory Mark Crawford is another name you
12 mentioned. Do you know that person or of that person?

13 A. Yeah. I trained Cory many years ago and he was very
14 comfortable as a diver during the training process and I know
15 he went abroad and did some diving, I think was in South
16 Africa somewhere and, yes, I know him as a competent diver as
17 well.

18 Q. And then the third name you mentioned was Conrad Beddoe.
19 What about him?

20 A. No, I don't know Conrad Beddoe. I just, again, heard about
21 him as well that he was an ADCI certified diver.

22 Q. ADCI. Ronald Ramoutar?

23 A. I trained Ronald and, um, again, same like Cory, very
24 competent divers. So I would recommend him to be there as
25 part of that.

26 Q. Michael Kurban?

27 A. Of course I trained Michael as well and he has always been a

1 strong diver well so, yes.

2 Q. So, from your witness statement, am I to take it that if Paria had
3 discussions with these persons who were on site or who were
4 available, a rescue plan could have been devised?

5 A. Well they would need also have to have a supervisor there, not
6 these guys alone, a diving supervisor. Certified diving
7 supervisor would have to have been present for a dive plan to
8 be completed.

9 Q. For a dive plan?

10 A. Yes, Sir.

11 Q. And a dive supervisor, do you know whether there was anyone,
12 any such person available—

13 A. Yes.

14 Q. —for the—

15 A. What I have there as well too, in the two diving vessels that
16 were present at the time, there were diving supervisors present
17 so they could have chatted with those guys there as well.

18 Q. Who were they?

19 A. Paria or whoever was trying to get the plan done.

20 Q. No, who were the two persons?

21 A. I don't know. I can't remember the name. I don't know if one
22 was Paul and I can't remember the other one's name but I know
23 that they had divers pre—supervisors present.

24 Q. Since you're coming back tomorrow, would you be able to look
25 at the records and see who—

26 A. I can, I can.

27 Q. —so you could help us who are those two names?

1 A. Yeah, I can find out those two names.

2 Q. Now, you have been, um—you said that, um—well let me put it
3 this way. You're available in Trinidad to be retained to get
4 advice in the diving industry in respect of diving?

5 A. Yeah. Other companies have also asked me for advice.

6 Q. For advice. Could you tell us some of the companies that have
7 sought your advice?

8 A. In Trinidad?

9 Q. Yeah.

10 A. I know that, um, Atlantic had called but that was in Trinidad at
11 one point. Paria never did. LMCS never did. Smaller
12 companies, one working for Heritage. The names I cannot
13 remember totally but they had called me for advice and that's
14 new companies after Petrotrin had closed down. And there was
15 another company working with Heritage as well. Most of these
16 companies know me because I have students, well, who trained
17 from me so they came to me.

18 Q. I'm asking you that because the question I want to ask you is
19 that if Paria had contacted you on the 25th of February when
20 this incident occurred, would you have been available to give
21 advice or to be retained by Paria to give advice?

22 A. I would have given them advice. Anyone who had called me
23 would always get advice.

24 Q. In your witness statement at paragraph 45, you mentioned that
25 Mr. Boodram further indicated that he felt two weld seams
26 within that pipeline while navigating his way through, and you
27 mentioned that this is a method of determining distance within

1 the pipeline. Could you help us explain that?

2 A. Yes and I continue there with ship husbandry. Ship husbandry
3 basically is working underneath ships where divers would clean
4 the bottom of ships that don't have access easily to the surface,
5 and I'm talking about huge ships. And, um, I have heard from
6 divers. I have never worked underneath one of these ships, but
7 speaking to a lot of these divers and during the draft standards,
8 we found out that divers who would lose their directions in
9 which direction they can get out from under the ship would
10 usually follow the seams and they would know the distance or
11 the direction in which to go. So when I heard about the seams
12 in the pipeline it was simple that you can work out, you know,
13 these divers are accustomed feeling these seams and they could
14 know the distance between, work it out and the direction in
15 which it goes.

16 Q. Okay. At paragraph one of your witness statement, you gave us
17 a list of companies or organizations which you are associated
18 with. Could you tell us whether the Canadian Association of
19 Diving Contractors, CADC, or any one of those associations
20 you were associated with?

21 A. The DCBC, I had, um, that's the Divers Certification Board of
22 Canada, I can't remember the exact year over here but that's
23 many years ago, I, when I was doing my dive supervisor course
24 in Canada, I visited working divers with Gord Hay, that's the
25 owner and he introduced me to the standards, the DCBC
26 standards, where I sat there on two occasions learning about
27 standards and also contributing. So at that point I had learned a

1 lot from the experts in the field as well.

2 Q. Right. Okay. So you're no longer associated with that
3 organization?

4 A. Or no, no, no.

5 Q. Right. At paragraph 49, in which you stated that, um, the po—
6 in which you dealt with the possibility of a Delta P incident, do
7 you—well, and you referred to certain literature on it. Could
8 you explain basically what that literature stated?

9 A. Right. What I quoted there was the ADCI manual.

10 Q. Uh-huh.

11 A. Now the—we were certifying in Trinidad under the ADCI,
12 that's the Association of Diving Contractors International. So
13 our school would follow of course that manual itself and we
14 trained everything according to the manual. Delta P was listed
15 as part of the manual and all our students were introduced to
16 this section and we'd read about it and study it as well to
17 understand what Delta P is.

18 Q. So when you said—

19 **Examination By Mr. Chairman:**

20 Q. I wonder if we could have the next page of his statement on the
21 screen, please, because I think there you quote paragraph 5.17 I
22 assume from the ADCI—

23 A. Yes, Sir.

24 Q. —manual to which you'd been referring and can we see there
25 it's set out what it is that you say it instructs?

26 A. That is the example of 5.17.2 examples of Delta P, that's what
27 you're looking at?

1 Q. No I was looking at 5.17 an explanation first—

2 A. Okay.

3 Q. —of what differential pressure is—

4 A. Uh-huh.

5 Q. —Delta P. It's written there Delta as opposed to using the
6 Greek symbol delta, but Delta P anyway.

7 “A significant number of fatalities in the diving industry
8 involve a differential pressure Delta P situation. Delta P
9 is a particular insidious hazard for several reasons”—and
10 sets out what they are.

11 Rather than you reading, let me:

12 “Delta P is invisible to a diver and strikes suddenly
13 without warning.”

14 A. Yes, Sir.

15 Q. You understand that?

16 A. Yes, Sir.

17 Q. “Once entrapped by Delta P there is almost no way to
18 escape.”

19 A. Correct.

20 Q. “If the velocity profile of a hazard is such that at the
21 periphery the diver may approach without any
22 perceptible increase in the water flow velocity, by the
23 time the diver can feel the water flow velocity it is
24 already at a dangerous level.”

25 A. Correct.

26 Q. In other words he may be sucked to it?

27 A. Yeah, quickly.

1 Q. Without being able to do anything about it?

2 A. Yeah.

3 Q. “Even small forces may be compounded by factors such
4 as the immobilization of limbs or the geometry of the
5 structure surrounding the Delta P hazard.”

6 A. Correct.

7 Q. And then this:

8 “The application of as little as 77 pounds of force on the
9 torso can impair respiration and disrupt blood flow. A
10 diver’s chest, back or abdomen trapped against a 9-inch
11 by 9-inch opening with a Delta P of only one PSI, that is
12 less than 2.5 feet of water head, would experience 81
13 pounds of force.”

14 A. That is true.

15 Q. Just so that we can picture that in our minds, a 9-inch opening,
16 let’s say a 9-inch pipe or about this, something like that, yes, a
17 circle, about 9 inches, that size opening with a Delta P of only
18 one PSI, one—

19 A. One PSI.

20 Q. —PSI pressure, what is the average tyre on a car pressure?

21 A. About 26, 26 and—

22 Q. That sort of—is that right, so which is one—

23 A. That example, if I may come to you, is like we use that in
24 [*Inaudible*] even swimming pools.

25 Q. Right.

26 A. Right. Um, where the intake is at the bottom of the pool, there
27 has been Del—that’s a Delta P situation right there that has

1 trapped divers or people cleaning the pool if the covering isn't
2 there, and, how it works if the pump cuts off, plus whatever is
3 happening with the pump, it sucks the person in. So that's only
4 that size and we're talking about a swimming pool.

5 Q. There people who have been known to die at bottom of a
6 swimming pool—

7 A. Correct.

8 Q. —cleaning, cleaning the, um—

9 A. Yeah.

10 Q. —the filter at the bottom of the pool.

11 A. That's simple intake.

12 Q. Right. And somebody with just a snorkel perhaps going down
13 10 feet—

14 A. Yeah.

15 Q. —just to clean the bottom of the pool, sucked to the surface,
16 stuck to it, stuck there and can't move.

17 A. Yes.

18 Q. A relatively small amount of pressure.

19 A. Correct.

20 Q. That's how powerful it is.

21 A. Powerful Delta P is.

22 Q. And so you explain that, do you, to your students?

23 A. Oh yeah, and I also show them the ADCI video, not only with
24 the one with the crab, I think which everyone is speaking about,
25 um, but there are number of videos that ADCI has on Delta P.

26 Q. We've seen.

27 A. And all my students run through that.

1 Q. We've seen.

2 A. Okay.

3 Q. All right. Lovely. Thank you.

4 **Mr. Chairman:** Thank you, Mr. Maharaj.

5 **Continued Examination By Mr. Maharaj SC:**

6 Q. And that explains, Dr. Cheddie, if you look under
7 "Recommendations" on 5.17.3—

8 A. Yes, Sir.

9 Q. —you see it says it is therefore important in your view where if
10 works have to be done, hazardous works, that steps are taken to
11 identify potential Delta P situations?

12 A. Of course, and it's not hard to identify that.

13 Q. And if you notice at "Recommendations" at 10, a pre-job
14 meeting to understand where the hazards may be. You see
15 that's one of the recommendations?

16 A. Yes, Sir.

17 Q. The third one, understand where the potential for Delta P may
18 exist. And then two points down, make sure the diver and
19 supervisor know how the piping and the value [sic] system
20 work together.

21 **Mr. Chairman:** Valve.

22 **Continued Examination By Mr. Maharaj SC:**

23 Q. Valve, sorry, yes, valve system work together.

24 **Examination By Mr. Chairman:**

25 Q. Yes, I mean, in that regard, the third head of that describes to
26 understand where potential for Delta P may exist, when dealing
27 with pipelines, is there always a danger for Delta P?

1 A. Yes, always, any time you're around pipelines.

2 Q. Let me—the little knowledge that I've gained in the time that
3 I've been involved in this, it seems to me that it is almost a red
4 flag for Delta P if there is pipes involved?

5 A. Correct.

6 Q. And even if you're able to dismiss the prospect of the particular
7 case you have to consider it as an issue before dismissing it, if
8 you see what I mean?

9 A. Yes.

10 Q. All right, thank you very much.

11 **Mr. Maharaj SC:** I have no further questions for the witness.

12 **Mr. Chairman:** I might have a couple myself.

13 **Examination By Mr. Chairman:**

14 Q. Yes, I wanted to ask you about something because it's not
15 really reared its head very much in these hearings, but it seems
16 to me something as a lay person that might have been
17 considered. Could you turn to your paragraph eight of your
18 statement please? You all right reading on the screen or do you
19 prefer to—

20 A. I continue that. It's comfortable.

21 Q. All right. You say this:

22 "I further informed Mr. Seales that I remained available
23 to help and assist with respect to the rescue of the divers.

24 Mr. Seales responded stating that he would let me know."

25 Pausing there for a moment, now, Mr. Seales knew you, you
26 knew him because you'd trained him?

27 A. Yes.

1 Q. Right. Were you called upon at any stage, by Mr. Seales or
2 anyone else, to lend assistance?

3 A. No.

4 Q. Right. You then went on to say this.

5 "I then told Mr. Seales that an air umbilical ought to be
6 inserted into the pipeline as soon as possible in order to
7 assist the trapped divers who may be able to reach same.

8 A. Yes.

9 Q. Right? Now, I'm envisaging your putting a piece of pipe down
10 there with a—

11 A. Hose.

12 Q. —a hose with—I mean, you don't literally mean just an empty
13 piece of hose do you?

14 A. No. One—

15 Q. You mean with breathing apparatus on the end?

16 A. No, no, no. What immediately I told him to do was send that
17 umbilical, which is the hose—

18 Q. Yeah.

19 A. —down into the pipe, just send it down, and you open the air.
20 It's something what we have in diving called a Nemo hose, a
21 Nemo Fathometer hose which shows the depth. It always has
22 air in it. Water would not get into it. So we can send that hose
23 down and send it.

24 Q. Is it pumping air out?

25 A. Yes.

26 Q. Right. So unlike on that tank that we have in front with the
27 mouthpiece, the regulator on the front, you see it on the floor—

1 A. Yes.

2 Q. —there in front of you, that's got a regulator on it, but you have
3 to put into your mouth and start breathing before it operates?

4 A. Yeah, but you have to hold that with your teeth.

5 Q. You have to put it in your mouth, hold it with your teeth and
6 start breathing?

7 A. Yeah, and pull.

8 Q. That's—no, I understand that, but what you're suggesting is
9 putting down a hose which has got air continuously flowing
10 out?

11 A. Yes.

12 Q. You don't have to breathe, you don't have to put it in your
13 mouth, you don't have to do anything?

14 A. Yeah. That's for the initial stage. Just send it down.

15 Q. Just send it down. Right. Did you have some—when you
16 made that suggestion to Mr. Seales, did you, first of all,
17 appreciate how far down the vertical it was before it went along
18 in the horizontal, or did you have any idea about it?

19 A. No, I just say send it down.

20 Q. Right. So your view at that stage, a very early stage—

21 A. Yes.

22 Q. —as ignorant perhaps of much of the facts, was, well, just send
23 some air down there.

24 A. Yeah, just send it down. If guys are trapped anywhere
25 underwater or anywhere, just send it down. One may hold it
26 and put it in his mouth.

27 Q. Somebody might—or if they were down there they might have

1 actually grabbed hold of it?

2 A. Yeah. And these are two guys who I knew were commercial
3 divers, so, of course they're going to see umbilical in their face,
4 you know.

5 Q. At the time when you were making that suggestion, were you
6 aware, for example, if there was any potential for air pockets in
7 the pipe itself?

8 A. No.

9 Q. So you had no idea whether they—there even—there was any
10 air, such air pockets in there or where they might be obviously?

11 A. No.

12 Q. But you thought that that might help at least?

13 A. If you're going to send it down there, one might, one might feel
14 it, may see it, may see air bubbles coming out, I don't know. I
15 just say—it was just a suggestion I made at that time in—

16 Q. No I follow, I follow. I mean, to the lay person it seems like a
17 sensible thing to do. I just wondered whether or not there was
18 any hazard involved in doing that.

19 A. I don't think there would have been a hazard.

20 Q. You didn't envisage it?

21 A. No.

22 Q. If somebody had suggested to you that there was a potential for
23 a latent Delta P to still exist in the pipeline, would sending a
24 piece of tube with air in it like that affect that?

25 A. No. It wouldn't affect it. The only way that would have had a
26 latent—a next—a second Delta P would occur is because it was
27 going to be done through the habitat. You remember the

1 habitat was now—um, it had air in the habitat again.

2 Q. Pushing air down to the pipe?

3 A. If that had cut off again, the water would have started for a
4 second time back into the type.

5 Q. So removing the habitat was not a good idea?

6 A. Removing the habitat, but having it flooded with water, it's a
7 whole lot of stuff that you had to take into consideration.
8 Removing the habitat was a good idea.

9 Q. More [*Inaudible*] yeah.

10 A. Just get rid of that habitat from there, because it would have—
11 the divers, from what I understood was, they would have had—
12 the guys who were diving to try to get back into the pipe after
13 Boodram came out, it had air in there. What—if that air, that
14 compressor had stopped again, the water would have rise again
15 add backed into the pipe again. You understand what I'm
16 saying?

17 Q. No I don't.

18 A. Okay.

19 Q. And let me see if I can understand the position. You know,
20 don't you, that what caused this was a Delta P?

21 A. Delta P.

22 Q. Right. What preceded the Delta P was the removal of plugs in
23 a pipeline?

24 A. Correct.

25 Q. The removal of the plugs in the pipeline were being removed in
26 circumstances where the habitat over the end of the pipeline
27 was applying a certain amount of pressure to that pipe?

1 A. Correct.

2 Q. Well not to move the contents of the pipe obviously, it was
3 applying that pressure within the habitat pushing the water
4 down?

5 A. The water down.

6 Q. Right.

7 A. Correct.

8 Q. Once the plugs had been removed or the first plug removed and
9 the other one sucked into the pipe and then stopped somewhere
10 in it, once that had happened, the pressure from the habitat
11 returned everything back to normal, even though there was no
12 longer a plug at the surface, it was down the pipe somewhere, it
13 created a sort of equilibrium, didn't it?

14 A. Yeah, but remove that air now? What was the job of the air?
15 The air's job—the air inside of the pipe was to keep the water
16 down.

17 Q. Yes.

18 A. Remove that for the second time on a second occasion—

19 Q. Yes.

20 A. —water would rise again—

21 Q. No, no. I'm following.

22 A. —with the second Delta P.

23 Q. I do follow that.

24 A. Okay.

25 Q. I do follow that

26 A. Okay.

27 Q. What I—what I'm try—and it's me I'm sure not understanding

1 your answer but, the position in the pipe, whether there was a
2 further chance of a second Delta P or not, was at least stable at
3 that moment in time?

4 A. Correct. It was stable at that time.

5 Q. It's stable, right?

6 A. Uh-huh

7 Q. And we've heard some evidence, and it seems to be the case,
8 that something would have to happen to trigger a second Delta
9 P even if that existed within the pipe, all right?

10 A. Yeah.

11 Q. Something would have to happen—

12 A. That's correct.

13 Q. —to affect that stable condition.

14 A. Correct.

15 Q. Right? What I'm asking you, I suppose, is this, is that at the
16 time when we have the stable condition, you've got whatever
17 PSI there is within this habitat pushing down on the pipe and
18 the contents of the pipe between where it's open and where the
19 plug has ended up, so whatever distance that is, the pressure is
20 pushing down on that end. Do you follow?

21 A. Yes.

22 Q. So if I stop that pressure all of a sudden, I take that pressure
23 away and open the pipe to just the atmosphere above, surely
24 that is a factor which might affect the equilibrium, the
25 stabilization of the pipe?

26 A. Correct. Yes, Sir.

27 Q. So removing the habitat and depressurizing the—that force,

1 downward force on the pipe, might have the effect of actually
2 creating a second Delta P—

3 A. That's correct.

4 Q. —if it existed?

5 A. Once you—yes.

6 Q. So it's not a good idea to remove the habitat then, is it?

7 A. No, it's not, it's not—it wasn't going to be a—to remove it, it
8 was already there, and looking at time it could have been to
9 work with the habitat while it was over the pipe. We're talking
10 about initial, before they removed the habitat.

11 Q. Yes I'm talking about—

12 A. Yeah. Uh-huh.

13 Q. I mean, we've heard some evidence about the removal of this
14 habitat and why it was thought appropriate to do so.

15 A. Uh-huh.

16 Q. The pump might break down or whatever it—

17 A. Correct. Same thing I—

18 Q. We get all of that.

19 A. Right, good.

20 Q. But, I'm simply asking the question, you as the expert in the
21 field can help me understand the removal of that habitat might
22 of itself have created that secondary Delta P if one existed
23 within the pipeline?

24 A. Yes.

25 Q. Because you're taking one of the forces—

26 A. Yes, it would.

27 Q. —that exists away—

1 A. Yes.

2 Q. —aren't you? There is, whatever the PSI is it doesn't matter
3 for our—purposes of our argument, but if there's a force, a
4 downward force on the open end of the pipe and you stop that,
5 that changes the dynamic, doesn't it, it must be?

6 A. Anything that would affect the dynamics, yeah—

7 Q. Yes.

8 A. —could cause—well, it would be a Delta P.

9 Q. So the best thing I can do, from what I can see at the moment, is
10 to keep it as it is?

11 A. Yes.

12 Q. Is that not right?

13 A. That's right, yeah we could—yeah.

14 Q. I looked at my colleague Mr. Wilson to disagree with me if I've
15 got it wrong but I think that's my way of thing thinking about
16 the matter.

17 A. Leave it there, yeah.

18 Q. All right. Equally, would you agree that because we know this
19 U bend at the other end at berth 5 had a cap, a sealed cap on it,
20 all right, sealing it off at that end, that also provided for a
21 degree of the stabilization, didn't it—

22 A. Yeah.

23 Q. —of the existing pipe?

24 A. Yes.

25 Q. So if I open that end, not such a good idea either, is it?

26 A. No, no, no. You see that had to stay on.

27 Q. So the net result is both things that were actually done might

1 have actually made it worse rather than better, because we
2 know that that cap was taken off eventually, but before that the
3 habitat was removed, a new piece of pipe put on.

4 A. Installed.

5 Q. So that it went above the waterline, that was fitted on, that was
6 what was originally going to be done had this not—this tragedy
7 not occurred. So they put this new pipe on and they took the
8 habitat away.

9 A. Yeah, and then the water would have equalized at that part, and
10 then any air pockets in the pipe would have—could have
11 been—could have moved.

12 Q. In other words, anybody who was breathing air in an air pocket
13 inside the pipe might have lost that air—

14 A. Correct. It would have—

15 Q. —and drowned?

16 A. Yeah. Once you shifted anything there.

17 Q. Well, I'll—all right, look, thank you very much for that. Let
18 me just check if there's anything else I wanted to ask you. Oh
19 yes.

20 Q. Paragraph 13 of your statement if we can pull that up, please?
21 Thank you. Yes. Here you're saying this.

22 "The client is not expected to have the expertise to
23 execute the required job."

24 Now the client here is Paria, isn't it? That's who you're talking
25 about?

26 A. Yes, Sir.

27 Q. Right. So they're not expected, as they've been at pains to

1 make clear during the course of this Enquiry, to be able to carry
2 out the work themselves or, or even have a deep understanding
3 of the work and they have—their case is really that, “Look, we
4 employed these experts, LMCS, to do the job because they’re
5 the ones who are expert in the field.” You follow?

6 A. Correct, correct.

7 Q. And you seem to agree with that?

8 A. Yeah, I agree with that.

9 Q. So I want to ask you a next bit.

10 “In evaluating a tender, the client is required to be
11 assisted by technical personnel in the area and an
12 independent qualified dive superintendent, or, if
13 available, a diving client representative.”

14 Now pausing there, is what you’re saying about that that given
15 that Paria don’t have the expertise themselves, that what they
16 would be doing—what they should do, or the prudent thing to
17 do would be to employ somebody independent to do that job for
18 them, the assessment? Is that what you’re saying?

19 A. I’m saying that, and that’s why, um, it’s not just about Paria.
20 It’s about all clients who get involved with diving, the diving
21 business, you know—

22 Q. No, no I follow that. But, I mean—

23 A. —must have a diving—

24 Q. —in this case, right?

25 A. Yes. In this case, yes, must and they should have had someone.

26 Q. Given, given that they are saying their case is, “This is expert
27 work which we do not know anything—that’s not what we do,

1 we know nothing about this, experts are employed to do the
2 job”?

3 A. Correct.

4 Q. And in effect they'd been saying that the expert must police
5 themselves, all right? That's what they're saying.

6 A. When you say police themselves?

7 Q. Well, in that they are, they are to make the risk assessments and
8 then judge whether that risk assessment is enough.

9 A. And be, and be on the site.

10 Q. [*Inaudible*] Paria didn't have the expertise to do it?

11 A. And be on the site 24 hours per se.

12 Q. Yeah. Supervise it all themselves, do it all themselves?

13 A. Correct.

14 Q. All right? But what I think you're saying here is that in
15 evaluating the tender the client, that is Paria, should actually get
16 somebody, because they can't do it, get somebody else to do it?

17 A. Correct.

18 Q. The assessing because you go on to say:

19 “No more than one diving superintendent is required for
20 the purpose of evaluating the risk assessment, job safety
21 analysis and emergency response plan.”

22 All right? Am I to understand that what you're saying is, look,
23 the prudent and sensible thing here is for Paria, given their
24 limited knowledge of this expert work, to have—employ
25 someone else to look at what LMCS were going to do and say,
26 “Well, yeah, your risk assessments work, your job safety
27 analysis is good and your emergency response plan is good.”

1 A. Correct.

2 Q. We're fine with that, or, to say no they're not, whatever it might
3 be.

4 A. And stop the job immediately.

5 Q. Yes, exactly. So they would look at those things, make an
6 assessment of—judge, value judge what they'd done, what
7 LMCS had done and then say, yes it's good or no it isn't, and
8 then be on site to be there, as it were, the eyes for the client?

9 A. Correct.

10 Q. Obviously that involves expense, doesn't it?

11 A. Well yes.

12 Q. All right. You finish that off in your paragraph 14. At the end
13 of paragraph 14 you say:

14 "The dive superintendent, this is this independent person,
15 is specifically working on the client's behalf, on Paria's
16 behalf, to ensure the contractor is adhering strictly to its
17 duties."

18 A. Correct.

19 Q. Got you.

20 A. All right.

21 Q. Would you be kind enough to put up, please, page 12 of the 26,
22 three two four three? Do you see there you've given some
23 illustration of the kind of headgear that the divers ought to have
24 been wearing, as I understand it, whilst working inside the
25 habitat?

26 A. Yes.

27 Q. And you give these examples, this is Figure 1, this is something

1 called a Kirby Morgan Surface Supplied MOD-1 Full Face
2 Diving Mask. Do you see that?

3 A. Yes, Sir.

4 Q. Looked like a spaceman or something?

5 A. Correct.

6 Q. That is a much lighter arrangement than the yellow one that my
7 learned—

8 A. And this is just about two pounds.

9 Q. Weighs two pounds?

10 A. Yeah, about that.

11 Q. So, it's something you can work in?

12 A. Yeah. This is what you need to use in the habitat.

13 Q. Right. Ought to have been used in the habitat?

14 A. Ought to have been used, yes.

15 Q. So anybody in that habitat carrying out this sort of work ought
16 to have been wearing something like that? I think there's
17 another one a little, a Kirby Morgan band mask.

18 A. The band mas, yeah, but that's a little heavier. That's about 12
19 pounds.

20 Q. That's quite a bit heavier, is it?

21 A. Yeah, but, for these guys working in there I don't think it
22 woulda been a problem for them, but those are about the
23 lightest ones and what it—

24 Q. Well, I'm just thinking about it, you know, I mean wearing 12
25 pounds on your head bending down looking into a pipe might
26 not be the most comfortable position to be in very long, is it?

27 A. That's why I recommended this.

1 Q. I mean, you might be able to do it for 10 minutes even half an
2 hour—

3 A. Quite true.

4 Q. —but, I mean, carrying 12 pound additional weight on your
5 head bending forward, is—

6 A. That's why I recommended this one and we have a lot of light
7 ones about three, four pounds as well, [*Inaudible*] band mask.

8 Q. Right.

9 A. It's not like you're just, you're limited to just one. There is a
10 white range of full face surface supply—

11 Q. I get it, it's just an example, all right, all right, but anyway, that
12 would provide some sort of protection?

13 A. Of course, yeah.

14 Q. Yeah. Next can I ask you is if you go to Figure 2, please, this is
15 some sort of a harness that can be worn ? I think—

16 A. This is a 6 point.

17 Q. This is a what?

18 A. A six-point harness.

19 Q. Right. I'm not going to try it on before anybody says anything,
20 all right? This is the sort of thing, is it? [*Demonstrating with*
21 *harness*]

22 A. Yes. Yes.

23 Q. No, no I understand yes.

24 Q. So you climb into it—

25 A. But, the, the thing that—

26 Q. Beside a side of you, [*Inaudible*] as it were—

27 A. Yeah, but, it's not just that alone. You have to have a place in

1 the back of it like this one. If you look at the picture you would
2 see that it's a bit—there's a hard piece in the back of it—

3 Q. Right.

4 A. —where the bailout bottle is attached to this. But the divers in
5 the habitat can use this and have a small bailout bottle with
6 them.

7 Q. So something like that—

8 A. That's fine.

9 Q. —if the divers were wearing something like that—

10 A. Clipped—

11 Q. —having it on—

12 A. Yes.

13 Q. Through the habitat?

14 A. Not the habitat. They will be clipped on to the surface. Their
15 umbilical would be running to their hip then to the hat, but the
16 other part of it will be attached to the surface.

17 Q. Right, so basically what they will be wearing a hat like we see
18 in what we've—

19 A. Right.

20 Q. —just been looking at.

21 A. And the deering [*Phonetic*] it to the side.

22 Q. Just a minute, just a minute. They'll be wearing a wet suit?

23 A. Yes, wet suit.

24 Q. A wet suit, then this over the top of the wet suit?

25 A. Correct.

26 Q. Arms through here?

27 A. Yes.

- 1 Q. Yes and then legs through that part?
- 2 A. Correct.
- 3 Q. Buckled up at the front?
- 4 A. Yes.
- 5 Q. With this?
- 6 A. Yes.
- 7 Q. And then there'd be some sort of tether, would there, on these?
- 8 A. On the sides, yeah.
- 9 Q. On these?
- 10 A. Yes.
- 11 Q. What, a kind of—just the umbilical or something separate?
- 12 A. No, well the entire umbilical will be hooked with a carabiner on
- 13 that.
- 14 Q. On here?
- 15 A. Yeah, on that.
- 16 Q. So it would go from here?
- 17 A. And then here would run on that.
- 18 Q. Round into the person's mouth?
- 19 A. Well, the, the hat.
- 20 Q. What, connected to the hat?
- 21 A. Yes.
- 22 Q. All right. And, um, and that would all be connected to a
- 23 surface?
- 24 A. Correct.
- 25 Q. So if there had been the kind of Delta P we're talking about,
- 26 yes, and they were sucked into the or attempted to be sucked
- 27 into the pipe, they would be connected to the surface by that?

1 A. Yeah. The umbilical, the umbilical would be comprising of a
2 strength member, not a piece of rope as such, but it's a strength
3 member and that is all wrapped around the umbilical like the
4 next photo you would see lower down, and, um, that strength
5 member—

6 Q. The next page please?

7 A. —ends here.

8 Q. Just scroll to the next page?

9 A. Yes. That's what we call an umbilical.

10 Q. That umbilical's coiled up, isn't it?

11 A. Yes. So that's a num—that's three or four umbilicals there.
12 One end is connected to the surface, to the air manifold system
13 which sends air to the diver. The strength member, which is
14 like a rope then, a thick, strong rope, is connected to the barge.

15 Q. Made of rope or metal?

16 A. Rope.

17 Q. Rope.

18 A. Everything is made out of—that is—that—everything there is
19 except the rope, right, and everything is hose and the
20 communication systems and all that and the video as well. The
21 strength member, which is a rope, which is also wrapped in
22 that, that strength member is attached to the barge or to the ship
23 or somewhere on to the boat itself, a very short, not all long but
24 just short, so if it's pulled the tender who is holding the other
25 end, if it slips out of his hands, like a Delta P it's going to slip
26 out of his hands.

27 Q. There's no way he's going to hold it, huh?

1 A. Right, the other end is attached to the boat. So that, they may
2 be sucked in, they may be banged up, but at least, you know,
3 we can find them.

4 Q. You mean even if it ripped itself off the cleat on the boat, it
5 would still have an umbilical that would go into the pipe
6 [*Inaudible*]?

7 A. Of course, yeah. Those umbilicals are pretty long, 300 feet,
8 maybe four, five, uh-huh.

9 Q. Right; 300, feet?

10 A. Yeah.

11 Q. All right. And your view is, is that when you're carrying out
12 that kind a work, that is how you should be tethered inside the,
13 um—

14 A. One important thing about the umbilical is that the umbilical
15 must never be joined.

16 Q. Never be joined?

17 A. Never be joined.

18 Q. What do you mean?

19 A. What I mean by joined is that people like to connect umbilicals.

20 Q. Yes.

21 A. On some of my, um, where I was asked to visit some of the
22 companies, I have seen they've joined umbilicals and that is
23 something that is frowned upon by standards. What happened,
24 two things happen is that on force that joining could pull—

25 Q. Yeah.

26 A. —so that's the air break right here and you would not get air.

27 Q. Okay.

1 A. The second one is that the gas volume that is coming from the
2 surface, there's a slight restriction at that point where it is
3 joined, so the amount of air that's going to the diver will be a
4 little less.

5 Q. Right. I mean obviously that would be in the sort of conditions
6 where you're carrying out the work. There might be
7 justification, can I suggest if it's right, that you could—you
8 might want to join them if you were trying to effect a rescue
9 that needed more than 300 feet?

10 A. Nah, I would find an umbilical.

11 Q. Sorry?

12 A. I'll, I'll, I will look for an umbilical that's longer than 300 feet.

13 Q. Yes.

14 A. I will not be comfortable—

15 Q. If it's been—

16 A. —with joining.

17 Q. If it's in Jamaica, that wouldn't be much use to you in an
18 emergency situation, would it?

19 A. In where, sorry?

20 Q. If the longer one was in Jamaica rather than nearby?

21 A. Oh no, um, there are companies here in Trinidad that have
22 longer ones as well.

23 Q. They do?

24 A. Yeah.

25 Q. All right, good. All right, thank you very much. I just make
26 sure I haven't got anything else to ask you. Paragraph 46
27 please? Yes. You address an issue that has been an issue

1 we've been concerned with in this Enquiry.

2 "In the light of the information provided by Mr. Boodram
3 and Mr. Michael Kurban, and the competency of the
4 commercial divers available, awaiting the arrival of a
5 camera, borescope or ROV would have been wasting
6 precious time on conditions which were already
7 permissible for a rescue."

8 Correct?

9 A. Yes, Sir.

10 Q. Do I take it from that, that what you are doing is to say we have
11 a timeline to save these people?

12 A. Correct.

13 Q. And every hour that passes, that timeline is more likely to
14 expire and therefore they will be dead?

15 A. Correct.

16 Q. And so, it was important, whilst it would be a really good idea
17 to have a camera look at the inside of the pipe, if that took long,
18 then you have to do away with that and make an assessment
19 without it?

20 A. Correct, because, as I said after that, the diver will have a
21 camera on his head.

22 Q. Indeed. And if he had met, as I think Mr. Ramadhar suggested,
23 a crocodile coming in the other direction, he would have been
24 able to see it? I know it's a facetious question, but since he
25 asked it in that way I put it in the same way, all right? I mean,
26 that—the reality is what I'm suggesting is that once you're
27 down in—the person who's got this on his head or wherever it

1 is he's looking he'll be able to see?

2 A. No, um, yes, but what is more important for that statement
3 would be the supervisor would see a lot better sometimes than
4 the diver himself. The camera is focused here on his head,
5 right? Some of them have it here but most of them have it here.

6 Q. Pointing in?

7 A. Right, so dir—in full direction of them and it would have light
8 and camera in one. The supervisors sitting there would be able
9 to see a lot, sometimes more than what the diver himself.

10 Q. Could see with his eyes—

11 A. Yeah.

12 Q. —the protective—all the other gear round him?

13 A. Correct.

14 Q. Right.

15 A. So that's basically there for the supervisor to see.

16 Q. And so the supervisor could be telling him there's a crocodile
17 coming, if you want—if that's what you want to say?

18 A. Or, or there's someone in front of you or—

19 Q. Right.

20 A. —if there's a something, yeah.

21 Q. Yes. Yeah. And they're in communication with each other?

22 A. All the time—

23 Q. Yes

24 A. —especially for a dive like this, yes.

25 Q. So if either vision or oral, um, auditory communication were
26 lost, you could have a plan for removing the diver immediately?

27 A. Yeah. All commercial divers follow a stan—meet within the

1 standard or the dive manual itself that talks about the US navy
2 signals where we pull, so, so we have one signal would mean
3 something, two and we just recap it before we dive so we have
4 the out of—loss of communication signals.

5 Q. Right. So if you lost vision and audio, you'd be able to say,
6 right, give him two pulls or one pull or whatever it is?

7 A. More than four pulls, you will be panicking so you're going to
8 pull a lot and that's enough to take you out.

9 Q. Get me out?

10 A. Yeah.

11 Q. Right. I think that's all I need to ask you, doctor—yes it is.
12 Thank you very much.

13 A. Thank you.

14 **Mr. Chairman:** Mr. Wilson, I think has a question.

15 **Examination By Commissioner Wilson:**

16 Q. Good afternoon, Mr. Cheddie. I just want to go back to Figure
17 3 where you were showing the different types of hats and I
18 want to ask you something for clarification.

19 **Mr. Chairman:** Figure 3?

20 **Commissioner Wilson:** Yeah, with the, um—

21 **Mr. Chairman:** The umbilicals.

22 **Commissioner Wilson:** That's umbilicals? Well just higher
23 up.

24 **Mr. Chairman:** Which one you—

25 **Commissioner Wilson:** With the, with the hats. With the—

26 **Mr. Chairman:** You're looking at the masks, are you?

27 **Commissioner Wilson:** This one.

1 **Mr. Chairman:** Yeah, this is—the two of those are
2 [*Inaudible*] Figure 1.

3 **Commissioner Wilson:** Just higher up, sorry. Figure, right—
4 go down.

5 **Mr. Chairman:** No, well, go the other way. The other way.
6 The other way. That's—

7 **Commissioner Wilson:** Up to the hats, the face, past that,
8 right straight to the top of the—that one.

9 **Examination By Commissioner Wilson:**

10 Q. I just heard you indicate that this is the type of mask, I
11 understand it's an example that you'll be expecting the divers to
12 work to in the habitat. Upon demonstrating the harness and
13 with your recommendation that this is supposed to be done with
14 surface supplied air, just for the clarification, my clarification,
15 once you dive in with hard hat and stuff, you get to the habitat,
16 if you could walk me through that—the process that a diver
17 would go from hard hat to this?

18 A. No, no hard hat. We don't use—I would never recommend that
19 heavy 35-pound hard hat to be used even from the surface to
20 the habitat.

21 Q. Okay. So—

22 A. That's—no.

23 Q. No problem.

24 A. You don't need to do that. This is the hat that you stay on at all
25 times.

26 Q. So you'd use this hat to dive—

27 A. From the—from—

1 Q. —straight to the habitat?

2 A. Yeah, from the entrance—

3 Q. Okay.

4 A. —to the water.

5 Q. That, that's the clarification I want.

6 A. Yeah, I wouldn't use that hard hat.

7 Q. So you would go—

8 A. You can't—no, there's no way to take off that hard hat by
9 yourself.

10 Q. That, well that's where I was going with.

11 A. That's, that's, that's, that's basically impossible to do.

12 Q. I understand.

13 A. We usually have tenders.

14 Q. Yeah.

15 A. So in the habitat there's no one to help you there.

16 Q. The reason why I was asking, and that's why I wanted the
17 clarification, we heard testimony earlier that surface supplied
18 diving to a known standard—no, not this hat really but—

19 A. Or, you have a hat here?

20 Q. Yeah. But not making reference to that.

21 A. Twenty-seven.

22 Q. Yeah, 27, an old 27, yeah. Earlier we heard that, you know,
23 because we're diving to a—well not we, um, there's a dive
24 executed to a standard, surface supplied, diver gets to the
25 habitat, derigs, and then you would use one of those hats, a
26 band mask to execute the job, so, um, why I wanted clarity for
27 that is, is with the Delta P incident if he derigged and that was

1 set up in the habitat for use of the diver once he gets into the
2 habitat, the probability that he might be attached to the surface,
3 he's not?

4 A. Yeah.

5 Q. Yeah. Okay.

6 A. We have never taught about any time to any of our students to
7 ever take off their equipment underwater.

8 Q. Right, yeah.

9 A. So that's why we use that hat. From the time you leave the
10 surface, you keep it on until the time you exit.

11 Q. Understood. Thank you for that clarification. Right. Good,
12 thanks.

13 A. Thank you.

14 **Mr. Chairman:** Thank you. Yeah, I mean it—I had real
15 trouble with the idea of somebody wearing this thing and
16 having to take it off inside that. Right, good. Well that's very
17 helpful. Thank you, Mr. Wilson. Right, questions from others
18 please? We will proceed until five o'clock and then we'll stop.
19 So, first of all, hands up those who want to ask a question.

20 [*Hands raised*] All right, good. I know Mr. Peterson does. All
21 right? So we'll start with Ms. Alfonso, please, from the union.

22 [*Crosstalk*]
23 **Ms. Alfonso:** Yes.

24 **Mr. Chairman:** You've arranged for this—

25 **Ms. Alfonso:** Yes.

26 **Mr. Chairman:**—witness to be called so—

27 **Ms. Alfonso:** Yes.

1 **Mr. Chairman:**—I mean all witnesses are our witnesses and
2 this is a witness tendered as an expert rather than anything else,
3 even though he had some minor connection on the day. We've
4 taken a position hitherto that those who are most closely
5 associated with the witness should have the opportunity to go
6 last, and that's the position I've adopted. So I'm perfectly
7 content for you to go now, but you're not going to get a second
8 bite of the cherry. So if you want to wait until after Mr.
9 Peterson has asked questions tomorrow, you're more than
10 welcome to wait until then.

11 **Ms. Alfonso:** I, I, um—I, I, I was so like Pavlov's dogs
12 anxious to put my hand up at a very early stage, but yes,
13 Chairman—

14 **Mr. Chairman:** Very wise, very wise.

15 **Ms. Alfonso:** I'm a well-trained Pavlov dog.

16 **Mr. Chairman:** You wish to go last?

17 **Ms. Alfonso:** I will go last, Mr. Chairman, but I say I was so
18 anxious to make sure I did not miss my turn.

19 **Mr. Chairman:** Then I will, then I will permit then. I
20 appreciate Mr. Peterson pointing it out to me, so yes you will
21 go last.

22 **Mr. Peterson SC:** I'm always here to help the Commission get
23 it right.

24 **Mr. Chairman:** I gathered that much and I'm grateful, thank
25 you, Mr. Peterson. So, Mr. Ramadhar, do I see you, Mr. Pegus,
26 also wanted to ask some questions?

27 **Mr. Pegus:** Well, not this afternoon, Mr. Chairman. My issue

1 is very simple and narrow. This witness has referenced certain
2 conversations with a witness that I placed before the
3 Commission in the person of Mr. Rolph Seales.

4 **Mr. Chairman:** Yes.

5 **Mr. Pegus:** Now I had no instructions from Mr. Rolph Seales
6 with respect to this witness' interaction with him. So I'm
7 simply asking for the opportunity to confirm that, um, and if
8 there is a need for me to put anything to him I would ask to do
9 so tomorrow morning.

10 **Mr. Chairman:** Right. Well, first of all, I understand your
11 position. I did, again, I reiterate point this out first thing this
12 morning, asking everybody to look at the statement during the
13 course of the day. And I do appreciate he mentions Mr. Seales
14 on a number of occasions. I'm not sure how vital it is but there
15 is that content there. I rather submit, suggest or I think the
16 likelihood is, is that we're unlikely to get to you before five
17 o'clock today in any event, so, Mr. Ramadhar, the floor is yours
18 please?

19 **Mr. Ramadhar:** Thank you very much, Chairman.

20 **Cross-Examination By Mr. Ramadhar:**

21 Q. And, um, Dr. Cheddie I understand you're also a lawyer?

22 A. Yes, Sir.

23 Q. Could you help us a little bit? From your understanding of the
24 circumstances from the accident at around three o'clock to a
25 survivor exiting the environment around 5.00, 5.30, what level
26 of anxiety would you have had to entertain a rescue plan?

27 A. Could you just say it again, sorry?

1 Q. Of course.

2 A. I just lost you there a second.

3 Q. Yes, yes. Knowing what you do today, that the incident
4 occurred around three o'clock and that there was a survivor
5 coming out of the pipe around 5.00, 5.30 thereabouts, what
6 level of anxiety or urgency would you have assumed would
7 have been required to entertain a rescue effort?

8 A. Very high anxiety.

9 Q. Yes. And anxiety transforms itself into time frames, isn't it?

10 A. In that case yes, Sir.

11 Q. Yes. You would not have considered, as a true professional,
12 hours, if it could be avoided and be done short—in a shorter
13 period of time, isn't it?

14 A. Once it could be done safely, yes Sir.

15 Q. Yes.

16 A. Shortly.

17 Q. And to ensure that you could expand the period of survivability,
18 you have told us here today that you had suggested that a hose,
19 and I use that term loosely, an umbilical, be placed into the pipe
20 for the purpose of admitting air so that if divers were closer by
21 they could benefit from that and extend their lives, isn't it?

22 A. Yes, Sir.

23 Q. Yes. Sitting as you are today, do you know whether any such
24 effort was made?

25 A. No, Sir, I don't know.

26 Q. Would it surprise you to learn, from all the evidence we've
27 heard so far, that no such effort was made?

1 A. It—I made a suggestion so I don't know.

2 Q. Yeah. But was it a loose suggestion but one for sustenance of
3 life?

4 A. Well as an instructor, when I hear something like that
5 immediately, I mean, there's a lot of textbooks in my head.

6 Q. Yeah.

7 A. I immediately would come up with a suggestion not knowing—

8 Q. Yes.

9 A. —full, full details. Send air to the person.

10 Q. Of course.

11 A. That's just natural.

12 Q. Well very early on in the Enquiry we actually had asked Mr.
13 Wei, one of the incident management team members, whether
14 they even considered that, and till this day we've heard no
15 witness say that they did entertain it, first of all and, two, act
16 upon it to put a sustenance—for sustenance in terms of air into
17 the pipe.

18 A. It's a simple thing.

19 Q. Simple thing. That's what I thought. Now, to be clear, you
20 may have it in your statement, but from my—for the benefit of
21 many others, are you being paid for the evidence you give
22 today?

23 A. No, Sir.

24 Q. Of course not. Do you expect to be retained by Paria into the
25 future?

26 A. No.

27 Q. No. Have you been retained by Paria in the past?

1 A. Sir, not a—no.

2 Q. No. So you consider your evidence today—no, no, this is no
3 trick I'm telling you.

4 A. Oh, okay, go ahead, no.

5 Q. Yeah, yeah, yeah. Right. You consider the evidence that
6 you've come to give today is that of a professional giving the
7 best he could in all of the circumstances that have been made
8 available to you?

9 A. Yeah; not only for the Paria incident for Trinidad and Tobago
10 as well.

11 Q. You see, we need more of that in this country, okay? So that
12 there—

13 **Mr. Chairman:** No speeches.

14 **Mr. Ramadhar:** Or, that's Wednesday, is it?

15 **Mr. Chairman:** Yes, it is. Don't forget. I might remove it on
16 the basis that you've already made it.

17 **Mr. Peterson SC:** [*Inaudible*]

18 **Continued Cross-Examination By Mr. Ramadhar:**

19 Q. So, let's see now. You have come as a patriot to give the best
20 evi—best information that you could share with us moving
21 forward to ensure that if something like this should recur what
22 is the best practice you should adopt?

23 A. Correct.

24 Q. Yes. Now, as you've told us already, the anxiety for the rescue,
25 in your mind, should have been quite high. Would you
26 sacrifice the need for a paper written risk assessment and for a
27 paper written or digitally prepared dive plan? Would you

1 sacrifice that?

2 A. As I wrote there, a digitally one, no. Paper, yes. But it
3 wouldn't take long to do.

4 Q. There you go. And if persons were offering information but on
5 the scene in the midst of all that anxiety, would it be reasonable
6 to expect in that light you're telling people things that you need
7 to do, get it done, and they're ignoring you and tell you put it in
8 writing? Would that be a reasonable position to take from
9 one—a position of authority, they say no, put it in writing or—

10 A. The only thing that would be done there in writing would have
11 been the dive plan which, as I said, or it could be done in less
12 than 30 minutes, and that's very quick to do. I mean,—

13 Q. There you go.

14 A. —you have the experts there already.

15 Q. There you go. Now, are you aware, as you are today, of the
16 equipment that was made available that evening by many others
17 like yourself who came there to help? Do you know the nature
18 and quality of the equipment that was brought to bear on a
19 possible rescue?

20 A. OTSL boat, um, I had worked on that boat before training
21 divers through that boat. They're full of equipment, everything
22 possible that they would have, even a chamber. I have been on,
23 um, well I'm going to say Miami Divers because that's what
24 I'm accustomed and to, and, um, they have equipment as well,
25 surface supplied equipment as well, full equipment, and a
26 rescue could have been used, so it could have been, um,
27 attempted as such using that equipment.

1 Q. And in terms of the—there was a little bit of a rush from my
2 friends when it was spoken about the length of the umbilical
3 and it was not advisable to join it. What was the length of the
4 umbilicals, as far as you're aware, that would have been
5 available that evening or into the night of the 25th of February?

6 A. I can't remember exactly now the, um, the length of umbilical
7 that would have been on the boats as such. Right? However,
8 what is important for the—it's not so much the length of the
9 umbilical. What was important was the US Navy Dive Manual
10 stated that you had to have time in which a diver has to go into
11 that pipe.

12 Q. Right.

13 A. And what I'm talking about here is decompression, non-
14 decompression time. So you're going down 60 feet. The US
15 Navy Dive Table is very clear that if you're at 60 feet you go to
16 the next one which is 70 feet in checking the time that you stay
17 underwater which allows you 48 minutes.

18 Q. Right.

19 A. So, a diver could only go down there up to 48 minutes, that's
20 returning, eh—

21 Q. Yes.

22 A. —right, staying down and coming back to the surface without
23 getting nitrogen, excess nitrogen in his system. So that gives
24 you 60 feet which is like about in this situation where he's
25 going feet first he's going to take about 5 minutes. By the time
26 he reaches the bend there then he has about another couple of
27 minutes or even longer at that point to turn. So that gives you

1 now, remember half the time we're dealing with, eh, because he
2 has to come back out.

3 Q. Of course, I get it.

4 A. He gets about 15 to 20 minutes into the pipe, now, to search for
5 anyone that's there.

6 Q. Beautiful.

7 A. So, again, so he has umbilicals. The umbilical is not the issue.

8 Q. I appreciate that.

9 A. Right.

10 Q. But the distance into the pipe is?

11 A. Yes.

12 Q. Right. So, in terms—knowing what you do that Christopher
13 Boodram had articulated that he had counted two weld seams,
14 and we've learned from many others that a length of pipe is
15 approximately 40 feet, yeah?

16 A. Yes, Sir.

17 Q. So we're looking at 80, 80 feet, 120 feet maximum. Is that an
18 insurmountable opposition to a rescue, having regard to the fact
19 that you have your umbilicals, you have divers and you have
20 other equipment that may be required?

21 A. It's, no, it's not a, um—insurmountable as such as you put it.
22 It's just the other factors that you would have, again, as I said,
23 the amount of air available.

24 Q. Correct.

25 A. The skill of the divers available, but attempts could have been
26 made at that point because all the guys are there.

27 Q. Yes.

1 A. So—and the umbilical was there. The supervisors were there to
2 give—to bring them back safely out of the pipe.

3 Q. Thank you. So we had personnel, adequate personnel, from
4 what you know?

5 A. Yes, Sir.

6 Q. Adequate equipment?

7 A. Yes, Sir.

8 Q. We had unlimited air in terms of the umbilicals?

9 A. Correct.

10 Q. And nobody called you back? Nobody called you? You said
11 Mr. Seales said he'll call you back?

12 A. Well I just told him I'm always available for anything which
13 I've—I mean, it's normal, I mean—

14 Q. And what did he respond to you?

15 A. I'll call you back or something like that.

16 Q. Yeah.

17 A. I'll get back to you.

18 Q. Yeah. Did anybody call you back, get back to you?

19 A. No, Sir.

20 Q. You appreciate that you had a viable position in terms of
21 endeavouring a rescue?

22 A. Yes. In fact, what I also added, if I may?

23 Q. Yes, of course.

24 A. Um, my son had visited Michael and—there at the scene
25 outside Paria.

26 Q. Oh.

27 A. And, um, my son is an instructor, master instructor scuba diver,

1 so he had visited them and chatted with them, and I told him
2 over the phone, I said, them if they need me at any point for
3 anything let me know, and I remember seeking to Michael very
4 quickly about a couple of things, but I knew that the situation
5 that they were in so I didn't want to, um, t take too long so I
6 told him, I say if you all need me for anything let me know.

7 Q. Yeah.

8 A. But I'm not coming by the gate there.

9 Q. No. And certainly this would have been sometime after—

10 A. That would have been on the, um—

11 Q. —on the Saturday?

12 A. —day—when they gathered by the gate. I can't remember.

13 Q. It wouldn't have been the same night.

14 A. No.

15 Q. No. Thank you very much. And do you know that there were
16 coastguardsmen armed there on site?

17 A. I don't know about the arm. I don't know anything about that.
18 Nobody told me about that. I know about it after.

19 **Mr. Ramadhar:** Mr. Chairman, I'm pleased to tell you it's not
20 yet 5.00 and I'm done. Thank you.

21 **Mr. Peterson SC:** Wonderful.

22 **Mr. Chairman:** Yes. You catch me out I'm afraid, Mr.
23 Ramadhar. All right. Are you in a position, Ms. Persaud
24 Maraj, to ask your questions now?

25 **Mrs. Persaud Maraj:** I am, please.

26 **Mr. Chairman:** Please do.

27 **Cross-Examination By Mrs. Persaud Maraj:**

1 Q. Good afternoon. The name is Kamini Persaud Maraj and I
2 represent LMCS Limited. I'd like to refer you to the Figure 1
3 which is on screen. Yes.

4 A. Yes, Ma'am.

5 Q. With the Kirby Morgan surface supply. My question to you is,
6 this is in relation, a PPE in relation to diving operation and
7 work conducted within the chamber. That's what your
8 evidence is?

9 A. Within the habitat, yes.

10 Q. All right. The question is, in respect of works that are to be
11 conducted within the chamber, they're to be hot works at some
12 point in time within the chamber, that's welding, yes?

13 A. Yes, Ma'am.

14 Q. Would there be need for additional apparels or segments of this,
15 um, this picture that we're looking at, this mask?

16 A. Yes, there would be.

17 Q. Yes.

18 A. Yeah.

19 Q. And that would necessarily add weight?

20 A. No.

21 Q. And bulk?

22 A. No.

23 Q. Well, could you explain?

24 A. Okay, let me explain.

25 Q. Yes.

26 A. Right, um, first of all, no underwater welding jobs or any kind
27 of burning, cutting or anything must be done with scuba.

1 Q. Right.

2 A. So it's going to be on surface supply with a mask like that, but
3 if you could—let me—I'll come back to this one but let me go
4 up to the other, if you don't mind. You got to the other figure.
5 Right. This one, there is a connection by Kirby Morgan and
6 I'm supposing it will fit the first one as well. but we have used
7 this mask where there's a connection, you see those holes on
8 top there along the band, the silver part, there are screws that
9 can go in there and we are—and onto the side where we
10 attached a welding mask to it, just a thin welding piece of
11 equipment which can raise to do the work and then back down
12 to weld and cut and I'm supposing that with Kirby Morgan they
13 would also have an attachment or you can make an attachment
14 for that one on top.

15 Q. And this is the mask that is 12 pounds?

16 A. This one is 12. The other one is only 2 pounds.

17 Q. And just to confirm the one that is just 2 pounds wouldn't be
18 the one that we can use for welding or any kind of—

19 A. Yes. What I'm saying is that you can attach the visors to that.
20 There, there is no big deal.

21 Q. To this, to this very one that is 2 pounds?

22 A. Yeah. We can make it work. We have done it before.

23 Q. And it would be a safe system of work for the person operating
24 hot works?

25 A. Yeah because they just raise it off.

26 Q. Yes. Well I'm looking at material and that kind of thing, so
27 that's what I'm asking you.

1 A. Or the material—

2 Q. In relation to what—

3 A. —meaning the rubber?

4 Q. Because what I'm thinking—

5 A. Uh-huh, uh-huh.

6 Q. —and I'm not a welder, I'm not a diver, but what I'm thinking
7 is that you would need an apparel or that protects you. That's
8 what a PPE is.

9 A. I understand what you're saying.

10 Q. Yes.

11 A. What you—you see with this one, it's, it's, it's fitted close to
12 you and if you know some welders, what they have is the
13 welding mask, the one that you put over your face, that could
14 have gone on that, over that, over your head, and that would
15 protect your entire face.

16 Q. Right. And so in any event, in addition to this there is
17 something additional that the workers would have had to have
18 in order to be safely performing their work within the chamber?

19 A. Welding work—

20 Q. Welding work—

21 A. —or cutting work, if not normal.

22 Q. Right. All right. In relation to diving qualifications—

23 A. Yes, Ma'am.

24 Q. —does a commercial diver necessarily have to be a PADI
25 certified diver first?

26 A. I—in my school what I do, I recommend that all persons who
27 come to us to do commercial diving should be scuba certified,

1 not PADI as such only but scuba.

2 Q. Scuba.

3 A. PADI is not the only—

4 Q. Right, scuba.

5 A. —but scuba certified, and the reason for that being is that it
6 gives them an opportunity to see if, hey, am I going to spend
7 this large amount of money for something I don't like? So I get
8 them involved in scuba, get them diving at 60, 70 feet of depth,
9 put them into night diving as well, all that sort of thing, and
10 then we move them on to commercial.

11 Q. All right. As for paragraph 13, if you can be taken to it, you
12 said that you verified in relation to Mr. Henry—

13 A. Yes, Ma'am.

14 Q. —that he had not been certified?

15 A. Yes.

16 Q. All right. So my instructions are that he was, in fact, PADI
17 certified and had—as you mentioned that he had one session of
18 training, yeah, but you—this—one session of training you're
19 referring to is in relation to scuba, not so?

20 A. Yeah, well since you—

21 Q. PADI?

22 A. —since you asked a question I was—I—if I may, I may tell you
23 this part. I don't know what your instructions are.

24 Q. Yeah.

25 A. But Mr. Kazim Ali called me sometime after the incident and
26 asked me for—if I had Yusuf's certification. I told him no,
27 Yusuf never trained with me. Right? So—and so then I called

1 my son because usually I'll call him for that, and he said he
2 remembered Yusuf and he came to the pool one time, just one
3 time. So I have him check PADI to see what certification, if he
4 went somewhere else. So I told him, before you check, check
5 and see if you see, um, Boodram. He found Boodram. I say
6 check and see if you see junior, Kazim Ali's son, he say yes he
7 saw that as well. Check on the same thing and see if you saw
8 Yusuf, and I gave him the full name. He said no, it is not there,
9 so I don't know.

10 Q. Right.

11 A. I could only say what PADI itself is showing on their website.

12 Q. All right, so my instructions are that he was being certified for
13 commercial diving and was already certified for PADI diving.

14 A. Where would he—I don't understand that. I really don't
15 understand what is your—what does that mean. I don't
16 understand what you're saying. Where would he get
17 commercial certification.

18 Q. No, he hadn't been commercially—

19 **Mr. Chairman:** Just a minute. We're not going to have a
20 debate about it. Either he is PADI certified or he's not. If he is,
21 let's have a certificate. All right?

22 **Mrs. Persaud Maraj:** We will get that, certainly.

23 **Mr. Chairman:** If he was going through a training process
24 thereafter and hadn't quite completed any commercial training,
25 you could let us have that as well.

26 **Mrs. Persaud Maraj:** Certainly please.

27 **Mr. Chairman:** All right? But there's little point in us going

1 back and forth, all right?

2 **Mrs. Persaud Maraj:** Certainly, certainly.

3 **Continued Cross-Examination By Mrs. Persaud Maraj:**

4 Q. In relation to the evidence that Mr. Chairman took you through
5 for the removal of the hyperbaric chamber, and there being a
6 possibility of an occurrence of a second Delta P or the
7 conditions changing within the pipeline, I would like to walk
8 you through the rationale that was provided by LMCS in
9 relation to the process there. I understand what your evidence
10 is but I would like to put you what it is that—

11 A. Sure right.

12 Q. Right. So as I understand it, the risers at the—the riser that was
13 now going to be—that had already been cut, the new section
14 was installed thereby taking it out of the water. Yes?

15 A. Yes.

16 Q. All right. And the proposal was to have that inserted, the
17 chamber removed and then the blank removed at berth No. 5.

18 A. Correct.

19 Q. Yes? You follow me?

20 A. Yes, I follow you.

21 **Mr. Chairman:** That wasn't the proposal.

22 **Mrs. Persaud Maraj:** Sorry?

23 **Mr. Chairman:** That is not the evidence. The evidence is first
24 of all an application was made by Mr. Ali to have, in
25 consultation with the IMT—

26 **Mrs. Persaud Maraj:** Yes.

27 **Mr. Chairman:**—to put the riser on—

1 **Mrs. Persaud Maraj:** Yes.

2 **Mr. Chairman:**—and thereby removing the habitat because
3 there was a concern that if the compressor that was providing
4 the air inside the habitat backed up, that the water would then
5 rush into the existing pipe.

6 **Mrs. Persaud Maraj:** That was—

7 **Mr. Chairman:** That was the application. There was a
8 completely separate application for removing the blank at berth
9 5, which was to do with whether or not they could hear
10 knocking at that—they're not connected.

11 **Mrs. Persaud Maraj:** Well, as I understand it, I stand
12 corrected but as I understand the evidence from Mr. Ali
13 himself, that was his proposal to the IMT to Mr. Piper I think it
14 was.

15 **Mr. Chairman:** I don't understand it that way. I'll be happy
16 to be corrected but I had understood they to be two separate
17 matters, and indeed the IMT went ahead with the first one, that
18 is to remove the habitat and put the extended pipe on—

19 **Mrs. Persaud Maraj:** Yes, it—

20 **Mr. Chairman:** And it was many hours before they—

21 **Mrs. Persaud Maraj:** That's correct.

22 **Mr. Chairman:**—could remove the blank.

23 **Mrs. Persaud Maraj:** So the actual execution of what that
24 proposal was wasn't what the actual proposal that Mr. Ali had
25 to the, er—

26 **Mr. Chairman:** Well either way it wasn't going to be
27 simultaneous, was it?

1 **Mrs. Persaud Maraj:** No. It wouldn't—

2 **Mr. Chairman:** Whichever way you put it, whether there was
3 hours in between the two or not, there had to come a point in
4 time where—

5 **Mrs. Persaud Maraj:** Certainly.

6 **Mr. Chairman:**—one was done and then the other.

7 **Mrs. Persaud Maraj:** Certainly, certainly.

8 **Mr. Chairman:** So why don't we address it that way and then
9 we could worry about the exact way in which Mr. Ali put it
10 later on.

11 **Mrs. Persaud Maraj:** Certainly.

12 **Continued Cross-Examination By Mrs. Persaud Maraj:**

13 Q. So, my question to you was that in relation to the risers, the
14 riser being out of the water both on both ends and it being
15 isolated from any other connection, whether or not the pressure
16 within, and I understand what you said earlier, but whether or
17 not the—there was a second violent Delta P possibility within
18 the pipeline?

19 **Mr. Chairman:** Well, I'm afraid I don't understand that.

20 **Dr. Cheddi:** I don't under—yes, yes.

21 **Mr. Chairman:** I mean, are you saying that all of a sudden
22 they just go like that, remove them in one instant or—

23 **Mrs. Persaud Maraj:** No.

24 **Mr. Chairman:** Because whichever way you do it, you're
25 going to have to do one then the other.

26 **Mrs. Persaud Maraj:** Certainly.

27 **Mr. Chairman:** Right? So, er, er—

1 **Mrs. Persaud Maraj:** So we, we—

2 **Mr. Chairman:**—which one do you want to take first?

3 **Mrs. Persaud Maraj:** We'll—inserting the riser at berth 6.

4 **Mr. Chairman:** Right.

5 **Mrs. Persaud Maraj:** Right.

6 **Continued Cross-Examination By Mrs. Persaud Maraj:**

7 Q. So we would have to insert the riser, which was done, on the
8 night of the 25th, yes?

9 A. Yes.

10 Q. Right. Now, within the pipeline there were air pockets, correct?

11 A. Yes, Ma'am.

12 Q. Right. The question is in relation to the movement or the
13 possibility of a second at that—this is the first point, right—a
14 second Delta P occurring at that point in time.

15 A. By putting the riser they may not even interfere with it, most
16 likely would not affect the air pockets or anything on that.

17 Q. It would not have?

18 A. I, I don't see that as being affecting anything because you're
19 just adding the riser.

20 Q. Right. And that would have been taking it out?

21 A. Yeah.

22 Q. When the riser is connected then and the compressor is shut
23 down at that point in time, because now it's one continuous air
24 line—

25 A. Correct.

26 Q. —would then that have any effect on that pipeline integrity
27 within—whatever that integrity within that pipeline?

1 A. I don't know how they did it, so I really can't give you an
2 answer for that. But what I'm understanding is that you have
3 this pipe out and then they remove the, um—they shut down the
4 water, the air, and remove the habitat. Is that what you're
5 saying?

6 Q. The habitat is moved.

7 **Examination By Mr. Chairman:**

8 Q. Yes. The evidence is this—

9 A. Yeah.

10 Q. —is that the, um, flange was fitted to the top of the riser.

11 A. Okay, now I understand.

12 Q. Then the extension pipe was brought in through what I
13 understand to be the stove or put in so that it goes up into the
14 stove, with the stove being above the water level, all right? But
15 it's all still within the chamber, all right? And so this had been
16 put in, bolted on to the flange, right, and then the hyperbaric
17 chamber is removed. So in other words, all the time that this is
18 being put on, again as I understand the evidence, the pressure
19 from the hyperbaric chamber remains.

20 A. Yes.

21 Q. It's only once the chamber is removed that you're taking the
22 downward pressure that existed on the pipe away.

23 A. Yes.

24 Q. So as I understand the question, which I think is the same as
25 what I was asking you before is, once you take away that PSI,
26 that's pressing down on the pipe—

27 **Continued Cross-Examination By Mrs. Persaud Maraj:**

1 Q. But at the point in time that you're connecting the riser, my
2 understanding, please Mr. Chair is at the point in time that the
3 riser has been connected, the old section of what was there to
4 the new section, right, whether or not the hyperbaric chamber
5 there is there and present with a downward pressure, that
6 pressure would no longer be applying to whatever is within that
7 pipeline. Is that correct?

8 A. Correct, yeah, but the question is how was the flange put on?
9 By bolts.

10 Q. Yes. It's bolted on.

11 A. Yeah. So it was just bolt—it was here, you bolt it on and then
12 you remove anything.

13 Q. Yes.

14 A. I don't see any effects of any further Delta P taking place. I'm
15 not seeing that. I don't know.

16 **Examination By Mr. Chairman:**

17 Q. Well, I'm afraid you've got me confused now because I thought
18 we'd already agreed. I don't know how else to describe it. The
19 position is simply—is, I thought relatively simple. Either I'm
20 right or I'm wrong about it. If the pipe is got a PSI, let's say for
21 the argument's sake 10 PSI pressing down on the inside of the
22 pipe, it's open, right? The pipe is open inside the hyperbaric
23 chamber. The hyperbaric chamber is pressurized to, let's say,
24 10 PSI. I don't think it's quite that much but let's say it is for
25 this argument's sake. That pushes all the water inside the
26 hyperbaric chamber below the sea level, correct.

27 A. Yes it would. It would.

1 Q. I mean, it seems to me pretty straightforward. Can I borrow
2 your glass for a minute, please, just to use this as an example?
3 That's the pipe coming up. It's open at the top, right? They put
4 a hyperbaric chamber on top of it like this.

5 A. Correct.

6 Q. Pressurize the inside of that hyperbaric chamber and what
7 happens is the water level, the sea level is here, it stays there on
8 the outside, but by pressurizing this you're pushing the sea level
9 on the inside down to here?

10 A. Correct.

11 Q. All right? The consequences of that are that you can then
12 operate inside a dry area.

13 A. Correct.

14 Q. Right? If this pipe is connected—is on the inside and you're
15 adding now a piece to this pipe, it makes no difference if you
16 add a piece to that pipe, it stays within the hyperbaric chamber?

17 A. Correct.

18 Q. Right? So long as it's above the waterline, once you then
19 remove the hyperbaric chamber, then if the sea level is below it
20 doesn't matter, does it? It's not going to—the water's not
21 going to go inside the pipe. Do you follow?

22 A. Right.

23 Q. You've got this on the top, the sea level's here, halfway down
24 this glass let's say, you put an extra piece of pipe on top of
25 there so that it's above the sea level, that way when you take
26 this off the water isn't going to go into the pipe?

27 A. I understand that, but—

1 Q. But you've got 10 PSI pushing down on the inside of the pipe
2 as well as on the inside of the hyperbaric chamber, haven't you?

3 A. Right.

4 Q. But whatever fluid is inside the pipe has pushing down on it 10
5 PSI or 7 or whatever it might be, I think it's 6, it's, I think,
6 about 7.

7 A. Six or seven.

8 Q. But anyway, the point is, it's pushing down on that, isn't it? If
9 you stop that force, downward force, on the inside of the pipe,
10 surely if there is a potential for Delta P on the inside, that event
11 stopping the downward force, could cause it to occur?

12 A. Right. It would occur. Okay.

13 Q. Yes. So the minute you'd either depressurized this or take it
14 off, the 7 PSI that you got pushing down on the fluid on the
15 inside of that pipe stops. What do you think is likely to
16 happen? You're pushing something down by 7 PSI, you take
17 your hands off it, it comes up doesn't it?

18 A. Correct. So what is the question? I still—

19 Q. So the question she was asking you is really whether or not,
20 whether or not this was—had the effect—she was trying to
21 suggest, as I understand it, correct me if I'm wrong, but once
22 you put this extra piece of pipe on and take the pipe off, it
23 should make no difference to the habitat?

24 A. Oh no, no, no, no, it—

25 Q. It does make a—

26 A. —it makes a difference.

27 Q. Of course it makes a difference.

1 A. No, I understand that. Yeah.

2 **Dr. Cheddie:** Is that what you're asking?

3 **Mrs. Persaud Maraj:** Not quite, please.

4 **Mr. Chairman:** Right. Well you put it the way you want to
5 put it, then. Well, I'm misrepresenting you, you'll get it—

6 **Continued Cross-Examination By Mrs. Persaud Maraj:**

7 Q. At the time of the installation of the riser, the new section to the
8 old section, what is essentially being created is one long pipe,
9 one continuous pipe. That's my understanding.

10 **Mr. Chairman:** Still under pressure?

11 **Mrs. Persaud Maraj:** Well, it can be under pressure or not but
12 it's a pressure that's outside of the pipe now, not—it's no
13 longer—the pressure is no longer going on to the open of the,
14 um, of the pipe.

15 **Mr. Chairman:** No, I don't know—

16 **Mrs. Persaud Maraj:** So when it would have been cut.

17 **Mr. Chairman:** I hadn't understood that they were sealing it
18 at all. In fact, the problem, as I understood it, is that the new
19 pipe that went on had a little bar across the top of it and that
20 was getting in the way of anybody getting in and out of the
21 pipe.

22 **Mrs. Persaud Maraj:** To the very top. That's to the very top.

23 **Mr. Chairman:** Look, in a way it doesn't really matter, does
24 it? And I don't need to debate this with everybody.

25 **Mrs. Persaud Maraj:** Certainly.

26 **Examination By Mr. Chairman:**

27 Q. I simply need to understand from the evidence from you, Sir,

1 whether—whichever way you do this, whether you take the
2 hyperbaric chamber off first, whether you put a piece of pipe on
3 first, I really don't care. I'm interested to know that once you
4 stop the downward pressure of 7 PSI on the inside of that pipe,
5 once you stop doing that, will it change the dynamic of the
6 inside of the pipe, the fluid that's in there? You're pressing
7 down inside the pipe—

8 A. And you remove that.

9 Q. —by 7 PSI.

10 A. Right.

11 Q. And then you stop pressing down by 7 PSI, what do you think
12 will happen to the fluid that's in the pipe?

13 A. It's going to move.

14 Q. It's going to move, isn't it? Yes.

15 A. Yes. And the air pocket—

16 Q. It might go gurgle, gurgle, gurgle—

17 A. Yes, yes.

18 Q. —whatever it does, you know, and then the air comes out the
19 fluid goes down—

20 A. Uh-huh.

21 Q. —any number of things could happen, couldn't it? But it's not
22 going to stay the same?

23 A. No.

24 Q. Thank you. That's what I thought we'd agreed earlier on.

25 A. Yeah, but I just didn't understand.

26 Q. No, no, well I, I—that's why I wanted to make sure I hadn't
27 misunderstood it either, because I don't want to go off on the

1 wrong tangent. But that, that is the case, isn't it? If you
2 remove that downward pressure on the inside of the pipe, it is
3 going to have an effect. Whether it's a bad one or whatever, I
4 don't know, but it's certainly going to have an effect, isn't it?

5 A. Yeah. I just didn't understand the—your question, a part where
6 the—if you move the whole top it will affect.

7 **Mrs. Persaud Maraj:** Understood and, um, I think that's the
8 end of my questioning.

9 **Mr. Chairman:** Excellent. We'll leave it there, then. I've
10 sorry to have to ask you to come back tomorrow morning, Dr.
11 Cheddie.

12 **Dr. Cheddie:** That's okay.

13 **Mr. Chairman:** Would you mind at 9.30, please?

14 **Dr. Cheddie:** That's fine. I'll be here.

15 **Mr. Chairman:** When we'll hear questions from Mr. Peterson
16 and then Ms. Nyree Alfonso, and then anything else that Mr.
17 Maharaj might want to ask, but I would expect I'll be done
18 within the hour.

19 **Mr. Pegus:** Mr. Chairman, may I please remind you—

20 **Mr. Chairman:** Oh, you did say you wanted to ask questions.

21 **Mr. Pegus:** Yes.

22 **Mr. Chairman:** You were going to find out from your client
23 whether you want to contradict anything he suggested.

24 **Mr. Pegus:** Yes, definitely and, um, if there is no need to put
25 any questions to this witness, rest assured I wouldn't be putting
26 any.

27 **Mr. Chairman:** No, I'm sure you won't. Well, I—lovely.

1 Thank you very much indeed, yes. [*Crosstalk*] Yes, you could
2 go, Sir. Thank you very much indeed.

3 **Dr. Cheddie:** Yes, Sir.

4 **Mr. Chairman:** Come back tomorrow, yes.

5 [*Mr. Chairman confers with Commissioner Wilson*]

6 **Mr. Chairman:** Mr. Peterson, there are a number of things
7 that I think last week we left open for potential witnesses to
8 obtain. You'll recall I asked Mr. Mushtaq Mohammed for a
9 schedule—

10 **Mr. Peterson SC:** I think we got all—I think we got all of
11 those, Sir. I think we got all of those. Possibly I just got a
12 message here. One may be outstanding which may come
13 within the hour, Sir.

14 **Mr. Chairman:** I need trouble you no further. I'll find out
15 what they—thank you very much. Thank you. Please feel free
16 to go. I've got to grab my own papers, so, thank you very
17 much.

18 **5.10 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 15**

2 **9.29 a.m.: Enquiry Commenced.**

3 **Mr. Chairman:** Good morning, everyone. Just give me a
4 moment to organize my papers. Yesterday I said that I'll give
5 my ruling for the decision that we made about the admission of
6 the evidence that was objected to by Mr. Peterson on behalf of
7 Paria.

8 His objection was that all the statements made by the
9 family members of the deceased are irrelevant, and, therefore,
10 ought not to be considered by this Commission of Enquiry. He
11 suggested that they should be excluded in their entirety and
12 removed from the bundles as published on the website and are
13 part of the materials with which we are concerned in this
14 Enquiry. He suggested that they were outwith the Terms of
15 Reference for this Enquiry and that the prejudicial effect of
16 admitting the evidence would adversely impact upon his clients,
17 Paria. No other party supported that application.

18 Mr. Hosein-Shah for the unions argued that these
19 statements were admissible. He pointed to our rules. First of
20 all, I did find Rule 23. Rule 23 as published under Part 5 under
21 the subheading "Evidence", A. General:

22 "The Commission may receive evidence in such or any
23 form that it considers to be helpful in fulfilling the Terms
24 of Reference whether or not such evidence would be
25 admissible in a court of law."

26 He relied on the word "helpful" being in particular
27 reference to the helpfulness to this Enquiry and fulfilling our

1 Terms of Reference irrespective of whether such evidence
2 would be admissible in a court of law. Clearly, that is a much
3 wider reception of evidence that might ordinarily be the case.

4 He referred us, in addition, to Rule 43. Rule 43 under the
5 heading “Witnesses” states:

6 “The Commissioners shall consider any evidence
7 adduced that is relevant to the Enquiry and the Terms of
8 Reference. Where evidence is challenged or objected to
9 on any ground, the Commissioners shall give only such
10 weight to that evidence as they determine to be
11 appropriate, having regard to all the circumstances.”

12 It is immediately seen that this is a very widely drafted rule,
13 that is not by accident. We drafted the rules and it seems to us
14 that it was necessary for the purposes of this Enquiry to have
15 them drafted that widely.

16 He reminded us that the rule is really about the weight to
17 be given to the evidence that is adduced rather than its
18 admissibility, thus the combination of those rules permits us to
19 hear the evidence and to determine what, if any, weight to give
20 to it rather than to exclude it altogether. That, as you will
21 appreciate, is what we have done.

22 Having identified those rules he suggested that the
23 relevance was twofold. Firstly, how both LMCS and Paria
24 dealt with the families in communicating what was happening
25 at the time, and secondly, what support either company gave to
26 the victims whilst they waited in the carpark for news of their
27 loved ones. He went on to submit that it must be a core part of

1 an ICT or such other organization in an emergency to open
2 channels of communication and what financial support could,
3 would or should be given.

4 Mr. Ramadhar—I notice he has not yet arrived—he
5 referred us in his support for the submissions having been made
6 by Mr. Hosein-Shah to the Terms of Reference, in particular
7 Part 2 (vi), which states:

8 “To make such findings, observations, and
9 recommendations arising of its deliberations as may be
10 deemed appropriate in relation to:

11 vi. making any other recommendations that may
12 be deemed necessary in the circumstances.”

13 He went on to submit it is commonplace today to hear victim
14 impact statements and the like in cases, to put the effect in
15 perspective.

16 Mr. Maharaj for the Commission of Enquiry supported
17 those observations and submissions. And so, I considered all of
18 that in making my decision. Yesterday, as I say, I formed the
19 view that the following statements were admissible and,
20 therefore, I permitted them to be read. Ms. Vanessa Kussie, she
21 made her statement on the 28th September of last year. She is
22 the wife of Rishi Nagassar, and that evidence has been on the
23 website since that time. The same can be said of Jamie
24 Manodath-Ali who made her statement on the same day to the
25 Enquiry, and she’s the wife of Kazim Ali Jr. Thirdly, Catherine
26 Ali; she made her statement to the Commission on the 27th
27 September of last year and she is the mother of Kazim Ali Jr.

1 Fourthly, Celisha Kurban, who made her statement on the 8th
2 January of this year, and she was the fiancé and partner of Fyzal
3 Kurban.

4 The first three statements, as I say, were taken by the
5 lawyers for the Commission of Enquiry and had been on the
6 website since September without objection. I reserve judgment
7 on Aliyah Henry, the daughter of Yusuf Henry and Tia Gopaul,
8 the partner to Mr. Yusuf Henry at one time and mother to
9 Aliyah to which I shall return presently. I've also been
10 provided with two further statements, which I hope everyone
11 has now had an opportunity to see, which relate to Mr. Henry,
12 his mother, Nicole Greenidge and his sister, Afeisha Henry,
13 which I shall deal with also presently.

14 Follows are the reasons for my allowing the evidence
15 hitherto given, and a ruling on the remaining evidence in this
16 category. Our Terms of Reference are deliberately widely
17 drawn, and I do not believe that they were intended to confine
18 or constrain our Enquiry. But I do not have to determine that as
19 I am satisfied that they cover the evidence as given. I remind
20 ourselves of what those terms are.

21 Whereas, the Commissioners are appointed to enquire
22 into the following inter alia Terms of Reference being matters
23 set out hereunder and to make such findings, observations, and
24 recommendations arising out of its deliberations as may be
25 deemed appropriate. This:

26 "1 To enquire into:

27 xiii. And examine all other material circumstances

1 leading up to and surrounding the incidents which took
2 place on February 25...that led to the tragic deaths of the
3 four (4) LMCS divers and continuing up to the recovery
4 of their bodies.

5 2. To make such findings, observations, and
6 recommendations arising out of its deliberations as may
7 be deemed appropriate in relation to:

8 vi. making any other recommendations that may
9 be deemed necessary in the circumstances.”

10 The rules, as Mr. Hosein-Shah pointed out, are extremely
11 wide, as I have already said. We are not hidebound by the
12 normal admissibility rules in a court, leaving the weight to us to
13 determine what it should be, if any at all, on evidence that we
14 deem relevant at this stage.

15 The combination of these rules are intended to give us
16 the widest possible width and flexibility of approach that does
17 justice to the issues and those engaged in this process. Nothing
18 in Paria’s documentation, i.e., policy statements, emergency
19 response procedures, plans, Incident Command System, or any
20 other documents of that kind or LMCS’s HSE Manual or
21 anything else deals with communication by the employer or
22 contractor with the victims’ families in an emergency situation.
23 They should.

24 It is this feature that we’ve come to the view renders this
25 evidence relevant and admissible, and is likely to form part of
26 the recommendations as to the future in these situations, where
27 there are communications lacking. I leave aside whether it is

1 best practice on the international standards to have in place a
2 policy that deals with communications with family and
3 relatives, and the public. It is our view, that common decency
4 to keep the families informed and to provide proper facilities to
5 them was the prerequisite here.

6 The evidence we have heard deals with the following
7 matters. One, failures by Paria and to some extent LMCS, to
8 keep the families informed. Nearly 24 hours passed before
9 anyone from Paria spoke in a meeting to all of the families
10 waiting for news about what was happening. That, on any
11 view, must be unacceptable.

12 Two, families were left to camp in a carpark at the gates
13 of Paria's facility for days until some measure of assistance was
14 given to them driven largely by the public outcry and the
15 intervention of the union. That, on any view, must be
16 unacceptable.

17 Thirdly, rumour and misinformation as was clear from
18 some of the evidence read yesterday, and adduced yesterday,
19 becomes rife when there is no formal dissemination of the facts
20 told honestly and timely in a consistently updated manner by
21 those who were in authority and knew those facts.

22 At page 107E of the core bundle is a chart in a Paria
23 document showing the different responsibilities assigned under
24 an Incident Command System for emergency events. It
25 includes an information officer and a liaison officer, yet it says
26 absolutely nothing about what they are supposed to do.

27 As Mr. Ramadhar pointed out, it is common in modern

1 judicial and quasi-judicial contexts for victim impact statements
2 to be admissible to guide a court, judge, or factfinder of the
3 impact of potential wrongdoing if we so find. There is no
4 mechanism in this Commission of Enquiry to hear the impact of
5 decisions made during this incident at a later time. It is,
6 therefore, in our view, important to hear it now.

7 There is inevitably a degree of emotion involved in the
8 giving of that evidence, and that inevitably causes some
9 prejudice as there was, indeed, when Ms. Balkissoon gave her
10 evidence in a tearful manner on occasion, and when Mr. Piper
11 expressed his point of view in the most forceful and emotional
12 manner about his role in the ICT.

13 As factfinders, we are unable to set aside emotion from
14 the task that we have solemnly undertaken to perform. There
15 must be a humanitarian element to any future emergency
16 response plan that includes honest, regular communication with
17 the immediate families of those most affected by the emergency
18 unfolding.

19 It is our task to discover where things went wrong and/or
20 how actions could be improved. Flowing from that is the need
21 to identify and recommend action for the future. We have no
22 doubt at all that these witnesses can provide important evidence
23 that will shape the kind of recommendations that all
24 organizations are required to have an emergency response,
25 consider the way in which they communicate with, and treat the
26 potential victims of a disaster or tragedy.

27 As such, I will permit the evidence, partially edited, of

1 two statements that we've been provided with yesterday from
2 Nicole Greenidge; she is the mother of Mr. Henry, and Afeisha
3 Henry, who is the sister of the Yusuf Henry. They've been
4 edited a little and they will be permitted to give their evidence
5 later today. This leaves two other witnesses.

6 Aliyah Henry is an 11-year-old girl. She is the daughter
7 of Yusuf Henry. It is a short, heartfelt statement setting out her
8 loss. I am not going to exclude it. Her mother, Tia Maria
9 Gopaul, also makes a short statement, but it seems to me it adds
10 little to what we already have. We will hear all of this evidence
11 at the end of today. That is my ruling on the matter. Thank you
12 very much.

13 Can I turn to a couple of housekeeping matters? First of
14 all, I have got the chart, Mr. Peterson, that was promised to us a
15 few days ago. We've got that now and I've seen it, so thank
16 you very much for that.

17 Next is this, Mr. Osei Flemming who is from Heritage
18 said last week that the permit to work required that the removal
19 of a barrier required a separate permit to work. I hope I've got
20 that right. That was certainly my understanding of the upshot
21 of his evidence. Please correct me if I've got that wrong, but
22 my understanding of that was what he had said. And I asked
23 him if he could make some enquiry as to finding that permit to
24 work for the previous similar job that was done in 2020. I
25 should be grateful to receive such a document if it exists. Do
26 you know if enquiries have been made, Mr. Peterson?

27 **Mr. Peterson SC:** Enquiries have been made. It no longer

1 exists, because, on the permit to work itself, there is a
2 destruction clause on the procedure.

3 **Mr. Chairman:** Which is how long?

4 **Mr. Peterson SC:** Three months after the close off of the
5 works.

6 **Mr. Chairman:** Just a moment. All right. I've just been
7 handed a document which deals with that. Thank you very
8 much. All right, so—

9 **Mr. Peterson SC:** Clause 11.0, I think it is.

10 **Mr. Chairman:** All right. Well, I mean, if that's the position,
11 that's the position. So if it doesn't exist, fair enough.
12 Something else I do want your help with, and I don't ask you to
13 deal with it now, Mr. Peterson, but I want to raise it now
14 because in due course whether you or Mr. Mootoo makes
15 submissions to the Commission on Thursday, I would like you
16 to address your mind to this.

17 Can I ask you to have in the core bundle, page 1074
18 Volume III, please—perhaps we can put that on the screen.
19 This is the document we're very familiar with now—the work
20 permit for the works that took place on the 25th. In the
21 subsequent pages at page 1075, there is the work permit that is
22 dated for the 13th February relating to the same works that took
23 place. You can see that. So you can see there that it deals with
24 the works in their totality. I had to write it down the side
25 column, as we can see.

26 My concern is this, and what I want is someone to help
27 me with it in due course. It mentions, of course, the installation

1 of migration barrier and so on. If Mr. Osei Flemming is correct
2 and that it needed a separate work permit for the removal of
3 same, there clearly isn't one, so that is a flaw or feature of it,
4 but what I'm concerned about is this, is that, is it right that had
5 those works gone ahead as planned when this work permit was
6 issued, the one we are seeing on the screen, in other words, the
7 Dexter Guerra incident with the moving of the barge which
8 interrupted that with all works having to come to a standstill for
9 10 days or so, if that work permit had allowed all of the works
10 to take place, it included, did it not, the removal of the
11 hyperbaric chamber and all the things that are set out there—
12 and I needn't deal with them all now—and the subsequent work
13 permit, the one that—can we go back please to 1074 that we've
14 been spending a lot of time on—would simply never have
15 arisen, because all the work would have been done, it seems to
16 me, as I presently understand it, under that original work
17 permit? So it was only because of Dexter Guerra's error in
18 moving the barge before the permit had been issued, that this
19 new permit had to be created 10 days later in order for the
20 works to then continue.

21 So if someone could deal with that for me, I would be
22 grateful.

23 **Mr. Peterson SC:** I would, yes. I will seek to assist you
24 further, Sir, but I could immediately say that had Guerra not
25 done that that he ought not to have done, then that still doesn't
26 displace a separate permit to remove the barriers, because that
27 would have been the last act, so to speak. And that's why the

1 trend of the cross-examination was that the new riser had to be
2 installed and the longer T-tool to apply from the top to remove
3 the barriers as they did to put them in. But we'll deal with that
4 in the—we'll seek to assist you in—

5 **Mr. Chairman:** If you could, because I just want to get my
6 head around that particular aspect.

7 **Mr. Peterson SC:** I'm sure I'll be able to, Sir.

8 **Mr. Chairman:** I'll be grateful for that. Thank you.

9 Yes, and lastly, this, I had a letter, a moment ago—give
10 me a moment—from you, Ms. Persaud Maraj, in which you
11 make a number of observations. This is the letter dated the 7th
12 January headed “Camera Footage Information and Permit to
13 Work”. First of all, it seems to me that the vast bulk of that—I
14 take it this is on the website. The vast bulk of what you're
15 saying there seems to me to be partly submissions, and, you
16 know, obviously, you're entitled to make those submissions
17 during your address to the Commission.

18 The last thing you mentioned is a permit to work for the
19 15th February, 2022. Well, I think that's it, isn't it—the one
20 that we were looking at? My understanding is, a permit to work
21 lasts seven days, and, therefore, the permit to work that we're
22 looking at there—not that one, sorry; go back to page 1075—
23 yes, that one. Isn't that it?

24 **Mrs. Persaud Maraj:** That is correct, please, Mr. Chairman.
25 But in relation to the renewal of the permit—so it is issued and
26 it would be valid for seven days, we would have a daily work
27 suspension that would correlate to the days of work. So if we

1 go to page 1076 at daily work suspension, we will see the dates
2 or the times and shifts that the permit would have been
3 suspended and then, of course, when it would have been
4 reactivated, so as to say, within that time frame.

5 **Mr. Chairman:** Well, it can't be reactivated. It lapses after
6 seven days.

7 **Mrs. Persaud Maraj:** Within that time frame of seven days.
8 That's correct. Yes? So when we have gone through the
9 documents and we do know that we had—all the works that
10 would have been carried out were permitted works—there is no
11 activation for the 15th February, 2022. So we can also—

12 **Mr. Chairman:** You're saying it should appear on there?

13 **Mrs. Persaud Maraj:** It should appear there, that's correct.

14 **Mr. Chairman:** Well, it clearly doesn't.

15 **Mrs. Persaud Maraj:** Yes.

16 **Mr. Chairman:** So what are you asking for?

17 **Mrs. Persaud Maraj:** So we were asking for the actual
18 permit. We believe that there was a second permit.

19 **Mr. Chairman:** An intervening permit?

20 **Mrs. Persaud Maraj:** Yes, after this.

21 **Mr. Chairman:** But why would that be necessary? If you got
22 a permit to work as this document is setting out all the works
23 that are to be done, if it's not filled in appropriately on the back
24 of the form, then that's a point you could make, isn't it?

25 **Mrs. Persaud Maraj:** It is.

26 **Mr. Chairman:** But it seems to me that there is (a) no need for
27 a fresh permit. What there is a need for is to indicate that

1 you're lifting a suspension, if that's what you were doing.

2 **Mrs. Persaud Maraj:** Well, on that particular day was the day
3 that the hot works were done. So it was a crucial day of events
4 in the scheme of the works being performed.

5 **Mr. Chairman:** So what are you asking for?

6 **Mrs. Persaud Maraj:** So we're asking if it doesn't exist, it
7 does not exist. But we do know that they were permitted work,
8 and being that it doesn't appear on the permit, the date, that
9 material date the request is being made, for Paria to check its
10 records and, indeed, confirm same or not.

11 **Mr. Chairman:** Right. Well, the only hot works certificate
12 that I've been looking at is at 1077.

13 **Mrs. Persaud Maraj:** Yes. And that is valid for 30 days.
14 That's the certificate that goes along with the work to be done.

15 **Mr. Chairman:** Yes. And in the revalidation of conditions on
16 that document, it sets out that the work was suspended on the
17 17th February. Go to 1078.

18 **Mrs. Persaud Maraj:** And that would have been after the
19 incident with Dexter Guerra.

20 **Mr. Chairman:** Yes. Scroll 1078; scroll the other way,
21 please. Do you see there on the 17th February Mr. Marjadsingh
22 who is the applicant—

23 **Mrs. Persaud Maraj:** Work was suspended. And that would
24 have coincided with the incident with Mr. Guerra.

25 **Mr. Chairman:** Yeah.

26 **Mrs. Persaud Maraj:** Yeah. But the material time that we're
27 looking for is the 15th. It may have been—

1 **Mr. Chairman:** Right, okay. Help me, Mr. Peterson, if there
2 is a document for the 15th?

3 **Mr. Peterson SC:** 15th of?

4 **Mrs. Persaud Maraj:** Of February.

5 **Mr. Chairman:** Is there a separate work permit for the 15th
6 February?

7 **Mr. Peterson SC:** [*Inaudible*]

8 **Mr. Chairman:** I've certainly not come across one. I hadn't
9 appreciated it was necessary either.

10 **Mr. Peterson SC:** Well, I'll be surprised, because we have
11 been trying to scrub and supply everything that was relevant
12 around that time. But we will double-check. There's no harm
13 in double checking.

14 **Mr. Chairman:** If you'd do that. Thank you very much.
15 All right. I think that deals with all domestic chores that we
16 need to deal with this morning. And so, we come back to our
17 witness. Mr. Maharaj.

18 **Mr. Peterson SC:** Mr. Cheddie. Mr. Chairman, thanks for the
19 opportunity of perusing this evidence last night. I think it's
20 unfair for Mr. Cheddie to now place himself in this
21 Commission of Enquiry. I say that for this reason: The
22 Commission has been assisted by numerous divers and their
23 evidence. From reading Mr. Cheddie's statement, it seems that
24 he had the comfort of sitting, reading all the evidence online,
25 probably listening to a lot of it, and construct his statement in
26 some attempt to either answer some of the divers that came
27 before, or critique them as the case may be, without those

1 witnesses who sought to assist the Commission being given the
2 opportunity to critique his evidence. So his evidence is
3 standing pristine, unchallenged by their expertise.

4 I mean, the lawyers may now ask questions of him, but
5 we are not experts. So it would have been very helpful to this
6 Commission had we been able to match his evidence up against
7 that of his colleagues or experts in the field, so that at the end of
8 the day the Commission will have a distilled version of the
9 expert evidence that the tribunal could decide what weight to
10 attach to each, or none at all.

11 But Mr. Cheddie—and you had been—and we have been
12 taking, at times, some of the justifiable tap on the wrist and
13 sometimes clout behind the head for bringing evidence late, and
14 for dumping sometimes. But Mr. Cheddie dumped on us,
15 when, Friday, this statement, and I think it's unfair for him to
16 now be given a ride, so to speak, into the witness box and into
17 the Commission of Enquiry.

18 I read this last night. I say, well, why this—because
19 when you look at it—and I heard my friend for the union
20 dropped his name sometime last week. I didn't pay much
21 attention because I didn't know who he was. But I have been
22 advised by those who—

23 **Mr. Chairman:** I'm not clear on what your application is.

24 **Mr. Peterson SC:** I'm coming to that. I have been advised by
25 those who instruct me that Mr. Cheddie had been a feature in
26 the media on this topic since probably March—since last year,
27 and to wait until the closing hours of this Commission to now

1 come and bring this evidence, I would ask you—but I heard the
2 tenor of your ruling and interpretation of your proceedings, to
3 exclude his evidence. But if I'm overruled on that, then I ask
4 you the next best thing, apply no weight to it.

5 **Mr. Chairman:** Right. Well, can I say, first of all, I share
6 some of your concerns as I know does Mr. Wilson, that this
7 evidence is served extremely late; I can't put it any higher than
8 that; extremely late. It is why I was at pains to ensure that
9 everyone appreciated that it was in existence. I think everyone
10 was contacted—just a moment. What we were anxious to do is
11 to ensure that it went up on the website.

12 I have to say I've taken the view that being provided with
13 the statement, it was not incumbent—well, it was incumbent on
14 us to at least consider it, and the degree of weight we give to it
15 will, obviously, depend on a number of factors. I have been
16 partially troubled, I hope it's obvious, by the late service of it,
17 not least because after this witness gives his evidence we have
18 an expert giving evidence who, as far as I'm aware, has not had
19 an opportunity to even consider this either, neither has any
20 party had the opportunity to consider whether they have any
21 expert that they would wish to call that might counter what he
22 has put in his evidence.

23 There is no question that he provides some useful
24 evidence for the Commission of Enquiry, but that it is late is a
25 feature which we can't ignore. I am reluctant to exclude it,
26 tempting though that was, when I first received it so late,
27 because it does seem to me that if it can provide some

1 assistance to us overall, it's something we should consider. I'm
2 mindful, for example, Mr. Pegus yesterday made clear there are
3 things in it that affect his client, which he's had no opportunity
4 to consider and, indeed, I've no idea at this stage whether Mr.
5 Pegus will need to ask him any questions following
6 instructions. But it is unfortunate that that was not provided
7 before the witness, Mr. Seales, gave evidence, because it clearly
8 affects him.

9 So there are features about it which I don't seek to hide, I
10 am unhappy about. Our question, though, overall, is whether or
11 not the receipt of that evidence would assist the Commission
12 with all the caveats that must necessarily be applied to it given
13 the lack of time that anyone has had to consider it and the
14 lateness with which it was served. I don't know what the
15 answer to the lateness is. It sort of doesn't matter, really. So I
16 am concerned about it in the same way as you are, but I don't
17 believe it'd be appropriate for us to exclude it, although I do
18 accept that the weight to which we attach any of the things that
19 Dr. Cheddie has said, is something that will have to be
20 considered in the light of the fact that no one has had an
21 opportunity to consider it at any great length, or ought to have
22 any expert that might seek to countervail that which he is
23 saying.

24 So on the one hand, as I say, I'm not going to exclude it,
25 but I will hear submissions in due course as to the weight to be
26 attached to it and why that weight should be reduced, if
27 anything, I suspect you might say, to zero. But it seems to us

1 not right to exclude it given that it might provide some evidence
2 for us to consider. As I say, at this stage I'm just receiving the
3 evidence. I'm making no judgment about what value to give to
4 it. But I think that that's the best I can say at this stage. I'm not
5 going to exclude it. But I will hear your submissions. I will
6 hear your submissions in closing as to the weight to be attached
7 to it, if any. Mr. Pegus, can I ask you, are you proposing to ask
8 him any questions in relation to your client?

9 **Mr. Pegus:** Unfortunately, I would have to put some questions
10 to this witness, because what he included in his statement is at
11 variance with my instructions.

12 **Mr. Chairman:** Right. And had you have this in advance, you
13 would have wished to have put that to Mr. Seales when he was
14 here to give evidence?

15 **Mr. Pegus:** Definitely.

16 **Mr. Chairman:** Yes. Anybody else? I'll come to you in a
17 moment, Ms. Alfonso. I mean, I think that's the best—

18 **Mr. Peterson SC:** I have cross for him. I didn't go on to say,
19 but I have cross-examination for him.

20 **Mr. Chairman:** I imagine you would, yes; I imagine you
21 would.

22 **Mr. Peterson SC:** Yes.

23 **Mr. Chairman:** I think the best course to take is to wait until
24 after all the evidence has been dealt with, any cross-
25 examination has been concluded. And then, of course, later this
26 week you'll be able to make submissions specifically, unless
27 you wanted to make some—

1 **Mr. Peterson SC:** Yes. I wanted to state my position and not
2 wait to see if he's helpful to me. I'm taking in principle that his
3 evidence—yes.

4 **Mr. Chairman:** I appreciate that, Mr. Peterson, and I can see
5 why you would. It does not come to me as a surprise, save that
6 you're making it now rather than first thing yesterday. But I
7 understand your position and I'd take it into account in due
8 course.

9 Ms. Alfonso, you've heard what's been said and it's
10 clearly right, isn't it, that this has been served extraordinarily
11 late in the day for Counsel to have to deal with issues that it
12 raises?

13 **Ms. Alfonso:** Mr. Chairman, again, if a defence is required,
14 this was a witness that we, representing the union, would have
15 alerted the Commission to in the late part of November.

16 **Mr. Chairman:** Yes, but alerting us doesn't help us, does it? I
17 mean, what did that mean? What does that mean? Oh, we got
18 somebody who might give evidence. Well, so?

19 **Ms. Alfonso:** Okay. In the absence of a response that said,
20 well, okay, if you think that's a viable witness, then proceed to
21 prepare witness statement for him—we didn't get that kind of
22 response, so we felt that this would be somebody that the
23 Commission would, in fact, interview.

24 **Mr. Chairman:** No, no, forgive me, Ms. Alfonso. He had
25 almost nothing whatever to do with the events on the 25th.

26 **Ms. Alfonso:** Except for the short exchange that he describes,
27 no.

1 **Mr. Chairman:** Yeah. Well, I mean, with the greatest respect,
2 it doesn't really matter, does it, in the scheme of things. The
3 evidence that he gives now is as an expert giving general
4 evidence about what might or might not have taken place had
5 he been asked at the time. I understand you're submitting his
6 statement as drafted and, no doubt, put together by you and
7 him, as being in the form of an expert giving his best evidence
8 about what he thought could or could not be done on the day?

9 **Ms. Alfonso:** Indeed, that is correct.

10 **Mr. Chairman:** That's relying on expert testimony. We as a
11 Commission already had expert testimony, which is to be called
12 this afternoon or later on this morning. It was not necessary, as
13 I understand it, to go to the expense yet more expense, of
14 another expert. But if you wish to rely on one in the same way
15 as if, for example, Counsel for Paria or lawyers for LMCS
16 wanted to bring an expert forward to say it was either possible
17 or impossible to do certain things, they would have been
18 entitled to do so. But I wouldn't have expected them to have
19 handed it to us on the last days of the actual Enquiry. I mean,
20 Friday was literally the—to be served on a Friday before the
21 last two days of evidence to be heard is on any view not just
22 late but extremely late. I mean, I don't know when you decided
23 with him that you were going to be relying on his evidence. I
24 don't know what date his statement is, but I imagine it's Friday.

25 **Ms. Alfonso:** Indeed.

26 **Mr. Chairman:** I mean, look, we are where we are. My
27 castigating anybody for serving it late doesn't serve any

1 purpose at all. He has provided evidence. We took the view—I
2 took the view with our legal team and Mr. Wilson, that this was
3 evidence which we had to consider, given that it had been
4 served. As Mr. Peterson has pointed out, how much weight we
5 attach to it, given that it has been served so late, and it has been
6 such little opportunity for it to be properly tested, will depend
7 on the view we take of it, once all the cross-examination has
8 been concluded.

9 **Ms. Alfonso:** Well, Mr. Chairman, as I said, Mr. Peterson and
10 any other attorney present, and the Commission itself, can make
11 what they can from it. Certainly, Dr. Cheddie was somebody
12 who helped assist us in understanding the evidence that was
13 being led from various divers, which were either associated
14 with Paria or Heritage or called on the scene by somebody. So,
15 certainly, I say it was a resource that we used and we felt that it
16 was a resource that we should share with the Commission. I
17 said having put forward his name in November I said it—at that
18 time it did not occur to me that, okay, we should now proceed
19 to do a witness statement. That, I have to say—with subsequent
20 discussions with members of the Commission's legal team.

21 **Mr. Chairman:** Well, Ms. Alfonso, as I say, we are where we
22 are. Hundreds of names have been advanced to this
23 Commission as potential witnesses. There has to be a limit to
24 where we are drawing a line. This was a witness who said
25 virtually nothing, as I understand it, about the events itself on
26 the 25th, and was being proffered as expert. We had an expert;
27 didn't need anyone else.

1 **Ms. Alfonso:** Mr. Chairman, I said, really, we thought that we
2 were facilitating Dr. Cheddie in putting together, you know, a
3 witness statement in a viable form.

4 **Mr. Chairman:** Well, and that might be so; Ms. Alfonso, and
5 it may well be so, but, you know, serving it on Friday of last
6 week is on any view an extremely late—I mean, you don't need
7 me to tell you this. You'd been a lawyer long enough; you
8 know what the situation is. You would not have been happy if
9 representatives from Paria had dumped a statement on you of
10 this kind of detail days before the conclusion of the Enquiry.
11 You would not have been happy, and you would be
12 understandably unhappy. But that's where we are, isn't it? I
13 mean, unfortunately, that's what happened.

14 As I've said, I'm not going to exclude it for pretty much
15 the same reasons that I've identified in the admissibility of the
16 victims' families. We have a very broad remit. We're entitled
17 to take into account all the evidence. What we determine is the
18 weight to be attached to that evidence will come in due course
19 when we take our time to consider all of the evidence in the
20 round. And I will have to bear in mind that this is a witness
21 who was served so late that people have had very little
22 opportunity to digest it to be able to get any contrary evidence
23 from other expert testimony.

24 None of us are experts in this field. And so, we will have
25 to consider the extent to which anything he says is either
26 corroborated elsewhere and/or is capable of being accepted
27 because it's not contradicted or sought to be undermined. But

1 where it is, we would have to give it very careful consideration
2 as to whether we can accept it at all. That's where we are. All
3 right? But I will hear in the course of the next three days any
4 submissions that anyone wants to make about it.

5 **Ms. Alfonso:** And, certainly, we would try to address it as
6 well, Mr. Chairman, in my closing.

7 **Mr. Chairman:** All right.

8 **Ms. Alfonso:** Again, I want to assure the Commission we were
9 attempting to be helpful and to facilitate this witness.

10 **Mr. Chairman:** I'm sure, I'm sure you were. Let's, without
11 any further ado, get him in and conclude his evidence. Yes.
12 Can we have Dr. Cheddie, please? Mr. Peterson, do you want a
13 formal ruling on this?

14 **Mr. Peterson SC:** Yes, Sir. Well, I take what you said as a
15 ruling, Sir.

16 **Mr. Chairman:** It is. I mean, I can formalize it in a way if
17 you particularly wanted to. But, I mean, I make it clear that
18 what I've said to you in reply to your application for the
19 exclusion of it and in relation to its weight, will form the basis
20 of a judgment if you wanted. I take it that that is my judgment
21 on the matter.

22 **Mr. Peterson SC:** That's good enough, Sir. Once you put it in
23 that—I take that as your rationale—as an oral judgment.

24 **Mr. Chairman:** I'm grateful. That saves me an evening.
25 Thank you very much.

26 **Mr. Peterson SC:** If I knew that, Sir, then could I back—
27 [*Laughter*]

1 **Mr. Chairman:** Yes, thanks for that. Dr. Cheddie, please.
2 Doctor, you're still on oath, all right?

3 **Dr. Cheddie:** Yes, Sir.

4 **Mr. Chairman:** And we were about to hear cross-examination
5 from—I believe it was Mr. Pegus, yes. Mr. Pegus, I understand
6 you've taken some instructions and you do have questions for
7 this witness?

8 **Mr. Pegus:** Indeed, so, Mr. Chairman.

9 **Mr. Chairman:** Yes, all right. Well, go ahead. Just give me a
10 moment. I need to just find my copy of it. I'm sorry, Doctor. I
11 just can't find my copy of your statement at the moment. I
12 need my copy, because I've marked it quite considerably. I'm
13 not going to hold up proceedings any further. I'll have to look
14 at the screen and make my notes in due course.

15 Yes, Mr. Pegus, please proceed. I'm sorry about that.

16 **Cross-Examination By Mr. Pegus:**

17 Q. Good morning, Dr. Cheddie.

18 A. Good morning, Sir.

19 Q. My name is Chase Pegus, and I represent the interest of Kenson
20 and also Mr. Rolph Seales specifically.

21 A. Yes, Sir.

22 Q. Now, you filed before this Commission a statement dated the
23 6th January, 2023?

24 A. Correct.

25 Q. Good. Now, in preparing your statement, did you have any
26 contemporaneous notes relative to the day of the incident to
27 refer to?

1 A. Contemporaneous notes before the incident? Say it again;
2 before the incident?

3 Q. Okay. Let's start somewhere else. What day you started
4 preparing this statement?

5 A. The statement was prepared—well, I had it in scrap on notes
6 that I had made up from since this entire incident happened,
7 right, on the 25th in my brain as well as in writing stuff. So on
8 this particular statement when I was asked to make it, that's
9 when I did it. I'm trying to remember sometime—in November
10 around there I had contacted through the OWTU or something
11 and I always felt as though I would have a witness statement to
12 make. So I started preparing one.

13 Q. Okay. So it's fair to say that you started the construction of this
14 statement in November 2022. Yes?

15 A. Around November, sometime. Yes, Sir.

16 Q. Right. Now, when you started the preparation of this statement,
17 these proceedings, the Commission of Enquiry had already
18 begun. Yes?

19 A. Yes.

20 Q. Right. And, in fact, in your statement you made reference to
21 reviewing documents filed before this Commission?

22 A. Quite so.

23 Q. Right. So you made your statement with the benefit of having
24 reviewed evidence which was already before the Commission.
25 Yes?

26 A. Yes, Sir. Yes, Sir.

27 Q. Good. Now, you are aware that Mr. Seales gave evidence in

1 this matter last week—a day last week. Yes?

2 A. Yes, I heard that, yes.

3 Q. Good. And your statement was filed after Mr. Seales left the
4 witness box. Agreed?

5 A. Yeah, it was filed on Friday, correct, yes.

6 Q. Right. Now, you made reference to having the benefit of
7 contemporaneous notes in preparing your statement earlier.
8 Yes?

9 A. Yes, yes.

10 Q. Do you have those contemporaneous notes to place before the
11 Commission today?

12 A. Today? No.

13 Q. Good. Can you locate those notes?

14 A. I will be able to. It should be on my computer somewhere,
15 yeah, under the COE.

16 Q. Good. And, of course, you would have no difficulty forwarding
17 those contemporaneous notes to the Commission?

18 A. Yes.

19 Q. Good. Now, I want to focus specifically on paragraphs 5 to 9
20 of your witness statement, and I will take you through some of
21 what you said in turn. Yes?

22 A. Yes.

23 Q. Right. Now, before we proceed, Sir, I just want to make it
24 abundantly clear that this is the only part of your statement that
25 I intend to take issue with. Right?

26 A. Yes, Sir.

27 Q. Good. Now, at paragraph 5, I'm reading specifically—okay, so

1 from the first line you indicated:

2 “At or around 2045 hours on the 25th February, 2022, I
3 received a call from Rolph Seales.”

4 And you then go on to say:

5 “He informed me that four divers were sucked into a
6 pipeline operated by Paria Fuel Trading Company.”

7 Yes?

8 A. Yes.

9 Q. Good. Now, my instructions are that Mr. Seales never provided
10 you with that information.

11 A. Okay.

12 Q. What say you?

13 A. Okay. Well, Mr. Seales had called me, as I said, on the time
14 there, and I know exactly the time was around that time,
15 because I do not answer my phone at home, my personal phone,
16 any time after ten.

17 Q. Sir—okay.

18 A. So at 2045 I would have answered my phone because at that
19 time I’m around, and that’s my personal number.

20 Q. Okay, good.

21 A. So when I answered that number, well, of course, I don’t know
22 the number that was calling me. And on the phone was—he
23 said, “Aye, Glenn, it’s Rolph”. Then I say Rolph Seales? He
24 say, yeah. I said okay. Then he asked me if I have a ROV as
25 such; not the exact words, but do I have a ROV. I say, yeah, I
26 have a ROV. Where you heard about that? He say, “Well, you
27 know, I just heard that you have a ROV.” I say, okay; what do

1 you—you know, what's going on? Remember, this is a past
2 student of mine, so we will have a conversation.

3 Q. Mr. Cheddie, may I interrupt, please?

4 A. Yes, sure.

5 Q. Right. The time that you mentioned in your statement is very
6 specific. You agree?

7 A. It says at or around.

8 Q. Okay. But 2045 is a specific time?

9 A. Yeah, at or around.

10 Q. Good. Okay, at or around; let's have it your way. Did you
11 make any contemporaneous record of having received a call at
12 that time?

13 A. No.

14 Q. Good. When you had this conversation with Mr. Seales, you
15 had no idea that there were going to be four dead men?

16 A. Of course not.

17 Q. Good. You had no idea that there was going to be a subsequent
18 Commission of Enquiry?

19 A. Of course not.

20 Q. Good. And lastly, you had no idea that you would at some
21 point in the future, almost a year after, provide a witness
22 statement anywhere. Agreed?

23 A. Agreed.

24 Q. Right. Now, you go on to say in your—at the same paragraph
25 5:

26 “I asked who these divers were and heard two names I
27 was familiar with as being former students.”

1 You mentioned the names Kurban and Nagassar. Yes?

2 A. Yes.

3 Q. Is it your evidence that you received this information from Mr.
4 Seales at or around 2045?

5 A. Yes.

6 Q. Good. I'm suggesting to you, Sir—well, I'm putting to you that
7 Mr. Seales, at that time, was not in possession of that
8 information.

9 A. Okay. Well, he told me. I asked him because it's only a logical
10 question I would ask: "What do you want my ROV for?" And
11 he said it's for a pipeline, and I asked him why—

12 Q. Sir, we'll get to the ROV. Right? You mentioned the names of
13 two men?

14 A. He mentioned those two names to me.

15 Q. And I am putting it to you that at or around 2045 he was not in
16 possession of that information.

17 A. Okay.

18 Q. Now, at paragraph 6 of your witness statement, Sir, you further
19 stated:

20 "I immediately inquired from Mr. Seales as to whether
21 the divers were on scuba equipment and he responded in
22 the affirmative."

23 Yes?

24 A. Yes.

25 Q. Good. Are you aware that Mr. Seales did not work on the Paria
26 compound on the 25th February, 2022?

27 A. No.

1 Q. Good. Are you aware that Mr. Seales did not play an active
2 role in managing this incident when it was known that people
3 were sucked into the pipeline?

4 A. No. I just had a call.

5 Q. I am putting to you—

6 **Mr. Chairman:** What do you mean by active role?

7 **Mr. Pegus:** He was not part of—okay, I would put the
8 question specifically.

9 **Continued Cross-Examination By Mr. Pegus:**

10 Q. Mr. Seales was not part or the any Incident Command Team.

11 A. [*No response*]

12 Q. I'm putting that to you.

13 A. Okay. I don't even know what an Incident Command Team
14 was at the time. So, no.

15 Q. And let me put to you, Sir, that Mr. Seales back then was not in
16 a position to say to you that the men were using scuba
17 equipment.

18 A. I asked and he answered, and the reason I would ask because
19 that's my passion, I need to—I wanted always to know how
20 divers die in Trinidad, so I asked.

21 Q. Sir, at that time there wasn't any question about anybody dead.

22 A. Right. They were in a pipeline and I asked who was there,
23 right, who was there, and then he mentioned what went on;
24 because I had to know where my ROV was going to work. It
25 was only logical. I'm the pilot for the ROV.

26 Q. Okay. Now, Sir, you went on to say—I'm putting to you that
27 Mr. Seales was not in a position to give any indication as to

1 what equipment was being used. Right? Good. You went on
2 to say that you told Mr. Seales that divers ought not to have
3 used scuba equipment for commercial diving operations.

4 A. Yes.

5 Q. Is it your evidence that at that time you were aware that the
6 exercise that was undertaken by the LMCS divers required
7 commercial diving equipment?

8 A. No.

9 Q. Okay. Let's stop there for now. Mr. Seales—nowhere in your
10 narrative up to this point did Mr. Seales tell you anything about
11 the exercise that was being conducted on the day. It's not in
12 your statement.

13 A. No, he did not say the exercise.

14 Q. Good. Therefore, Sir, you would agree that there was no
15 basis—we're going based on your narrative. Right?

16 A. Good.

17 Q. Good. You would agree that there was no basis for you making
18 that statement relative to commercial diving operations.

19 A. Yes, I had a right to make that statement. Because as I said
20 before, divers in this country, right, divers in this country—a lot
21 of divers die in this country because of scuba. So when I heard
22 that people were sucked into a pipe I asked that question. It's
23 my passion. I needed to know that.

24 Q. Right. Now, Dr. Cheddie, what I'm suggesting to you, Sir, is
25 based on the narrative you provided in your statement. We're
26 only going with what is there.

27 A. Correct.

1 Q. We're not attacking your passion. Right?

2 A. Right.

3 Q. I appreciate that you're passionate about this. We're only going
4 based on the narrative that you placed before this Commission.
5 Agreed?

6 A. Yes.

7 Q. Right. Mr. Seales did not inform you or did not give you any
8 information relative to the task that was being undertaken.
9 Agreed?

10 A. Agreed.

11 Q. Good. Now, paragraph 7—okay, well, you might be happy to
12 know he accepts that he did enquire from you whether you had
13 an ROV.

14 A. Yeah.

15 Q. Good. Right. Your response to that enquiry, Sir, was that your
16 ROV was located in Guyana?

17 A. I told him I had two; one was going to Guyana and one in
18 Trinidad which was now going to be assembled.

19 Q. On the 25th February, 2022, you had any business in Guyana?

20 A. Yeah, we were starting a Guyana business under one of our
21 companies.

22 Q. You had any equipment in Guyana?

23 A. It was going to be sent.

24 Q. It was going to be sent?

25 A. Yeah.

26 Q. Right. Now, focusing on paragraph 8, Sir, you said in your
27 statement:

1 “I further informed Mr. Seales that I remain available to
2 help and assist with respect to the rescue of the divers.”

3 Now, I’m happy that that was your position. Let me put to you
4 that you did not say that to Mr. Seales. My instructions are that
5 you had no such conversation with him.

6 A. As an instructor, as a diver—

7 Q. Sir, no; is either yes or no.

8 A. I had—yes, I had it. Yes, I had that—

9 Q. Okay, well, right. So I’m just putting what my instructions are
10 and you respond.

11 A. Okay, well, yes, I had that in—

12 Q. And where you go on to say, Mr. Seales responded stating that
13 he would let me know.

14 A. Yeah.

15 Q. My instructions are that he said no such thing to you. That’s
16 my instructions.

17 A. Yeah, he said such.

18 Q. And focusing on the last line of paragraph 8:

19 “I then told Mr. Seales that an air umbilical ought to be
20 inserted into the pipeline as soon as possible in order to
21 assist the trapped divers who may be able to reach same.”

22 My instructions are, Sir, that you said no such thing to Mr.
23 Seales.

24 A. I said that to him.

25 Q. Good. Now, Sir, earlier you indicated—and we’re almost at an
26 end. Earlier you indicated that you would have reviewed
27 documentation which were previously filed before this

1 Commission. Yes?

2 A. I didn't review the documents. I just heard or read on the
3 papers, that's all. Not review as in—you mean, like, going and
4 looking at the documents themselves on the website as such?
5 No, I never did. I reviewed things like on the Guardian or
6 whatever on the papers, that sort of thing. That's what I meant.

7 Q. Okay. And what you said there is true. Yes?

8 A. Yes. I would have read about it.

9 Q. Good.

10 **Mr. Pegus:** Can the witness be taken to paragraph 16 of his
11 statement please?

12 [*Paragraph shown to Dr. Cheddie*]

13 **Continued Cross-Examination By Mr. Pegus:**

14 Q. Good. Now, read the first line of paragraph 16.

15 A. Yeah. Well, that's what I meant about the review file—

16 Q. No, no, no—

17 A. From my review of documents filed before this Commission—

18 Q. Okay, okay. Hear me out; hear me out.

19 A. Go ahead.

20 Q. Now, just less than one minute ago you indicated under oath to
21 the Chairman and his Co-Commissioner that you did not review
22 any documents filed before this Commission. Do you accept
23 you said that?

24 A. Yeah, I accept I said that.

25 Q. Good. Do you accept that what you're saying at the beginning
26 of paragraph 16 is, "From my review of documents filed before
27 this Commission", and then you continue?

1 A. Yes.

2 Q. Good. Now, you appreciate that on the one hand saying you
3 didn't review anything that was filed before the Commission, is
4 different from making a statement that you reviewed documents
5 filed before the Commission?

6 A. Correct, yes.

7 Q. Good. And if you appreciate that it's different, you agree that
8 both of them cannot be the truth?

9 A. Well, it's how you read it.

10 Q. No, Sir, no, Sir, no, Sir, no, Sir. Dr. Cheddie, please—

11 A. Because in my view—I know, but wait. Can I have a word?

12 Q. No. You answer my question as—

13 A. No, I understand what is there, you know, “From my review of
14 documents filed”—

15 Q. Dr. Cheddie, please, please. Right? I am only interested in the
16 answer to my question.

17 A. Okay.

18 Q. I know you are familiar with the proceedings. The learned
19 Chairman would give you the opportunity to say whatever it is
20 you want to say after.

21 A. Okay, go ahead.

22 Q. Good. Saying to the learned Chairman that—and didn't review
23 anything filed before this Commission is something totally
24 different from saying in your statement, “From my review of
25 documents filed before this Commission”. Yes?

26 A. Yes.

27 Q. Good. In the later statement what you are saying here is that I

1 did, in fact, review documents filed before this Commission?

2 A. Yes.

3 Q. Good. And you agree, lastly—I'm not going to ask you which
4 one is the truth or not—you agree both of them cannot be the
5 truth? You can't say on the one hand, "I didn't review
6 anything", under oath you said that from your chair there this
7 morning?

8 A. Which is quite true.

9 Q. Good, right. Both of them cannot be the truth. Yes?

10 A. Yes.

11 **Mr. Pegus:** Okay. Thank you very much. No further
12 questions for this witness.

13 **Mr. Chairman:** Before you leave, Mr. Pegus, do I understand
14 from the line of cross-examination that you've taken that the
15 only conversation had between Dr. Cheddie and your client,
16 Mr. Seales, was about the availability of an ROV?

17 **Mr. Pegus:** Yes, those are my instructions. Mr. Seales accepts
18 that he did call Dr. Cheddie. It was around nine o'clock in the
19 night in question. Sometime thereafter, he enquired whether he
20 had in his possession an ROV, and the answer that he was given
21 is that his ROV was in Guyana. They didn't have any
22 conversation about what took place simply because Mr. Seales
23 didn't have that information, and the learned Chairman would
24 be aware that Mr. Seales gave evidence before this Commission
25 and he did indicate such.

26 **Mr. Chairman:** And nothing else was discussed? Is that—

27 **Mr. Pegus:** Nothing else was discussed. My instructions

1 are—and I'm sorry to be doing it this way—when Dr. Cheddie
2 indicated that his ROV is in Guyana, that was the end of the
3 exchange that they had on the night in question.

4 **Mr. Chairman:** Right. Thank you very much.

5 **Mr. Pegus:** Much obliged. Thank you.

6 **Mr. Chairman:** I think then next—everybody else is content?
7 Yes. Right. Then it is you, Mr. Peterson.

8 **Mr. Peterson SC:** Thank you very much, Sir.

9 **Cross-Examination By Mr. Peterson SC:**

10 Q. Good morning, Mr. Cheddie.

11 A. Good morning.

12 Q. Dr. Cheddie. Sorry. When did you first learn of this incident
13 on the 25th February?

14 A. On the same night that—2045, when I got the call.

15 Q. Oh. So before Mr. Seales called you, you didn't hear about
16 this?

17 A. No.

18 Q. He called and told you about this incident?

19 A. Yes, about the ROV.

20 Q. And you said he informed you that four divers were sucked into
21 the pipe?

22 A. That's what he said.

23 Q. Right. He having informed you that four divers sucked into the
24 pipe, you with all your experience, urgency of rescue came to
25 mind?

26 A. Correct, yes.

27 Q. Time is of the essence?

1 A. Well, yes.

2 Q. Well, when you say, “Well, yes”, what you mean?

3 A. Well, I only heard about 2045 in the night.

4 Q. Right.

5 A. So I didn’t know exactly what time it happened and all those
6 things. That’s what I meant.

7 Q. Right, exactly. But time being of the essence would occupy
8 your mind because men sucked into a pipe, you being a diver?

9 A. Yes, Sir.

10 Q. The next logical question is, how long they in the pipe?

11 A. Yes, it is a logical question.

12 Q. But did you pose that logical question?

13 A. No.

14 Q. All right.

15 **Examination By Mr. Chairman:**

16 Q. Can I be clear, were you told it was four men sucked into the
17 pipe or five?

18 A. Yes, I asked—no, I just told four.

19 **Mr. Chairman:** Thank you.

20 **Continued Cross-Examination By Mr. Peterson SC:**

21 Q. Yes, because in your statement you said he informed me that
22 four divers were sucked into a pipe—a pipeline?

23 A. Correct.

24 Q. And he asked you for your ROV?

25 A. Yes, he did.

26 Q. Your next question was what size of pipe?

27 A. Yes, because of the size of the ROV.

1 Q. Right. And your ROV could not fit.

2 A. No, cannot.

3 Q. What you understood to be the purpose of employing that
4 ROV?

5 A. That's what I asked him, and he said it was to go into the pipe
6 to look for the divers. That's why I asked. It is only logic I ask
7 that question.

8 Q. Without asking that, you in your experience and owning two
9 ROVs didn't know the purpose of it?

10 A. For what? I'm sorry, I don't understand. I don't understand.
11 The purpose of the ROV?

12 Q. You didn't know the purpose of an ROV?

13 A. Yes, of course. You asked a different question just now?

14 Q. Which is?

15 A. You asked me what would the ROV be used for.

16 Q. Right.

17 A. Right, to go into the pipe to look for the divers. That's what he
18 said.

19 Q. Right. And you understood the wisdom of using an ROV at
20 that time to go into the pipe?

21 A. At that point in time, yes.

22 Q. Now, as you sit there, you are critical of that employment of the
23 ROV or attempt to employ the ROV?

24 A. Not totally critical of the—

25 Q. Some critical?

26 A. Some critical, yeah, part of using an ROV.

27 Q. And the extent of your criticism is what?

1 A. ROVs work by propellers like a drone, underwater drone. And
2 if there are sediments in the pipe or if there is oil in the pipe as
3 well or anything, it could affect the propeller, and the ROV
4 would not move again. It may just shut down.

5 Q. So you didn't advise him against using an ROV?

6 A. I didn't know about pipe—with oil, and all those things. I
7 didn't advise against it. I didn't have any information to not
8 advise.

9 Q. Right. And you enquired from him the identity of the four
10 divers?

11 A. Well, I asked him, yes.

12 Q. And according to your statement, you learnt it was Nagassar
13 and Kurban?

14 A. Yes.

15 Q. Two of your students?

16 A. That's when I heard the names, yeah, and that's why I won't
17 forget.

18 Q. Well, Mr. Pegus dealt with you and that. Two of your former
19 students?

20 A. Correct.

21 Q. You consider yourself to be a very effective instructor?

22 A. Yes, Sir.

23 Q. You realize from your statement your student seemed to
24 disregard what you taught them?

25 A. Yes, Sir.

26 Q. Not only one student?

27 A. But two.

1 Q. Two. What about the other two divers?

2 A. I now going to tell you. It's Michael, Andrew, Fyzie, and
3 Rishi.

4 Q. All were your students?

5 A. Four, yeah.

6 Q. And all of your students disregard your teaching?

7 A. Yes.

8 Q. As a teacher I would have had a problem.

9 A. Yeah, because I'm not with them anymore. I wasn't with them
10 at the time.

11 Q. Yeah. But you know there's a saying that nothing is taught
12 unless it's learned. You know that?

13 A. There are many—yes, I heard that saying, correct.

14 Q. Right. You taught them never to use scuba in that kind of
15 commercial exercise?

16 A. Correct.

17 Q. Not only one of them, four of them you taught that?

18 A. All of them.

19 Q. What you taught them should be used?

20 A. Surface supply in habitants.

21 Q. And you also taught them about Delta P in that situation?

22 A. Yes. They would have seen the videos on Delta P and they
23 would have gone through the manual.

24 Q. No, I ain't ask you what they see. What you taught them about
25 Delta P in that scenario?

26 A. Not in that scenario; not in a habitat scenario. It would have
27 been Delta P on the whole—general.

1 Q. Well, I heard you said something earlier to Mr. Pegus that many
2 divers die in this country using scuba?

3 A. Yes, Sir.

4 Q. Name me two divers who died in this country using scuba?

5 A. I couldn't remember the name, but I know the situations.

6 Q. Give me the situations?

7 A. In 2018, or around '18 or '19, there was a diver who was doing
8 ship husbandry, which is cleaning underneath those big tankers
9 and he was on scuba and he ran out of air and he died, and it's
10 for a company situated here in Trinidad. There was another
11 young boy who was using—he was a PADI certified, and they
12 were cleaning some chains for a barge or such at 60 feet, and he
13 had another helper with him. And they were using—one was
14 using the primary and one was using the octopus. One was
15 certified; the other one was not. The one who was not certified
16 rushed to the surface for whatever reason and he arrived at the
17 surface—that was a 60-foot depth—they found him frothing at
18 the mouth and he died shortly after.

19 Q. But did you not tell this Commission yesterday that it's
20 appropriate to use scuba to clean under vessels?

21 A. I wouldn't have said that. I would have said small vessels.
22 You can scuba to clean under small vessels.

23 Q. You didn't describe the vessel. You said to this Commission
24 yesterday—

25 A. I can't remember saying that, Sir. I really can't remember but I
26 would have said scuba—you have scuba commercial. You can
27 use scuba for certain jobs. Nothing is wrong with using scuba

1 for certain jobs. Our draft for standards has scuba commercial
2 in it.

3 Q. So when you decided in this narrative that scuba was wrongly
4 used at Paria on the 25th?

5 A. Once I heard scuba and I heard that Paria—because I asked him
6 Paria—all I coulda think was oil and gas. You don't ever use
7 scuba for any oil and gas jobs. That's all I heard, and that's
8 when I made that statement.

9 Q. But you didn't know the nature of the job?

10 A. No, I did not know the exact nature.

11 Q. You didn't know whether it was to clean barnacles off one of
12 their tugs?

13 A. No.

14 Q. But right away you say scuba shouldn't be used?

15 A. I just—yeah, it's just me and scuba.

16 Q. And nothing wrong using scuba to clean barnacles off the tugs
17 at Paria?

18 A. It depends on the tugs and it depends on the depth and the
19 visibility.

20 Q. What dependent on the tug you're talking about?

21 A. Right; the size of the tugs. The same thing with ship
22 husbandry; it's the size of the tugs.

23 Q. What's the average size of tugs in Trinidad? There's one
24 parked outside there.

25 A. I don't know. They have them from 50 feet to 100 feet. It's not
26 so much the length; it's the width.

27 Q. How wide are the tugs in Trinidad, Dr. Cheddie?

1 A. You might get them about 30 feet, 40 feet. The idea below a
2 tug, Sir, is that you must have access to the surface. The diver
3 must have access to the surface. And if he's cleaning
4 underneath a tug, be it small like about 20, 30 feet, it would
5 become dirty. It become like soup below there. The diver
6 wouldn't see where he's going.

7 Q. I'm talking about cleaning barnacles, you know?

8 A. Yeah, it's the same—that's what cause the mess underwater,
9 the dirtiness—the barnacles.

10 Q. All right. Let's move on. So to clean barnacles under a vessel
11 like a tug, you need commercial diving equipment, no scuba?

12 A. As I said, it depends on the width of the tug. But I would
13 always recommend surface supply; always.

14 Q. How long you got your certification in surface supply?

15 A. In 2010.

16 Q. Twenty-fifteen?

17 A. Somewhere around there, yeah.

18 Q. That's just the other day?

19 A. Yes, Sir.

20 Q. How many commercial dives have you supervised in this
21 country?

22 A. My students, maybe about 100, around there, supervised, yeah.
23 Mostly my students in school.

24 Q. No, no, I ain't talking about training. I'm talking about—

25 A. No; outside? No, no.

26 **Examination By Mr. Chairman:**

27 Q. That's not quite the same thing. I understand him to be asking

1 you how many supervised dives employing that equipment
2 have you been involved in?

3 A. No, none, except for school in Trinidad.

4 Q. Right. So all you've done is the training. You've never
5 actually done any practical?

6 A. No.

7 **Mr. Chairman:** Right. I thought that's what you were asking
8 him.

9 **Mr. Peterson SC:** Yes, Sir, yes, Sir. Thank you very much.

10 **Continued Cross-Examination By Mr. Peterson SC:**

11 Q. So you have done no company—you have not worked for any
12 of the companies in Trinidad—major diving, commercial
13 diving?

14 A. No.

15 Q. Because I observed in your purported expertise that you had 30
16 years' experience, and 100 hours booked?

17 A. Yeah; I dived before.

18 Q. No, just now. I don't know you before, Dr. Cheddie. I'm
19 going on what I'm reading here.

20 A. Yeah.

21 Q. A hundred hours?

22 A. Yes.

23 Q. Thirty years?

24 A. Yeah.

25 Q. That sound like three hours a year?

26 A. The 30 hours is with scuba as well as with commercial diving.
27 That 30 years incorporated both. The scuba was the main part

1 in the beginning. That's where all my 30 years came from;
2 mostly scuba.

3 Q. So that 100 hours is spread over what time?

4 A. Whatever you spread over from when I was in Canada doing
5 my training as well into Trinidad.

6 Q. You logging hours of training as years of experience? It's like
7 a lawyer being in law school for 10 years, and saying dey hah
8 10 years' practice?

9 A. We can log our dives—we have to log our dives to become
10 supervisors. Because to become a supervisor you have to have
11 logged dives. And every time you carry a student down under
12 water, you log that as well.

13 Q. So you have a 100 hours?

14 A. Yes, Sir, that's logging hours.

15 Q. Inclusive of your training to become a commercial diver?

16 A. No. To become a commercial diver you don't have to have 100
17 hours.

18 Q. No, I know. We're tabulating your 100. Your 100 is inclusive
19 of your training?

20 A. Yes, Sir.

21 Q. Not experience?

22 A. No. The experience, as far as what I'm understanding, the
23 experience would be while I am with the students. That is
24 experience. Logging our dives as well; not personal with the
25 hat and hose alone.

26 Q. So post qualification, how much experience you have post
27 qualification? How many hours?

1 A. Right. Post qualification, I would have had maybe about 20
2 hours; not much.

3 Q. That sound like a week of diving.

4 A. It's not a week of diving. You dive in an hour when you have a
5 time, a two hours, that sort of thing.

6 Q. We know. We get evidence in this Commission before, you
7 know. So you have about 20 hours' post qualification dive
8 experience—commercial dive experience?

9 A. Yes.

10 Q. And you think that that qualifies you to be critical of Paria and
11 other diving operations in this country?

12 A. No, wait. Maybe I am—maybe I misunderstood you about my
13 20 hours.

14 Q. No, you've been very clear.

15 A. I am critical when I'm—I'm also a supervisor, so I had to have
16 all those hours logged as a supervisor. I'm a diving supervisor.
17 I'm not just a diver.

18 Q. I asked you post qualification as a commercial diver, how many
19 hours' experience you have?

20 A. Oh, sorry, post. I thought I heard pre. Sorry, that's my fault.

21 Q. You're mixing up post and pre?

22 A. Well, I wasn't listening maybe that well. Post as a diver,
23 commercial diver you're talking about?

24 Q. Yeah.

25 A. I would have had close to maybe about 75, 80 logged dives,
26 around there; that would be supervising. Every student—

27 Q. No, no, no—

1 **Examination By Mr. Chairman:**

2 Q. Can I ask, do you have your logbook?

3 A. Yes, I have a logbook. I have to get it, yeah.

4 Q. Is that available?

5 A. Yes. I just have to find it.

6 Q. You just have to find it?

7 A. Because, I mean, I retired a long while now. It would have
8 been in the office somewhere.

9 Q. I mean, a logbook is quite important for a diver, isn't it, to log
10 your dives?

11 A. Yeah, but, I mean, I'm retired. So—

12 Q. I mean, the logbook shows where you dived, how deep you've
13 dived, how long you were diving for, the conditions you were
14 diving in, all of those things, isn't it?

15 A. Okay, yeah. Well, let me explain how this works with the
16 diving. How diving operates is that as a supervisor, every
17 student you send down, you're able to log it as dive time, not
18 just for students themselves alone, but for you as well as the
19 supervisor. That's how it is. The main thing I have is a diver's
20 supervisor's logbook with the hours in it.

21 **Examination By Commissioner Wilson:**

22 Q. Mr. Cheddie, excuse. Can you tell this Commission how many
23 hours are required to get a dive supervisor ticket?

24 A. Right. That's what the thing is. Um, this was a long time ago.
25 I think it's about, um—I can't remember exactly, and I don't
26 want to say the wrong thing. You had to have an unrestricted
27 or a card and to get that card you would have had to do about

1 10 to 20 dives, commercial diving, to become a commercial
2 diver first. And then after you become a commercial diver,
3 then you do supervisor exam as such, which I did, to become a
4 supervisor, right after you do your commercial diving.

5 Q. Did you go straight to supervisor or did you have to be
6 competency assessed from assistant dive supervisor before you
7 progressed on to dive supervisor?

8 A. Yes, yes; that's what I was doing in Canada.

9 Q. So, again, where are the hours?

10 A. When I went to Canada I was learning how to be a supervisor
11 while I was there.

12 Q. So was it the certification you were going for was Assistant
13 Dive Supervisor before you progressed?

14 A. No.

15 Q. It was straight to a dive—

16 A. Straight to supervisor.

17 Q. And, again, how many hours taking you from—

18 A. Assistant—

19 Q. Assistant. Oh, so you recognize that there is the assistant dive
20 supervisor before supervisor?

21 A. From the—yeah. But, you know, there's no assistant
22 supervisor card. There was just, like, you would do your
23 supervisor exam and get certified as a supervisor.

24 Q. And, again, how many hours before you prequalify to do that?

25 A. Once you have your unrestricted or your ADCI card, you can—
26 I can't remember exactly how many hours, but there is
27 something about hours, but I can't remember. I could always

1 check that.

2 Q. And which accrediting body is this? Because it's—

3 A. I did ADCI as a supervisor.

4 Q. ADCI?

5 A. Yeah. And I was trained under the DCBC, which is the Divers'
6 Certification Board of Canada first. And then when I applied
7 for my school to open, I had to have all those credentials for the
8 ADCI to see. They had to view all those things.

9 Q. Just your diving credentials?

10 A. Yes, Sir.

11 Q. Under the ADCI, was your training facility ever audited?

12 A. Yes, it had to be.

13 Q. Okay.

14 A. It failed the first audit and then I got it the second time.

15 Q. You got it the second time?

16 A. Uh-huh.

17 **Commissioner Wilson:** Thank you.

18 **Continued Cross-Examination By Mr. Peterson SC:**

19 Q. Dr. Cheddie, after you were certified as a commercial diver—

20 A. Yes, Sir.

21 Q. —before you became a supervisor—

22 A. Yes, Sir.

23 Q. —how many dives did you do—commercial dives?

24 A. I would have done enough. I think it was about 20—

25 Q. Enough?

26 A. I'm trying to remember. This is like in 2015, around there, and
27 I would have done before that. I'm trying to remember how

1 many dives I did. I can't remember exactly. I really can't
2 remember.

3 Q. Approximately?

4 A. Maybe about—before I did my supervisor you're asking,
5 correct?

6 Q. Yeah; qualification as a freshman, as a fresh minted commercial
7 diver before you get to supervisor, how many dives you did
8 between there?

9 A. I would have done about, I'm thinking about 30 dives.

10 Q. Name five companies you did that for in Trinidad?

11 A. No, no, wait, you mean like in Trinidad, five companies?

12 Q. Yeah. Name three. I will knock off two. Name three.

13 A. We did—not for companies, I didn't do it for companies. I did
14 it for like—

15 Q. So that's none? The answer is none. How many companies
16 you did commercial dives for? The answer is—

17 A. No, now you're asking me how many companies—

18 Q. No.

19 A. No, you asked me how many dives I had before.

20 Q. Please. How many companies. I say name five.

21 A. No. Before—sorry; before you asked me how many
22 companies, you asked me how many dives I had.

23 Q. Yes.

24 A. Right. Now, you ask me how many companies.

25 Q. I asked you that before.

26 A. You don't necessarily have to—I did not dive for companies as
27 such.

1 Q. Right.

2 A. We were doing our private jobs. We were doing private jobs
3 underwater—

4 Q. Name five private jobs you did—commercial diving jobs?

5 A. Right, commercial diving jobs. We did one on Gasparee Island,
6 a couple on Gasparee Island for a jetty there, to clear the jetties
7 and underwater works on the jetties; that's in Gasparee itself.
8 And then we did some for removing of small wrecks
9 underwater.

10 Q. Uh-huh.

11 A. Yeah, that's about it, really.

12 Q. That's about it?

13 A. Yeah, that's about it.

14 Q. That's two?

15 A. No, no, it's more than one job on the same jetty. It would be
16 long.

17 Q. So what, each pile of the jetty you count as a job?

18 A. No, the hours that you will go down, you can't stay long. So
19 we would have done like—

20 Q. I didn't ask you hours; number of dives?

21 A. Okay. Like in one day we may have done two dives or three
22 dives. And then the next day we would have done maybe two
23 again. That's how it's done for diving.

24 Q. So those numbers you gave me, you could have done all of that
25 in a week or two?

26 A. If the job was available, I suppose. If the jobs were available.

27 **Examination By Commissioner Wilson:**

1 Q. Mr. Cheddie, excuse, let me interrupt. What was the mode of
2 diving you used for those jobs you described?

3 A. We used surface supply with the—we had our own hose and
4 equipment set up. It wasn't like established like the big ones
5 like we have now.

6 Q. No problem. And as a practitioner in the industry and your
7 awareness of standards, you do have those dive logs?

8 A. Those dive logs for that time?

9 Q. For that job, yes, please?

10 A. Not for those. Those have been before. We only had to log
11 what we did for diving.

12 Q. Those would have been before what?

13 A. Before we went to school, like for the restricted or the
14 unrestricted.

15 Q. So that was before you even became qualified?

16 A. Yeah, yes.

17 Q. So you're not even diving to any standard?

18 A. No, I wasn't diving yet. That was before.

19 **Commissioner Wilson:** Okay, no problem. Thank you.

20 **Continued Cross-Examination By Mr. Peterson SC:**

21 Q. Yeah, but—no, Dr. Cheddie, help us here.

22 A. Yeah.

23 Q. You don't know anything about tendering for diving in the oil
24 and gas industry? You have no experience in that?

25 A. When you say I have no experience in tendering—

26 Q. Well, you said in your statement you attempted to convey
27 yourself or portray yourself as an expert to this Commission?

1 A. Correct.

2 Q. And you were giving an opinion in your statement about the
3 evaluating of tendering process in oil and gas industry. You
4 have any experience in that?

5 A. No, Sir.

6 Q. In March 2022 you were quite vocal in being critical of Paria of
7 the incident in February?

8 A. Uh-huh, yes.

9 Q. Isn't that true?

10 A. I think it's more LMCS, but I don't think about Paria.

11 Q. Both. Guardian newspaper.

12 A. Guardian newspapers, correct.

13 Q. March 2022, I think the 13th or somewhere there.

14 A. Yeah, around that.

15 Q. But you had no experience in the oil and gas industry and
16 commercial diving in the oil and gas industry?

17 A. It's not about experience—

18 Q. No, answer me. You had no experience?

19 A. No, I answered already. I said no; no experience. But I have—

20 Q. But you got out there and critical against Paria—LMCS will
21 deal with you on that.

22 A. Right.

23 Q. But I'm dealing with Paria?

24 A. Can I—

25 Q. No, not yet. That's true, isn't it?

26 A. Yes.

27 Q. That you were critical?

1 A. Yes.

2 Q. Do you realize that as an expert or putting yourself forward to a
3 Tribunal Commission Court as an expert, you have to declare
4 whether you are independent?

5 A. Well, I am independent.

6 Q. No. Let's deal with whether you're an expert first.

7 A. Right.

8 Q. Are you an expert?

9 A. I'm a professional, yes.

10 Q. No, expert?

11 A. I never considered myself an expert. I said professional.

12 Q. Right. So you don't—

13 A. I know about the job.

14 Q. Thank you for that confession. You don't consider yourself an
15 expert?

16 A. Professional.

17 Q. Right. So we have that. You consider yourself independent
18 before this Tribunal?

19 A. When you say independent, what you mean?

20 Q. Giving a view, an open, balanced view without having a
21 preconceived bias.

22 A. Okay. A preconceived bias against—I don't have a
23 preconceived bias against LMCS or Paria. I have a
24 preconceived bias when it comes to how diving is performed in
25 this country and how clients hire their contractors and how the
26 contractors perform in this country.

27 Q. But you have never been hired by any of the big commercial

1 outfits in this country?

2 A. No, Sir.

3 Q. That makes you happy?

4 A. I don't understand that. If that makes me happy?

5 Q. It makes you sad?

6 A. What would make me happy or sad?

7 Q. The fact that you were never considered to be hired in the oil
8 and gas industry in a commercial capacity?

9 A. I was always an instructor. I ran a school.

10 Q. I know.

11 A. That's more of my interest.

12 Q. So you don't hold yourself out as a consultant?

13 A. Yes.

14 Q. That's the point. And your services have never been accessed
15 by any of the big commercial operators in this country?

16 A. I have had four persons—

17 Q. Isn't that a fact? Answer my question first.

18 A. No, no, no, no, that's not a fact.

19 Q. What? You have been hired by the big commercial oil and gas
20 commercial outfits in this country?

21 A. When you say big, high end—when you say like, you're talking
22 about BP—

23 Q. Shell, BP—

24 A. Those names, no.

25 Q. Paria?

26 A. No.

27 Q. Heritage? Petrotrin?

1 A. No.

2 Q. You want me to continue?

3 A. No, no, no, those are the big names that you called, no. But I
4 did—

5 Q. I have some more, you know. Repsol? Petrocaribe?

6 A. I said no. What I'm saying—

7 Q. No, I was going down the list to see if you will say yes to any.

8 A. No, no. I have been called in on certain smaller jobs by certain
9 smaller companies. Right? There are smaller companies that
10 work in Heritage, and they ask me for simple advice, and they
11 brought their hats by me to check, and those things.

12 Q. Right. So I get back to my fundamental question. You have a
13 bias against Paria, Heritage, Petrotrin for the fact that you were
14 never hired by them. I'm putting that to you.

15 A. No. Why?

16 Q. That's my question; why?

17 A. Right. Because I never put myself out for jobs like with Paria
18 and Petrotrin and—we have spoken to a lot of these persons
19 who work for the companies in Paria but never put out
20 ourselves for that. We have a school. We were a school here
21 advising—

22 Q. Dr. Cheddie, let's cut through a lot of this. You said that you
23 hold yourself out as a consultant. That means you're available
24 to be retained?

25 A. Yes, I am.

26 Q. And you have never been?

27 A. Right. If someone wanted—I didn't go out there and ask

1 people for jobs.

2 Q. That's what you're doing today; you're putting yourself out in
3 this Commission at the close of the Commission to market
4 yourself. I regret I have to put that to you, but I'm putting that
5 to you. Isn't that true?

6 A. That is not true. That is definitely not true.

7 Q. You're here to help the Commission independently?

8 A. Correct.

9 Q. But you were critical of Paria back in March 2022 before you
10 knew the facts.

11 A. February, March—yes, I knew the facts that divers had died,
12 and where and how they died. Those were the simple facts; not
13 all the integrated facts about, um—I didn't know about, um,
14 what happened in the habitat and those things. It had nothing
15 like that.

16 Q. And as a professional, don't you think not having all the facts
17 as you just admit, you should not be out there criticizing an
18 entity? A professional not supposed to do that.

19 A. No, stop. My area of expertise or professionalism that I was
20 interested in is how the dives are done, right, how dives are
21 carried about by contractors and by clients. Now, I have taught
22 in my school many times that—

23 Q. Yeah, we got all of that already.

24 A. No, wait, no, no; wait.

25 Q. No, don't—yeah—

26 A. And, um, I have taught that scuba should not be used in the oil
27 and gas. I used all my textbooks; we use all the standards, and

1 all that. I have sat on the Bureau of Standards here in Trinidad,
2 and I've sang that for many years. So when I hear anytime
3 divers die, once divers die in this country, I am concerned, and
4 how they die and where they would have died, and all that.

5 Q. Yes, Dr. Cheddie, we got all of that.

6 A. No, I'm not finished. No, well, I'm going to go on. So that's
7 my passion.

8 Q. No, no, please, please; no, you have to answer my ques—

9 A. And that's what I wanted to find out.

10 Q. Dr. Cheddie, Dr. Cheddie, please.

11 **Mr. Chairman:** All right, all right. Just pause for a minute.
12 Dr. Cheddie, this is not an opportunity to make a speech. You
13 are required to answer the question. And as I have said to many
14 witnesses, the best way of doing that, where possible, is to say
15 yes or no to the question, and if you have a rider to that, a but, a
16 however, you'll be entitled, and I will permit you to make that.
17 But the best way of proceeding is to answer the question first.
18 All right? And try not to get behind why the person's asking
19 the question. Simply answer the question; answer it. All right?

20 **Dr. Cheddie:** Yes, Sir.

21 **Mr. Chairman:** And that way we will make progress.

22 **Dr. Cheddie:** Ask the question again.

23 **Mr. Chairman:** Can I ask you, Mr. Peterson, do you think you
24 would be a little while yet?

25 **Mr. Peterson SC:** About 10 minutes, Sir.

26 **Mr. Chairman:** Well, let's conclude your cross-examination
27 before we take—

1 **Continued Cross-Examination By Mr. Peterson SC:**

2 Q. Your PhD is not in diving, is it?

3 A. No, Sir.

4 Q. But I looked at your CV. When you were called to the Bar?
5 You said you were a lawyer yesterday.

6 A. No, no, no. That would have—

7 Q. Yesterday you said you're a lawyer.

8 A. I know, I know, I know.

9 Q. No, no, no, don't stop me. That's yes. Yesterday you said
10 you're a lawyer?

11 A. Yesterday. Yes, Sir.

12 Q. That is not true.

13 A. No. Well, not called to the Bar lawyer. This is what I was—
14 that is the mistake I made.

15 Q. In Trinidad we call that a bush lawyer.

16 A. Right. This is what the—that is what I made a mistake when—
17 you see when Prakash came up and he asked me that question,
18 it was all excited.

19 Q. You blaming Mr. Ramadhar?

20 A. No, no, no.

21 Q. You blaming counsel, Mr. Ramadhar?

22 A. I'm a sports consultant, right, a sports law consultant, and that's
23 because my LLM—

24 Q. Wait, wait, not so quickly, Dr. Cheddie, please. It's either
25 you're a lawyer or you're not.

26 A. I'm not an attorney.

27 Q. It's either you're a doctor or you're not.

1 A. Not, not.

2 Q. It's either you're a carpenter or you're not.

3 A. Right. I'm not a lawyer practising in Trinidad.

4 Q. Yesterday—until I just asked you that question—you conveyed
5 to the learned Chairman and Commissioner Wilson that you
6 were a member of my honourable profession.

7 A. No, I never said that.

8 Q. Yuh want us to pull the transcript?

9 A. No. When he said if you're a lawyer, I said yes.

10 Q. Well, that's the point. You're not a lawyer.

11 A. No.

12 Q. That's a lie. Sorry to put it to you that way. My grandmother
13 told me that if it's not true it's a lie.

14 A. Okay.

15 Q. Ah doh know if your people tell you otherwise. So that was a
16 lie?

17 A. It was a mis—it wasn't a lie.

18 Q. Wasn't a what?

19 A. It wasn't a lie. It came out wrongly in the excitement.

20 Q. Because I was about to ask you what is yuh Bar number.

21 A. Right. I know that.

22 Q. And do you know under the Legal Profession Act—you are
23 saying that you are a consultant. Do you know under the Legal
24 Profession Act to portray yourself in public or otherwise or
25 hold yourself out as being a lawyer is an offence?

26 A. Yeah, I know.

27 Q. You know that?

1 A. Yes, Sir.

2 Q. And you just did that on oath yesterday. You know that?

3 A. Yes.

4 Q. I hope the Law Association following this Commission.

5 A. Can I say something now?

6 Q. No, no, no, no, no.

7 **Examination By Mr. Chairman:**

8 Q. Yes, you can. You can seek to explain why you said yesterday
9 you were a lawyer and today you're saying you're not. You
10 can do that.

11 A. Right. Yesterday when Mr. Mara—when Prakash Ramadhar
12 asked me—

13 Q. We blame him for a lot in this building, but I'm not sure that's
14 his fault. [*Laughter*]

15 A. —asked me that, um, when he asked me that, I wasn't thinking
16 about lawyer, I thinking about diving, and he just said it, and I
17 said yes. And I realize that that was wrong.

18 Q. Why didn't you correct it?

19 A. I should have. I should have. Yeah, I should have.

20 Q. Just a minute. Just a minute. Dr. Cheddie, you see, we all say
21 things sometimes in the heat of the moment which we either
22 regret or realize it is perhaps not as accurate as we would want
23 it to be. But bearing in mind where you are, and that you are on
24 oath, do you not think that the prudent thing to have done
25 would have been to come in here today and say, "Look, I have
26 to tell you, Mr. Chairman, I reflected on what I was asked
27 yesterday by Mr. Ramadhar about whether I was a lawyer, and

1 I, in the heat of the moment, said yes. I'm not actually a fully
2 qualified lawyer. I have practised some areas of law", if you
3 like, and give whatever explanation you want to give. But that
4 would have been the prudent thing to do to correct the record,
5 wouldn't it?

6 A. Yeah.

7 Q. Rather than waiting just in case somebody found out and then
8 asked you, as Mr. Peterson has, about your qualifications or
9 your status.

10 A. Well, I realized that yesterday—

11 Q. But why didn't you tell us today.

12 A. —and I didn't know how to, um, how to approach it today. I
13 did not know. I was hoping that if Mr. Peterson or somebody
14 asked me, I would have explained my position.

15 Q. Do you appreciate that taking that course affects your
16 credibility?

17 A. Yeah, I realized that yesterday.

18 Q. What, and it's different today?

19 A. No, I realized that when I said it.

20 Q. Yes, but I'm saying why didn't you try and correct it? That's
21 what I want to know. You wanted to say something more. Mr.
22 Peterson was going to say you didn't have to say any more.
23 But I want to know why you didn't correct the error that you
24 appreciated you made yesterday?

25 A. I was hoping that today I would get the chance.

26 Q. Well, you just have, but it is not really the right circumstances
27 in which to get the chance.

1 A. Yeah, I realize that.

2 **Mr. Chairman:** All right. Is there really anything more?

3 **Mr. Peterson SC:** Two more questions, Sir. No, you mean on
4 that point? No, I would like to see what Dr. Cheddie puts on an
5 immigration form when he's coming through—yuh know the
6 form when they ask you occupation?

7 **Dr. Cheddie:** I put sports law consultant.

8 **Continued Cross-Examination By Mr. Peterson SC:**

9 Q. That's what yuh does put?

10 A. Yes.

11 Q. Ah never see one, eh. Ah doh even know if to take yuh word
12 for that. Now, you would accept that in a diving team, in
13 particular in a rescue, there must be an understanding between
14 the dive supervisor and the divers he sending in along, in this
15 case, a pipeline? You agree with that?

16 A. Yes, Sir.

17 Q. And what would be very helpful in such a risky enterprise is if
18 the team had been diving together previously as a team—like in
19 World Cup, nah, as opposed to a throw together team. You
20 agree with that?

21 A. No.

22 Q. You don't agree with that?

23 A. No.

24 Q. So let us take, for example, you send down a diver and he meet
25 an obstacle like a tank in a pipeline—

26 A. Yes, Sir.

27 Q. Should he bring it out and then go back in to continue his dive

1 or should he just push it aside and bypass it? Which one would
2 you advise?

3 A. It depends on the diver at that point and the supervisor.

4 Q. And it depends on the supervisor?

5 A. Yeah.

6 Q. So if the diver is to leave it and continue, the supervisor will
7 have to know the competencies of that diver, whether that's a
8 good call or whether he should back out and bring up the
9 obstacle and then continue?

10 A. No, he would—no, no; not the competencies. He would ask—
11 well, you remember all of these are qualified divers—

12 Q. Yeah.

13 A. So he would ask the diver, first of all, what do you think about
14 passing it, or if you could leave it; if it will snag yuh line on the
15 way back.

16 Q. Right.

17 A. And if you feel comfortable to leave it or remove it.

18 Q. And the supervisor has no input in that decision?

19 A. The supervisor has an input, because it depends on what the
20 diver is saying to him. Once the diver said to him it look as
21 though it will snag my line when I'm coming back I will—and
22 then the supervisor says take it out.

23 Q. Yeah. But if the diver forms a view, the supervisor goes along
24 with that without challenge? If the diver say, yeah, it fine, I
25 going ahead?

26 A. Yes.

27 Q. So what is the role of the supervisor in that scenario?

1 A. It's for the safety of the diver.

2 Q. Right. So he has an input to instruct the diver, no, I think you
3 should come back out.

4 A. No, no, no. He don't have—he has the option to say yes or no
5 as well, but he will leave it up to the diver who is in the water at
6 the time.

7 Q. But he's relying on the judgment of that diver.

8 A. Yes.

9 Q. So that's what I'm telling you. But the only way one can assess
10 the integrity of the judgment of that diver is an experience that
11 they had before; relationships. You understand what I'm
12 saying?

13 A. Yes, but it's not always like that in the diving industry.

14 Q. I know it's not always like that.

15 A. Yeah; it's not always like that.

16 Q. But that is the preferred standard.

17 A. It could be the preferred; not a standard but preferred.

18 Q. The preferred course?

19 A. Yes.

20 Q. So going into a rescue like in that 30-inch pipeline, a team
21 having a historical relationship would be important?

22 A. It would be an added asset.

23 Q. It would be an added asset. And the knowledge of the inside of
24 that pipe to undertake a dive, would be crucial information?

25 A. Yes.

26 Q. And how you go into that pipe head or foot first would also be
27 crucial?

1 A. Yes.

2 Q. A camera will give you that information as to the internal
3 conditions of that pipe, wouldn't it?

4 A. It will help.

5 Q. And a light on your head, as you described yesterday, going in
6 foot first would not assist you?

7 A. No, Sir.

8 Q. It's only if you go in headfirst?

9 A. Correct. But when I—well, no one asked me, but those lights
10 can come off, so you can hold it.

11 Q. Well, light could come off?

12 A. Yeah. So the supervisor and the diver will make that decision
13 at the JSA that he will hold it if he's going in feet first.

14 Q. Yes.

15 A. And we usually move it around, so he could hold it down.

16 Q. Right. But remember he holding other things too, eh.
17 Wouldn't he be holding a tank to assist the diver when he
18 reaches a diver?

19 A. No.

20 Q. Wouldn't he be holding a backup tank?

21 A. The backup tank would be hooked up to him.

22 Q. Where?

23 A. He won't be holding—in this scenario, most likely it will be
24 under the arm area over here, not on the back, because the tank
25 will be pene—the tank as well as the diver's size and 28
26 inches—

27 Q. You ever did any of this kinda thing before?

1 A. No.

2 Q. You ever analysed anything like this before?

3 A. Only in school.

4 Q. Before the Guardian in March?

5 A. Only in school.

6 Q. Only in school?

7 A. Yeah, when I teach it.

8 Q. So you teach rescue from confined spaces like a 30-inch
9 pipeline?

10 A. Not rescue, but penetration diving.

11 Q. Yeah. In a pipeline.

12 A. Well, penetration diving in pipelines. We teach that.

13 Q. You taught penetration diving in a pipeline?

14 A. It's part of our—it's part of the manual.

15 Q. What size of pipeline you taught it in?

16 A. We looked at different sizes but it had to be—

17 Q. 30-inch. You taught it in a 30-inch?

18 A. No, not exact 30 inches.

19 Q. No, well 32 inches.

20 A. We would have worked about pipelines that are a bit larger than
21 you are.

22 Q. What size pipeline you taught it in?

23 A. In the 30s; it would have been about thirty-something inches,
24 around there.

25 Q. And you taught that to Kurban and Nagassar and any of them
26 that disregarded your teaching?

27 A. It would have been in the textbook, yes.

1 Q. No. You taught it—I used to teach, eh, and you know how
2 much thing in the textbook that ah never taught?

3 A. No, no, no. This one was in the ADCI Manual, and we went
4 through everything in that manual.

5 Q. With the divers that died—the four divers?

6 A. Yes, Sir.

7 Q. And your lesson to them is never dive in that scenario with
8 scuba?

9 A. Yes.

10 Q. And they disregarded your training?

11 A. Yes, Sir.

12 **Mr. Chairman:** To be fair, Mr. Peterson, they didn't dive in
13 the pipe, they were sucked into it.

14 **Mr. Peterson SC:** That's true. No, but I mean the habi—

15 **Continued Cross-Examination By Mr. Peterson SC:**

16 Q. They didn't dive into—they were in the habitat using scuba,
17 which you say should never have been done.

18 A. No.

19 **Mr. Peterson SC:** Thank you, Mr. Chairman.

20 **Examination By Commissioner Wilson:**

21 Q. Mr. Cheddie, whilst we wait on Mr. Peterson, just let me
22 interject here. Again, conducting that type of training, where
23 are the pipelines located that you conducted penetration dives in
24 Trinidad?

25 A. No. These were never done on practicals; only theory.

26 Q. Only in theory?

27 A. Only in theory; never practicals. It was not what—

1 Q. So therefore it wouldn't have had a diameter pipeline you went
2 in? Because you just said you taught them on 30-inch
3 pipelines.

4 A. About 30, 32-inch. We will have it as part of the theory.

5 Q. On theory?

6 A. Yeah. Part of the theory.

7 Q. Thank you for that.

8 A. We not told to—we were never allowed to teach that like in ah
9 actual scenario as part of our training.

10 Q. Part of my training I did penetration dives, actual with in-water
11 tenders and everything.

12 A. No, we weren't—ADCI doesn't have that.

13 Q. And it was under the ADC College [*Inaudible*]

14 A. Well, under the ADCI standards we were not allowed to do
15 that.

16 Q. Okay, no problem; it's just in theory?

17 A. Yeah, just in theory.

18 **Mr. Peterson SC:** Mr. Chairman, I was finished, but that last
19 question excite me.

20 **Continued Cross-Examination By Mr. Peterson SC:**

21 Q. So this training and teaching in different sizes of pipe and thing,
22 thirty-something inches, is just book thing?

23 A. Yes, Sir.

24 Q. No, "Fellas, aye, tomorrow we going out in the sea and going to
25 put all yuh down in some pipeline leh we dive"?

26 A. No.

27 Q. That is like a doctor learning and never did a cut?

1 A. Well—

2 Q. A surgeon.

3 A. In the recent Sixth Edition of the Manual, we were not allowed
4 to do that sort of diving—training; diver training.

5 Q. So you have not taught actual practical diving?

6 A. In a pipeline.

7 **Mr. Chairman:** Penetration diving.

8 **Continued Cross-Examination By Mr. Peterson SC:**

9 Q. Penetration diving.

10 **Mr. Chairman:** Penetration. Be clear. He says he made
11 dives—

12 **Mr. Peterson SC:** Well, Sir, we got the 20 hours already.

13 **Continued Cross-Examination By Mr. Peterson SC:**

14 Q. The penetration diving—you never actually did the practical to
15 that?

16 A. No. We were not allowed to do that in school—to teach it in
17 school. We are you not allowed to do that.

18 Q. You realize the Commissioner just told you he did it, right?

19 A. We were not allowed to do it.

20 **Mr. Peterson SC:** That's the last—no more questions, Sir.
21 Wow.

22 **Mr. Chairman:** Is that your cross-examination?

23 **Mr. Peterson SC:** Yes, it is. I thought I said thank you, Sir.

24 **Mr. Chairman:** No, no. Ms. Persaud Maraj you have none?

25 **Mrs. Persaud Maraj:** No.

26 **Mr. Chairman:** That leaves you to ask any questions that you
27 might wish to, Ms. Alfonso. Yes. Can I ask you, before we

1 embark on that, do you think you'd be a little while?

2 **Ms. Alfonso:** Maybe 15, 20 minutes, Mr. Chairman.

3 **Mr. Chairman:** Let's have our break now.

4 **Ms. Alfonso:** Thank you, Chairman.

5 **Mr. Chairman:** Let's have our break now. So, doctor, we're
6 going to take a 15-minute break now. We'll resume at twenty-
7 five minutes to twelve, please. So take your break now and
8 we'll come back then. Thank you very much.

9 **11.20 a.m.:** *Enquiry suspended.*

10 **11.35 a.m.:** *Enquiry resumed.*

11 **Mr. Chairman:** Yes. Can we have the witness, please.

12 **Mr. Peterson SC:** Mr. Chairman, I was just thinking should
13 we just proceed to In-Corr-Tech, because this witness self-
14 confessed that he's not an expert and he's not a witness of fact.

15 **Mr. Chairman:** Just a minute. Can we have the witness wait
16 for a moment, please. Can the witness wait outside for a
17 minute, please. Thank you.

18 **Mr. Peterson SC:** I was thinking during the break that the
19 witness had to confess that he's not an expert, which we
20 thought that is what he would be of assistance, and he's not a
21 witness of any fact, so I don't think we should—my view and
22 respectful submission is that we shouldn't waste further time
23 with him and proceed to In-Corr-Tech who is of assistance to
24 us.

25 **Mr. Chairman:** I'm not going to take much persuading of that
26 course. Ms. Alfonso, this is a witness which you invited us to
27 consider calling as a witness of both truth and accuracy. Before

1 today's proceedings Mr. Peterson made a submission as to
2 whether or not he should be permitted, or whether we should
3 rely on his evidence at all given the lateness of it. I think we've
4 come to the point, have we not, where it would be very difficult
5 for this Commission to rely on what he has said given his
6 confession that he is (a) not an expert and (b) that he had
7 asserted he was a lawyer when he clearly is not.

8 Those facts alone call into question the extent to which
9 we will be able to rely on his evidence. That combined with the
10 cross-examination by Mr. Pegus in which he has suggested that
11 virtually everything that he asserted took place in the
12 conversation between him and Mr. Seales is challenged, given
13 that Mr. Seales has had no opportunity, unless I were to have
14 him recalled, to make that plain, I wonder what value there is in
15 calling him to conclude his evidence now by way of any
16 questions you might have.

17 I mean, realistically, I mean, there may be elements of
18 what he has said which is uncontradicted and which is
19 supported by other evidence which we can rely upon. But do
20 we really need to rely on that evidence if it is uncontradicted
21 evidence that exists elsewhere? I have to say for my part, I will
22 take some persuading as to the value that he brings to this
23 Enquiry. I don't want to press it any further than that. It's a
24 matter for you. If you would wish to have him recalled to deal
25 with further questions then by all means do.

26 **Ms. Alfonso:** Mr. Chairman, I don't think I could persuade
27 you to bring back this witness. I would like to, but I don't

1 think, in good conscience, I can try to persuade the Commission
2 of the value of bringing Dr. Cheddie back to complete his
3 evidence.

4 **Mr. Chairman:** If I may say so, that's a very sensible
5 approach, and I'm grateful for that indication. In the absence of
6 anybody else having anything to say, Mr. Maharaj—

7 **Ms. Alfonso:** Mr. Chairman, if I could just make one further
8 point? As I said, it's not in defence of the union or the interest
9 that I represent. Again, Dr. Cheddie was somebody that was
10 proffered up by a union who I do not represent, that's the
11 OWTU. In my estimation what he had to say seemed
12 worthwhile to put forward before the Commission. It has
13 turned out, on testing that information, not to be as useful as I
14 had thought it would be. So in attempting to facilitate Dr.
15 Cheddie to bring forth his evidence—

16 **Mr. Chairman:** Don't take the responsibility too heavily on
17 your own shoulders, Ms. Alfonso. That's not necessary. As I
18 explained to Mr. Peterson this morning when he made his
19 application, we too had some misgivings about the late service
20 of his evidence, but on the face of his statement we felt it would
21 be inappropriate to exclude it on that ground alone, and that's
22 why we permitted it. As you say, on testing it has proved to be
23 less as valuable as we might have hoped. There it is.

24 I think out of courtesy I will ask him to come back into
25 the room and tell him there are no questions for him. And that
26 will be the conclusion of his evidence.

27 **Ms. Alfonso:** I'll be grateful, Mr. Chairman.

1 **Mr. Chairman:** So I'll do that out of courtesy to him. So let's
2 have him back in, please.

3 *[Dr. Cheddie enters Enquiry room]*

4 Doctor, you needn't take your seat again, because there are, in
5 fact, no further questions for you. I wanted to thank you for
6 coming and to thank you for your evidence. Thank you very
7 much. All right.

8 So what we're going do, actually, in those circumstances
9 is this, we're going to rise for five minutes now because I
10 understand that the inflatable plug is here. It's going to be
11 displayed in its full glory in the centre of this court, so we'll get
12 that done, and I think there are one or two other props as well,
13 so let's get that all in place, and once that's done we'll then
14 resume with the evidence.

15 My anticipation is that we will as best we can, up until
16 about 1.30-ish, so that we get the bulk, if we can, of his
17 evidence out and then we can resume after, perhaps, a shorter
18 lunchtime to hear his evidence to conclude it today. There is,
19 after that—Mr. Ramadhar, you weren't here when I was giving
20 my judgment earlier on. I am content for you to read the very
21 short statement of Aliyah Henry who is the daughter, the 11-
22 year-old daughter. Please at the conclusion of today read that
23 statement.

24 I've said that I don't think that Tia Mary Gopaul adds
25 anything to what we already have, my having admitted Mr.
26 Yusuf Henry's mother and sister's evidence in addition. So I
27 think that whilst the statement has been served and it serves as

1 part of the material in the case, it's unnecessary to read it aloud,
2 but I am going to permit the 11-year-old daughter's statement
3 to be read by you, as I understand it. Is that right?

4 **Mr. Ramadhar:** I'm grateful to you, Mr. Chairman.

5 **Mr. Chairman:** Right. We'll do that at the end of today as
6 well. All right? So the programme then is we'll rise for five
7 minutes or ten whilst this is being done. We'll then have the
8 evidence of the witness. That will continue till about 1.30-ish.
9 We'll resume after a shorter lunch break, and then we'll have
10 the final parts of the evidence concluded today. So one way or
11 the other all of the evidence concluded today, whatever time
12 that is. Thank you very much. Let's rise for a few minutes.

13 **11.43 a.m.:** *Enquiry suspended.*

14 **11.52 a.m.:** *Enquiry resumed.*

15 **Mr. Chairman:** All right. So the next witness is Mr. Khan,
16 Mr. Zaid Khan.

17 **Mr. Maharaj SC:** From In-Corr-Tech. He is an expert.

18 *[Laughter]*

19 **Mr. Chairman:** Now, now. His statement and there are some
20 additions. Yes. Please, come in Mr. Khan. His statement and
21 the additions are in—

22 **Mr. Maharaj SC:** And the supplemental core bundle.

23 **Mr. Chairman:**—1389; and then in the back there are three
24 letters, and following. Got them all, lovely. Thank you very
25 much.

26 Yes. Thank you, Mr. Khan. Can you take the oath
27 please?

1 [Mr. Zaid Khan sworn]

2 **Mr. Khan:** I, Zaid Khan, solemnly swear that the evidence I
3 shall give to this Commission in this case shall be the truth, the
4 whole truth, and nothing but the truth.

5 **Mr. Chairman:** Yes, do take a seat. Mr. Khan, I know you've
6 been waiting and I'm grateful for your doing so. We have your
7 full report, some revisions to it, and a number of other
8 documents in relation to that which is going to be after we—

9 Now, who's going to do the—right. Now, Mr. Bissessar
10 who sits opposite you is going to summarize, and in part refer
11 to relevant parts of your evidence, and that will serve as your
12 evidence-in-chief, all right, so that everybody understands who
13 you are and what we're doing.

14 After that, then, Mr. Maharaj who sits with a little table
15 in front of him, is going to be asking you some questions, and
16 then a number of the Barristers and Lawyers here will also have
17 an opportunity to ask you questions. All right? And that's the
18 process.

19 We're going to go on till about half past one or so, so that
20 we get a good chunk of your evidence dealt with first before we
21 take our break for a bit of lunch and adjournment. All right?
22 But one way or the other, we will conclude your evidence
23 today. And so, with no more ado, I'll ask Mr. Bissessar to do
24 his thing. Thank you.

25 **Mr. Bissessar:** Thank you, Chairman.

26 Mr. Zaid Khan is an expert. He is the President and CEO
27 of In-Corr-Tech Limited, which is a company carrying out

1 inspection, methodological design, and quality control
2 engineering services at 15-17 Rodriguez Street, Victoria
3 Village, San Fernando.

4 Mr. Khan is a registered professional engineer and failure
5 analysis consultant. He has a Bachelor of Science degree in
6 Mechanical Engineering, and a Diploma in Microstructural
7 Analysis, and is certified as, firstly, an ASNT NDT Level 3;
8 secondly, as API 510 and 570 Certified Inspector; and thirdly,
9 as an AWS Certified Welding Inspector.

10 Mr. Khan is also a licensed competent person for hoists,
11 boilers, and pressure vessels under the Occupational Safety and
12 Health Authority.

13 In-Corr-Tech Limited was retained by OSHA to conduct
14 a relevant root cause failure analysis and causative factors in
15 relation to the accident which occurred on 25th February, 2022.
16 The company was also requested to review Paria's scope of
17 works and the methodology adopted by the LMCS.

18 I will now read selective excerpts from the report starting
19 with the Executive Summary at 2.0. I will then read the
20 report's Findings and Discussions at 3.0 and I will conclude
21 with the Recommendations at 5.0. I will then relate the
22 supplementals to the report.

23 So I'm starting with the Executive Summary, Chairman.
24 It's at 1394, and it reads as follows:

25 "The root cause of this accident was the failure by both
26 the client, Paria Fuel Trading Company Limited, Paria,
27 and the contractor, LMCS Limited, LMCS, to recognize

1 that a latent hazardous differential pressure condition,
2 Delta P, would have been created by the methodology
3 used in the execution of the works with particular
4 reference to the removal of fuel oil from Sealine SL36.
5 If this Delta P hazard was recognized, then simple
6 mitigation steps and/or changes in methodology could
7 have been instituted to eliminate this hazard.

8 LMCS's method statement 116 Attachment X pertaining
9 to installation of the SO flange on riser at No. 6 Berth
10 was based on partial removal of the line content using an
11 air driven pump as per their method statement submitted
12 with their proposal. See attachment 8.

13 This procedure was changed to air blowing and the
14 management of change was not adequately addressed
15 with respect to appropriate and timely issuance of JSA
16 and method statement. The reasons for this change were
17 not recorded in any subsequent analysis or discussion
18 from the data supplied to OSHA from Paria and LMCS.
19 The removal of fuel oil from line and the installation of a
20 migration barrier as stipulated in Paria's scope of works
21 section 2.1 and 3.1.12, respectively, created a large
22 gaseous void in Sealine SL36. This void served as a
23 prerequisite for the latent differential pressure hazard that
24 was created when the habitat was installed and
25 pressurized to facilitate work within the said habitat. The
26 hazards associated with this void were overlooked by
27 both Paria and LMCS. See drawing SK1 in attachment

1 for an illustration for this gaseous void.

2 LMCS Job Safety Analysis

3 Paria's permit to work No. 9320, LMCS's method
4 statement, risk assessment, LMCS's toolbox meeting,
5 LMCS's dive plan, and Paria's bid evaluation of LMCS's
6 proposal all failed to identify this potential differential
7 pressure, Delta P hazard, and hence, no steps to eliminate
8 the hazard were implemented.

9 This latent hazard existed at the onset of work within the
10 habitat and became active when the divers were
11 attempting to remove the primary seal which is the
12 inflatable plug from within the riser. See drawing SK1 in
13 attachment and section 3.1 for further details.

14 Not being aware of this latent differential pressure
15 condition incorporating a gaseous void, LMCS's divers
16 proceeded to deflate the plug after safe removal of the
17 mechanical seal. On reaching a deflated pressure of
18 approximately 11.4 psig, the resistive force of the plug
19 was then lower than the downward force, 4,031 pounds
20 force, on the plug. This force of 4,031 thrust the plug
21 down the oily riser into the large gaseous void previously
22 created by removal of the line contents. See also 2.2
23 above.

24 Simultaneously, the transient and sudden loss of habitat
25 pressure caused the seawater to rush up into the habitat
26 pouring into the 30-inch diameter riser at a rate of 540
27 gallons per second at a velocity of 14 feet per second

1 creating a free vortex entraining all personnel and loose
2 equipment into the riser. Gravity habitat supply air from
3 the compressor, large gaseous void, and an endless
4 supply of water perpetuated this vortex in the riser. The
5 diagrammatic illustration of the sequence of events and
6 section 3.1 for further details. A scale model at In-Corr-
7 Tech Limited fully demonstrated this scenario.

8 Appropriate JSA risk assessments were not seen for
9 several key activities in LMCS's proposal supplied to
10 OSHA from Paria with respect to safety issues. This
11 reflected the lack of thoroughness of the bid evaluation
12 by Paria. Paria had stipulated in their scope of work that
13 method statements and JSAs be supplied for all key
14 elements of the projects. See section 3.2.

15 LMCS's method statement 116 Attachment X items 56
16 and 57 pertaining to removal of migration barrier and
17 inflatable plug could only have been applied safely if a
18 Delta P condition was not present. This was also a grave
19 oversight by both Paria and LMCS during this evaluation
20 and subsequent discussions with LMCS.

21 As stated before, the method and extent of line content
22 removal resulted in a large gaseous void within the 30-
23 inch diameter sealine SL36. See drawing SK1 in
24 attachment.

25 In the 6 psig pressurized habitat, a downward force of
26 4,031 pounds force on the face of the inflatable plug was
27 counteracted by a resistive force of 5,292 pounds exerted

1 by the 48-inch long inflatable plug of the wall of the riser
2 based on a plug inflation pressure of 15 psig. This
3 provided the necessary seal during all hot works within
4 the habitat. The sequence of events leading up to this
5 accident are described verbally and illustrated via
6 appropriate drawings as shown in sketches SK1 to SK6
7 in the attachments.

8 The operational safety concerns observed during
9 inspection of the crane, example load slippage under
10 engine cut off, non-functional load cell, et cetera, did not
11 contribute to this accident. Inspection of the
12 compressors, hoses, air filter pots, scuba gear did not
13 reveal any issues that could have been contributory to
14 this accident. Test and inspection of the inflatable plug
15 confirmed that there were no issues with the plug that
16 contributed to the accident. It is to be noted that the
17 inflatable plug was intact and operational upon removal
18 of the mechanical seal as it was then exposed to the
19 habitat pressure of 6 psig equivalent to a downward force
20 of 4,031 pounds on the said plug.

21 Supply air problems, example, compressor failure, were
22 not experienced as corroborated by discussions held with
23 OSHA and barge topside personnel. It is to be noted that
24 supply air from the compressor into the habitat
25 accelerated the vortex formation and strengthened its
26 force and suction.

27 The hyperbaric chamber also referred to as the habitat

1 and the mechanical plug were not inspected as they were
2 not recovered from the seabed at the time of this report.
3 Possible malfunction of the habitat or air compressor was
4 not considered to be contributory to this accident as the
5 operation of the habitat and the compressor remained
6 intact during and after the accident facilitating the
7 recovery of one diver within the said pressurized habitat.
8 On his return up the riser, the lone survivor stated that he
9 was approximately five feet from the top of the riser and
10 within the habitat confirming that the compressor was in
11 operation and supplying air to the habitat. This confirms
12 that when the flow into the riser was stabilized, air
13 supplied by the compressor forced the water back down
14 in the habitat, again creating a dry workable
15 environment.”

16 I will now read out the findings and discussions. This is
17 at 1396.

18 “Firstly, Removal of Line Contents: The removal of
19 contents with respect to quantity and method in line SL36
20 between No. 5 and 6 Berths was the underlying factor
21 that led to this accident. This removal created a gaseous
22 void in the riser and sealine setting up a latent differential
23 pressure condition between the habitat and a large
24 gaseous void in the sealine when the mechanical seal and
25 inflatable plug were installed and the habitat pressurized.
26 See drawing SK1 in attachment.

27 With reference to fuel oil removal from Sealine 36,

1 LMCS's method statement under section A, Procedure
2 for Removal of Line Content between Berth 5 and Berth
3 6, cited two areas: (a) using air driven pump; pump out
4 approximately 300 barrels of line content; (b) once level
5 in the riser dropped to 35 feet below sea level, a line plug
6 will be installed. Reference page 6 of 22 of LMCS's
7 method statement.

8 (a) and (b) are contradictory as removal of line contents
9 to 35 feet below sea level in the riser would have been
10 equivalent to approximately 30 barrels of oil removal
11 with no gaseous void formation on installation of the
12 mechanical seal and the inflatable plug. On the other
13 hand, as stated by LMCS, (a) Pumping out 300 barrels
14 with an air pump does not equate to dropping level in the
15 riser to 35 feet below sea level. This discrepancy was not
16 addressed in Paria's bid evaluation. Further, LMCS's
17 project schedule calls for draining of line from day one of
18 job execution further adding conjecture to this exercise.

19 Paria's maintenance department as recorded by OSHA
20 stated that line contents were indeed removed by air
21 blowing from No. 5 Berth to No. 6 Berth. This
22 technique, although not stated in LMCS's method
23 statement or in Paria's SOW, scope of works, would have
24 definitely removed way in excess of the optimum
25 quantity of oil from the line, thus creating a significant
26 continuous gaseous void between Berths 5 and 6 together
27 with empty risers. This condition would have introduced

1 a very dangerous latent differential pressure condition as
2 soon as the inflatable plug and mechanical seal were
3 installed in the line and the habitat placed and
4 pressurized. This latent hazardous condition existed very
5 early in the job execution but was activated on the 25th
6 February, 2022, when five divers were in the process of
7 deflating the riser plug for its removal. See drawing SK3
8 in attachment for a pictorial illustration. See drawing
9 SK1 and SK4 in attachment.”

10 And he concludes changing the method of oil removal from the
11 line from using an air driven pump as per LMCS’s method
12 statement to force air blowing from Berth 5 resulted in a
13 dramatic increase in the risk profile of the job.

14 I turn to the recommendations as made at page 1403 and
15 5.0 and 5.1.

16 “Working in differential pressure environments
17 necessitate an engineering risk analysis by a competent
18 person. Differential pressure can be assumed to exist
19 when: i. water levels vary between adjoining areas; ii.
20 water is next to a gaseous void; iii. HP air is next to low
21 pressure air; iv. positive pressure, that is above
22 atmospheric, is next to atmospheric pressure (0 psig.)

23 The differential pressure condition in this accident was
24 not active but latent. The condition became active when
25 the plug or the barrier was being deflated by the divers.
26 The divers were most likely unaware that a large gaseous
27 void existed behind the inflatable plug due to excess line

1 contents removal and as such, the lack of knowledge and
2 communication on this issue could have contributed to
3 this accident.

4 5.2 All risk factors must be considered whilst working in
5 a positive pressure environment similar to a habitat.
6 Where possible, actions must be taken to avoid these
7 risks, example, some of these risks are as follows: 1. loss
8 of positive pressure; 2. possibility of establishing flow
9 conditions from area of high pressures to areas of low
10 pressures; 3. faulty operations of seals; 4. improper
11 installation and retrieval of seals; 5. creation of large
12 gaseous voids on the low pressure side of the seals or
13 plugs in a differential pressure condition.

14 5.3 Differential pressure problems can be adequately
15 minimized by the following: 1. back pressure or
16 equalizing the pressure on both sides of seal; 2.
17 maintaining a physical barrier; 3. avoidance of creating
18 flow conditions, be it liquid, vapour, or air; 4. avoidance
19 of creating empty spaces or gaseous voids on the low
20 pressure side of seals.

21 5.4 In high-risk jobs, always ensure that JSAs are not
22 generic. A JSA must address a particular task with in-
23 depth analysis of potential hazards and necessary
24 mitigation steps to be adopted. Work permits must also
25 reference the applicable JSA or JSAs.

26 5.5 All changes to original procedures as we experience
27 on this high-risk job should be carefully managed and

1 appropriate JSAs developed. Having executed a robust
2 management of change, MOC procedure is essential.

3 5.6 Have real time video and audio contact.

4 5.7 In risk assessment forms pertaining to diving work
5 operations, a section should be included titled
6 “Differential Pressure Conditions and Hazards”.

7 5.8 Suitable, qualified, and equipped rescue personnel
8 should be at hand at all times.

9 5.9 Inspect and certify the habitat before use. Nametag
10 with maximum internal pressure limits should be
11 installed.

12 5.10 Inspect and certify all seals before use.

13 5.11 Cleaning all mating surfaces between the seal
14 and substrate, be it a pipe, nozzle, or vessel.

15 5.12 Pressurization of seals are to be done in accordance
16 with the OEM specifications.”

17 I turn to the three letters that were written after the report.
18 The first is at the 6th December, 2022, which is at supplemental
19 core bundle 1533. It’s a letter dated 6th December, 2022, from
20 the expert to the secretary.

21 Dear Ms. Sinanan

22 In response to your request dated 30th November, 2022
23 for further advice, I wish to advise as follows on the five
24 matters.

25 1. The carber test specifically verifies the structural
26 integrity as well as the leak tightness of the weld and
27 adjacent parent material. Failure to conduct the carber

1 test had no bearing or influence on the existent latent
2 Delta P within the pipeline, nor would it have contributed
3 to any induced Delta P.

4 2. As a latent Delta P condition did indeed exist within
5 the system based on Paria's evidence, then Paria was
6 duty-bound to mitigate the risk and highlight it to all and
7 sundry. In fact, Paria's own HSE safety guidelines which
8 includes "hierarchy of risk control" clearly specifies
9 elimination as the most effective method of risk
10 mitigation.

11 3. On removal of the mechanical seal by LMCS's
12 personnel as seen on video footage, the inflatable plug
13 was subjected to the habitat pressure of 6 psig equivalent
14 to a downward axial force of 4,031 pounds and it held its
15 seal for an extended period. In no way did the alleged
16 out-of-roundness affect the inflatable plug grip on the
17 pipe ID and, thus, there was no need for a pressure test.
18 As stated in In-Corr-Tech Limited's report—"

19 And he specifies.

20 "On reaching a deflated pressure of approximately 11.4
21 psig, the resistive force of the plug was lower than the
22 downward force 4,031 pounds on the plug, thrust the
23 plug down the oily riser into a large gaseous void.

24 Furthermore, the alleged out-of-roundness of the pipe
25 had little or no effect on the inflatable plug's sealing
26 ability. The plug material, flexibility, and design would
27 have catered for differences in pipe ovality. It is the

1 opinion of the undersigned that the out-of-roundness, if
2 any, was negligible as there were no problems reported
3 during fit up of the new slip-on flange on the said riser.

4 Four and five.

5 4. Prior to Mr. Christopher Boodram's rescue, the entire
6 system stabilized and equalized itself at both ends of
7 SL36 and, thus, allowed Mr. Boodram to negotiate the
8 pipe without any disruptions as the system was static.
9 This condition was the best opportunity to attempt a
10 rescue as removing the blank at Berth 5 or shutting down
11 the compressor would have just released the stored
12 potential energy from the compressed air and, thus,
13 disturbed the equilibrium and thereby imperil any divers
14 in air pockets.”

15 Mr. Khan then says:

16 “If you require further information or clarification please
17 do not hesitate to contact the undersigned.”

18 And he concludes:

19 “Sourcing the entire video footage obtained from the
20 crawler borescope from Berth 5 conducted around 5.00
21 a.m. on Saturday 26th February may be worthwhile for
22 this investigation.”

23 Mr. Chairman, there was a further letter dated 28th
24 December, 2022, which is at page 1536 A, and I would just
25 read the contents. Again, addressed to Ms. Sinanan.

26 “Dear Ms. Sinanan

27 In light of the several references made by various legal

1 counsel to the above report, I wish to bring to the
2 attention of the Commission the following pointers.
3 These, in my opinion, will negate the possibilities of
4 misinformed deduction, skewed inferences, and
5 unnecessary conjecture in further deliberations:

6 1. An agreement dated March 2022 was signed between
7 In-Corr-Tech Limited and OSHA to conduct a root cause
8 analysis and causative factor investigation pertaining to
9 the tragic incident.

10 2. To satisfy the requirements of the said agreement, the
11 following was adopted as stated in my report under
12 section 1.6(a) inspection of associated equipment used,
13 firstly, positive pressure habitat hyperbaric chamber;
14 secondly compressors; thirdly, hoses; fourth, filter pots;
15 fifth, inflatable pipe plug; sixth, mechanical seal; seven,
16 scuba equipment; eight, crane used in the exercise being
17 a model LS218H.

18 (b) Review of Paria's scope of works.

19 (c) Review of contractor LMCS's method statements, job
20 safety analysis, and risk assessment.

21 (d) Review of relevant work permits, risk analysis dive
22 plan, and schedule notes."

23 And he notes that habitat was not sealed. In his further opinion
24 he says:

25 "3. During the investigation prior to the issuance of the
26 report, other information deemed relevant and necessary,
27 example, details surrounding the actual line content

1 removal and methodology were not received.

2 4. Owing to the delays experienced, the schedule time
3 for the submission of the report was not met.

4 5. The report was issued to OSHA on 19th July, 2022,
5 several weeks late, with the caveat: this report is based on
6 the information and available documents supplied by
7 OSHA as stated under paragraph 1.7 page 6 of my
8 report.”

9 And then it says:

10 “6. Based on reviews of additional pertinent information
11 seen after the issuance of my report, I wish to state that
12 my basic conclusions and recommendations remain.

13 7. Based on pertinent information supplied to me on 27th
14 July, 2022 by OSHA which I requested on 6th May,
15 2022, there may be need to revise some sketches in my
16 report to reflect a more realistic picture.”

17 And then it says in summary:

18 “1. The agreement between OSHA In-Corr-Tech
19 Limited was signed on 29th March, 2022.

20 2. Report issued to OSHA on 19th July, 2022.

21 3. Pertinent additional information requested by myself
22 during discussions with OSHA was supplied on 27th
23 July, 2022, seven days after issuance of the report.”

24 And he says:

25 “Any further clarification can be accommodated through
26 contact with the undersigned.”

27 His third letter dated 6th January, 2023, is at supplemental core

1 bundle 1536C. Again, to Ms. Sinanan. Sorry, 1356C.

2 "Dear Ms. Sinanan

3 In response to your request, I wish to reply as follows:

4 a. In view of the many variables in a project of this
5 nature and in consideration of the nature of the accident, I
6 thought it would have been prudent to build a model to
7 demonstrate several scenarios pertaining to this accident.

8 This decision was made whilst conducting the root cause
9 analysis as requested by OSHA through an agreement
10 between In-Corr-Tech Limited themselves. This was not
11 part of my remit from my agreement with OSHA.

12 However, in the interest of education and understanding
13 for all parties involved, I proceeded to build this model at
14 my expense. Subsequent availability of information
15 pertaining to this exercise of repairs to Sealine 36 at

16 Berth 6, Paria confirmed in my mind that I had the
17 correct inclination to construct this model. The
18 parameters considered were to simulate as close as
19 possible the various aspects of the job leading up to and

20 inclusive of the accident. Parameters included sea levels,
21 riser positions, subsea line, air supply and flange and
22 habitat installation. The components of this model were
23 made of transparent material for ease of understanding

24 and to afford some reality to what actually happened.
25 Owing to its many variables, a fixed scale ratio was
26 impossible. However, the main objective was to
27 demonstrate the physics and hydraulics involved for a

1 better understanding and indelible visual impact on the
2 minds of all.

3 The basic principles of flow dynamics, pressure
4 differentials, gravity, and compression were considered
5 as these very principles were common to the execution of
6 this job. There were no major differences in the
7 fundamental engineering principles of both the model
8 and actual site equipment and condition apart from scale
9 size and materials of construction.

10 I hope that the above shed some light on your request.”

11 He then prepared a table and I will just narrate as best as I can
12 what the table demonstrates. The heading is “Oil Quantities
13 Removed From Sealine 36 and Topside Piping Due to Phase 1
14 and Phase 2 Air Blowing.”

15 “Phase 1: 18th January, 2022, 798 barrels removed. On
16 20th January, 2022, unknown quantity of barrels
17 removed. On 21st January, 2022, 118 barrels removed.
18 Total phase one, at least 916 barrels. And then on 1st
19 February, 2022, there was a setup for phase two. And
20 phase two which was subsea, on 2nd February, 2022, 276
21 barrels were removed. On 3rd February, 2022, 60 barrels
22 were removed, which were in a barge; he said not 100.
23 On 4th February, 2022, an unknown quantity of barrels
24 were removed, so that the total for phase two was at least
25 336 barrels. He says the total of phase one and phase two
26 is at least 1252 barrels.”

27 The author makes two notes.

1 “Note No. 1: Out of the 960 barrels removed during
2 phase one, it is estimated that approximately 200 barrels
3 was drained from the topside piping leading to Sealine 66
4 so, therefore, 716 barrels was displaced from SL36 risers
5 and horizontal section. I estimated the topside piping to
6 have contained approximately 200 barrels of line
7 contents based on my recollection of its configuration.
8 The conclusions in my investigative report issued to
9 OSHA in July 2022 will remain unchanged even though
10 the estimated amount of 200 barrels from the topside
11 piping is not exact.”

12 And the second note:

13 “Phase two removal consisted of at least 336 barrels
14 subsea only.”

15 Mr. Chairman, what is now contemplated is that we will
16 now show the video which was prepared and presented by Mr.
17 Khan. The video is in four parts and each part will be paused
18 from time to time for Mr. Khan to give various explanations in
19 respect of what is shown. Afterwards, the video will be shown
20 again, this time uninterrupted. Thereafter, it is anticipated that
21 Mr. Maharaj may ask several questions of the expert.

22 **Mr. Chairman:** Thank you very much. Is it proposed that Mr.
23 Khan should, as it were, point to things that help us as we go
24 along?

25 **Mr. Maharaj SC:** Yes, yes.

26 **Mr. Chairman:** I wonder in that case if we can move that
27 screen around a little bit so that everyone can see what he’s

1 pointing at. And I think that there's a microphone as well that
2 he can have to assist us. But someone needs to turn that screen
3 a few degrees to the right, my right; its left. Very slightly back
4 again. No, that's too much. That's it, perfect. Great. Thank
5 you.

6 **Mr. Maharaj SC:** If I may first mention what the first video
7 is?

8 **Mr. Chairman:** Yes, please.

9 **Mr. Maharaj SC:** Mr. Khan, the first video gives a site
10 description, an introduction to the model, and Phase I air
11 blowing—and this is how the first video is labelled by Mr.
12 Khan. So what will happen, I will allow the operator to start
13 the video and then I would stop it at 44 seconds and give you,
14 Mr. Khan, an opportunity to explain it. Okay?

15 **Mr. Khan:** Okay.

16 *[Video played with narration as follows]*

17 This picture shows an overview of Berth 6 offshore where the
18 incident occurred. Depth in this area is approximately 60 feet
19 with riser pipes coming up from the seabed. Here we see the
20 actual configuration of the topside of the 30-inch diameter
21 Sealine No. 36 into which the gulfers were engulfed. We see
22 the top bolted flange of the riser mating with the long radius
23 elbow through which the product is pumped. The flange at the
24 top of the riser is approximately five feet above sea water. This
25 long radius elbow was—

26 **Examination By Mr. Maharaj SC:**

27 Q. Right. Mr. Khan, could you point out the top of riser at berth 6

1 for us, please?

2 A. The top of the riser is in this area here. Okay? And that's the
3 elbow that was removed to facilitate viewing and facilitate
4 work on this flange as they look down into the pipe.

5 Q. Okay. Now, if you stay there if you don't mind?

6 A. Pardon me?

7 Q. If you can remain right there if you do not mind?

8 A. Okay.

9 **Mr. Maharaj SC:** I'll have to play the video and stop at one
10 minute.

11 [*Video played*]

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. Okay. Now, this is a tabletop model which you have prepared,
14 but the model is not to scale. Am I correct?

15 A. That's correct.

16 Q. Right. Can I ask you to point out and explain what you are
17 seeing here from the right of the screen to the left? I can assist
18 you; berth 5 from the right of the screen to the left?

19 A. This is berth 5 here.

20 Q. Okay. Then it's the 30-inch feet long pipe?

21 A. Pardon me? Repeat that?

22 Q. The 30-inch 12—

23 A. Hundred.

24 Q. Yes, the 30-inch 1200 feet long pipe?

25 A. That's No. 5 berth riser there and this represents the entire
26 length.

27 Q. Of the pipe?

1 A. Of the subsea line.

2 Q. Yes.

3 A. And you will see here, I just put some liquid in it to represent
4 the initial condition of that line that it was filled with liquid or
5 filled with fuel oil as said by Paria.

6 Q. Okay. And the stovepipe?

7 A. The stovepipe, this represents, as you all will realize, this entire
8 thing represents the ocean. And this is the stovepipe on top the
9 habitat where materials can be introduced into this or taken out.
10 This is a small aquarium pump here used to supply air to the
11 habitat and this represents a barge here where LMCS barge, you
12 know, was floating on the water next to the berth 6 riser.

13 Q. And what about the compressor?

14 A. The compressor was this aquarium pump.

15 Q. Okay.

16 A. All right. That represents the real compressor on site. But, you
17 know, the aquarium pump to supply air for the model.

18 Q. And the tank?

19 A. This tank here is a 50-gallon tank. That was used to
20 demonstrate the ocean at this particular area. This is No. 6
21 berth riser coming up here, and this represents the gooseneck as
22 you saw in the previous pictures.

23 Q. Right.

24 A. And this line represents a line going to offshore. This is a
25 mistake here. This supposed to be offshore instead of—it is
26 supposed to be onshore instead of offshore. Offshore means
27 it's out in the sea; onshore means on land. So this just shows

1 the demonstration where the system on the oil is being pumped
2 through Sealine 66 onto land to be stored in a tank.

3 Q. Right.

4 **Examination By Mr. Chairman:**

5 Q. What represents the habitat? Or is it not there yet?

6 A. The habitat?

7 Q. Yes.

8 A. This is the habitat here—this plastic bottle here.

9 Q. Right.

10 A. That's a plastic bottle that represents the habitat and that's—on
11 top the habitat is the stovepipe.

12 **Mr. Chairman:** Right.

13 **Continued Examination By Mr. Maharaj SC:**

14 Q. But would it be correct to say that the image on the model
15 reflects the position before the habitat was installed?

16 A. Yes, that's correct. The image on the model here represents the
17 habitat is waiting to be installed here. But, you know, you had
18 to drain the line first before we install the habitat.

19 Q. Right. We got you.

20 **Mr. Maharaj SC:** We'll now play the video and stop at 3.55
21 minutes.

22 *[Video played]*

23 **Continued Examination By Mr. Maharaj SC:**

24 Q. Right. Is this the document, the work instructions which is
25 attached to Paria work instruction at CB3, core bundle 3, page
26 1039?

27 A. Yes, it is. *[Document shown to Mr. Khan]* I don't see the

1 drawing here.

2 Q. On the right—can you explain to us what it shows?

3 A. Oh, this? This line diagram represents the relative positions of
4 No. 5 berth here and No. 6 berth here. And this is No. 36
5 Sealine progressing from No. 5 berth coming all the way subsea
6 up on No. 6 berth going through a gooseneck on to a manifold
7 on 6 berth, and that manifold is valved so that oil can go this
8 way through a header, a large header on top here, down through
9 this valve, on to Sealine 66 before going to shore. This Sealine
10 66—I don't know how long it is, but it's a 50-inch diameter
11 line. I think it's about two miles long they say. But that's what
12 this represents, to give you a pictorial view of the system as it
13 was designed.

14 Q. So on the right it shows berth 5 and it is from there where the
15 air blowing to clear the line was introduced. Correct?

16 A. Correct. The air was introduced via a compressor through this
17 valve here so that—and this line, this here was slip blanked. A
18 blank was put here and the valve was closed. So any
19 pressurized air coming in here will tend to push everything this
20 way, up this way, through the manifold, and down to Sealine 66
21 to onshore.

22 Q. Great. So it shows—then it goes down and then horizontally
23 and then vertically to berth 6 and then into Sealine?

24 A. Yeah, that's correct.

25 Q. And after that into the shore tank. Correct?

26 A. Yes. Yes, Sir.

27 **Mr. Maharaj SC:** Then we will play the next part of the video

1 up to 4.44.

2 [Video played]

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. And would this be the demonstration of the air blowing during
5 Phase I? Am I correct?

6 A. Yeah, you're correct on that.

7 Q. And, again, it shows that the air was introduced at berth 5,
8 pushed the line content through the horizontal section of the
9 pipeline to berth 6 and then through Sealine 66 to the onshore
10 tank?

11 A. Yeah, that's correct.

12 Q. Right. The onshore tank, Mr. Khan, is where the measurements
13 of the oil drained would have been taken. Am I correct?

14 A. Yeah, this is as recorded in Paria's method statement—one of
15 the method statements associated with this job, with this phase
16 of the job.

17 Q. Is it in the daily reports or the method statement?

18 A. I think it's in the daily report, you know; yeah. Daily report,
19 that was supplied by Paria.

20 Q. Yes.

21 A. Okay.

22 **Mr. Maharaj SC:** So let's play the video and we'll stop it at
23 4.59.

24 [Video played]

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. Right. Could you explain what we are seeing here?

27 A. What is happening here, as I said, a point will be reached where

1 a lot of the stuff will be expunged from the Sealine 36. But
2 there will be a particular time where the quantity of oil that was
3 removed is such that air will be traversing through here and
4 bubbling up through that vertical riser. Right? The air is much
5 lighter with respect to the liquid, and the liquid due to gravity
6 will just keep coming down, okay, and the air will be just
7 bubbling through here. So it will give an indication that a lot of
8 line content was removed at that particular point. Because this
9 was being monitored somewhere, I think it was on the manifold
10 system on berth 6 by Operations Department. And when they
11 see this air coming on that, they would have, you know, say,
12 hey, a lot of liquid has been expunged from the line and there's
13 still more liquid in the line, so we'll have to do something else
14 to get the liquid out. Because I think the objective was to drain
15 the line as much as possible.

16 Q. So, in effect, what you are saying that a point would have
17 reached where more air than fuel would have been seen coming
18 from the control valves at berth 6 and onshore where the flow
19 was being monitored and measured?

20 A. Yes, yes. At berth 6 there is a bleed there or a vent, as the case
21 may be, and they would have probably open that to do a
22 verification check on the extent of the blowing with respect to
23 line content removal. That is the way that they could gauge
24 visibly on the berth 6, at least to see—have an idea what's
25 happening with respect to line removal. Whilst onshore, I don't
26 know what measuring technique they had, but they would also
27 measure that technique on there. And I think in the LMCS

1 method statement it was stated that they will be monitoring this
2 process by this technique here. They look and see what's
3 happening here with respect to the air, how much air is coming
4 out, and also Paria's operation personnel will be monitoring the
5 volume of barrels expunged from this particular exercise. That
6 is how I understood it.

7 Q. Good.

8 **Mr. Maharaj SC:** Now, the second video before you start, the
9 second video demonstrates Phase II air blowing and this is how
10 Mr. Khan has labelled the second video.

11 **Mr. Chairman:** I wonder if before we go to the second one,
12 could we watch the first one again from start to finish?
13 Perhaps, you'll take a seat for a moment. I mean, you're giving
14 us commentary on the video anyway but I'd like to see it from
15 start to finish, please.

16 *[Video 1 transcribed]*

17 This picture shows an overview of berth 6 offshore where the
18 incident occurred. Depth in this area is approximately 60 feet
19 with riser pipes coming up from the seabed. Here we see the
20 actual configuration of the topside of the 30-inch diameter
21 Sealine No. 36 into which the gulfers were engulfed. We see
22 the top bolted flange—

23 **Mr. Khan:** Mr. Chairman, can we stop there?

24 **Mr. Chairman:** Stop. Stop for a moment, please?

25 **Mr. Khan:** I just want to clarify this point here. This
26 particular picture was taken way before the time of the accident
27 and way before the contract was awarded because this picture

1 here represents the gooseneck on the line. So this picture—I
2 did not say that in my voice recording, that this section here,
3 this picture was taken way before. So this has to be understood.

4 **Mr. Chairman:** Okay.

5 **Mr. Khan:** Okay? And then this piece of line here was
6 removed to facilitate the—after the blowing exercise then this
7 line was removed. After the blowing exercise then this
8 gooseneck was removed. Everybody understands that?

9 **Mr. Chairman:** Thank you very much. Yes, I understand it.
10 But I'd like to start it from the beginning please and watch it
11 uninterrupted.

12 **Mr. Khan:** Yeah. That's the only stoppage I will have,
13 Chairman, on this.

14 **Mr. Chairman:** All right.

15 *[Video shown and narrated as follows]*

16 This picture shows an overview of berth 6 offshore where the
17 incident occurred. Depth in this area is approximately 60 feet
18 with riser pipes coming up from the seabed. Here we see the
19 actual configuration of the topside of the 30-inch diameter
20 Sealine No. 36 into which the gulfers were engulfed. We see
21 the top bolted flange of the riser mating with the long radius
22 elbow through which the product is pumped. The flange at the
23 top of the riser is approximately five feet above seawater. This
24 long radius elbow was removed to facilitate maintenance work
25 on the said sealine.

26 Here we see an overview of the model used to demonstrate the
27 various work activities associated with the repairs and

1 preparation of the line to facilitate such repairs. We see berth
2 No. 5 on the right-hand side; berth No. 6 on the left-hand side; a
3 distance of approximately 1200 feet between them.

4 The subsea line filled with fuel oil is seen terminated with risers
5 at Berth 6 and Berth 5. We also see the model habitat with the
6 compressor on a floating barge. A 50-gallon tank container
7 tank is also seen filled with water to simulate the actual ocean
8 and the riser at No. 6 berth into which the divers were engulfed.
9 We see also a manometer on the side of the tank used to
10 measure the pressure inside the habitat when installed.

11 This tabletop model represents part of the ocean with depths
12 varying from 50 feet to 60 feet at berth 6. Here we see the
13 offshore tank into which product from the sealine 36 was
14 pumped to facilitate clearing of the said line. This manometer
15 represents the pressure gauge used for monitoring the pressure
16 within the habitat where the divers would execute their work.
17 We also see a 5-inch diameter plastic bottle with a PVC pipe at
18 the top to represent the habitat and stovepipe through which
19 tools and materials can be fed and suspended. We also see an
20 aquarium pump used to represent the compressor for supplying
21 air to the habitat.

22 The 1200-foot long line filled with fuel can be seen with the
23 levels at berth 5 and berth 6. So what we have here is a huge
24 manometer between berth 5 and berth 6.

25 This product in the line as shown with the pointer has to be
26 removed to facilitate repairs. The 1200-line—long line—is
27 actually straight but is shown looped here for clarity. We also

1 see the compressor hooked up at the top of berth 5 to facilitate
2 the air required for pushing the product out.

3 A line was pulled between berth 5 and berth 6 to show the
4 levels in the risers. We also see an aquarium pump at the top
5 there on berth 5 to supply the air to facilitate the air blowing as
6 per Paria's work instruction.

7 This line diagram shows the piping configuration from berth 5
8 to berth 6 to facilitate air blowing using a compressor at berth 5
9 to displace the subsea line contents for the offshore tank, 111,
10 as shown in the line diagram; drawing one.

11 Compressed air was used from the compressor at berth 5 to
12 displace the fuel oil from the line. We see the fuel oil being
13 pushed forward along the subsea line into the riser at berth 6
14 through the gooseneck and on to through line 66 on to offshore
15 tankage. A point will be reached where more air than fuel was
16 seen coming from the control valves at berth 6 and onshore
17 where flow was monitored and measured.

18 **Mr. Chairman:** Right. Thank you for that.

19 **Examination By Mr. Chairman:**

20 Q. Can I ask just a couple things from that, please, before we move
21 on?

22 A. Sure.

23 Q. So we could see the red fluid—you don't need to hold the
24 microphone when you're sitting down. You got one in front of
25 you. That's fine. Thank you. The red fluid is in a clear tube,
26 isn't it, that represents the pipe?

27 A. That's correct.

1 Q. So we can see the fluid by looking at the red—the first thing I
2 want to ask you is this—

3 A. The red fluid represents the fuel oil in the line.

4 Q. Yes. So once the pump is turned on, it's pushing the fluid—

5 A. Once the compressor.

6 Q. Yes.

7 A. Yes.

8 Q. —is pushing the fluid along the line and out the other end.

9 What we can see is, is that the fluid itself—it's not as though all
10 of the fluid is being pushed in one motion. What happens is the
11 air gets into the pipe so that there is some fluid in the pipe and
12 some air above it so that it's only—and you say the point is
13 reached when there's more air coming out at the other end than
14 there is fluid, and I suspect that that's when the pipe is more
15 than half and half?

16 A. That's correct. Yes, that's a fair assumption.

17 Q. Right. So that you're left then, aren't you, with a pipe—if
18 you'd stopped at that point in time and sealed off either end,
19 you would have some fluid, say 50 per cent halfway up the
20 pipe?

21 A. Yes.

22 Q. And the rest of it would be some sort of air or gaseous air?

23 A. Correct. Mr. Chairman—

24 Q. Yes.

25 A. Sorry to interrupt you, but I'd like to go on the board here and
26 demonstrate why that happened.

27 Q. All right.

1 A. Is it okay?

2 Q. It is, indeed, it's okay.

3 A. This is an education exercise here for everybody.

4 Q. Well, I'm ready to be educated, so go ahead.

5 A. And the entire country. That is the objective as I said.

6 Q. If you'd be good enough to put your little stick down and pick
7 your microphone up, we'll all be able to hear what you have to
8 say.

9 A. Now, I'll do a cross-section of the pipe. And one has to assume
10 this is the pipe here; pressure is being applied here. Okay? But
11 what is happening here, the pressure is being applied at the start
12 on berth 5, and as a result, the air is pushing here but here has
13 more friction as a little piece on top, and the air pressure here
14 would push the top of the liquid first down the line and that is
15 why you see an air gap right down the line. And that will
16 happen in a line that is level. Once the line is sloped, this
17 system becomes a little more aggressive and more fluid will be
18 involved here because of the sloped condition. I'm going to
19 show you that now, because that drawing suggest that the line is
20 level, but in reality the line was sloped at point two of a degree,
21 .2 of a degree; that is very, very small.

22 Q. Just pause a little.

23 A. I did not go into details with that in my report, because I did not
24 have the information at that time.

25 Q. Just so that I understand, the line is sloped at .2 of a degree?

26 A. Point two of a degree.

27 Q. Right. In which direction? Where is it higher and where is it

1 lower?

2 A. It was higher at berth 5. I'm going to draw that here to show
3 the effect of a sloped line.

4 Q. I'm interested in this because the last time I stood up at the
5 front of this board that's what I was asking about.

6 A. Yes.

7 Q. So higher up berth 5, then at 6?

8 A. At 6.

9 Q. So if berth 5 is over here and berth 6 is over here, the line is
10 sloping down to 6?

11 A. The line is sloping down to 6.

12 Q. Right. Not much but it's sloping down?

13 A. Not much, yes. As a matter of fact, it is sloped a difference of
14 four feet because of the profile of the seabed in accordance with
15 the engineering design drawing.

16 Q. Right. So at one end, that is the berth 6 end, it is four feet lower
17 than it is at the berth 5 end?

18 A. That's correct.

19 Q. Thank you very much. Just a moment. I want to make a note
20 of it. So if you put a pebble, a marble in an empty pipe at berth
21 5, it would roll down to berth 6?

22 A. It would roll down to berth 6; that's correct.

23 Q. Yes, I got you. All right, thank you. Four feet difference.

24 A. Let me see if I get this thing correct. Berth 6, the depth is more
25 in the sea level, right.

26 Q. Is?

27 A. At berth 6 the depth is more.

1 Q. It's deeper?

2 A. Deeper, yes.

3 Q. Yes, by four feet.

4 A. Than berth 5. Right. So berth 5 is higher than berth 6.

5 Q. Got it.

6 A. And they are pumping from berth 5.

7 Q. Yes.

8 A. Good. And when you pump from berth 5, the pressure on the
9 inside of the pipe in that direction towards berth 6 will result in
10 a wider surface area being experienced on the cross-section of
11 the pipe with respect to pressure. As a result, more fluid will be
12 ejected per unit time. That's the physics and the hydraulics of
13 the slope.

14 Q. Right. That's all a little confusing now, I'm sure, to most
15 people.

16 A. Yeah, but, you know, I just wanted to see who would
17 understand that.

18 Q. Yeah. It's not a test.

19 A. Yes. What I'm trying to say here, if the line was sloped at the
20 initial stages of blowing will result in a lot of more liquid
21 flowing out from the line than if it was level.

22 Q. Can I just—I just need to understand that?

23 A. So—

24 *[Mr. Chairman draws on board to clarify demonstration]*

25 **Mr. Khan:** I think, Mr. Chairman, I think you, Mr. Chairman,
26 you have a good engineering concept. You may be better than
27 me.

1 **Examination By Mr. Chairman:**

2 Q. Does that mean I've passed your test? I just want to
3 understand—

4 A. What he drew here was probably what I wanted to draw in the
5 beginning. And when the pressure—this riser will be emptied
6 first. This riser here will be emptied first.

7 Q. I get it.

8 A. Everybody understands that? This riser will be emptied first
9 because you're pumping from this side.

10 Q. Yes. Yes.

11 A. And what happens, when the level gets here, pressure will be
12 exerted here all along in that empty space. So that pressure is
13 over a larger area, and it will push more liquid forward.

14 Q. And it changes once you go past the elbow?

15 A. Once you change here, once you pass this first elbow, the
16 pressure on the surface of the liquid will be larger—well, the
17 pressure is the same, but the surface area is more. So, therefore,
18 it's more liquid pushing this way. That's the hydraulics of that
19 kind of line. It will take me time to put up this model, but this
20 model will demonstrate that in no uncertain manner.

21 Q. All right. Well, we believe you. So just so that—I now
22 understood it, I think, that given the difference between the
23 depths—

24 A. The elevations.

25 Q. Yes, the elevations on either end, it means that if you were to
26 look inside, once you've done that in part—let's say you just
27 pumped out a few barrels till it went down to the elbow and you

1 looked in the riser No. 5, it would look as though it was clear.
2 If you put a dipstick in it, it would be clear as if it went right
3 down to the bottom. Whereas at riser 6, it would be four feet
4 up above the ocean bed into the riser, wouldn't it?

5 A. That's correct. Because what happens—let's assume that the
6 top of this riser here had a flange and the valve was here where
7 they were pumping; just assume that.

8 Q. Yes.

9 A. The valve; and when this compressor is shut down, air will be
10 locked inside here; that's number one. And that air—I wasn't
11 to get to this stage as yet, but it shows in my subsequent
12 video—and that pressurized air will suspend a volume of liquid
13 high up on that side.

14 Q. At the other end.

15 A. So who is ever monitoring on that side will say, 'hey, you ain't
16 move out enough stuff yet, boy. You got to take off a lot more
17 stuff, because my level is high on this side and the level on this
18 side is zero'.

19 **Mr. Chairman:** I got it. I absolutely understand it. Thank
20 you. Perhaps, we can move then to the next one. Thank you
21 very much.

22 **Mr. Khan:** I think the next video clarifies that particular
23 concept.

24 **Mr. Maharaj SC:** Okay.

25 **Continued Examination By Mr. Maharaj SC:**

26 Q. Mr. Khan, what we will do is that I will play and stop at .1
27 second and then ask. This is the document you would say that

1 was attached to Paria instructions work for the line clearing at
2 page 1040 of Volume III of the core bundle.

3 A. Yes.

4 Q. Could you explain to us what the document shows us?

5 A. Well, this is 5 berth here, this is 6 berth, all right. We are
6 pumping from here through here and up as everybody
7 understands, right. But when the monitoring took place on top
8 here and they realize that excess air was coming up, at that
9 particular point assume that it was decided that, hey, too much
10 air is coming out here. We have not emptied this line properly.

11 So to get at the point where this line is properly emptied,
12 Phase II was introduced, and Phase II was introduced by taking
13 out the gooseneck, taking out the elbow from here and
14 connecting a separate 6-inch line to feed the remnant stuff into
15 Sealine 66. Okay? And the only way to do that—you could
16 not have blown there and get the same result. You have to
17 blow from here and introduce a dip tube at the bottom here and
18 pressurize the entire line, and that pressure will force the
19 remnant liquid through the dip tube into this line to get the
20 remnant liquid out. It's a pressurized system, and I've
21 demonstrated that in one of the videos.

22 To do that, this has to be blanked, pressurized here, and
23 this has to be blanked here. So both ends of the pipe will be
24 blanked, but in that blind flange there is a dip tube coming
25 down inside there to reach the liquid. And when they
26 pressurize here, the liquid from here will be forced up that dip
27 tube through here and come up. When you see the video you

1 might be able to understand that.

2 **Examination By Mr. Chairman:**

3 Q. Sure, okay. It follows that the dip tube is smaller than the
4 circumference of the—the diameter of the pipe?

5 A. Yes, the dip tube is smaller.

6 Q. Do you know what size it is?

7 A. I think it was a 6-inch dip tube.

8 Q. Six-inch?

9 A. Yes.

10 Q. Right. So 6-inch pipe, something like this, is pushed right
11 down inside?

12 A. Right down inside to the elbow.

13 Q. And a seal created between that 6-inch pipe and the top flange
14 out of the 30-inch pipe that it's coming, a seal is created?

15 A. The system is pressurized internally.

16 Q. Internally, right.

17 A. So the only opening is through the 6-inch pipe.

18 Q. Got you.

19 A. There's another drawing here that was issued, which shows this
20 set up here. But it was issued, and it's somewhere in the
21 bundle; I don't know.

22 **Mr. Maharaj SC:** Okay. You could stay right there, Mr.
23 Khan.

24 **Mr. Khan:** Yeah, okay. Good.

25 **Mr. Maharaj SC:** I'll play it and stop at 16 seconds, please.

26 *[Video played]*

27 **Continued Examination By Mr. Maharaj SC:**

1 Q. Right. Could you explain?

2 A. Okay. This is the set up. This represents 36 Sealine No. 6
3 berth. You see the flange on top here, that is a blind flange, and
4 the blind flange had a dip tube going down inside here like this.
5 You see here, this represents the blind flange. The dip tube is
6 going down, right down to the bottom of the elbow. This is
7 closed and that is an inspection port where they would have
8 used to measure the ullage.

9 So as I said before, at the end of Phase I there was a
10 pressure at No. 5 berth locked in and that supported a column of
11 liquid inside there. And when whoever take a dip here would
12 say, "Hey, we still have material to move out", not realizing
13 that that section of the line is almost empty. But the pressure
14 inside here would have supported the column of liquid in here.
15 So to get out that now, he had to put this dip tube and drain out
16 into the slops barge, and that is what I think I saw in the method
17 statement.

18 Q. Yes. And for the records, that document is attached to LMCS
19 method statement for Phase II line clearing at page 1043 of
20 Volume III of the core bundle?

21 A. Yes.

22 **Mr. Maharaj SC:** Can I ask you now to play the video and
23 stop at 31 seconds?

24 *[Video played]*

25 **Mr. Khan:** Hold on. Could you reverse a bit? This here is the
26 expanded view of this. In engineering drawing terminology
27 people do that to show that, Aye, that is an expanded view of

1 this. Okay? So this here is the expanded view of this, so
2 you're showing a more detailed view of this set up here, which
3 is this. So you see the dip tube coming here to the bottom, and
4 the inspection port is there. And this tube comes up here and it
5 continues here and goes to shore. Everybody understand that?

6 **Mr. Maharaj SC:** Stop at 31 seconds.

7 *[Video continued being played]*

8 **Continued Examination By Mr. Maharaj SC:**

9 Q. Right. What we are seeing here? Could you explain it?

10 A. All right. At that particular point, as I said, the gooseneck on
11 the topside of berth 6 was removed, and this is the flange that I
12 was speaking of in the initial picture. This is the sea level here.
13 So this flange was above sea level at the time. Remember, they
14 have to do repairs below here. So they have to cut this line
15 below this level here, and to get at that they had to put the
16 habitat on. But anyway, we'll come to that after. So you will
17 see where the dip tube—I simulated a dip tube through a flange
18 here, and I held down this thing with some paperclips, some
19 bulldog clips, and this was a dip tube going down to touch the
20 remnant liquid in the pipe. And when this system was
21 pressurized both on that side through the system, it forced the
22 remnant liquid through here and it come through here. And you
23 will see that demonstrated.

24 Q. Right. So if I understand it, this is the modified flange with the
25 dip hose at berth 6. And could you point out to us the elbow at
26 berth 6, which has now been removed?

27 A. Well, we don't have it here.

1 Q. Oh, you don't have it here?

2 A. That's the one I showed you in the original picture.

3 Q. All right, okay.

4 A. That's the 36-inch elbow.

5 Q. And the dip hose has been inserted?

6 A. Yes. When you take off the elbow you expose this flange, and
7 they would have then put on the modified flange on that with
8 this dip tube inside here and another valve here with an
9 inspection port and they will pressurize the entire system from
10 No. 5 berth.

11 Q. And this was all part of Phase II of the line clearing process?

12 A. Yes, to ensure that at least you get off as much liquid as
13 possible.

14 **Mr. Maharaj SC:** Could you play the video and stop at 1.58
15 please?

16 *[Video played]*

17 **Examination By Mr. Chairman:**

18 Q. Right; pausing there. Just looking at that model that you
19 created, we can see that if that's the point at which it had
20 stopped, the pumping had stopped, there was fluid in parts and
21 there were air pockets in part, just looking at it as we can see it
22 there, because there remained this pressure at berth 5 at that
23 end, yes; so that the realities were that we can see the model as
24 it's been created by you that is the way in which the pipe would
25 have existed at the point in time when they took that plug out?

26 A. Nope, there is a little difference here. And let me just go
27 back—

1 Q. Well, you haven't got the habitat on yet?

2 A. No, we have not put the habitat on yet.

3 Q. Right, yes, of course, yes.

4 A. Right. So when you applied compress air there, there was a
5 point where they say close the valve on their method statement,
6 or shut down the compressor, one out of the two; and if you do
7 that you will still have a locked-in pressure on that No. 5 berth
8 and push the remnant liquid. By that time the gravity would
9 have caused the remnant liquid to remain here, and the pressure
10 would push this remnant liquid up to a point here, somewhere
11 here. Right? And when they inspected this—when they
12 removed the dip hose and they looked inside the pipe, they
13 would have seen liquid to a certain level.

14 Q. Giving them a false impression of where the ullage was?

15 A. False impression that the ullage—you have a lot of liquid inside
16 there still.

17 Q. Sure, yeah, yeah, yeah.

18 A. And they say, okay, we have our ullage. They remove—they
19 get the ullage up till here, but lo and behold, this ullage was a
20 false ullage.

21 Q. Leading to—

22 A. Leading to belief that this line still had a lot of stuff in it.

23 Q. But it was still flooded?

24 A. Flooded, yes, flooded, flooded; because nobody looked on that
25 side to see what was happening with it. But eventually, to
26 answer your question, Mr. Chairman, the blind flange on berth
27 No. 5 was taken out just before. But let me go back; let me get

1 this clear here. When this was achieved, right, when this was
2 achieved they then introduced the inflatable plug and the
3 mechanical seal on this side.

4 Q. At this point in time?

5 A. At this point in time when they saw the ullage to the point
6 where they want to reach, they say 35 foot ullage from this
7 place to this point—30 or 35 feet they were looking for—they
8 saw that. They say, okay, now it's time to introduce the both
9 plugs.

10 Q. I think it's about 17 feet of ullage they were looking for.

11 A. All right, yes.

12 Q. So 35—effectively, if you took both ends if it were equal?

13 A. Equal, equal, yeah. But I think LMCS statement say they were
14 looking for, I think, 30 or 35 feet ullage.

15 Q. Thirty-five?

16 A. Thirty or 35 feet, I think so.

17 Q. No, you're right. It is 35; 70 altogether. That's right, yes.

18 A. So they saw that and they introduced and put their inflatable
19 plugs in and that created another problem.

20 Q. Well, it locked the condition of the pipe?

21 A. It locked the condition of the pipe. But that was no problem at
22 that particular time. The system had stabilized and the plug
23 was installed here, both plugs. Remember, the riser is still up
24 here above sea level, and they inserted that plug inside there
25 with the long handle and make the seals. And then they had to
26 come now and cut off this old piece on top here. That is when
27 they introduced the habitat. But let's not get there as yet. The

1 important thing they introduced the both seals at this particular
2 point thinking that the ullage that they wanted, it has been
3 achieved and thinking that this entire line here has liquid filled
4 in it. And what happened when this was installed here, right
5 before the accident, they went to do the carber test on No. berth
6 5. And when they opened that flange the pressure was released
7 there and pulled down the liquid a little further and that created
8 a vacuum on this side, and that accelerated or made the system
9 more dangerous. Because if you have a pressure on top the
10 plug and a vacuum—

11 Q. Just pause for a moment. I need to make a note. Just one
12 moment. Thank you. I wonder if we could watch your video—
13 that video No. 2 from start to finish?

14 A. Okay. But I just want to complete one more thing, Chairman,
15 with your permission.

16 **Mr. Chairman:** Certainly, certainly.

17 **Mr. Maharaj SC:** If I can just ask him before we do that?

18 **Continued Examination By Mr. Maharaj SC:**

19 Q. You could point out where the gaseous void is?

20 A. Gaseous void was all the way long, all the way down through
21 the entire pipe, because at that particular time according to the
22 records, almost 80 per cent of the fuel oil in that line was
23 removed—according to the report. So if you remove 80 per
24 cent of the contents of a line, 80 per cent of the line is empty
25 and what I'm getting—so when they went there to do the carber
26 test they take off the flange and the air pressure on that side was
27 released and it became atmospheric pressure on that side now

1 instead of the locked in pressure, the remnant locked in pressure
2 from the compressor. And when there is atmospheric—
3 remember, here is plugged and sealed properly, and that will
4 cause the weight of the fluid to come back down here a little bit
5 and create a vacuum under the plug and that was a double
6 jeopardy. You have a pressure on top the plug and a vacuum
7 underneath.

8 Q. So the release of the pressure would have made the event more
9 aggressive?

10 A. More aggressive. And at that point, you know, one could
11 accurately assume that if the plug was not holding, the
12 additional vacuum under the plug would have dislodged the
13 plug. But the plug held its adhesion to the pipe—the inflatable
14 plug I mean.

15 Q. Is that the inflatable plug?

16 A. That is the inflatable plug.

17 **Mr. Khan:** As we're on that, could I go on that, Chairman?

18 **Mr. Chairman:** Just a moment. Let Mr. Maharaj ask you the
19 questions to help us.

20 **Mr. Maharaj SC:** Well, unless we—anything more on this I
21 could then play the whole video for this—

22 **Mr. Chairman:** Yes, I'd like to see the whole of this video
23 uninterrupted again, if I may, please.

24 **Mr. Maharaj SC:** If you could play back the video on the
25 second video.

26 *[Video 2 narrated as follows]*

27 Phase I air-blowing was not capable of displacing all the

1 product in the line. Phase II air-blowing using a 6-inch
2 diameter dip hose at berth 6 was done. Drawings showing the
3 line diagram with dip hose at berth 6 and an expanded view of
4 the modified blind flange at berth 6 to accommodate the dip
5 hose and inspection port can be seen.

6 A modified blind flange was used to accommodate 6-inch dip
7 hose at berth 6. A blue plastic hose is shown in the model to
8 represent the hose inserted into the berth 6 riser to the bottom of
9 the elbow to facilitate removal of the remaining fuel oil. The
10 sealed 30-inch Sealine being blind flange at berth 6 and at berth
11 5 was pressurized at berth 5. The pressure within the 30-inch
12 diameter subsea line then forced the remnant fuel into the 6-
13 inch dip hose to storage as seen. This continued until air with
14 little fuel oil was seen emanating at the collection area at which
15 time the dip hose was removed.

16 The air supply at berth 5 was subsequently closed and the
17 system stabilized. The remnant fuel oil was pushed up to a
18 certain height in berth 6 balanced by the locked in back
19 pressure at berth 5 giving a false impression of the subsea level
20 line being filled with oil still and not realizing that the line was
21 practically empty with the large gaseous void. A line level was
22 pulled between berth 6 and berth 5 to show this difference in
23 levels between berth 6 and berth 5 as was reported.

24 **Examination By Mr. Chairman:**

25 Q. All right. Thank you. There's one question I want to ask you,
26 please, about that. The purpose for putting a dip hose in at
27 berth 6, was to remove as much of the line content as possible?

1 A. That's correct. That's the only way you could have removed it.

2 Q. Certainly, I get that. If all you actually wanted to achieve was a
3 35-foot ullage, if that's what you actually wanted to achieve,
4 firstly, would you have been able to measure the volume
5 necessary to achieve a 35-foot ullage at either end? Assume
6 you have a full line of fuel, right, you open this end, No. 6, you
7 open this end, No. 5, you want 35 feet at that end, then you
8 might have something different at that end if it's not level, but,
9 I mean, the levels will be the same, right, down from the
10 surface; 35 feet down that side, 35 feet down that side. It is, of
11 course—must be—capable of measuring how many barrels of
12 oil that represents?

13 A. Of course.

14 Q. The equation is not a difficult one, elementary mathematics for
15 anyone to work out. How many barrels would need to be
16 removed in order to achieve a 35-foot ullage on either side?
17 My best calculation suggests something in the order of between
18 40 and—

19 A. And 60 barrels; 40 and 60.

20 Q. Between 40 and 60 barrels thereabouts?

21 A. Yeah.

22 Q. Per barrel being, I think, in the US is 42 gallons. Is that right?

23 A. That's correct, yes.

24 Q. Right. So that's the sort of volume that needed to be removed
25 in order to achieve that ullage whilst maintaining the fluid in
26 the rest of the pipe. That is, as I say, straightforward. Once
27 you start blowing, and pushing, and putting in pipes, this dip

1 hose, and so on, there's only one intention and that's to clear
2 the line completely?

3 A. That's correct. Can I say something, Mr. Chairman?

4 Q. Yes, I'm sorry. I was just thinking for a moment. So whoever
5 was doing this, LMCS and/or Paria, seeking to drain this line
6 completely, on the face of it, it must have been intentional,
7 because putting a dip hose in, there's no other purpose for
8 doing that. I mean, frankly, you could stick a bucket down each
9 side and start pulling the barrels out that way, well, couldn't
10 you, to get to your 35 feet of ullage?

11 A. Yes. This technique, Phase I and Phase II, clearly states that
12 the line was going to be emptied. There's no question about
13 that.

14 **Mr. Chairman:** Right. Thank you. I think that's a useful
15 point, if I may say so, which to take our break for the lunch.
16 All right? Can I ask for a shorter lunch? Would 45 minutes be
17 enough for everyone? Thank you. Yes, ten past 2.00 then,
18 please. Thank you.

19 **1.25 p.m.:** *Enquiry suspended.*

20 **2.14 p.m.:** *Enquiry resumed.*

21 **Mr. Chairman:** Thank you all. Good afternoon. Witness,
22 please? As I understand, you've been scratching up our screen
23 with your wand, so we got you an electronic one. [*Laughter*]
24 Good. Mr. Maharaj.

25 **Mr. Maharaj SC:** Thank you, Mr. Chairman. We now go to
26 the third video, and the third video shows the plug, installation,
27 the habitat, and the Delta P vortex. This is how Mr. Khan

1 describes the video, and you will stop at 38 seconds.

2 [Video played]

3 **Continued Examination By Mr. Maharaj SC:**

4 Q. Right. Mr. Khan, can you point to the inflatable plug and
5 explain where it would have been installed?

6 A. That's the inflatable plug here and it's in an inflated condition.
7 Now, on top that plug they had put a mechanical seal, but I did
8 not simulate the mechanical seal, because it was kind of
9 difficult to put in that seal in there—it not small. Remember,
10 this tube is just about one inch diameter, and that indicates the
11 cut line. So the plug has to go under the cut line so they can cut
12 here and install the flange and then they will remove the top
13 section of the riser which was bad. Okay?

14 **Mr. Maharaj SC:** Okay.

15 **Examination By Mr. Chairman:**

16 Q. When the plug is put in at berth 6, is the flange already fitted at
17 5?

18 A. Yes, this is what I understand. The flange was at berth 5
19 installed.

20 Q. Right. But the CARBER testing hadn't taken place, or had it?

21 A. No, the carber testing did not take place as yet.

22 Q. Right. So at that stage, once you're putting in the plug at this
23 end with the flange sealed at berth 5, the effect of putting this
24 plug in at this stage is to freeze, effectively, the condition of the
25 pipe at that point time?

26 A. Yes.

27 Q. Right. So, and it remained in that state until either you opened

1 the flange at 5 or you removed the plug at 6?

2 A. That's correct.

3 Q. Right. So at that point in time it is frozen in time and it would
4 stay that way until you did one of those two things?

5 A. Yes, Sir.

6 Q. Thank you.

7 **Mr. Maharaj SC:** Right. Could we play and stop at 1.21?

8 *[Video played]*

9 **Continued Examination By Mr. Maharaj SC:**

10 Q. Okay. So we are seeing here the plug, the habitat—you want to
11 point—yes; the plug?

12 A. Just now, hold on. What happened there? Okay. That's the
13 plug there.

14 Q. Yes; the habitat?

15 A. The habitat is here.

16 Q. Which is not yet pressurized?

17 A. Not yet pressurized because there is water filled up inside here.

18 Q. Right.

19 A. So that's the stovepipe. The manometer is being connected to
20 measure to ensure that at least there's the pressure—to verify
21 the pressure in the habitat, and that is the compressor here with
22 the aquarium pump, and that is the gooseneck that was
23 removed, right. And that is the compressor there and pushing
24 air to really go into the habitat. And when we start the
25 compressor here, the air will pressurize the habitat and push
26 down the water.

27 Q. Okay. Where is the sea level?

1 A. The sea level is at this point. You see here, this squiggly mark,
2 that's the sea level. So the sea level was below—the habitat
3 was obviously below the water level here, okay. So that's all
4 filled with water. That's the seabed here. Okay.

5 Q. Yes. Good.

6 **Mr. Maharaj SC:** Play now and stop at 2.16.

7 *[Video played]*

8 **Mr. Chairman:** Sorry, just go back a few seconds.

9 *[Video replayed]*

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. So we just saw the deflation of the plug and the formation of
12 the Delta P vortex. This was the vortex in which the men
13 would have been sucked into the pipeline. Am I correct, Mr.
14 Khan?

15 A. That's correct, yes.

16 Q. And is it possible for you to point to the vortex on the screen?

17 A. That's the vortex here. And that line you're seeing down
18 there—like, you know, sometimes you look up in the sky and
19 they talk about a tornado? That's the vortex and that's a
20 column of air being sucked in there.

21 **Examination By Mr. Chairman:**

22 Q. Does it swirl like it does if we see it on land?

23 A. Yes, it swirled around. You can see the swirling around there.
24 If you could have run the video slowly for that point then you
25 could see it better.

26 **Mr. Chairman:** Just go back again a few seconds, if you
27 would, please?

1 **Mr. Maharaj SC:** Just go back a way.

2 [Video played]

3 **Mr. Khan:** That's the installed flange. See the plug here. See
4 the plug here deflated very quickly.

5 **Examination By Mr. Chairman:**

6 Q. So the pressure on the inside of the pipe together—that had
7 been released by the removal of the plug, together with the
8 compressor pushing down and the vacuum that you told us
9 about earlier between the plug and the fluid, all of those things
10 came together in effect?

11 A. Together, yes, and propelled the plug inside.

12 Q. Yes.

13 A. Yes. You had a force on top of the plug and a vacuum
14 underneath.

15 Q. So you had a sucking and a pushing?

16 A. A sucking and a pushing.

17 Q. We know that these men and the things that were inside the
18 habitat seemed to disappear in a matter of seconds. Would that
19 accord with your understanding of what would have happened?

20 A. Of course. They disappeared in no time at all.

21 Q. No time at all.

22 A. Because the velocity created here was so much. Initially before
23 the vortex is formed, the velocity of the air is so much it will
24 just pull them inside, and the first man who goes inside there,
25 he will drop down inside there from gravity alone, and then the
26 water will come and take the others. That is how the sequence
27 is.

1 Q. So the first person in, would have been actually falling in the
2 pipe rather than being in water?

3 A. Falling, yes; that's correct.

4 Q. So he might have been more greatly injured in the fall itself?

5 A. Uh-huh.

6 **Mr. Chairman:** Wow. Thank you.

7 **Mr. Maharaj SC:** So this demon—

8 **Mr. Chairman:** I want to make a note.

9 **Mr. Maharaj SC:** Sorry.

10 **Mr. Khan:** This is the flange that was installed. See the slip-
11 on flange they speak about, that was it there. Remember, this is
12 below water now. All here is filled with water around.

13 **Mr. Chairman:** Yes, thank you.

14 **Continued Examination By Mr. Maharaj SC:**

15 Q. So this demonstrates that the system has stabilized, the
16 compressor has now pushed back the water out of the habitat,
17 and the last image we saw on the screen demonstrate that the
18 habitat is now dry and there is no water in the habitat. So I
19 want to ask you something. In your letter dated the 6th
20 December, 2022, to the Commission, supplemental core bundle
21 at 1534, you indicated that prior—at paragraph 4 and 5—you
22 indicated that prior to Christopher Boodram's rescue the entire
23 system stabilized and equalized itself at both ends of Sealine 36
24 and this condition was the best opportunity to attempt a rescue.
25 Correct?

26 A. That's correct.

27 Q. We heard from a witness yesterday, Mr. Donawa, who said that

1 even though this was stabilized, there was still a secondary risk
2 of a Delta P. What you have to say about that?

3 A. Mr. Chairman, before I answer that question, there are some
4 terminologies here I want to clarify.

5 **Mr. Chairman:** All right.

6 **Mr. Khan:** Those terminologies are used loosely in this
7 Commission, and I need to clarify that and you might rephrase
8 that question.

9 **Mr. Maharaj SC:** Okay.

10 **Examination By Mr. Chairman:**

11 Q. Are you about to tell me off?

12 A. Yes.

13 Q. Right, okay. [*Laughter*]

14 A. Now, the word “Delta” comes from a Greek word.

15 Q. It’s a Greek letter.

16 A. Greek letter, sorry, Greek letter. It’s the fourth letter of the
17 Greek alphabet. And Delta means a change in quantity or a
18 change. Don’t confuse Delta—Delta P is a differential
19 pressure. In engineering terms and in mathematics a Delta P is
20 a change or a differential pressure. So you can equate Delta P
21 with differential pressure. But a Delta P event is the result of a
22 disturbance in the differential pressure. So you don’t talk about
23 a Delta P. A Delta P is a condition. A Delta P is an event
24 arising from a differential pressure disturbance. So you
25 cannot—a Delta P, if you stand up outside your tank that
26 supplies propane gas to your stove, the tank and you outside,
27 there’s a differential pressure there.

1 Q. There's one here.

2 A. Right here.

3 Q. There's a tank there which has got air pressurized inside it.

4 A. Of course. There's a differential pressure there, but it's not a
5 Delta P event. If I puncture a hole in that tank then I will
6 activate a Delta P event. So Delta P cannot stand by itself
7 [*Inaudible*] your question. You have to state whether it's a
8 Delta P event that will occur inside there. Okay? So could you
9 repeat that question again?

10 **Mr. Chairman:** Suitably admonished.

11 **Mr. Khan:** Could you repeat that question, Sir?

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. Yes, Mr. Khan. So, Mr. Khan, I think I'll have to rephrase the
14 question. So, Mr. Khan, the system becoming static, stabilized,
15 in order for the system to have a Delta P something has to
16 happen?

17 A. A Delta P event.

18 Q. Yes, for a Delta P event something has to happen?

19 A. That's correct. A Delta P is existing all over the place. When
20 you're in an aircraft you have a Delta P, because there's a
21 differential pressure inside of the aircraft to the outside. There
22 is a Delta P. But there isn't no Delta P event. Something has to
23 happen before—

24 Q. To activate?

25 A. Inside the plane or outside the plane. A terrorist could shoot at
26 the glass and cause a Delta P event—not a Delta P; the Delta P
27 is already there existing. So you could shoot the aircraft—or if

1 the aircraft has a fault in the doors, the door could blow off and
2 then it creates a Delta P event. So we have to distinguish a
3 Delta P, differential pressure, and a Delta P event. They're very
4 closely related.

5 Q. I think it is well explained. Thanks for the information.

6 A. Yes, Sir.

7 Q. So in relation to what Mr. Donawa said yesterday, the system
8 being stabilized, would you agree—well, would you say that
9 that would have been—you maintain saying that that would
10 have been the best time to effect a rescue of the men in the
11 pipeline?

12 A. That's correct. When the system has stabilized. There was a
13 differential pressure there, but there was no differential pressure
14 event; there was no Delta P event. Something has to take place
15 before a Delta P event is initiated.

16 Q. And you would have known that after Boodram came out of the
17 pipeline, Michael Kurban went into the pipeline to try to rescue.
18 You're aware of that?

19 A. Yes, I am aware of that.

20 Q. So someone going into the pipeline to effect a rescue would not
21 activate a Delta P event?

22 A. No.

23 **Examination By Mr. Chairman:**

24 Q. But if I opened the flange at berth 6—5, sorry, at berth 5, if I
25 opened the flange at berth 5, could that create the Delta P
26 event?

27 A. Within the pipe at that particular time?

1 Q. The position is stabilized, right? This event has just happened.

2 A. Yes; the men are inside.

3 Q. The men have been sucked into the pipe; they're in the pipe,
4 okay?

5 A. Yes.

6 Q. It is what it is now?

7 A. Uh-huh.

8 Q. It's returned to stabilization. If I opened the flange at berth 5,
9 would that create or could it create a Delta P event?

10 A. Definitely.

11 Q. There's no could about it?

12 A. No could about that.

13 Q. It would definitely do it?

14 A. Yeah, because—

15 Q. Pausing there for a minute, just so that I follow all of this. If
16 there are, therefore, air pockets within this pipe that these men
17 have been sucked into and the pipe is stabilized as it is at this
18 particular moment in time, I open that flange, what would
19 happen potentially to those air pockets?

20 A. The air pockets would just move around.

21 Q. They'd move?

22 A. They'll move.

23 Q. Right.

24 A. Right.

25 Q. So what air they might have had to breathe in might have been
26 lost to them?

27 A. Could have been lost, and could have remained, you know,

1 shifted a bit, but they could still have air.

2 Q. They might or they might not?

3 A. They may or may not. You know, it's according to the size of
4 the air pocket.

5 Q. Right. But the key here is, is that something needs to happen to
6 create the event?

7 A. Yes, yes.

8 Q. That's the point you've been belabouring about?

9 A. That's the point I'm saying.

10 Q. The existence of that Delta P and the event that triggers it. So
11 that even if there was a latent Delta P within the pipe after
12 stabilization, even if there were, something would have to
13 happen to trigger it. For example, removing the flange at berth
14 5?

15 A. Or shutting down the compressor.

16 Q. Well, I was going to come to that, because it's something I've
17 been—has [*Inaudible*] me before.

18 A. Sorry.

19 Q. The alternative is if you leave that end, leave 5 as it is, if you
20 decide that actually what we're going to do is to fit the riser
21 onto the rising pipe, fix the new piece of riser, take it above sea
22 level and then remove the hyperbaric chamber with all the
23 pressure that that brings to bear, that equally could be an event
24 that would cause Delta P if there was an existing latent Delta P?

25 A. That's correct, Sir.

26 Q. So the long and the short of that is this, is that whilst it
27 remained stable, Delta P or not, it was stable, with the pressure

1 being applied at one end by the habitat and the other end being
2 sealed by the flange, that was the time in which to effect a
3 rescue if there was to be one. Correct?

4 A. Yes, Sir.

5 Q. If you start messing with that, either end, you are likely to
6 jeopardize the lives of the people in that pipe?

7 A. That's correct.

8 Q. Thank you. It's correct and sad?

9 A. I would venture another point. When the plug was pulled, the
10 flange on No. 5 berth was installed. And when the water
11 rushed in there it compressed the air on that side.

12 Q. Right, creating an even greater pressure?

13 A. Yes. So it's compressed the air on that side. So that is why I
14 mentioned about compressed air. If you disturb the compressed
15 air on either side, you create an imbalance.

16 Q. Yes, and the imbalance might be either compressed air as is in
17 that tank at the moment, or a vacuum where there's a lack of
18 air?

19 A. Well, yeah, of course. But what I'm saying is the compressed
20 air on that side, right, the system is stabilized because
21 compressed air is on that side because of the blind flange, and
22 the air is being pushed on the—by No. 6 berth side with the
23 compressor. So the system is stabilized. The compressor is
24 working, pushing and clear the habitat, and also there's
25 potential energy stored on the berth 5 section due to
26 compressed air. And if you take out that flange there you will
27 release the compressed air and you push the water down this

1 way.

2 Q. I absolutely understand what you're saying.

3 A. Okay.

4 **Mr. Chairman:** I got it. Thank you very much. Thank you,
5 Mr. Maharaj.

6 **Mr. Maharaj SC:** All right. We now go to the fourth and last
7 video.

8 **Mr. Chairman:** What I've written is that the removal of the
9 flange at 5 or the compressor at 6 would destabilize the
10 pipeline.

11 **Mr. Khan:** That is correct.

12 **Mr. Chairman:** Thank you very much.

13 **Mr. Khan:** It wouldn't destabilize—the conditions in the
14 pipeline—not the pipeline. It would destabilize the conditions
15 in the pipe.

16 **Mr. Chairman:** That's my shorthand. The pipe is going to
17 stay as it is.

18 **Mr. Khan:** Yes.

19 **Mr. Chairman:** I get that.

20 **Mr. Maharaj SC:** Okay. The fourth video is a simulation
21 with the existing model to demonstrate the deflation of the plug
22 with a filled subsea line. The fourth video, Mr. Khan has
23 labelled this video as inflated plug with line filled. I will first
24 ask for the video to be played and to be stopped at 12 seconds.

25 **Mr. Chairman:** Just before you do that so that I understand.

26 **Examination By Mr. Chairman:**

27 Q. This is now the line completely filled with fluid, bar

1 some small—

2 A. Or beyond the elbow then; beyond elbows on both sides.

3 Q. Beyond the elbows on both sides?

4 A. Both sides.

5 Q. So the line at the bottom is completely filled?

6 A. Uh-huh.

7 Q. Which is how it should have been?

8 A. Well, I don't know, but anyway—

9 **Mr. Chairman:** Well, I do. Right, thank you. All right. Can
10 we have it please?

11 [*Video played*]

12 **Continued Examination By Mr. Maharaj SC:**

13 Q. Would you like to point out the dry habitat, and the filled line,
14 and the plug?

15 A. That's the dry habitat there, okay. And the men could be
16 working inside there at the moment, okay. And that's the water
17 level. The habitat is pressurized, okay, and the men could be
18 working inside there. That's the inflated plug; that little section
19 you see there, that's the inflated plug. And there is a gap here,
20 right, a gaseous gap.

21 **Examination By Mr. Chairman:**

22 Q. Below the plug?

23 A. Below that, yes. And also—you could have that, or you could
24 have the water level here; you could have the water level here.

25 Q. Anywhere?

26 A. You can't have it there.

27 Q. Right.

1 A. So, if the water level is here—if you take out the ullage and it
2 comes to this level, you still have a gap here; you still have a
3 gaseous gap, but the line is filled right through. And if you
4 deflate that plug the water will rise very quickly up to a certain
5 level here, but it will not rise to the section where you could
6 cause a problem with the people inside the habitat.

7 Q. Right. Show us the—

8 **Mr. Maharaj SC:** So would we play it up to 1.16?

9 *[Video played]*

10 **Continued Examination By Mr. Maharaj SC:**

11 Q. Good. So it would be correct to say that with the filled line
12 there would have been no gaseous void or latent differential
13 pressure hazard?

14 A. No, there could be a gaseous void under the plug, but still, but
15 the size of the gaseous void would be small.

16 Q. Would be?

17 A. Small.

18 **Examination By Mr. Chairman:**

19 Q. Even if it was all the way down to the elbow?

20 A. Even if it's way down to the elbow, because that length could
21 be about 16 feet. The important thing is here, that even though
22 the plug is deflated, there will be no condition to establish a
23 flow.

24 **Continued Examination By Mr. Maharaj SC:**

25 Q. Because we did not see a vortex?

26 A. Yeah. There was no condition to establish a flow. And you
27 must have a flow for a vortex to perpetuate—to form and

1 perpetuate itself.

2 Q. Because it's the vortex which will cause the men to be sucked
3 in?

4 A. Yeah. It come like a tornado which is a reverse vortex.

5 Q. Yeah. Can you just for—so that we can be sure—can you point
6 out on this part of the video the deflated plug?

7 A. Look the deflated plug here; that blue little thing inside there.

8 Q. Oh, that's the deflated plug?

9 A. Yeah.

10 Q. And you also already point out where the men would have been
11 after the—

12 A. You see the little matchsticks inside here, those are the men. I
13 didn't want to represent actual man.

14 Q. I know. And the line being filled, could you just show us that?

15 A. The line here—well, you have to go back; this is the line here.
16 You have to go back a bit.

17 **Mr. Chairman:** Well, let's just watch the whole of that video
18 again.

19 **Mr. Maharaj SC:** I just want to ask him one question before
20 we—

21 **Continued Examination By Mr. Maharaj SC:**

22 Q. Do you agree whether it was 300 barrels of fuel oil from the
23 underwater piping was removed or over 1,000 barrels, 1,052
24 removed, there would have still been a latent Delta P hazard?

25 A. That's correct. Because I want to explain that a little more.

26 Q. Yeah.

27 A. When I did my report I knew nothing about the extent of

1 contents removed from the line. All I was going by is by the
2 method statements supplied by LMCS where it says 300 barrels
3 are to be removed. And if 300 barrels are removed, my
4 calculation show that there'll be a continuous air gap at the
5 bottom of the line. And if 300 barrels removed and you have—
6 my calculation show there was a gap of seven inches or eight
7 inches of airspace along the line, if you look at my drawings.
8 But if more was removed or more was actually removed, then
9 that gaseous void becomes larger.

10 **Examination By Mr. Chairman:**

11 Q. And makes it worse?

12 A. And makes is worse, yes.

13 Q. But on any view, 300 barrels was way too much?

14 A. Yes, it was way too much, because if you looked at it—I
15 always say there was an anomaly in the statement where he
16 says you want an ullage of 30 feet and 30 feet is equivalent to
17 about 20-something odd barrels.

18 Q. Yes.

19 A. You see. One foot of that 30-inch pipe is equivalent to .82 of a
20 barrel—one foot of that pipe.

21 Q. One foot equals how much?

22 A. Point eight, two of a barrel. But rule of thumb is, as Mr. Kazim
23 was saying, one foot is one barrel, you know, as a rule of
24 thumb, you know.

25 Q. Yes.

26 A. But when you do the actual calculation—

27 Q. It's about .82.

1 A. Yeah, .82, based on a thickness of the pipe of three-eighths of
2 an inch thick.

3 Q. Yes. I worked it out about 7.5 gallons per cubic foot of pipe,
4 then you multiply that up—

5 A. Yes.

6 Q. Thank you very much.

7 A. One foot of that pipe in terms of volume, I think it's about 4.6
8 cubic foot and one barrel is 5.62 cubic foot. So that's why the
9 .82 comes in. Somewhere around that figure.

10 Q. It's pi r squared (πr^2) for the—

11 A. Volume?

12 Q. In order to measure volume it's πr^2 multiplied by the height or
13 the length of the pipe.

14 A. Correct, yeah. Or diameter squared over four by length.

15 Q. Yeah, all right, the same formula.

16 A. Yeah, okay. High school students know that easily. So why
17 engineers couldn't calculate that, I don't know.

18 Q. Well, I agree. I mean, the calculation of how many feet of
19 ullage that you wanted, to work out how many barrels that
20 represented was a pretty straightforward calculation for any
21 engineer. A high school student, as you say, could have—

22 A. Form one student.

23 Q. Yes. Well, I was never that good at math, but it seemed to me
24 relatively straightforward. But the question I suppose that
25 arises from that is, is that for anyone to describe the need to
26 remove 300 barrels when all you want is 30-odd feet of ullage

1 on either side must have been on any view a miscalculation?

2 A. That's correct, or a miscalculation.

3 Q. Whatever it is. It begins to approach 10 times the amount you
4 want, doesn't it?

5 A. That's correct.

6 **Mr. Chairman:** All right. Thank you very.

7 **Mr. Maharaj SC:** What I wanted to do, Mr. Chairman, I
8 wanted to play over the fourth video and then play over the
9 entire one, if that is okay?

10 **Mr. Chairman:** I think that's a good idea.

11 **Mr. Maharaj SC:** Okay. So let's play over the fourth video.

12 *[Video played and narrated as follows]*

13 Assimilation was done with the existing model to demonstrate a
14 filled line with an inflatable plug and the effects of deflating the
15 plug at that particular time. Here we see the line filled with
16 liquid up to a certain point there. The compressor is installed
17 on the right to pressurize the habitat. The inflatable plug is
18 inflated and the men are inside the chamber in a dry
19 environment working.

20 The riser at berth 5 is closed at the moment and men are
21 in this chamber working with an inflated plug forming the seal.
22 We will inflate the plug—we will deflate the plug now and
23 once you deflate it you will see no effect of the pressurized
24 chamber. The men are still floating around with no vortex
25 being formed and the plug is deflated.

26 **Mr. Maharaj SC:** Mr. Khan, I'm going to play over the entire
27 four videos now so that we could see it sort of continuously. So

1 I'm just telling you what we are going to do so you could
2 probably look at it too because after you will be sort of
3 questioned on it.

4 [*Videos replayed*]

5 **2.55 p.m.:**

6 **Examination By Mr. Chairman:**

7 Q. Thank you very much indeed. I want to express my gratitude,
8 first of all, for the models that you produced so that we can
9 understand it much more clearly. I'm really grateful for that.
10 Whatever else may come in a moment by others, for my part it
11 has certainly assisted me in understanding the dynamics that
12 take place in a pipe. Couple of questions arise, please.

13 First of all, are you able to guess, which is what I suspect
14 it would be, how much water would have been sucked into the
15 pipe once that vortex were created?

16 A. I can venture a guess but I didn't do any calculation.

17 Q. No.

18 A. I calculated the kind a rate at which the volume will be sucked,
19 the rate of the contents will be sucked in. I think it's 514
20 gallons per second. Right? So you're talking about a lot of
21 gallons there.

22 Q. Per second?

23 A. I, I—

24 Q. Five hundred and forty gallons per second?

25 A. Yeah.

26 Q. But is that contingent—

27 A. That will start at that figure—

1 Q. Yeah.

2 A. —and then slowly decrease.

3 Q. Right.

4 A. So it goes to zero when the vortex stops.

5 Q. Of course.

6 A. I could not measure how long the vortex take to perpetuate and
7 to stop. The duration of the vortex one cannot—I could not
8 calculate that. I did it to the time and it wasn't timed. But I
9 know the system stabilized because you can see that.

10 Q. Yes, and quite quickly.

11 A. Quite quickly.

12 Q. Yes.

13 A. Everything happened in a flash, you know, because the guys on
14 the, um, on the monitoring camera say all of a sudden it's a
15 splash.

16 Q. Yeah.

17 A. And that was the end of it.

18 Q. Yeah. By the time they got back in the habitat it all stabilized.

19 A. And when he went, I think the—one of those guys dived back
20 to see and he reported, hey, nobody inside there. Place empty.

21 Q. Yeah. The other question that I have is this. Is, um—given that
22 the blowing or forcing of—the attempted forcing of this flood
23 out of the pipe in order to create the necessary ullages failed,
24 what would you say would be the best way of doing it in order
25 to create the necessary ullages?

26 A. Well, when I looked at—when I was given the job to do, they
27 told me they will allow me to review the scope of works, the

1 method statement at that—of the documents that were
2 submitted—

3 Q. Yes.

4 A. —at the tendering, at the tendering stage. And the documents
5 that were submitted by the contractor LMCS, those are the
6 documents I looked at and those are the documents that were
7 available to me from OSHA.

8 Q. No, I, I, I—that's clear in your report

9 A. Right, okay. And, er, what is—I lost the trend of thought here.

10 Q. Yes. The question is really, given the way in which it was done
11 created this latent Delta P condition—

12 A. Uh-huh.

13 Q. —in the pipe, how would you—let's say they got to do this
14 again next week—

15 A. Uh-huh.

16 Q. —how would you suggest they created the necessary ullage
17 either side without doing it that way?

18 A. It's simple. So I'll explain here now.

19 Q. Yes.

20 A. All you have to do, at least you take off the, the—you open the
21 flange at 5 berth or you take out the gooseneck on 5 berth and
22 you remove the gooseneck on 6 berth, after you drain the pipe
23 on the topside.

24 Q. Yeah.

25 A. Because I think the original proposal by, um, by I think with
26 Paria or LMCS, was to drain the top section of the piping and
27 then collect it.

1 Q. Yeah.

2 A. So the top section will be drained so then you could remove the
3 gooseneck, the elbow on top the No. 6 riser.

4 Q. Yes.

5 A. And then if you remove that you will see your liquid right on
6 top there.

7 Q. Yes.

8 A. So what you do as LMCS stated, they introduced an air pump.

9 Q. Sucking?

10 A. A sucking air pump. That operates like an ejector so you put
11 air on one side.

12 Q. Well, it's like sticking a straw in a bottle of coke and sucking it
13 out?

14 A. Yes, and you're pulling it out.

15 Q. Yes.

16 A. So you would see the level right there in front of you going
17 down. And you measure it till—

18 Q. Do the both ends or one end?

19 A. It will, it will, it will, um—

20 Q. Should equalize?

21 A. —decrease at both ends coming down, because as a manometer
22 you have—it balances itself. Once both sides of a manometer
23 is opened, it would balance itself. Can I show this?

24 Q. Yes please. I think you've been dying to do so.

25 A. Well I'll have to close it. It's taking a little time to open it.

26 Q. That's all right.

27 A. Just to show you here. The manometer is here. Once I take off

1 from here, all the same liquid will level.

2 Q. Yes.

3 A. If this was here this would have been here.

4 Q. There's a spirit level in it—

5 A. There's a spirit level.

6 Q. Exactly.

7 A. This is a basic manometer.

8 Q. Yeah, yeah.

9 A. It's like—

10 Q. You're building a brick—you're building a brick wall and you
11 want to know the height at that end and the height at that, it
12 could be 50 feet between the two?

13 A. And if I tilt this a bit, the level almost remains the same.

14 Q. Yes. Yes.

15 A. Water seeks its own level.

16 Q. So if I stick a straw down one end and start sucking some of
17 that fluid out—

18 A. Out—

19 Q. —it will—

20 A. —it would drop here and drop here at the same time.

21 Q. Which is what you were illustrating at the line on the—

22 A. Yes, yes, yes.

23 Q. —um, thing, yes. All right, so, so, the, the, the lesson to be
24 learned I suppose in short order is that if you want to create the
25 ullage, suck some of the fluid out rather than trying to pump air
26 in?

27 A. But, but I, I, um, I recollect when I reviewed LMCS' method

1 statement, he said using an air pump, suck out and get the
2 ullage. I don't know what he's—

3 Q. Yes. Well I'm very grateful to you.

4 **Mr. Maharaj SC:** Mr. Maharaj, is there anything else you
5 need to ask?

6 **Mr. Maharaj SC:** No, Mr. Chairman. I'm—

7 **Mr. Chairman:** Marvellous. Right. I'm going to have some
8 questions.

9 **Examination By Mr. Chairman:**

10 Q. All right, bearing in mind it's just a little past three o'clock.

11 A. Mr. Chairman—

12 Q. Yes.

13 A. —I need to mention two things need to be, um, corrected.

14 Q. Go ahead.

15 A. In my, in my thing statement, one, I just wanted to—as I said in
16 my previous letters, the amount of information flow after I did
17 my report, I will have to modify certain things and I said I'm
18 not do—I called OSHA and I say, hey, based on the
19 information I have to modify and they say is it a major
20 modification? I say no, it will not change anything but to—just
21 for the records.

22 Q. Hmm.

23 A. And they say no, don't bother with that. So I choose to modify
24 one sketch.

25 Q. All right, just pause for a minute. So you, you approached
26 OSHA who were the original—

27 A. Yeah, they were my client.

1 Q. —who originally instructed you?

2 A. Yes.

3 Q. Quite.

4 A. Yeah.

5 Q. Um, and, and you said that now that you're seized of different
6 information—

7 A. Yeah.

8 Q. —you would like to correct the record?

9 A. Correct, because they had already paid me.

10 Q. Right. Let me see if I get it right. Just a minute. Just a minute.
11 My turn to speak. I have the talking stick at the moment, all
12 right? So what you were saying is that you told them that there
13 were changes in the parameters and you would like to correct
14 the record, but that the final outcome or your final conclusions
15 about this would remain unchanged? As a consequence they
16 said to you, no, it's fine, don't do anything. Have I got that
17 right?

18 A. That's correct, yeah.

19 Q. Well if anybody asks you questions and that relates to the sort
20 of parameters you're talking about, you can point that out to
21 them that those are the issues that you would have raised had
22 OSHA permitted you to do so.

23 A. Uh-huh.

24 Q. So, I have that in mind. You said there was something else you
25 wanted to raise?

26 A. Another thing, it's one drawing I need to change for clarity and
27 that is, I think it's an SK—you could pull up that SK 5?

- 1 Q. Yes.
- 2 A. The one that I drew—
- 3 Q. SK 5, just a minute.
- 4 A. —with respect to, um—
- 5 Q. SK 2, SK 4, SG 5 yes.
- 6 A. Where it shows that the plug is deflated though.
- 7 Q. That's SK 5.
- 8 A. SK 4 probably, then.
- 9 Q. go back one. Yes.
- 10 A. Yeah, okay.
- 11 Q. Right.
- 12 A. This represents when the incident occurred.
- 13 Q. Pushing the plug down?
- 14 A. Pushing the plug down, and the plug was lying somewhere here
- 15 and the men were on this side.
- 16 Q. Yes.
- 17 A. Okay? The flange was installed so this would have been a little
- 18 compressed air, and I just wanted to drop that level to this point
- 19 for clarity, so this level and this level will not be the same.
- 20 Q. Right. So I can make my amendment.
- 21 A. Make your amendment.
- 22 Q. You don't need to redraw the thing.
- 23 A. That's one amendment, right? One thing again, in the—
- 24 Q. Just a minute, I'm making a note.
- 25 A. Uh-huh.
- 26 Q. The level would be lower?
- 27 A. Yes.

1 Q. On riser 5—on berth 5?

2 A. Because this would—

3 Q. Because the air pressure between the flange—

4 A. Yes.

5 Q. —and the fluid would be—the air would be compressed?

6 A. Compressed, yeah.

7 Q. And so it would be pushing the fluid down more—

8 A. Uh-huh.

9 Q. —trying to expand itself?

10 A. Uh-huh.

11 Q. Right, I get it. Yes, thank you.

12 A. And one of the videos, I think was the last one where I showed
13 the deflation of the plug—

14 Q. Yeah.

15 A. —with a fill line, I said the riser was plugged. I really meant
16 that the stovepipe was, um, plugged, yeah, the stovepipe.

17 Q. Sorry say that again? I haven't understood that. You said that
18 the riser was—

19 A. A riser was plugged and where I demonstrated the condition
20 where the line was filled—

21 Q. Right.

22 A. —and I deflated the plug—

23 Q. Yes.

24 A. —right during the conversation I said the riser—

25 Q. All right.

26 A. —was sealed but it's not the riser.

27 Q. No, it's the stovepipe—

- 1 A. At the top there. Yes.
- 2 Q. In order to create the—
- 3 A. Create the displacement so it could fill up.
- 4 Q. I got you. Yes.
- 5 A. Yeah.
- 6 Q. All right. Right. Just before anyone asks you questions, I just
7 want to take a look at this, um, the, er, plug itself. You can tell
8 me which way up it's supposed to go. Yes well you can help
9 me. Which way round does it go, first of all?
- 10 A. This, this area here, this section is the top of the plug.
- 11 Q. Right. So that's what you'd be looking at if you were looking
12 down the tube?
- 13 A. That's what I would be looking at, yes.
- 14 Q. Right.
- 15 A. And that's a relief valve there. Let me get mine. Yes.
- 16 Q. Right, everyone can see that now.
- 17 A. And you can see here the—
- 18 Q. Oh you've got your stick out again I see, yeah.
- 19 A. Twenty to 36 inches plug, so this plug can fit a pipe that is 20
20 inches up to 36 inches in diameter.
- 21 Q. So at the moment this is something less than 20 inches in
22 diameter?
- 23 A. Less than 20 inches. From here to here—
- 24 Q. Yes.
- 25 A. —I think it's about 18 to 19 inches, from here to here.
- 26 Q. And then you—
- 27 A. So you could shove it into a 20-inch pipe easily.

1 Q. And you inflate it how?

2 A. You inflate it by this—through this, this is an inflation port
3 here.

4 Q. Right.

5 A. That's supposed to have a nipple on top with some valves on
6 top here.

7 Q. Okay.

8 A. So they could connect a hose here and pressurized plug when
9 they insert the plug into the line. So this plug is inserted into
10 the line, deflated, and when they introduce pressure here like a
11 big balloon, it will swell up there.

12 Q. Yeah like a car tyre?

13 A. Yes, but more like a balloon.

14 Q. All right. I'm not going to contradict you, trust me. [*Laughter*]
15 All right, so, um—and this—was this how it came out of when
16 you—

17 A. This is how it came at for me, from here.

18 Q. So was the nipple ripped off?

19 A. Here?

20 Q. Yes.

21 A. That is what—oh, sorry, sorry, my mistake here. What was
22 here was a broken nipple.

23 Q. A broken nipple?

24 A. Yeah.

25 Q. Right, uh-huh. Okay. But that's where it's inflated?

26 A. That is where it's inflated.

27 Q. And to deflate it what do you do?

1 A. Well, deflate it, you would just open back the valve on top here.

2 Q. So the nipple was ripped—

3 A. The nipple was here—

4 Q. Yeah.

5 A. —and the valve was up here, you can open the valve and
6 deflate it slowly or you can deflate from this area too.

7 Q. Unbolt that in some way?

8 A. Yeah, unbolt that in some way.

9 Q. Yeah.

10 A. Or this one here too, you can deflate it from here also.

11 Q. Right.

12 A. You see it's marked here, you know. If you look closely it tell
13 you exactly what to do. This is a return line and you could
14 inflate here or inflate here.

15 Q. Yeah, inflation it says there, yes?

16 A. Yeah. These could inflate from here.

17 Q. All right.

18 A. So it's on—it is written—it is written here.

19 Q. And these cleats that are on the top?

20 A. These cleats here are for support, if you want to pull it back up.

21 Q. Right. Why is this one missing?

22 A. That was missing from day one. When the plug came out it
23 was missing.

24 Q. You mean to say it was ripped off?

25 A. No, it was not ripped off. It was—in my view and my
26 inspection, it tells me that they had only two here instead of
27 three.

1 Q. This was supposed to be brand new before they fitted it?

2 A. I, um, I, I don't know.

3 Q. Well, well, that's the evidence that this is a brand new plug—

4 A. Uh-huh.

5 Q. —at the point of being inserted.

6 A. Uh-huh.

7 Q. So what I'm interested in is, is—

8 A. This does not show evidence of ripping.

9 Q. No.

10 A. No.

11 Q. So maybe it just didn't use this—

12 A. Just these two here.

13 Q. Right.

14 A. And you see on this side they have—there are three eyes.

15 Q. Yeah, well that's what I rather thought there'd be three on the
16 top as well.

17 A. Yeah, three on the top. Here in the place they should have three
18 because you're—you're hooking it from here to lift it up.

19 Q. Yeah, get it out.

20 A. Yes.

21 Q. All right.

22 A. And when the crane lift this to insert it inside the riser, you
23 have to hook from here also.

24 Q. Yeah. All right, lovely. Thank you very much indeed. You
25 can take that as well. [*Mr. Chairman hands microphone to Mr.*
26 *Khan*] All right, thank you.

27 **Mr. Chairman:** So, who wants to ask some questions? Yes,

1 Mr. Ramadhar. Mr. Pegus, do you have any questions?

2 **Mr. Pegus:** No, Mr. Chairman.

3 **Mr. Chairman:** Right, so is, it's—is it Mr. Ramadhar, Ms.
4 Maharaj and you, Mr. Mootoo? All right. All right, well we'll
5 do it in that order, shall we? Yes.

6 **Mr. Ramadhar:** Thank you very much, Chairman.

7 **Cross-Examination By Mr. Ramadhar:**

8 Q. Good afternoon, Sir. Thank you so much for your highlighting
9 what is very important information for all of us. My name is
10 Prakash Ramadhar. I represent the interest of the Kurban
11 family and of course Aliyah, the daughter of Yusuf Henry. Do
12 you know when it was that the plug was actually installed?

13 A. Yes.

14 Q. Good. And do you know how long before—

15 A. You want a date?

16 Q. No, not yet, not yet. Do you know how long after the plug was
17 first installed that the Delta P event occurred?

18 A. The plug was installed—

19 Q. Yes.

20 A. —and when, when the habitat was installed and pressurized—

21 Q. Right. Yes. And do you know when the plug was first installed
22 and when, um, the oil and its—well, the fluids were and its—
23 and the contents of the pipe were actually pumped out?

24 A. Phrase that question again for me?

25 Q. Yes, certainly. You have told us of course about the pumping
26 out of the pipe.

27 A. You mean the removal of the contents?

1 Q. Yeah, the removal of the contents.

2 A. Yeah. That happened before the installation.

3 Q. Absolutely. And do you know the date that that occurred?

4 **Mr. Chairman:** It's on page 1536 D.

5 **Mr. Ramadhar:** Yeah.

6 **Mr. Khan:** I can't remember the date.

7 **Mr. Chairman:** There's a schedule showing several dates.

8 **Mr. Khan:** Yeah.

9 **Mr. Ramadhar:** Yes, thank you.

10 **Continued Cross-Examination By Mr. Ramadhar:**

11 Q. In terms of the—you've told us now at berth 5 there's a flange
12 that—a secure flange that was placed after the fluids were
13 pumped out.

14 A. No. On berth 5—

15 Q. Yes.

16 A. —the flange was installed to facilitate the air blowing.

17 Q. Thank you. And then sealed off of course?

18 A. Well a blind flange—

19 Q. Yes.

20 A. —is a seal.

21 Q. Right.

22 A. But on that blind flange you had a nipple—

23 Q. Yes.

24 A. —and a small valve through which compressed air was
25 introduced—

26 Q. Thank you so much.

27 A. —to pump the stuff out.

1 Q. Thank you very much.

2 A. To blow the stuff out.

3 Q. Yes. But would you tell us then—you told us about a
4 CARBER testing.

5 A. Huh.

6 Q. What is the—what is that and what was the consequence of
7 that?

8 **Mr. Chairman:** Really? Have we not established what a
9 CARBER test is now?

10 **Mr. Ramadhar:** Well, with all due respect, Chairman, when I
11 had first asked about whether there was a, um—for instance a
12 opening of a valve, or so I was told, that there was no such
13 removal of air pressure within at berth 5.

14 **Mr. Chairman:** Yes. CARBER test is just going to test the
15 integrity of the weld—

16 **Mr. Ramadhar:** Yes.

17 **Mr. Chairman:**—that has been put together.

18 **Mr. Ramadhar:** Yes.

19 **Continued Cross-Examination By Mr. Ramadhar:**

20 Q. Was there any removal of any air pressure during any event
21 before the incident on the 25th at berth 5?

22 A. As I recalled, um, I think they went to do the CARBER testing.

23 Q. Yes.

24 A. Look at the chronology.

25 Q. Yes.

26 A. Somebody had a chronology on this on site.

27 Q. Yes.

1 A. And the, um—

2 Q. There was a void there.

3 A. —they said that they attempted—they wanted to do the
4 CARBER test, which is a pressure test to test the integrity of
5 the weld, on berth 6.

6 Q. Yes.

7 A. And for some reason it wasn't done and they went across and
8 did it on berth 5.

9 Q. Thank you.

10 A. And to do that test you had to remove the flange.

11 Q. Thank you. So they—

12 A. So you, you, you, you, you de—you, um—

13 Q. Depressurized?

14 A. —you depressurized the system—

15 Q. Thank you.

16 A. —on that side because at that particular time there was a
17 locked-in pressure on it.

18 A. Yes.

19 Q. And because of the fluid as a result of the angle that you've
20 described to us, that would have created a suction below the
21 plug?

22 A. Not, not at the angle so much, but—

23 Q. Well—

24 A. —the pressure drop on berth 5—

25 Q. Yes.

26 Q. —would have caused the liquid on berth 6 to come down a
27 little.

1 Q. Yes.

2 A. And obviously that is sealed so you'll create a small vacuum
3 there.

4 Q. It would have created a vacuum. And as you've told Mr.
5 Maharaj, that would have ensured, to some level, that the Delta
6 P event would have been more aggressive? Is that accurate?

7 A. That is correct.

8 Q. Yes. And, in fact, not just more aggressive but more likely
9 because you've created now another force in addition to the air
10 pressure from the chamber itself?

11 A. Well it's not more likely but it will be more aggressive.

12 Q. More aggressive. Thank you so much. You appreciate that in
13 the oil industry the main part of its function really is about
14 pumping, and therefore the issue of Delta P is a most live one?
15 Isn't that correct? Differential pressures?

16 A. As I mentioned before—

17 Q. Yes.

18 A. —we have to be very careful with respect to use of the terms
19 Delta P, differential pressure—

20 Q. Yes.

21 A. —and a Delta P event.

22 Q. Yes.

23 A. Right? All systems that I—as the Chairman said, there's a
24 Delta P right there.

25 Q. Absolutely. So the point being this is—I want to be very clear
26 it's obvious to me and I'm sure obvious to many but maybe not
27 be obvious to others—

1 A. Yes.

2 Q. —that the—in terms of a refinery environment or, um, like, at
3 Paria, the essence of the science of their business is about
4 pumping?

5 A. It's a major part of a refinery business—

6 Q. Thank you.

7 A. —pumping and moving of fluids from A to B.

8 Q. And you would expect, of course, that the professionals there,
9 including management, should have had some idea about Delta
10 P as you have so easily explained to us today, that they should
11 have some of that knowledge at least?

12 A. Yeah, that's a, that's a common knowledge among—

13 Q. It should be.

14 A. —engineers in the refinery.

15 Q. It should be.

16 A. Differential pressure is always there.

17 Q. Absolutely. And of course you would appreciate a senior
18 person like Mr. Wei, not knowing about differential pressure, to
19 be a bit surprising, wouldn't it?

20 A. Yes.

21 Q. Thank you. And including the General Manager to not
22 understand or know about differential pressure to be a bit
23 surprising equally, yes?

24 A. Yes.

25 Q. Thank you so much. So, now that you've told us that the—

26 **Mr. Mootoo:** Sir, Mr. Chairman, Mr. Chairman—

27 **Mr. Chairman:** Yes.

1 **Mr. Mootoo:**—I'm sorry to intervene in my friend's cross-
2 examination but the questions he's putting to the witness are
3 premised on the fact that neither Mr. Wei nor Mr. Mohammed
4 had any knowledge of differential pressure—

5 **Mr. Chairman:** That's not the evidence.

6 **Mr. Mootoo:**—and that's not the evidence, so, I'm objecting to
7 the questions on that basis.

8 **Mr. Chairman:** Yes, that's not the evidence. The evidence is
9 that Mr. Wei said he did understand differential pressure.

10 **Mr. Ramadhar:** And that was after the event.

11 **Mr. Chairman:** Well, no, that's not quite how it works. I
12 think he recognized that he didn't appreciate that differential
13 pressure was an issue in relation to this particular job, but he
14 understood what differential pressure was.

15 **Mr. Ramadhar:** Thank you, thank you. I am grateful for
16 the—and thank you, Mr. Mootoo. Yes.

17 **Continued Cross-Examination By Mr. Ramadhar:**

18 Q. You would understand, Sir, Mr. Khan, that the very idea of
19 pumping out that pipe, the fluids from that pipe, would have
20 created that environment for a differential pressure and
21 certainly for a possible differential pressure, Delta P event?

22 A. Yes.

23 Q. Thank you. That's the point. Thank you so much, Mr.
24 Chairman and Mr. Mootoo. Now, in terms of the volume of air
25 and the volume of fluid that would have been in that pipe after
26 the event on the 25th or from that evening of the 25th, that
27 knowledge would be very helpful to have determined how

1 much air would have been in the pipe? Let me make it, let me
2 make it simpler.

3 A. Uh-huh.

4 Q. There was a moment when a decision had been taken and when
5 they actually pumped out the contents of the pipe to retrieve
6 bodies. As horrible as that is, that is what happened. Do you
7 not—tell us if it would have been helpful to know how much
8 fluid actually came out of that pipe during that operation so that
9 we could all know, now looking in hindsight, how much air
10 might have been available within the pipe? Because it's either
11 air or fluid, meaning liquid, in the pipe. Isn't that correct?

12 A. One can deduce that, yeah. One can deduce by if you're trying
13 to remove contents of a line, you know the volume of the line.

14 Q. Yeah.

15 A. And if you know the contents that are removed—

16 Q. Yes.

17 A. —whether it's oil or water or oil and water mix up, you will
18 have an idea.

19 Q. And from that, what is not oil and water would be air?

20 A. Yeah but I didn't—I'm not aware—I'm not privy to the method
21 they used—

22 Q. I see.

23 Q. —to pump the bodies out. I don't know.

24 Q. Okay. But the volume that comes out of the pipe—

25 A. Yeah.

26 Q. —would help us or would have been able to help us as to how
27 much air would have been in the pipe?

1 A. That depends upon the technique they used to exhume the
2 water.

3 Q. Forgive my lack of knowledge.

4 A. Uh-huh.

5 Q. What techniques would have been different or what techniques
6 were available?

7 A. Well, if you remove—if you use a pig for instance—

8 A. Yes.

9 Q. —to remove the water from the line, after the accident, then
10 you would say conclusively how much was removed—

11 Q. Thank you.

12 A. —how much liquid was removed.

13 Q. I, I, I—

14 A. I don't know if they used a pig—

15 Q. Yeah.

16 A. —or they used air or some other—or they pumped water behind
17 that, I don't know.

18 Q. Could you help us? So some of us who do know what a pig is
19 in relation to this event—

20 A. Yeah.

21 Q. —what is a pig?

22 A. A pig in simplified terms is like a plug that fits the inside of
23 the pipe and you push air or water behind that plug and dispel
24 exactly what is in front of the plug.

25 Q. Right.

26 A. So you can measure exactly what is in front the pig.

27 Q. Thank you. And of course what comes out the other end if

1 there is a measurement of that—

2 A. You can know exactly.

3 Q. —that is how you will know/

4 A. Yes.

5 Q. Thank you so much.

6 A. Yeah.

7 Q. Are you aware as to whether there was any effort to measure
8 how much fluid or whatever came out?

9 A. No, I—

10 Q. No.

11 A. That was not my remit as you know.

12 Q. Of course. So, the most interesting part of this for us who
13 represent the interest of the families is that when Christopher
14 came out of the pipe, by which time as you've told us and to be
15 quite clear, the pipe had stabilized?

16 A. Yes.

17 Q. All right. And as you've told the Chairman and Mr. Maraj, that
18 you needed an event to trigger something creating a Delta P
19 event, a trigger, correct? And you've already told us that like
20 for instance removing the flange at 5 could have caused that?

21 A. Uh-huh.

22 Q. Yes. A rescue with human beings going in, divers, would that
23 have likely created a trigger sufficient to create another Delta P
24 event?

25 A. Not in my opinion.

26 Q. Thank you.

27 A. I, I understand that one diver went in.

1 Q. Yes.

2 A. I don't know. Yeah.

3 Q. Yeah. And that certainly one would have thought that, as we
4 are building up now, that the knowledge base within an oil
5 company of many years' standing with all the professionals that
6 they pay should have known as basic a thing as that that once
7 the event has occurred, unless you do something to trigger, the
8 likelihood of another event happening were quite limited, isn't
9 it?

10 A. I would think that's a—

11 Q. Yes.

12 A. —a judgment.

13 **Mr. Chairman:** Sounds like a submission.

14 **Mr. Peterson SC:** Yes.

15 **Mr. Ramadhar:** Well I'm asking, and he has—

16 **Mr. Chairman:** No, sounds like a submission.

17 **Mr. Ramadhar:** Well I submit.

18 **Mr. Chairman:** To me, not to him.

19 **Mr. Ramadhar:** Or, I see. Well, I'll start it today then. Yeah.

20 **Continued Cross-Examination By Mr. Ramadhar:**

21 Q. And what we knew then, at the time when Christopher would
22 have come out, from all that you know, was that men were still
23 alive at that point in time within the pipe, from what he said?

24 A. Well what he—prior to his attempt to exit the pipe—

25 Q. Yes.

26 A. —the men were alive because the voice, the GoPro, you know,
27 was—is verification of that.

1 Q. The voices were vital if you've heard them?

2 A. Yes, yes.

3 Q. Much alive.

4 **Mr. Mootoo:** Sir, I'm objecting to this line of questioning on
5 the—

6 **Mr. Chairman:** Yes. Turn on the mike. Yes.

7 **Mr. Mootoo:** I'm objecting to this line of questioning. Mr.
8 Khan is an expert witness. What Mr. Ramadhar is doing is that
9 he's putting a summary or his interpretation of the evidence
10 before the witness—

11 **Mr. Chairman:** Uh-huh.

12 **Mr. Mootoo:**—and asking the witness what third parties would
13 be expected to have known or did, in fact, know?

14 **Mr. Chairman:** Uh-huh.

15 **Mr. Mootoo:** It's really in the domain of non-expert opinion
16 evidence and can be of no assistance to the Commission, in my
17 respectful submission, and ought not to be elicited as evidence.

18 **Mr. Chairman:** Well he's putting various propositions. Mr.
19 Ramadhar—

20 **Mr. Ramadhar:** I do not really wish to change the game at
21 this late stage but we have been doing that throughout this
22 Enquiry, putting things, and this—

23 **Mr. Chairman:** Well I think you have.

24 **Mr. Ramadhar:** Yeah.

25 **Mr. Chairman:** I, um—well, look, I've already made the
26 point that dressing up a question as a—dressing up, rather, a
27 submission as a question and trying to get a witness to agree to

1 it isn't the appropriate way of doing it and you know that, so
2 please, ask him questions, save your thunder until tomorrow
3 when you'll be addressing me on the submissions that you have
4 to make that can be drawn from the answers to the legitimate
5 questions that you asked today.

6 **Mr. Ramadhar:** To say that it's inappropriate, with all due
7 respect, um, you know, I do take some umbrage at that because
8 I am doing what has been accepted within the Commission to
9 put and indicate information and for him to give his opinion and
10 that, um, that's all I'm doing. So whether it is offensive I
11 apologize that it may sound like a submission. The only intent
12 here was, this is the person who I considered to be one of those
13 valuable witnesses and who possibly should have assisted us
14 even earlier so that a lot of the blank shots that would have been
15 fired would have been saved.

16 **Continued Cross-Examination By Mr. Ramadhar:**

17 Q. So, all I'm asking is simply this, that at the time when
18 Christopher came out, you said the pipeline had been stabilized
19 and that a venture of human beings, as you've indicated you
20 knew of a diver going in, could not, in your view, trigger a
21 second Delta P event because it did not, isn't that correct?

22 A. Yeah.

23 Q. The perfect proof is the, is the reality of what happened, isn't
24 it?

25 A. Yes, I would say so.

26 Q. Thank you. And that had a rescue been endeavoured at around
27 that time, the likelihood of saving those lives were real and

1 germane, isn't it?

2 A. You're asking my opinion—

3 Q. Yes, yes.

4 A. —as a professional?

5 Q. Yes.

6 **Mr. Chairman:** Well, I think realistically all he can say is that,
7 if men had gone into the pipe to effect a rescue, it was unlikely
8 that they were going to trigger any Delta P event.

9 **Mr. Ramadhar:** That's what—

10 **Mr. Chairman:** That's all he can say.

11 **Mr. Ramadhar:** Far superior to what I was attempting, so I
12 will adopt that.

13 **Continued Cross-Examination By Mr. Ramadhar:**

14 Q. Men attempting to rescue would very—would be very unlikely
15 to have triggered a Delta P event?

16 A. Very unlikely.

17 Q. I'm so—

18 A. Trigger an event, to trigger the Delta P.

19 Q. Thank you so much.

20 **Mr. Ramadhar:** Mr. Chairman, very grateful to you.

21 **Mr. Chairman:** Good. Yes, Ms. Maraj.

22 **Mrs. Persaud Maraj:** Thank you, Mr. Chair.

23 **Cross-Examination By Mrs. Persaud Maraj:**

24 Q. Good afternoon Mr. Khan.

25 A. Hi.

26 Q. My name is Kamini Persaud Maraj and I'm for LMCS Limited.
27 I just have a couple questions for you. I'd like to refer you to

1 paragraphs 2.6 and 2.7 of your report. This where, this is where
2 you have described the air pressure in relation to the Delta P
3 event, and I do have a question to ask you in relation to the plug
4 with respect to the measurements that you have placed here. So
5 what I would like, let me say what it is that my understanding is
6 and then I will ask you the question. So this plug, at the time
7 that it was being deflated, had not fully deflated. Would that be
8 correct?

9 A. That's correct.

10 Q. All right. And your measurements would give us an idea as to
11 how much was deflated. Is that correct?

12 A. Yes.

13 Q. All right. Would you be able to describe to us how much?
14 Because we know the capacity of the—the diameter of the
15 pipeline and we know what this can be inflated up to, which is
16 not greater than the space it's occupying, so, would you be able
17 to say how much in a visual manner, now that we have this in
18 front of us, how much would have been deflated if it's a
19 substantial amount or just a little bit.

20 A. Now I said approximately 11.4 PSI.

21 Q. Right.

22 A. See, when the plug is inflated—

23 Q. Right.

24 A. —there is something called reaction force. I don't know you—
25 because you want me get into that?

26 **Mr. Chairman:** No. [*Laughter*]

27 **Mr. Khan:** Huh?

1 **Mr. Chairman:** No.

2 **Mr. Khan:** Reaction force—

3 **Mr. Chairman:** Well, I don't think we need—

4 **Mr. Khan:**—is a coefficient of friction.

5 **Mr. Chairman:** Just, just pause for a minute. I, I don't, I
6 don't think that it's necessary to have an expurgation on
7 reactive force. What I think the question is after, is, are you
8 asking him to describe the size of the plug—

9 **Mrs. Persaud Maraj:** Precisely.

10 **Examination By Mr. Chairman:**

11 Q. And I think the effect of her question is this, if you can help us
12 please, Mr. Khan, once you start to deflate this plug, it having
13 been inflated so that it's hugging the insides of this pipe—

14 A. Uh-huh.

15 Q. —obviously as you start to deflate, it's started to shrink a little
16 and it gets to the point where, once it's shrunk enough with the
17 slippery sides of the inside of the pipe, it's going to start to
18 move—

19 A. Uh-huh.

20 Q. —because of the differential pressure that exists, all right? It
21 starts to move and so, in this case it moved almost
22 instantaneously once it got to a certain point, sucked and
23 pushed as we described. So what we're left with at that point is
24 the nipple and whatever it is that's deflating it is now separated
25 as it's moving down, isn't it? Whatever it was that was
26 deflating—

27 A. Uh-huh.

1 Q. —is now separated from the nipple. Does that close the valve
2 at that point on the plug? Do you follow what I mean?

3 A. No, it—

4 Q. Or is it continuing to deflate?

5 A. It will continue to deflate. Now, at 11 pounds pressure—

6 Q. Yes.

7 A. —the plug is still holding on to the tube side. That's what
8 you're getting at.

9 **Mrs. Persaud Maraj:** That's it.

10 A. It is still holding on to the tube side, but remember there's
11 4,000 pounds pushing down on the plug from the six PSI in the
12 hyperbaric chamber.

13 Q. Chamber.

14 A. So 4,000 pounds pushing down on that plug, plus whatever
15 vacuum they had beside underneath, the resistive force—

16 Q. Plus gravity.

17 A. —plus gravity yes, correct, because the weight is a hundred
18 pounds—

19 Q. Yes.

20 A. —the resistive force is the reaction force created by the
21 swelling of it onto the pipe, i.e., multiplied by the coefficient of
22 friction.

23 Q. Yeah, yeah, no, no. We're not going there.

24 A. You see—

25 **Mrs. Persaud Maraj:** Right. So now—

26 A. So that that would have to balance the 4,000 for it to stay put.

27 Q. We need it, we need it, we need it, Mr. Khan, in lay terms—

1 A. Yes.

2 Q. —so that we can all follow.

3 A. So that's a way I could explain that.

4 Q. No, I follow, but I think you are actually a rather better teacher
5 than you are giving yourself credit for because I've understood,
6 and I think we've all understood, very much the sort of
7 dynamics that existed in this pipe. What I think I would be
8 interested in knowing, and I think Ms. Persaud Maraj is also
9 keen on, is, once that plug is deflated, first of all, does it
10 continue to deflate until it gets to the size that it is, or does it
11 stop deflating, it's continuing to deflate or not?

12 A. It will continue to deflate.

13 Q. Right.

14 A. Because there is no, um, check valve with respect to—

15 Q. Right. This is important for a number of other reasons.

16 A. When they open the, um, the valve on the deflating side—

17 Q. Right.

18 A. —and the plug—and it was open, they were deflating—

19 Q. Right so—

20 A. —and the plug started to move, there's no control again.

21 Q. Right.

22 A. They can't close, they can't open more—

23 Q. Right.

24 A. —but it will continue to deflate.

25 Q. So as it's passing down into the tube, it continues to deflate. In
26 fact, it's actually got a force of pushing itself, isn't it?

27 A. Yes.

1 Q. Like a little—like a jet as it were, so there's an additional force,
2 I don't want to get into that, but, in any event it continues to
3 deflate? And this is important for a couple reasons, right? First
4 of all, as you've told us when I came up and had a look at that
5 plug, this plug works for different sizes of pipe, yes?

6 A. Yes, correct, 20 to 36.

7 Q. Between 20 and 36 inches. That is in its almost completely
8 deflated state—

9 A. Yes.

10 Q. As it is at the moment? Which means that it's even less than 20
11 inches, correct?

12 A. That's correct, yeah.

13 Q. Can I take it that when this plug was passing down through this
14 pipe, continuing to deflate, it would eventually get to the state
15 it's in now in the pipe?

16 A. Of course.

17 Q. Right. So, there comes a point when it is actually sitting or
18 floating in the pipe. It's not created a seal, is it?

19 A. It's not created a seal.

20 Q. Couldn't possibly?

21 A. Can't. And if you look at my report on photograph number
22 five, you will see that very plug.

23 Q. That diagram or the photographs?

24 A. Photograph number five.

25 Q. Yeah.

26 A. I don't have my report. Could you pull it up, please?

27 Q. It's on page 1466. No, 1408, 1408.

1 A. Um—

2 Q. Next one down. Move it down. Move it down.

3 A. Next picture.

4 Q. Keep going. That's it there.

5 A. Okay, hold it there. You see that photograph number five?

6 Q. Yes.

7 A. That's the size of the plug inside that exact pipe, 30-inch
8 diameter.

9 Q. All right.

10 *[Document handed to Mr. Khan]*

11 A. Yeah, you see that pipe there? That's it. That's a 30-inch
12 diameter pipe—

13 Q. Right.

14 A. —of the same size and schedule.

15 Q. Sure.

16 A. I made it my business to do that.

17 Q. No, I understand.

18 A. And that, that is the deflated plug waiting to be inflated—

19 Q. Yes.

20 A. —to test its, its, um, its integrity after the accident.

21 Q. And did you test its integrity after the accident?

22 A. Yeah, go up to—you see the other one?

23 Q. Yep.

24 A. I have other pictures showing you. That's just the—

25 Q. No, no, the other way.

26 A. No, no, go down again.

27 Q. That's correct, yeah.

1 A. There, you see that?

2 Q. Yeah.

3 A. That is where the plug is inflated to 20 PSI.

4 Q. Right.

5 A. And it held for—you see the, the—you see the, um, the
6 pressure gauge there?

7 Q. Yeah. It's 20 PSI.

8 Q. And it's now hugging the inside of that—

9 A. Hugging the—on the inside.

10 Q. —30-inch pipe?

11 A. Yes, 30-inch pipe.

12 Q. And, and, er, I, I—

13 A. And it's held—I just did that test because OSHA wanted me to
14 test it—

15 Q. No, I got it.

16 A. —to ensure the integrity of this plug is intact.

17 Q. It worked.

18 A. It was intact.

19 Q. Yes.

20 A. My report says there was no pressure loss.

21 Q. No. But, but when—what I'm after understanding is this, is
22 that once the, once the, er, Delta P event occurred, this plug
23 would have been continuing to deflate as it went into the pipe
24 until eventually, so scroll back again please to where we were
25 looking, to that picture on the right-hand side, it would have
26 been in a similar condition to the one on the picture on the
27 right-hand—

1 A. That's correct.

2 Q. —inside the pump?

3 A. Inside the pipe.

4 Q. Inside the pipe, sorry.

5 A. That's all right.

6 Q. And the consequences of that are that there is no way that that
7 plug could have created a seal of any kind inside the pipe?

8 A. There's no way.

9 Q. No way. Thank you very much.

10 **Mr. Chairman:** Is that what you were after?

11 **Mrs. Persaud Maraj:** Partially. There is a certain part—

12 **Mr. Chairman:** Partially, okay. All right, well you go for the
13 other part, all right?

14 **Continued Cross-Examination By Mrs. Persaud Maraj:**

15 Q. So, Mr. Khan, when that plug was being pulled in together with
16 whatever and all else, right, you mentioned just now to Mr.
17 Ramadhar something of a pig.

18 A. Pig.

19 Q. Would it have been operating in the same manner as a pig?

20 A. No, it can't, because it would have been deflated.

21 Q. No. At the time that it was coming—the deflation—so that's
22 why my first question was premised on the size of the—

23 A. Initially.

24 Q. Yes.

25 A. It would, it would—it will operate as a pig.

26 Q. Right.

27 A. Initially.

1 Q. Right.

2 A. But as it started to deflate it loses its, um—

3 Q. It's integrity?

4 A. —adherence to the side.

5 Q. Right.

6 A. And it gets smaller in effect then.

7 Q. Right. But we know, and you have said it yourself, that this
8 Delta P event which occurred was very quick, it was, it was—

9 A. Almost instantaneous.

10 Q. —almost instantly, so, we can accept from that that the
11 deflation would not have been substantive—

12 A. Yes.

13 Q. —in terms of the size to get it to this stage that we're looking at
14 on screen?

15 A. I'm not following you.

16 Q. You don't follow? So the plug was being deflated in the riser?

17 A. And it moved.

18 Q. And then it moved, right? At that point that it moved from the
19 top of the riser, not really the top but to the top of where the
20 men were working.

21 A. Yeah.

22 Q. And wherever it landed or wherever it stopped at, yeah, it
23 would not have deflated much more than what had—the men
24 had seen or observed at the time that they were deflating it?

25 A. No.

26 **Examination By Mr. Chairman:**

27 Q. Continues to deflate until it gets to the state that it's in now.

1 A. Yeah, continues.

2 **Mrs. Persaud Maraj:** At the initial stage?

3 **Mr. Chairman:** Well we're talking split seconds.

4 **Mrs. Persaud Maraj:** That's correct.

5 **Continued Cross-Examination By Mrs. Persaud Maraj:**

6 Q. So therefore—

7 A. At the initial stage it was hugging the pipe.

8 Q. Right. And at that stage—

9 A. It was sliding.

10 Q. And, and whilst it was sliding it was acting as a pig?

11 A. At the initial stage, yes.

12 Q. At the initial stage?

13 A. At the onset.

14 Q. So therefore, whatever may have been there, any big item,
15 would be carried to the back of that plug now?

16 **Mr. Chairman:** No. No.

17 **Continued Cross-Examination By Mrs. Persaud Maraj:**

18 A. Well I don't know what type of item you're talking about. I
19 don't, I don't expect the pipe to have any big items while in
20 service.

21 Q. Certainly, yes, certainly, certainly/

22 **Mr. Chairman:** Like what? What would have been on the
23 other side of the plug?

24 **Mrs. Persaud Maraj:** Nothing, and that's the point please,
25 that whatever was there would have been moved if ever there
26 was anything in that, in that line, please.

27 **Mr. Chairman:** Yeah. Well there was oil in it, a little bit.

1 **Continued Cross-Examination By Mrs. Persaud Maraj:**

2 Q. The third part of this question in relation to the Delta P event
3 occurring, was, we know that equipment or tools, persons, were
4 pulled in and apparels, diving apparels were pulled in. Is it
5 possible that air, because we know that there was air pressure
6 into the chamber, yes, is it possible that air was also sucked into
7 the pipe in this event?

8 A. That is what I said in a vortex. For a vortex to originate and the
9 vortex to perpetuate—

10 Q. Right.

11 A. —it needs air.

12 Q. Right.

13 A. Right? And that tube that coming down in the vortex is—that's
14 the air. That's the air—

15 Q. So that would have been—

16 A. —that is circulating inside there.

17 Q. That would have been breathable air?

18 A. Of course, because it's air from the compressor.

19 Q. Yeah.

20 A. It is air from the compressor, so that is breathable air that will
21 be sucked in with the vortex.

22 Q. Correct.

23 **Mr. Chairman:** With the water?

24 **Mr. Khan:** With the water.

25 **Mrs. Persaud Maraj:** And the water.

26 **Mr. Chairman:** And the people and all the tools—

27 **Mr. Khan:** Yeah, everybody inside there, all.

1 **Mr. Chairman:**—and everything else, sucked in everything,
2 air, water, people, everything, yes.

3 **Mr. Khan:** It even sucked in spanners too actually.

4 **Mr. Chairman:** Everything.

5 **Mrs. Persaud Maraj:** Yeah, everything.

6 **Mr. Khan:** So that was a tremendous force.

7 **Mrs. Persaud Maraj:** I believe those were all of the
8 clarifications that I needed from you, Mr. Khan.

9 **Mr. Chairman:** Thank you. Yes. Is it Mr. Mootoo you're
10 going to ask the questions, right? Can I ask you how long you
11 think you'll be?

12 **Mr. Mootoo:** Depends on the answers, but—

13 **Mr. Chairman:** Well, it always does, but, er—

14 **Mr. Mootoo:** Maybe about 20 to 25 minutes.

15 **Mr. Chairman:** Shall we take a 5-minute break?

16 **Mr. Mootoo:** If that's convenient.

17 **Mr. Chairman:** We'll take a 5-minute break.

18 **3.49 p.m.:** *Enquiry suspended.*

19 **3.55 p.m.:** *Enquiry resumed.*

20 **Mr. Chairman:** Yes, Mr. Mootoo.

21 **Mr. Mootoo:** Thank you, Chairman. May I begin?

22 **Mr. Chairman:** Yes.

23 **Cross-Examination By Mr. Mootoo:**

24 Q. Good afternoon, Mr. Khan. My name is Jason Mootoo and I
25 represent the interest of Paria. I have a few questions for you.
26 Just by way of preliminary inquiry, how long did it take you to
27 prepare this report?

1 A. I—[*Crosstalk*]—I, I started the report—I said in my statement
2 that—I give the dates when I was assigned the agreement with
3 OSHA.

4 Q. I'm just after approximate dates. I'm not going to hold you to
5 an exact date. Is it a week, two weeks, a month?

6 A. It took me about, um, maybe about three months.

7 Q. Okay.

8 A. Uh-huh. Um, three to four months, yes.

9 Q. And on my reading of the report the analysis is quite thorough.
10 So apart from the actual preparation of the report, the analysis
11 that you've done in the report, would it be fair to say that that
12 would have taken a substantial period of time as well, and, if so,
13 what that was?

14 A. Well, the entire report duration—

15 Q. Yeah.

16 A. —encompassed investigation, review of documents, talking to
17 OSHA, visiting the site—

18 Q. Yes.

19 A. —doing the calculations, and everything was jelled together
20 and issued the report.

21 Q. Okay. And in a best case scenario, if you had nothing else
22 occupying your time—

23 A. Uh-huh.

24 Q. —and you were to focus on the preparation of this report
25 exclusively, how long would it take you?

26 A. This would have been dependent upon the timely issuance of
27 information I requested from OSHA.

1 Q. Assuming you had all the information.

2 A. Yes.

3 Q. So you had all the information and OSHA came to you and
4 said, “Mr. Khan this is a complete package—

5 A. Uh-huh.

6 Q. —undertake an analysis for us and prepare this report.” Well
7 how long would you—

8 A. That’s a hypothetical question.

9 Q. Yeah, it is, but, how long would the analysis have taken?
10 Because it’s quite, at least to me—

11 A. When you say anal—analysis is different from discussions.

12 Q. Yes.

13 A. You’re talking about the entire report in its entirety?

14 Q. Yes. The analysis and the findings—

15 A. Findings and—

16 Q. Yes.

17 A. —review of all, all the—well, as I say, it depends upon how
18 much documentation were given to me, so I cannot quantify.

19 Q. Well as you say—

20 A. What I would say, maybe within the same period, I suppose.

21 Q. Okay, three months.

22 A. Yeah.

23 Q. Okay, fair enough. You are aware of the use of work permit
24 systems in the oil and gas industry in Trinidad and Tobago,
25 aren’t you?

26 A. Well, I have, I have an idea.

27 Q. Yes.

1 A. But I don't know it—different companies have different rules
2 and regulations with respect to permits. I don't know which
3 one you're talking about.

4 Q. Well, I'll come to that in a minute.

5 A. All right then.

6 Q. But you are aware that the use of work permits is a fairly
7 common feature in the oil and gas industry for the execution
8 of—

9 A. It's not fairly, it's common.

10 Q. Very good.

11 A. Yeah, yes.

12 Q. Thank you.

13 A. Yeah.

14 Q. It's common?

15 A. Yeah.

16 Q. And would you agree with me that despite the variations that
17 different companies may have in their work permit procedure,
18 that it's fairly standard industry practice, that, where a work
19 permit system exists, crucial aspects of work are not expected
20 to be undertaken or executed unless they are the subject of a
21 work permit?

22 A. I would—

23 **Mr. Chairman:** Can you really answer that?

24 **Mr. Khan:** I would think—

25 **Mr. Chairman:** Can you answer that question fairly.

26 **Mr. Khan:** Pardon me, Sir?

27 **Mr. Chairman:** Do you think you're able to answer that

1 question? Do you think you're—

2 **Mr. Khan:** I want you to—could you rephrase that question?

3 **Continued Cross-Examination By Mr. Mootoo:**

4 Q. We've already established that you are of the view that work—
5 the use of work minutes is fairly standard in the industry?

6 A. Uh-huh.

7 Q. And you've told me that the use of—that the procedure may
8 vary from company to company. What I'm asking you, is,
9 notwithstanding the variations in the procedure, and given your
10 industry knowledge about the use of work permits, would you
11 accept that where crucial aspects of work are to be undertaken,
12 those aspects of work are to be the subject of a work minute,
13 specified in a work permit?

14 A. For each individual one, you should have a work permit for
15 each individual major activity.

16 Q. Good. Okay. Good. Now, you have told us in your report at
17 paragraph 3.4.1—

18 A. Uh-huh.

19 Q. —that removal of the mechanical seal and the inflatable plug
20 were crucial aspects of the work. Yes?

21 A. That—in my opinion they were.

22 Q. Yes. And based on your industry knowledge and experience,
23 would you therefore agree with me that for a contractor, let's be
24 specific, in your experience, for LMCS to undertake or embark
25 upon the removal of the inflatable or mechanical plug on the
26 25th of February, a work permit would have been necessary in
27 respect of that item of work?

1 A. I would. I would, yeah.

2 **Mr. Maharaj SC:** Well, well I, I, I regret I have to—I think
3 this is an unfair question to the witness because—

4 **Mr. Mootoo:** He was about to say yes.

5 **Mr. Maharaj SC:** No, well it depends upon the rule. The
6 work permit there are rules, specific rules, express rules and I
7 think he came here as an expert in a certain field not an expert
8 in work permits.

9 **Mr. Mootoo:** Well—

10 **Mr. Maharaj SC:** And he came as an expert in a particular
11 field.

12 **Mr. Chairman:** I'm going to allow you to ask that question,
13 but I am concerned about where this is going. You've
14 already—we've already established through other evidence
15 what the work permit regime is. You've made it pretty clear
16 what your case is in relation to the work permits, that there
17 needed to be a work permit in relation to the removal of the
18 plug.

19 **Mr. Mootoo:** Well, Chairman, I understand that, but what this
20 witness has done in his report, and the Commission hasn't
21 confined him in his evidence, is that he's spoken directly to
22 work permits.

23 **Mr. Chairman:** Yes.

24 **Mr. Mootoo:** He's expressed his view as to those work
25 permits and what they should have—

26 **Mr. Chairman:** Where are you referring to?

27 **Mr. Mootoo:** He starts at 3.4, he deals with it at 3.4.1, 3.4.2.

1 He says the work permit focused on too many key activities.
2 So this is a witness who, based on his experience, knowledge
3 and skill clearly knows about a work permit system. He's told
4 us that today. And more than that he's considered Paria's work
5 permits, so I don't know that it lies in the mouth of Counsel to
6 the Commission, having been alive to this evidence adduced it
7 without culling it, to now stand and take an objection that
8 somehow this witness has trespassed out of his expertise and it
9 would be unfair.

10 **Mr. Chairman:** No, no, no. I'm not suggesting that. That's
11 why I've said to you I'm going to permit you to ask the
12 question. What I'm—I am concerned, though, where this is
13 going and to what extent you're proposing to mine this field.

14 **Mr. Mootoo:** Well, what we have here is a witness who, in my
15 understanding, he has come prime primarily to give evidence
16 with respect to Delta P and the factors—

17 **Mr. Chairman:** Yes.

18 **Mr. Mootoo:**—which gave rise to the event.

19 **Mr. Chairman:** Yes.

20 **Mr. Mootoo:** But what he's also done is that he has given
21 evidence about the work permits. He has attempted by his
22 report to attribute blame and I am entitled to interrogate that,
23 unless, of course, the Commission says insofar as his statements
24 are concerned in that regard they're going to disregard it.

25 **Mr. Chairman:** No, I'm not going to do that but I'm going to
26 take it into account with all the other evidence that we've
27 already heard about work permits, certainly, but, as I say, I'm

1 not stopping you at this stage. What I am going to do, though,
2 is to keep an eye on where we're going with it, all right?

3 **Mr. Mootoo:** Yes.

4 **Mr. Chairman:** So you ask what you need to ask and I'll stop
5 you if I think it goes too far.

6 **Mr. Mootoo:** I'm grateful.

7 **Continued Cross-Examination By Mr. Mootoo:**

8 Q. So I think, Mr. Khan, we were at the position where, um, you
9 had—we had established together that based on your
10 experience one would have expected a separate work permit, if
11 I hear you correctly, to be issued for the removal of the plugs,
12 yes?

13 A. A separate work permit for all the activity listed on that work
14 permit.

15 Q. Okay, good, but for the questions that I am—

16 A. All the activities, major activities.

17 Q. I hear you. But for the purpose of the questions I'm going to
18 ask you, I am just focusing on the removal of the plugs at this
19 moment. And you have seen the work permits in the—because
20 you've annexed them to your report. Am I right about that?

21 A. Yeah, yeah.

22 Q. Good. And would I be right in saying in your opinion, having
23 looked at the work permits, there was nothing on the work
24 permit that spoke, in your interpretation, to the removal of the
25 plugs? Would you like me to take you to the work permit to
26 refresh your memory?

27 A. Nothing was mentioned—

1 Q. Yes.

2 A. —in the work permit concerning plugs.

3 Q. Good.

4 A. That's a fact.

5 Q. Yes. Now, you've also said in your report, and I can take you
6 to it if we need to get to it, from the—you looked at a variety of
7 documents, the job hazard analysis, the toolbox meeting
8 documents and so on, and I think it's your conclusion, that,
9 having looked at those documents, the removal of the plugs on
10 the 25th of February was not a matter subject to discussion.
11 You've expressed a view on that, haven't you? You recall
12 expressing a view on that?

13 A. Could you make a reference to that?

14 Q. I will, but do you recall expressing a view on it?

15 A. A view on what aspect?

16 Q. That no discussion was held—on the documents you reviewed,
17 there was no discussion about the removal of the plugs on the
18 25th of February, 2021?

19 A. Yeah, and what I reviewed I couldn't see any discussion, well, I
20 reviewed.

21 Q. Okay, good.

22 A. Yeah.

23 Q. Would you like me to take you to that part of the report or
24 you—

25 A. You will need to—

26 **Mr. Chairman:** I would.

27 Q. Yes.

1 A. —rephrase your question.

2 Q. If I can take you to paragraph 3.4.4 which is on page 126, the
3 top of that page? Oh, it's page 12 in the top right-hand corner
4 of the report. Or the—

5 **Mr. Chairman:** Eleven, it's 11.

6 **Mr. Mootoo:** Well it starts on 11 but it goes over the page,
7 which is the conclusion.

8 [*Document handed to Mr. Khan*]

9 **Continued Cross-Examination By Mr. Mootoo:**

10 A. Which section you're referring to?

11 Q. I'm at the top of page 12 which is part of paragraph 3.4.4.

12 A. Yeah.

13 Q. Yes. I just wanted to bring it to your attention.

14 A. Uh-huh.

15 Q. I think the Chairman wanted it for clarity.

16 **Mr. Chairman:** Yes.

17 **Mr. Khan:** All right, go ahead.

18 **Mr. Chairman:** The passage you're concerned with, as I
19 understand it, Mr. Mootoo, is the final sentence of that
20 paragraph says, "No discussions were held on one of the key
21 activities, for example, removal of the mechanical seal or
22 removal of the inflatable plug", and then seeing reference to
23 toolbox meeting.

24 **Mr. Mootoo:** Yes.

25 **Mr. Chairman:** Yes. That's what's you're referring to, isn't
26 it?

27 **Mr. Mootoo:** Indeed, Sir, and part of the reason why I'm

1 undertaking this exercise, is, this report is not just a technical
2 report. It's an investigative report done for OSHA which on its
3 face straddles a number of issues.

4 **Continued Cross-Examination By Mr. Mootoo:**

5 Q. So, am I therefore correct to say—in other words, from what
6 you've seen, and the documents that you got, there was nothing
7 which said to you that LMCS intended to remove the plug on
8 the 25th of February, 2021?

9 A. That's correct, but so was no mention made of other key
10 activities.

11 Q. Yes.

12 A. No mention was made on things like cutting the line, cutting
13 this, taking out, you know. Those are key activities.

14 Q. I, I'm not—

15 A. So I just brought this one because this was important.

16 Q. I'm not disputing that.

17 A. Yes, so, the, the, the, the—no, I have to comment on that, well,
18 because, the topics were discussed were—had nothing to do
19 with the work, only the work environment, nothing to do with
20 the actual work.

21 Q. I'm not disputing that.

22 A. But I just want you to make sure that—

23 Q. Yes.

24 A. —you understand that.

25 Q. In fact—

26 A. And that was the point I was getting at.

27 Q. I'm not disputing that.

1 A. Okay.

2 Q. And thank you.

3 A. And I—you know.

4 A. So, if the work permit had said, “Hey, do this, do this, do this”,
5 and those are important items that are listed on the work permit,
6 but nothing was mentioned. That was a very strange thing. In
7 my opinion, you know, that is not a toolbox meeting.

8 Q. Yes.

9 A. Yeah.

10 Q. I agree. I agree.

11 A. Okay.

12 Q. In fact, in your opinion, unless a major activity is specified on a
13 work permit, the activity shouldn't take place, it shouldn't be
14 undertaken, isn't that right?

15 A. Well, that will go for cutting the pipe too then?

16 Q. I am not—

17 A. Whole job should be shut down?

18 **Examination By Mr. Chairman:**

19 Q. You need to be a bit careful because there's a difference
20 between the work permit, which does specify certain things to
21 be done, and the toolbox meeting the notes of which seemingly
22 do not touch upon any of the work being done at all. Is that not
23 right, Mr. Khan?

24 A. Pardon me?

25 Q. The paragraph you've been specifically referred to—

26 A. Yeah.

27 Q. —at 3.4.4—

1 A. Uh-huh.

2 Q. —deals primarily with the toolbox meeting?

3 A. Yeah.

4 Q. Your observation that in fact all that seems to have been
5 discussed was, as Mr. Mootoo has put it, I think it was him, are
6 the conditions rather than any of the actual work being done?

7 A. Yes.

8 Q. That's right, isn't it?

9 A. Yeah.

10 Q. And so his observation—

11 A. The toolbox.

12 Q. —his observation to you is, the toolbox meeting didn't actually,
13 on the face of it, appear to instruct on any of the work due to be
14 undertaken on that day, on the face of the document?

15 A. Yes.

16 Q. We've heard other evidence from Mr. Boodram and others—

17 A. Uh-huh.

18 Q. —but the fact is that that is what was being—that's what's
19 disclosed on the face of the documents, the contemporaneous
20 documents, at the time, I think is the point that Mr. Mootoo is
21 making?

22 A. That's correct but can I see—can I be refreshed of the actual
23 work permit?

24 Q. Yes. There's no reason why you can't see the work permit.
25 You'll find it in our core bundle three at page—

26 **Mr. Mootoo:** It's—Mr. Chairman it's actually—it's attached
27 to his report.

1 **Mr. Chairman:** It is, I think, yes, that's right. I've just got to
2 go through my original because it's the one I scribbled on.

3 **Mr. Mootoo:** And his report is at page one four—the work
4 permit in his report is at page one four nine seven of the
5 supplemental.

6 **Mr. Chairman:** So it's in that bundle.

7 **Mr. Mootoo:** I'm happy to take him to it, but I think he's
8 answered the limited question I have on it.

9 **Mr. Khan:** Yeah, okay.

10 **Mr. Chairman:** Well, let's let him look. Put it up on the
11 screen somebody, 1074 core bundle three. Yeah, it's there,
12 thank you.

13 **Mr. Khan:** I don't think it's in there. It's an attachment.

14 **Mr. Chairman:** It is an attachment to your report as well.

15 **Mr. Khan:** It's not the report, it's an attachment, but still in
16 the—it's not in the body of the report.

17 **Examination By Mr. Chairman:**

18 Q. No, no, no, no, the reference to what the jobs that were to be
19 done in that particular work permit is set out at the beginning.
20 Do you see it says, "Specific tasks: to remove and install a 50-
21 inch flange, remove and install a 30-inch riser pipe, remove a
22 30-inch solid flange." Do you see, et cetera, and there's
23 nothing in there about a plug.

24 A. That's correct. I said yes. I agree with you there.

25 Q. So the only reference to any kind of plug or barrier—

26 A. Uh-huh.

27 Q. —is if you scroll down a little further on the screen you'll see

1 there that it says under section B1, “Cleared of
2 process/hazardous materials. Yes. Migration barrier to be
3 used.” Do you see that?

4 A. Yes.

5 Q. That’s the only reference to a migration barrier, presumably this
6 plug. Yes?

7 A. Yes.

8 **Mr. Chairman:** All right, Mr. Mootoo.

9 **Mr. Mootoo:** I have no questions for you on that document
10 arising out of that.

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. You say at the commencement of your report you looked at a
13 number of documents, Paria’s scope of works, a series of
14 documents. I believe they are 15 documents, yes?

15 A. That was the remit given to me OSHA, just for your
16 information. It’s kind of.

17 Q. I understand.

18 A. Yeah, okay.

19 Q. I understand. When you—having looked at those documents,
20 did you become aware that LMCS was responsible for draining
21 the line between berth 5 and berth 6? In other words, it was
22 their contractual responsibility to do so. Was that something—

23 A. You, you had—is there—I think I remembered in their
24 statement they say a controlled draining.

25 Q. But my question is a little bit more specific. Do you recall
26 seeing, anywhere in the documents, that it was LMCS’
27 responsibility to drain the line?

1 A. I have to, um—I don't know if you cite an area I would like to
2 see it.

3 Q. Perhaps I'll take you to—I don't know if you saw what is
4 Addendum I. May the witness be referred to page 598 of the
5 core bundle?

6 A. What was the date of that Addendum I?

7 Q. I'm going to get it for you now.

8 A. Yeah.

9 Q. In fact it's up on the screen. Right?

10 **Mr. Chairman:** Just a minute so I can get it.

11 **Mr. Mootoo:** Yeah.

12 **Continued Cross-Examination By Mr. Mootoo:**

13 Q. And I'd ask you to look at, um, question one, the query and the
14 response. The date should be at the end of the document, I
15 think.

16 **Mr. Chairman:** Five nine?

17 **Mr. Mootoo:** Five nine eight.

18 **Mr. Chairman:** Yes. Yes thank you.

19 **Mr. Mootoo:** Yes, thank you. It appears to be unsigned but
20 we do know, it's not controversial, that the Addendum was
21 issued before the works were executed and the contract
22 awarded, but just so you can follow, Mr. Khan, you see the
23 answer to query one?

24 **Mr. Chairman:** Well first of all I think we should ask him if
25 he's ever seen it before.

26 **Mr. Mootoo:** Yes.

27 **Continued Cross-Examination By Mr. Mootoo:**

1 Q. Have you ever seen this document before?

2 A. Not before I wrote the report.

3 Q. Okay, but have you seen it since writing the report?

4 A. I've seen it after.

5 Q. Okay. So before I asked you this question today, you had seen
6 this document?

7 A. Before today, yes.

8 Q. Yes, okay, good. And therefore—

9 A. That's why it doesn't form part of my report.

10 Q. That's all right.

11 A. If I can see it I could comment on it.

12 Q. That's all right.

13 A. Yes.

14 Q. But my question to you is very limited.

15 A. Uh-huh.

16 Q. All right? You therefore don't dispute, it's not an issue, is it,
17 from your perspective, that LMCS was responsible for draining
18 the line?

19 A. To, um—I'd seen a response to a query.

20 Q. Yes.

21 A. A query.

22 **Examination By Mr. Chairman:**

23 Q. Yes, yes, look, first of all that you under—you follow—

24 A. Who is responsible—

25 Q. —the query, the query comes from the contractor—

26 A. Yes.

27 Q. —LMCS.

1 A. Now, I am not sure whether that came from LMCS or not.

2 Q. Well I'm telling you that that's the evidence, all right? So that
3 you understand—

4 A. Yeah.

5 Q. —the question that Mr. Mootoo is asking. The query comes
6 from the contractor, that is LMCS, or a contractor, a contractor.

7 A. A contractor?

8 Q. Yes.

9 A. Because in a, in a, in a, in a, in a meeting with contractors
10 before the submission of the proposal, all contractors are asked
11 to submit.

12 Q. Yes, you're right, so this is from a contractor—

13 A. A contractor.

14 Q. —not necessarily LMCS.

15 A. Yeah. I think you want to be clear.

16 Q. Either way, it makes no difference because—

17 A. Yes, because the question is asked.

18 Q. —the, the, the question is asked, exactly.

19 A. Yeah.

20 Q. And the answer given by Paria is the contractor is responsible
21 for the safe removal of the hydrocarbon contents from the line
22 to ensure that the line is clear and dry.

23 A. But in my opinion, Sir, with all due respect, that query was not
24 answered properly.

25 **Continued Cross-Examination By Mr. Mootoo:**

26 Q. Okay.

27 A. All right.

1 Q. Mr. Khan, Mr. Khan—

2 A. To clear the lines with water.

3 Q. Mr. Khan—

4 A. Yes.

5 Q. —please? We're not getting into anything other than for the
6 purpose of my question—

7 A. Okay good.

8 Q. —as to where the responsibility lay—

9 A. No I'm not talking—

10 Q. —for the draining.

11 A. —about responsibility, Sir.

12 Q. Well that's what I'm talking about, so, if you answer me on that
13 we can move on to some other questions.

14 A. Yeah. But I have to say my say.

15 Q. So are we—

16 A. Let me finish my section, please?

17 Q. Mr. Khan, please?

18 A. I'll listen to you first.

19 Q. Okay, thank you.

20 **Mr. Chairman:** Now, Mr. Khan, the process is this, is that Mr.
21 Mootoo is entitled to ask you the questions he asks you. You
22 will confine yourself to answering that question, as I've said to
23 many, many witnesses in this hearing. You will answer the
24 question as best you're able, if it's at all possible, with a yes or
25 no answer. If you wish to add something after that, you'll be
26 permitted to do so, and I will ensure that you are all right.

27 **Mr. Khan:** Yeah.

1 **Mr. Chairman:** Sometimes it's straightforward and up and
2 you say yes or no—

3 **Mr. Khan:** Yes.

4 **Mr. Chairman:**—and it can end there. That way we progress
5 much speedier and we will get done today when I'm—because
6 the evidence will conclude today whatever time it is, all right?

7 **Mr. Khan:** Okay. Yes, Sir.

8 **Mr. Chairman:** Yes.

9 **Continued Cross-Examination By Mr. Mootoo:**

10 A. Sorry about that, Sir.

11 Q. That's okay. Just to be fair to you—

12 A. Yes.

13 Q. —so that we proceed from the same point, you accept that—
14 you now accept that LMCS was responsible for draining the
15 line, do you?

16 A. Yes, according to this response.

17 Q. Okay, thank you.

18 A. But I need to clarify that statement.

19 Q. Well, before you do—

20 **Examination By Mr. Chairman:**

21 Q. Well, do you, to what end? I mean you—

22 A. Well, you see the query was to clear the lines with water?

23 Q. Who says that?

24 A. The query. “Who is responsible for pumping back from the
25 berths to clear the lines with water?”

26 Q. Right.

27 A. And that is on a—I don't know. I don't understand.

1 **Continued Cross-Examination By Mr. Mootoo:**

2 Q. Okay Mr. Khan, let me see if I can help you.

3 A. Yes.

4 Q. Because this appears to be problematic for you. You remember
5 LMCS prepared a project work statement for this job?

6 A. A project work statement?

7 Q. A method statement.

8 A. A method statement, yes.

9 Q. Yes. They call it a project work statement.

10 A. A method statement.

11 Q. You have it annexed to your report. You remember looking at
12 it?

13 A. A method statement from LMCS, yes, correct.

14 Q. Yes. You remember looking at it?

15 A. Yes.

16 Q. Do you remember in that method statement that LMCS set out a
17 procedure for removal of line content between berth 5 and berth
18 6?

19 A. Yes.

20 Q. Right. We can go to the document if we have to—

21 A. Yes.

22 Q. —but I'm trying to save time. This is a small point but—and
23 therefore don't you accept that if they prepared a procedure for
24 the removal of line content, that it's their obligation?

25 A. To remove the line content, yes.

26 Q. Okay, good, thank you.

27 A. Yeah.

1 **Mr. Chairman:** I think Mr. Khan's concern was that the query
2 suggested the berth be clear with—the lines with water as
3 opposed to removing the oil from the line.

4 **Mr. Mootoo:** Sir, I understand that perfectly, but, as I
5 explained to him more than once, I wasn't concerned with how.

6 **Mr. Chairman:** Right or what.

7 **Mr. Mootoo:** I was concerned about where the responsibility
8 rested.

9 **Mr. Chairman:** Right. You're not concerned with how or
10 what.

11 **Mr. Mootoo:** No.

12 **Mr. Chairman:** Just where the responsibility lay?

13 **Mr. Mootoo:** Yes.

14 **Mr. Chairman:** And just for everyone's education on the
15 matter, you referred him to his method statement on the
16 question of the removal of the contents of Sealine 36 between 5
17 and 6 and that is at 1041? If anybody wants to look, that is the
18 work method statement relating specifically to the removal of
19 the material from the line.

20 **Mr. Mootoo:** Thank you, Mr. Chairman.

21 **Continued Cross-Examination By Mr. Mootoo:**

22 Q. Now, if I understood your expert evidence correctly, and please
23 correct me if I'm wrong, you spoke about a void created as a
24 result of air blowing. Am I right?

25 A. Yes I did.

26 Q. Good. And the air blowing on this job, from what you've
27 looked at, that air blowing was undertaken by LMCS.

1 A. That's correct.

2 Q. Good. So if LMCS was undertaking the air blowing, would
3 you not accept that they should have been aware of the
4 possibility of the creation of a void, as a contractor doing work
5 of this nature?

6 A. I'll answer that question before but I need to—I'll clarify my
7 statement.

8 Q. Yes.

9 A. Please repeat that question?

10 Q. Would you accept—

11 A. Yes.

12 Q. —that LMCS being the contractor responsible for you blowing,
13 ought to have been aware of the possibility of the creation of a
14 gaseous void as a result of the air blowing process?

15 A. Yes, but—

16 Q. Okay.

17 **Mr. Chairman:** Right, now you can add your but—

18 **Mr. Khan:** Okay, good. [*Laughter*]

19 **Continued Cross-Examination By Mr. Mootoo:**

20 A. Now, they were working on a procedure, a work instruction, as
21 far as I understand, from Paria. Right? Correct me if I'm
22 wrong. And I was looking at a statement, Mr.—Kurban, Mr.
23 Kurban, which he said he had no communication with respect
24 to how much liquid was being removed. They just were asked
25 to supply a compressor and pump out the line in accordance
26 with a procedure, a work instruction, issued by Paria. So that is
27 what I understand.

1 Q. So let me understand your evidence. You are saying that the
2 contractor who has primary responsible—not primary, the
3 responsibility for air blowing the line—

4 A. Uh-huh.

5 Q. —has no concurrent responsibility to be aware of the fact that
6 air blowing might have created a gaseous void?

7 A. I'm not saying that.

8 Q. Okay. Well would you accept that they should have such a
9 responsibility?

10 A. Truth and in fact, yes, I am answering you clearly—

11 Q. Thank you.

12 A. —supposed to have that.

13 Q. And, in fact, if the air blowing—if the clearing of the line was
14 the contractor's responsibility, the method for clearing is
15 normally that of the contractor? Would you not accept that as
16 well?

17 A. Yes, but—no, I mean to say, you asked me a question but I
18 have reservations about the question. I'm a professional, I
19 understand the exact method, but the contractor is operating on
20 instructions, a work instruction, issued by the client.

21 Q. What is the—

22 A. So he has to work in accordance with that. If he had, you
23 know—okay. I'll end there.

24 Q. No, no, well I'll—let me take you on that.

25 A. Uh-huh.

26 Q. Because I'm suggesting to you that the contractor is to fulfil a
27 scope of work and that the method by which that scope is

1 achieved is the responsibility of the contractor. In other words,
2 it is—would you accept that? He is given a scope. The method
3 by which he achieves that scope is his responsibility.

4 A. Not if it is clearly outlined in his scope. He'll be deviating
5 from his scope.

6 **Mr. Chairman:** I think we should have a look at this.

7 **Mr. Mootoo:** Well, I'm about to take you to that.

8 **Mr. Chairman:** Yes.

9 **Mr. Mootoo:** All right?

10 **Mr. Chairman:** Yes.

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. You looked at the technical specifications for this job?

13 A. Yes.

14 Q. It's also attached to your report. Didn't you, scope of work, the
15 technical scope of work? It's at attachment seven.

16 **Mr. Chairman:** Page?

17 **Mr. Mootoo:** I am seeing at—Mr. Chairman, the difficulty I
18 have is I'm working off a document which has number one four
19 nine on the bottom but I'm not entirely sure it accords with
20 the—yes, it's attachment seven. Let me see if I can help. I
21 think it's at page—technical scope of work is at page five five
22 eight of the core bundle.

23 **Mr. Chairman:** Volume I. Yes, got it. Tab 19.

24 [*Commission orderly assists Mr. Khan*]

25 **Mr. Chairman:** Scope of work technical. Yes. Where should
26 we go?

27 **Mr. Mootoo:** If I can take the witness to item 2.1, which is on

1 page 561—

2 **Mr. Chairman:** Five six one. Yeah.

3 **Mr. Mootoo:**—elements of this project include—should be
4 include—but is not limited to removal of fuel oil from line with
5 zero spill. All right? So that's one of the items. But what I
6 understood Mr. Khan to be saying essentially is that the
7 methodology for the execution of the scope he agrees with me
8 that that is a matter for the contractor, subject to a limitation,
9 any limitation, imposed on the contractor. So, you see, he was
10 anxious to point that out so I'm inviting him now to point to the
11 scope and show me where Paria imposes such a limitation on
12 LMCS.

13 **Continued Cross-Examination By Mr. Mootoo:**

14 A. A limitation?

15 Q. A requirement that they engage in air blowing.

16 A. I ain't follow you.

17 Q. Okay, let me see if I can help you.

18 A. Yeah.

19 Q. You said to me that you would agree with me but there was a
20 but.

21 A. Uh-huh.

22 Q. And the but was, well, where the contractor is expressly
23 instructed to do something.

24 A. Yes.

25 Q. Yes?

26 A. Yes.

27 Q. So this is the scope?

1 A. Uh-huh.

2 Q. We agreed on that?

3 A. Correct. This is the scope that he worked with.

4 Q. Right. You didn't point out in your report, did you, any
5 exception that pointed to LMCS having to engage in air
6 blowing pursuant to instruction from Paria, did you?

7 A. No. I didn't point that out.

8 Q. Right. So this is the scope?

9 A. Right, but—okay, go ahead.

10 Q. This is the scope?

11 A. Uh-huh.

12 Q. Where, in the scope, is there this exception or is there no
13 exception, Mr. Khan?

14 A. I still don't understand it.

15 Q. All right, well maybe, maybe the error is mine.

16 **Mr. Chairman:** Somebody has to help me. There was a Paria
17 document which I thought that's what he was referring to,
18 which set out part of the work plan for the removal of fuel from
19 the line.

20 **Mr. Mootoo:** There was a Paria document but that Paria
21 document—

22 **Mr. Chairman:** Which I'm told was an internal—

23 **Mr. Mootoo:**—was an internal document—

24 **Mr. Chairman:** Yes.

25 **Mr. Mootoo:**—that wasn't issued to LMCS, it was for Paria's
26 operators.

27 **Mr. Chairman:** No I understand that.

1 **Mr. Mootoo:** Yes.

2 **Mr. Chairman:** But, in fact they had it, didn't they?

3 **Mr. Mootoo:** I'm—

4 **Mr. Chairman:** I thought that there was evidence—sorry?
5 [*Crosstalk*] Work instruction. That's what it was called, I
6 think, yes. Where do we find that, please? Because I'd
7 understood that the evidence was that it was intended to be an
8 internal document. It's obvious—

9 **Mr. Mootoo:** Sir, that's core bundle one zero three three,
10 right?

11 **Mr. Maharaj SC:** The evidence was that it was intended to
12 be—there was evidence that it was intended to be by, I think,
13 Mr. Piper, but there was other evidence that it was
14 communicated.

15 **Mr. Mootoo:** No, I—well, I'm not entirely sure that I, I agree
16 with that interpretation of Mr. Maharaj's summary of the
17 evidence, but, be that as it may, before we, before we actually
18 take the witness to it, I want to understand something, so may I
19 ask him this preliminary question?

20 **Mr. Chairman:** Please do.

21 **Continued Cross-Examination By Mr. Mootoo:**

22 Q. Are you saying that you have seen a document that Paria
23 required LMCS to engage in air blowing? Is that what you are
24 telling the Commission?

25 A. I saw that document subsequent to issuance of my report.

26 Q. Okay.

27 A. As a matter of fact—

1 **Mr. Khan:** Can I continue, Sir?

2 **Examination By Mr. Chairman:**

3 Q. But I just want to know which document we're talking about
4 before we go any further.

5 A. Work instruction QO something.

6 Q. Can you put up on the screen for the—yeah, it's on the screen
7 now. Is that, is that what you're talking about, 10.33.

8 A. POSW, work instruction, correct.

9 Q. You've seen this document?

10 A. January 5th, '22.

11 Q. You've seen this document before, have you?

12 A. I've seen it before but subsequent to these—

13 Q. After you've drafted your report?

14 A. After, well—after—

15 Q. You've been shown it since?

16 A. Pardon me?

17 Q. You've been shown this document since—

18 A. Yes.

19 Q. —drafting your report?

20 A. And I'll, I'll tell you why the circumstances I saw this
21 document.

22 Q. Right.

23 A. Can I say that?

24 Q. Well, yes, all right.

25 A. Now, prior to my issue of report, I was pestering the OSH
26 department to tell me how the line was drained.

27 Q. Right.

1 A. What method they used.

2 Q. Yes.

3 A. And how—no, how much liquid came from the line because
4 that was fundamental in my report.

5 Q. Right.

6 A. You need to find out, because a vortex was formed and the men
7 were sucked in. So I pestered OSHA to get this information for
8 me.

9 Q. Right.

10 A. And the day I issued my report was the 19th of July, and they
11 send this information to me on the 27th of July.

12 Q. Right. Okay. Well there, there you go.

13 A. It was given to OSHA.

14 Q. All right. Take, take, take your questioning from there, Mr.—

15 A. —and they sent it to me on the 27th of July.

16 **Mr. Chairman:** All right, I understand now.

17 **Mr. Mootoo:** Yeah. I think Mr. Khan is taking us slightly off
18 course so I'm going to try and—

19 **Mr. Chairman:** Bring him back.

20 **Mr. Mootoo:**—rephrase my question.

21 **Mr. Khan:** Okay.

22 **Continued Cross-Examination By Mr. Mootoo:**

23 Q. Right. You are familiar with work instructions in the context of
24 contracts of this nature?

25 A. Not necessarily, but a work instruction has many forms and
26 facets.

27 Q. Mr. Khan, can you answer—

1 A. Yeah, I'm not familiar with—

2 Q. You're not familiar with work instructions?

3 A. I'm not familiar with any particular one but I have an idea of a
4 work instruction.

5 Q. Okay. You've—

6 A. It could take many forms and fashions.

7 Q. You've seen many of them over the years?

8 A. Over the years, yeah.

9 Q. Yes. And, of course, an elementary component of a work
10 instructions is that it is addressed to the contractor. Isn't that
11 right?

12 A. Yes, a work instruction is addressed to the contractor.

13 Q. Yes. Can you show me where, on this work instruction, it is
14 addressed to LMCS?

15 A. I can't—I don't know. I haven't looked at that.

16 Q. Well you've looked at it, haven't you?

17 A. Pardon me?

18 Q. You've look at it, haven't you?

19 A. I've looked it, but I can't—

20 Q. Well I'm suggesting to you it's not addressed to LMCS.

21 A. But LMCS—

22 Q. I am suggesting to you—

23 A. Okay, all right, it's not addressed. I agree with you, Sir.

24 Q. Okay, good. Will you also not accept that a work instruction is
25 an important document?

26 A. It is an important document.

27 Q. And if it is an important document, if it is issued to a contractor,

1 a normal requirement is that if it is intended for him he is
2 required to sign it as having received it, isn't that so?

3 A. If it's, if it's required?

4 Q. Isn't that so? It is a normal requirement that if a work
5 instruction—

6 A. This could—

7 **Mr. Maharaj SC:** Mr. Chairman, I have to object on two main
8 grounds.

9 **Mr. Chairman:** Right.

10 **Mr. Maharaj SC:** Paria ought to know that these work
11 instructions were communicated to the contractor, and,
12 remember the cross-examination and there was an email from
13 Mr. Rampersadsingh to LMCS, and that is in Volume II of the
14 witness supplemental bundle at page nine one seven which
15 says:

16 “Dear, see attached signed draining procedure. Let us
17 meet tomorrow at 10.00 a.m. to discuss draining
18 schedules. I want to start as early as possible this week
19 bearing in mind the crude ship loading is on the 14th. I
20 will discuss the ops now to firm up with any other issue.”

21 But one of Paria's witness also expressly stated, Mr. Johnathan
22 Ramadan, in his witness statement, and he was cross-examined,
23 and he admitted and I read his cross-examination last night at
24 Volume IV of the witness supplemental bundle—at the witness
25 statement bundle page—yes, at page 1470 paragraphs eight and
26 nine.

27 “As part of the pre-work LMCS undertook to drain the

1 product from the pipeline at berth No. 5 and berth No. 6
2 in accordance with a Paria work instruction effective 5th
3 January, 2022 which was developed by the offshore
4 section of the terminal operations department”—and they
5 refer to it—“the process of draining the line began on or
6 around the 18th of January, 2022 and continued in two
7 phases over several non-consecutive days up until on or
8 around 3rd of February, 2022. LMCS undertook the
9 draining of works by air blowing the contents of the line
10 from berth No. 5 to berth No. 6 into a slops barge.”

11 So this was communicated, the witness said it was to be done in
12 accordance with the work instructions, and Paria accepted it.

13 **Mr. Chairman:** Yes, I think that Mr. Mootoo’s point is this,
14 that the document itself doesn’t show that it was actually given
15 to anybody at LMCS. This was an internal document. And the
16 point he was trying to elicit from the witness was that
17 ordinarily, if this document had been handed to LMCS, it
18 should have been signed for as having been handed to them.
19 Now, I think there was some evidence that it had been seen by
20 those who were carrying out the work at LMCS by LMCS. But
21 I think that the point is still nonetheless well made that they
22 didn’t sign for it, there wasn’t a formal handover of this
23 document, although they seemingly worked to it.

24 **Mr. Maharaj SC:** Yes, and the email was sent, the email was
25 sent—send it and in effect said it was the draining procedure.

26 **Mr. Chairman:** The email, did it contain this document as an
27 attachment? I think that was the evidence that it was attached

1 to the email, whether intentionally or not.

2 **Mr. Maharaj SC:** Yes. As a matter of fact it's attached at
3 page nine two eight and nine two nine. I can't see anything that
4 could be clearer than that.

5 **Mr. Chairman:** So, er, this document that we've been looking
6 at, and it's on the screen now, which has been—reference has
7 been made to, the evidence, the state of the evidence at the
8 moment is that the—this document was passed from Paria to
9 LMCS prior to the work taking place by way of an attachment
10 to an email, and that therefore they were in—they were seized
11 of it.

12 **Mr. Maharaj SC:** Yes.

13 **Mr. Mootoo:** Sir, with respect, that really doesn't address the
14 issue at all. The fact, and Mr. Maharaj has said a lot about it,
15 the fact that LMCS may have been made aware of an internal
16 instruction, one, doesn't make it an instruction. That's fairly
17 elementary. Secondly, they obviously needed to be aware of it
18 because the evidence, which has not been referred to before you
19 now, is that Paria had a certain schedule and the instruction had
20 to be prepared internally for that schedule to be accommodated,
21 because it had other activities, and in due course we can come
22 to what the contract requires for instructions to be issued under
23 Paria's general terms and conditions.

24 So there's a fundamental distinction to be made between
25 knowledge of a document, knowledge of an internal Paria
26 document, and whether a contractor has been instructed,
27 whether they're doing something in accordance with it is

1 another matter but the displacement of a contractual
2 responsibility is not achieved by knowledge of a document.
3 But anyway, and we can deal with that in the course of—

4 **Mr. Chairman:** I was going to say it sounds like a submission
5 as to how we should view this evidence rather than a question
6 for this particular witness. I think what you were after was
7 whether—as I hope I fairly characterized it in answer to Mr.
8 Maharaj, was whether or not it is his understanding that an
9 instruction would ordinarily, a work instruction, would
10 ordinarily require the signature of the recipient.

11 **Mr. Mootoo:** Yes, Sir.

12 **Mr. Chairman:** And we haven't got an answer to that yet.

13 **Mr. Mootoo:** Yes.

14 **Examination By Mr. Chairman:**

15 Q. Do you agree that ordinarily a work instruction would require a
16 signature by the recipient that he had received it and understood
17 it?

18 A. Certainly normal, yeah, well, I could say in some instances yes
19 in some instances no.

20 Q. Right.

21 A. A lot of ha—a lot a things happen in industry.

22 Q. I'm sure they do.

23 A. And it is—

24 Q. Er, and sadly, some undocumented. But, can I—can we be
25 clear, it would be, it would be prudent and sensible for it to
26 have been signed by the recipient if it was a legitimate work
27 instruction to the, to the contractor, wouldn't it? And you can

1 agree, I think, with Mr. Mootoo, that nowhere on this document
2 is it signed by the contractor?

3 A. Yes, I say that too.

4 Q. Right.

5 A. Is there a place for him to sign on it?

6 Q. Well there isn't apparently?

7 A. Okay.

8 **Mr. Mootoo:** Well that proves my point.

9 **Examination By Mr. Chairman:**

10 Q. Whether it is or not the fact of the matter is, it's unsigned by
11 him.

12 A. Yeah.

13 Q. And there is—and we can make the observation, there's not
14 even any point, place for him to do so.

15 A. Okay.

16 Q. But, and I have well in mind what we've been told by and
17 reminded of by Mr. Maharaj, that, that one way or another it
18 found its way into the hands of the contractor and I dare say the
19 contractor working for Paria might well have taken a view that
20 if this has come into my hands I ought to pay attention to it but
21 that's another matter?

22 A. That's another issue, Chairman.

23 **Mr. Chairman:** Yeah, indeed. Mr. Mootoo, yes.

24 **Continued Cross-Examination By Mr. Mootoo:**

25 Q. What all of this was leading up to is that in your report you say
26 that the LMCS divers were most likely unaware that a large
27 gaseous void existed behind the inflatable plug. Do you recall

1 saying that?

2 A. Yes, I did.

3 Q. Right. And what I'm suggesting to you is that if LMCS was
4 responsible for the air blowing, they therefore ought to have
5 been aware of the possibility of a large gaseous void having
6 existed, correct?

7 A. With a but, I will answer that question.

8 Q. Yes. We'll get to the but.

9 **Examination By Mr. Chairman:**

10 Q. Either you accept or you don't that the persons who were
11 responsible for pumping air into the pipe should have been
12 aware of the possibility of creating a large gaseous void. That I
13 think is fairly uncontroversial, isn't it.

14 A. Yes, yes, yes, I would answer you to that.

15 Q. Yes. That must be right, mustn't it?

16 **Continued Cross-Examination By Mr. Mootoo:**

17 Q. So when you say at paragraph 5.1 of your report that the—at
18 page 15 of that document, of the report itself—

19 **Mr. Chairman:** One four oh three.

20 **Mr. Mootoo:** Thank you.

21 **Continued Cross-Examination By Mr. Mootoo:**

22 Q. When you say, the last sentence:

23 "The divers were most likely unaware that a large
24 gaseous void existed behind the inflatable plug due to
25 excess line contents removal."

26 If they were most likely unaware, it would have been because
27 LMCS, the company, didn't tell them, isn't that right?

1 A. Chairman, before I answer that question, I have to make
2 some—I have to make a statement.

3 **Mr. Chairman:** Well, I'm afraid you're not permitted to make
4 statements.

5 **Mr. Khan:** Okay. But I have to clarify my answer.

6 **Mr. Chairman:** Well, if we're going to have a clarification
7 with every single question asked of you, we're going to be here
8 for a very, very long time. I would have thought it was pretty
9 uncontroversial that the diver—your observation the divers
10 were most likely unaware that a large, gaseous void existed
11 behind the inflatable plug was, was, was a fact. If they had
12 appreciated that they wouldn't have opened it.

13 **Mr. Khan:** That was a fact, yes.

14 **Continued Cross-Examination By Mr. Mootoo:**

15 Q. Yes but they were—would you not also accept that while they
16 may have been unaware, LMCS, the company ought to have
17 been aware?

18 A. I need to answer that—

19 Q. Given the nature—

20 A. Yes, Sir.

21 Q. Given the nature of the line blowing exercise which was
22 undertaken by LMCS?

23 A. I have—I will answer your question but I have to meet with a
24 but in it. There's a—

25 **Mr. Chairman:** Answer the question first and then we'll have
26 the but.

27 **Continued Cross-Examination By Mr. Mootoo:**

1 A. Yes.

2 Q. Yes.

3 **Mr. Chairman:** All right.

4 **Mr. Mootoo:** Thank you.

5 **Mr. Khan:** But, am I allowed?

6 **Mr. Chairman:** Yes, please, briefly though.

7 **Mr. Khan:** I heard Mr. Kazim's statement and he said nobody
8 told him how much product was moved from the line.
9 Although he—and I showed him my demonstration—the
10 method of that removal caused an apparent ullage which was
11 incorrect.

12 **Continued Cross-Examination By Mr. Mootoo:**

13 Q. When you say you read no one—that he said no one told him—

14 A. Yeah.

15 Q. Don't you think—

16 A. He said—

17 Q. Don't you think as the contractor—

18 A. Uh-huh.

19 Q. —he should have made it his business to know?

20 A. Well he had varied communication from a dip—

21 Q. But—

22 A. —on the ullage.

23 Q. Hold on, we'll get to that.

24 A. He was not—

25 Q. Don't you—

26 A. —measuring the contents on shore.

27 Q. Don't you think he should have made it his business to know?

1 A. To a certain extent, yes—

2 Q. Yes, and from the in—

3 A. —to answer your question directly.

4 Q. —from, from the expert evidence which you gave us here
5 today, you have sought to demonstrate that the ullage, the
6 ullage reading was, in fact, unreliable, isn't that so?

7 A. The ullage reading, yes.

8 Q. Was unreliable and it was unreliable because of the air blowing
9 exercise which LMCS, Kazim Ali's company, did?

10 A. Because of the methodology of the emptying.

11 Q. Yes. Now, do you know that LMCS insofar as their knowledge
12 is concerned, because you said you looked at certain contractual
13 documents, do you know that LMCS was treated or, in fact,
14 contractually agreed to be treated as having visited and
15 carefully examined the site of the work and the surroundings?
16 Did you, did you acquaint yourself as to that?

17 A. I can—I didn't—come with that question again please?

18 Q. Did you acquaint yourself that the contractual documents
19 between LMCS and Paria required, not in fact required,
20 stipulated that LMCS was deemed to have visited and carefully
21 examined the work and the surroundings and satisfied itself as
22 to the nature and conditions of the site?

23 A. That's part of a standard agreement, yeah, when you use, when
24 you use—when you're looking at a contract.

25 Q. Oh. So you are—were you aware of it?

26 A. Well I have—I can't remember. Can't remember if I'd seen
27 that in the documents.

1 Q. Okay.

2 A. Because that is a standard procedure when a contractor bids for
3 a job.

4 Q. Good.

5 **Mr. Chairman:** Would you have assumed it in any event?
6 Would you have assumed it in any event?

7 **Mr. Khan:** Yeah, I would have assumed that.

8 **Mr. Chairman:** Yes. Yes.

9 **Mr. Khan:** Yes.

10 **Mr. Chairman:** All right.

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. Okay, good. Now we went through the permit and we've gone
13 through the existence of the gaseous void. Would you not
14 accept from me, given the evidence you've given us today
15 about the importance of a work permit, an individual work
16 permit, that LMCS should not have removed the plug on the
17 25th of February because there was no work permit identifying
18 the removal of the plug on that day?

19 A. But so too was the—

20 Q. I am not asking you that, Mr. Khan.

21 **Mr. Chairman:** Please answer the question, Mr. Khan? It's
22 easier that way.

23 **Continued Cross-Examination By Mr. Mootoo:**

24 A. Phrase the question again, please?

25 Q. That—let me put it even in a simpler way.

26 A. Yeah.

27 Q. That given the evidence you've given the Commission today

1 about the importance of the work permit, and the importance of
2 the issue of a work permit for each activity, that LMCS should
3 not have removed the mechanical and inflatable plugs on the
4 25th of February because there was no permit authorizing its
5 removal on that day?

6 A. [*Inaudible*] You want a question yes or no?

7 Q. Yes.

8 A. All right. Well yes.

9 Q. Good. And would you therefore say from the evidence you've
10 given that the removal of the plug at that time by LMCS was
11 therefore unauthorized?

12 A. I will not say that.

13 Q. Okay. Would you accept that the incident about which you've
14 given all of this evidence concerning Delta P, I think it's a
15 fairly elementary question but I'll ask it anyway, that incident
16 would not have occurred if LMCS personnel did not remove the
17 plug on the 25th?

18 A. The reverse is also true.

19 Q. I'm not asking you that, Mr. Khan. You're at pains to qualify
20 everything and extricate LMCS. Please answer my question?

21 A. I am not trying to do that.

22 **Mr. Chairman:** Well, that's not, that's not fair. No, that's not
23 [*Inaudible*]

24 **Mr. Khan:** I am not trying to do that. I am trying to, to, to
25 answer a question that makes a lot of sense without any caveat
26 in it.

27 **Mr. Chairman:** Mr. Khan, we've had the benefit of being here

1 for many, many weeks, all right? I've heard a large volume of
2 evidence and you can rest assured that your answers will have
3 to fit into that large body of evidence, so every caveat that you
4 seek to add, you can rely on the fact that we already have those
5 in mind, all right? If there's something specific you feel is
6 absolutely imperative that you add, by all means do so, but, it
7 seems to me that some of the questions that Mr. Mootoo is
8 asking are uncontroversial. They're not, they're not something
9 with which there can be much dispute. Where he goes too far,
10 as he just did a moment ago, in making a suggestion that you're
11 at pains to try and extricate LMCS, I will stop him and I have.
12 All right? So let's just—Mr. Mootoo will confine himself to
13 asking the questions without that kind of comment and you will
14 answer them, please, as best you're able, with the shortest and
15 simplest answer, all right?

16 **Mr. Khan:** Well, Mr. Chairman, with all due respect to the
17 learned counsel here, I take umbrage to him for him accusing
18 me of something like that.

19 **Mr. Chairman:** I've told him. I've told him he must not—

20 **Mr. Khan:** Okay, good.

21 **Mr. Chairman:**—do that.

22 **Mr. Khan:** Yeah.

23 **Mr. Chairman:** And I have made that clear.

24 **Mr. Khan:** Yeah.

25 **Mr. Mootoo:** Mr. Chairman, if it makes Mr. Khan any more
26 comfortable, first of all I apologize, and, secondly, I withdraw
27 the remark.

1 **Mr. Chairman:** Thank you very much. There you go.

2 **Continued Cross-Examination By Mr. Mootoo:**

3 Q. You were questioned today about the evidence which you gave
4 about the safest time for the rescue to be effected on the 25th of
5 February. You recall that?

6 A. Yes, yes, yes.

7 Q. And I think the Chairman made reference to the evidence of
8 Mr. Donawa yesterday, and, in the course of questioning one of
9 the issues arose was whether there was a risk of a further Delta
10 P event occurring on the evening into the night of the 25th of
11 February. You recall that?

12 A. Yes.

13 Q. Yes. And you've told us a number of things, and I just want to,
14 well, make sure that I understand your evidence first and then I
15 want to ask you a question about it. Am I correct in that you
16 said that the inflatable plug would have initially operated as a
17 pig?

18 A. Yes I said, yes.

19 Q. Yes. Okay. But you wouldn't have known the rate of deflation
20 of the plug?

21 A. I wouldn't know that.

22 Q. Right. Now, on the—we've established that your report would
23 have taken—and the analysis would have taken three months to
24 undertake, right? But I want to take us back to essentially what
25 has to be—what had to be happening on the night of the—the
26 evening into the night of the 25th of February.

27 A. Uh-huh.

1 Q. Now nobody could have undertaken that scientific analysis
2 which you have performed now in the course of that evening.
3 You agree? It would have been unreasonable to expect that to
4 have been undertaken at that time.

5 A. I don't think so.

6 Q. Okay. And—

7 A. There are several engineers employed there.

8 Q. Okay, well, hold on a minute I believe you told us earlier, and I
9 was at pains to ask you about it, that if you had nothing else to
10 do, it would have taken you three months to prepare—to do the
11 analysis?

12 A. To write the whole report, not the analysis.

13 Q. Well I asked you specifically about the analysis.

14 A. No, but I said the entire report in its entirety.

15 Q. Okay, so, all right. So am I to understand you to be saying that
16 you could have done the analysis in one evening but the writing
17 of the report is what took you 89 days?

18 A. I didn't say that.

19 Q. No, I know you didn't,

20 A. No I did not say that.

21 Q. Okay. So is it that your evidence now that all of this analysis
22 which you've done in your report could have been done on the
23 night of the 25th of February by an engineer?

24 A. Of course.

25 Q. Yes.

26 A. The analysis pertaining to what—there is no—

27 Q. Okay.

1 A. There's not much analysis in the report.

2 Q. Well, well—

3 A. The review—much reviewing the report.

4 Q. Well hold on, hold on. Do you accept that on the night of the
5 25th no one, in fact, not until several days later when the line
6 was cleared and the plug retrieved, no one actually knew the
7 state of the plug? Do you accept that?

8 A. That's correct, nobody knew.

9 Q. Right. Right. And therefore, if no one knew the state of the
10 plug, similarly, no one would have been able to definitively
11 form a view as to whether the plug itself was in such a
12 condition in the line to create the possibility of two areas of
13 differential pressure?

14 A. That's a lot a speculation.

15 Q. I know. That's exactly what they were—

16 A. Yes.

17 Q. —engaged in on the 25th is what I'm suggesting to you.

18 A. Well, there's a lot of speculation but the plug did move and
19 negotiated a radius.

20 Q. No, we know that now. Don't we know that now, but at the—

21 A. No, you, no, you—you could have known that then now—then.
22 When Mr. Boodram came out the line, just two hours after.

23 Q. So—

24 A. He didn't encounter any plug and the plug—he knew that the
25 plug passed the elbow.

26 Q. I understand that.

27 A. Uh-huh.

1 Q. But what Mr. Boodram did not do, unless you're suggesting
2 that you have different evidence, Mr. Boodram didn't give
3 anyone any information about the condition of the plug in the
4 line?

5 A. He didn't do that, yeah, he didn't do that—

6 Q. So—

7 A. —nor was he asked.

8 Q. So, no one knew, Mr. Khan?

9 A. All right, no one knew, I agree to that.

10 Q. Right. And as a scientist, are you asking us to believe that your
11 report now, which is based on a number of confirmed facts, that
12 same report, the analysis could have been done on the 25th of
13 February when those facts were not known? Are you asking us
14 to believe that, really, Mr. Khan?

15 A. Some judgment could have been made.

16 Q. What I'm suggesting, what I'm suggesting to you is perhaps the
17 answer you want to give is that some speculation could have
18 been made. Is that what you really want to say?

19 A. Some engineering input could have been made.

20 Q. But it would have been in the realm of speculation? Isn't
21 that—

22 A. I'm not an engineer. I don't speculate that much.

23 Q. So if you don't speculate that much, and you're suggesting at
24 the same time some speculation could have been made, what
25 are you really saying? Does it not amount to the fact that you
26 would lean against speculation? As a scientist, you would lean
27 against speculation? Is that a yes?

1 A. It depends upon the circumstances.

2 Q. So yes, depending on the circumstance. And as a scientist, you
3 have exposure to other scientists in your discipline, isn't that so,
4 some of whom are probably watching you now?

5 A. You have to define the word scientist. I'm not a scientist.

6 Q. Okay.

7 A. I'm a failure analysis consultant.

8 Q. Okay. Do you have professional qualifications?

9 A. Yes.

10 Q. Right. As an engineer—

11 **Mr. Chairman:** Could you, could you bring your microphone
12 a little closer to you, please? Move the papers out the way so
13 that you—yes.

14 **Mr. Khan:** Yes. Hearing me any better now?

15 **Continued Cross-Examination By Mr. Mootoo:**

16 Q. Your profession is based in large part on science, isn't it, on the
17 application of scientific principles?

18 A. Yes.

19 Q. Yes. And you wouldn't expect another professional in your
20 discipline to proffer an expert opinion predicated on
21 speculation, would you?

22 A. I would—

23 Q. Mr. Khan, a yes or no will suffice. Would you?

24 A. Speculation, okay, is—

25 Q. I know what speculation is, Mr. Khan.

26 A. [*Inaudible*]

27 Q. Yes.

1 A. Okay. And—

2 Q. When men's lives are hanging in the balance—

3 A. Uh-huh.

4 Q. —you're going to proffer an opinion based on speculation? Is
5 that what you're asking us to believe?

6 A. But the converse is also true.

7 Q. Mr. Khan, is that what you want—

8 **Mr. Chairman:** Give him a chance to answer it.

9 **Mr. Mootoo:** Well, well, Mr. Chairman, he's not answering
10 the question with a yes or no, and, and, and—

11 **Mr. Khan:** But some, some questions you cannot answer yes
12 or no.

13 **Examination By Mr. Chairman:**

14 Q. Let's be clear. You wouldn't wish to speculate on matters of
15 any importance when it comes to your professional analysis of
16 a particular issue that might arise? You wouldn't wish to
17 speculate, you'd want facts, correct?

18 A. I wouldn't wish to speculate.

19 Q. No. You would want the facts or as many of the facts as you
20 could garner—

21 A. Uh-huh.

22 Q. —in order to come to any kind of judgment?

23 A. Uh-huh. That's correct.

24 Q. Right. And to that end that is the reason, one of the reasons
25 why you asked OSHA to provide you with additional facts even
26 before you'd concluded your report, but you didn't get them so
27 you concluded your report as best you were able? That's the

1 position, isn't it?

2 A. Uh-huh, that's correct.

3 Q. And fresh facts have emerged which may or may not affect
4 your judgment in the report, correct? All right so really all that
5 Mr. Mootoo is saying is that nobody in your position as a
6 professional would want to speculate, any more than a lawyer
7 would wish to speculate about the outcome of a case without
8 knowing the facts? You follow? That must be so, mustn't it?
9 It's uncontroversial, Mr. Khan.

10 A. [*Inaudible*]

11 Q. You know? It really is. I know—you see, part of the problem
12 is witnesses often try to understand why the question is being
13 asked and what happens when that hap—when witnesses do
14 that, is, they try to tailor their answer to what they think the
15 question is about, when really all you need to do is to answer
16 the question as straightforwardly as you can, because you can
17 rely onto fact that I've been doing this for 40 years and I know
18 how it works, all right?

19 A. But, but Chairman, with all due respect, Sir—

20 Q. Yes.

21 A. —you know, the media will take it up and say something else,
22 all right? “Mr. Khan says this and that and the other.”

23 Q. Yes.

24 A. You know what I mean?

25 **Mr. Peterson SC:** Don't think about that either.

26 **Examination By Mr. Chairman:**

27 Q. But that, that is, that is precisely what I'm getting at.

1 A. And that affects my reputation, Sir.

2 Q. No, of course, you must protect your reputation.

3 A. Correct.

4 Q. There is no question—

5 A. So I have to answer appropriately to protect my reputation.

6 Q. But Mr. Khan, Mr. Khan—

7 A. Yes.

8 Q. —the easiest way to protect your reputation is to answer as
9 forthrightly as you possibly can.

10 A. Uh-huh.

11 Q. Because the last thing you would want to be accused of is being
12 evasive or trying to dodge the question in any way.

13 A. Uh-huh.

14 Q. Because that wouldn't do your reputation any good either.

15 A. That's correct.

16 Q. As far as I'm concerned, your reputation sits as high as it can
17 on my disk, all right, and you please will answer the questions
18 Mr. Mootoo has for you as straightforwardly as you can. You
19 can rely on the fact that if there's something that I feel needs to
20 be developed, I will ask you about it.

21 A. Yes.

22 Q. I have a couple of questions already, all right? So just help us
23 all by answering Mr. Mootoo's questions as straightforwardly
24 as possible as I say. If you feel you need to add a rider, say yes
25 or no first and then add the rider, all right?

26 A. Okay.

27 Q. Right.

1 **Continued Cross-Examination By Mr. Mootoo:**

2 Q. Yes, Mr. Khan, I don't have much left for you. I want to take
3 you to LMCS' method statement which is in the supplemental
4 core bundle and it's at page 1484 it starts. While that's being
5 brought up on the screen—

6 A. Yes.

7 Q. —all right, in this Enquiry, we've had some evidence about the
8 sequence of events in this method statement. Now, this is a
9 method statement that you're familiar with, am I right?

10 A. Yes.

11 Q. Yes?

12 A. Correct, yes.

13 Q. All right. Um, and—

14 A. That's an attachment to my report, is it?

15 Q. Yes it is.

16 A. Yes.

17 Q. It's attachment 10.

18 A. Uh-huh.

19 Q. And I just want to deal very briefly with the first page. In fact
20 we were right at the top under the heading. Do you have it in
21 front of you?

22 A. Well I can see it there.

23 Q. Yes?

24 A. I'm seeing it on the screen.

25 Q. Right. Good. And you will see there's a paragraph beginning:

26 "This phase commences on completion of, one, removal
27 of fuel oil from sealine 36 between berths 5 and 6."

1 You see that?

2 A. Yes.

3 Q. Okay, good. So, just to put this document in context, this
4 document comes on the heels of the contractor having removed
5 the fuel oil in accordance with whatever the contract required,
6 yes?

7 A. Yes.

8 Q. So it's a subsequent step. Now, having heard your evidence
9 today, I want to take you down to items 56 and 57 of that
10 method statement. And this deals with the removal of the
11 migration barrier from the line and the deflation of the plug.
12 Correct?

13 A. Yes, of course, of course.

14 Q. And then, following that is the installation of a blind flange and
15 then the chamber crew is to demobilize and return to the
16 exterior. Good?

17 A. Uh-huh.

18 Q. Now, if I understood your evidence correctly today, what you
19 said is that as an expert, and this is my conclusion, as an expert,
20 if the ullage had been taken down to 35 feet and was—and
21 genuinely read as 35 feet and was, in fact, 35 feet, there would
22 be nothing wrong with the sequence of events of removing the
23 plug at this time because no Delta P would have occurred. Am
24 I right about that?

25 A. Yes, but—

26 **Mr. Chairman:** There's no but. It must be right, mustn't it?

27 **Mr. Khan:** Yes, well, yes. Well answer as the Chairman

1 directs, yeah, to me to answer clearly.

2 **Continued Cross-Examination By Mr. Mootoo:**

3 Q. So, so therefore—

4 A. Yeah, uh-huh.

5 Q. —the criticism all of this is reduced to, not really the method
6 statement but the fact that LMCS got a false reading of the
7 ullage.

8 A. [*Nodding*]

9 Q. And that's really why this entire event occurred.

10 **Mr. Peterson SC:** That must be yes.

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. Isn't that right?

13 A. I would disagree with that. That's not the reason why it
14 occurred.

15 Q. The false reading as to the ullage—

16 A. Uh-huh.

17 Q. —is not why this occurred?

18 A. No.

19 Q. The fal—

20 **Mr. Chairman:** I think you've got to put it in another way.

21 **Mr. Mootoo:** Yes, yes, yes, I will.

22 **Continued Cross-Examination By Mr. Mootoo:**

23 Q. The event occurred because of the differential pressure because
24 of the void in the line, yes?

25 **Mr. Chairman:** I'm not sure that that's right either. He was at
26 pains to explain the difference between Delta P and a Delta P
27 event.

1 **Mr. Mootoo:** A Delta P event.

2 **Mr. Chairman:** Right? I hope you were paying attention.

3 **Mr. Mootoo:** Yes I was. I was. Mr. Maharaj wasn't the only
4 one [*Inaudible*] at that time.

5 **Mr. Chairman:** And I think, you know, you need to address
6 those—that terminology—

7 **Mr. Mootoo:** Yes.

8 **Mr. Chairman:**—if you want Mr. Khan to agree with you.

9 **Mr. Mootoo:** Let me see if I can put the question slightly
10 differently.

11 **Continued Cross-Examination By Mr. Mootoo:**

12 Q. On your evidence, LMCS obtained a false reading as to the
13 ullage, correct?

14 A. The reading that they got was correct, because he say he got the
15 required ullage, 50 feet he measured or something like that.

16 Q. Thirty-five.

17 A. Thirty-five feet, yes, so that was correct.

18 Q. No, no—

19 A. According to him he said he measure with a tape.

20 Q. Okay.

21 A. Unless he used a wrong tape.

22 Q. No, I'm not suggesting for a moment that that's not the reading
23 that he got.

24 A. Yes.

25 Q. But the ullage reading was intended to measure the true level of
26 fluid in the line, correct?

27 A. Yes.

1 Q. All right. And on your evidence today, accepting that he got 35
2 feet, a 35-foot measurement, that really was not a true reading
3 as to the, as to the level of fuel oil in the line because the line
4 was populated with voids?

5 **Mr. Chairman:** Well, well it was a true reading—

6 **Mr. Khan:** It was a true reading.

7 **Mr. Chairman:**—at the ullage, isn't it?

8 **Mr. Khan:** It was a true reading.

9 **Mr. Chairman:** What you're saying is, is that the reading, be
10 it true, was only able to be read on that—in that way because
11 there was a Delta P within the pipe which was effectively
12 pushing that liquid upwards so as to give what was a reading
13 that belied the truth of what lay in the pipe.

14 **Mr. Khan:** That's correct, but the man—whoever took the
15 reading, they took the correct dimension because they're
16 looking at liquid and they put down their tape and say hey,
17 that's it. But that, that—the reading was correct.

18 **Continued Cross-Examination By Mr. Mootoo:**

19 Q. Well it was—

20 A. I can't say the reading was wrong.

21 Q. First of all, first of all, it was correct in the sense that that is
22 what the level of liquid in the line appeared, well, showed?

23 A. That's what, yeah, I agree with that.

24 Q. But, but, on your analysis, the line at that time had air in it,
25 correct?

26 A. Yes.

27 Q. Yes.

1 A. Pressured air.

2 Q. And that a person taking the reading at—or, would you not
3 agree with me that the purpose of that reading was intended to
4 show the true level of fuel oil in that line absent any air
5 pockets? That was the purpose of obtaining the reading? They
6 weren't taking the ullage, Mr. Khan, they weren't taking the
7 ullage to take into account—or when, when that reading was
8 taken it wasn't taken on the basis or the supposition that there
9 was air in the line, correct?

10 A. That's correct. The—

11 Q. And it wasn't intended to be taking on that basis?

12 A. No he could—took his level, he wasn't—

13 Q. It was not intended to be—I'm not asking you what he saw. It
14 wasn't intended to be taken on that basis, correct?

15 A. Well seeing something and intention of something is different.

16 Q. I'm not asking you that. I'm saying it wasn't intended to be
17 taken on that basis?

18 A. Well I cannot answer that question.

19 Q. So you don't know on what—you don't know what the
20 contractor's—objectively, you don't know what his intention
21 was when he was to take that ullage?

22 A. Yes. He had to measure and see that he got his correct
23 dimension from the top of the flange. That's what I
24 understand—

25 Q. So irrespective of, irrespective of what was happening
26 underneath, he didn't need to concern himself with that?

27 A. Well, he couldn't see under there.

1 Q. I'm not asking you whether he couldn't see.

2 A. Well that—I cannot, I cannot answer—

3 Q. He didn't need to concern himself—

4 A. —on, on, on, on su—on, um—

5 Q. On speculation?

6 A. I cannot answer that question on speculation.

7 **Mr. Mootoo:** I have no further question for this witness, Mr.
8 Chairman.

9 **Mr. Chairman:** Yes. Well, I do, so, um—

10 **Examination By Mr. Chairman:**

11 Q. The learning that you have—

12 A. Pardon me, Sir?

13 Q. The learning that you have on—

14 A. Yes.

15 Q. —on the subject, is one which has been described as scientific,
16 and obviously you rely on science in order—and maths in order
17 to arrive at the conclusions?

18 A. An engineer has to rely on science.

19 Q. Yes.

20 A. To some extent.

21 Q. Yes. And you were being asked as to the question of whether
22 or not you would wish to speculate, if you had been present on
23 the night, as to what the outcome might have been and whether
24 you would be able to prepare the kind of report that we've been
25 able to analyze in the process that we've been engaged in. But
26 what was known at the time, you would have been told of had
27 you been there, let us just consider that for a moment, you

1 would have known that these men had been working in a
2 pressurized habitat?

3 A. Yeah.

4 Q. You would have known that there was a pipe that they were
5 working on which was open at one end in that pressurized
6 habitat?

7 A. Yes, Sir.

8 Q. You would have known that the pipe had had removed from it a
9 substantial amount of oil and/or quantity of material from it,
10 even if you didn't know precisely how much, but a substantial
11 amount had been removed. You woulda known that, all right?

12 A. Let me—pardon me, Sir, could I interject?

13 Q. No, not for the moment. You can—I'm just setting up—

14 A. Yeah, yeah, set it up for me.

15 Q. —what you would have known because that was known to
16 Paria.

17 A. Well, look—yeah, okay.

18 Q. So I'm assuming for a moment, you see, that you'd been
19 engaged by Paria—

20 A. Paria, okay, that's why I was—

21 Q. —to help them on the night, to help them on the night, all right?
22 Let's suppose they'd given you a call and say, "Can you give us
23 a hand here, Mr. Khan? We've got a problem."

24 A. Yeah.

25 Q. Right? So they would have been able to tell you all about.
26 They'd have been able to tell you that there was a plug that was
27 in that pipe, two plugs., and that those plugs had been removed

1 and that when one of the plugs had been removed, it was seen
2 that these men just disappeared or that there is a splash and
3 within minutes of that splash the habitat was examined and
4 there was nobody there, no equipment, nothing at all, all right?

5 You would have known, certainly after Mr. Boodram
6 came out of the pipe, that one man, Mr. Boodram, had come out
7 of the pipe two and a half hours or so after the incident had
8 occurred, all right? You would have known that another man
9 went in the pipe and came out a little while later. You woulda
10 known that the habitat was still under pressure. You'd a known
11 that the flange at the other end was closed and a whole range of
12 other facts that were known. Would that have allowed you to
13 have come to any kind of conclusion at all as to what might
14 have happened, knowing all of those facts?

15 A. Yes of course.

16 Q. And what would that conclusion have been?

17 A. The men were sucked into the pipe because of a—

18 Q. As a result of?

19 A. Because of a?

20 Q. As a result of what?

21 A. As a result of a Delta P event.

22 Q. Right. Would you have been able to express a view as to
23 whether or not there remained a latent Delta P feature within
24 that pipe or may have done?

25 A. I would have been able to express a view, yes.

26 Q. Yes. And would you have been able to express a view as to the
27 stability of the pipe as it was in that condition before anything

1 was done, before the flange was removed at one end and the
2 hyperbaric chamber at the other?

3 A. Based on the information that they would have had, I would—I
4 would be able to do that.

5 Q. Yes. Not a perfect world obviously—

6 A. Yes.

7 Q. —in that scenario?

8 A. Uh-huh.

9 Q. But one in which, with your experience, you'd have been able
10 to express a view?

11 A. Yes, Sir.

12 Q. Yes, thank you. And the next thing I want to ask you is this.
13 Would you go, please, to our page 1033 which is the—

14 A. One?

15 Q. One zero three three. It's going to come up on the screen. It's
16 on the screen now. Just have a look if you would, please,
17 because it's point two that I want to draw your attention to. See
18 this is not—

19 A. What's that document Sir?

20 Q. This is the document that is described as the work instruction
21 that—

22 A. Okay.

23 Q. —shouldn't have gone—

24 A. Yes.

25 Q. —to LMCS.

26 A. Yes.

27 Q. The fact that they may have had it is neither here nor there for

1 these purposes. The scope of the work internally on the part of
2 Paria was what?

3 A. Clearing of sealine 36.

4 Q. Clearing of sealine, of sealine 36 section between berth—

5 A. Between berth 5 and berth 6.

6 Q. —five and berth 6.

7 A. Yeah.

8 Q. What do you understand to mean by the word clearing?

9 A. Getting rid of the contents of the line.

10 Q. Removal of just a bit of ullage or all of it?

11 A. Clearing mean complete removal.

12 Q. Right. To your knowledge—

13 A. They didn't say part—okay.

14 Q. To your knowledge—no, no that's all I want to ask you about
15 this, but, to your knowledge, who had the information as to the
16 number of barrels that were being removed through this
17 pumping operation? And we know that the pumping operation
18 was being done by LMCS on Paria's plant, all right? They
19 were engaged to do that job. No issue about that. But who
20 knew how much was being pumped out at the other end? Who
21 had that—

22 A. Operations department.

23 Q. Operations department of who?

24 A. Paria.

25 Q. Right. Now, given that their work instruction was to clear the
26 entirety of that pipe on its face, if that's the work instruction as
27 it seems to be, there would have been no reason for them to

1 have passed that information to anybody, would there, because
2 they thought that all we're doing is clearing the line?

3 A. There was no reason.

4 Q. No. Of course, if they had been told that actually the work
5 instruction should have been only clear as much as is necessary
6 to create a 35-foot or 36-foot ullage at either end, then the
7 number of barrels being spewed out at the other end would have
8 been a factor, wouldn't it?

9 A. Yes.

10 Q. Which you might have expected them to say, "Well hang on a
11 minute, you know, we're supposed to be clearing 36 feet or so
12 at either end of this pipe, why are we pumping hundreds and
13 hundreds of barrels out?" It may well be that it's perfectly
14 proper to say that LMCS should themselves have been asking,
15 well, how many barrels are being pumped out, so that they
16 would know what was being extracted from the line and it may
17 be that they themselves also were seeking to clear the line.
18 We've seen the Addendum to the work in the method statement
19 where a contractor was asking the question whose
20 responsibility is it to clear and they made clear that it was
21 theirs, but it's clearing the line, isn't it?

22 A. Uh-huh.

23 Q. On any view, that is at the kernel of the incident that took place,
24 had that line not been cleared and had been left full, we would
25 have ended up with the situation in your video number four,
26 wouldn't we?

27 A. Yes, Sir.

1 Q. Yes.

2 **Mr. Chairman:** All right, well I've asked a number of
3 questions that clearly touch upon—I don't know if Mr. Wilson
4 has any questions before I pass it back to counsel. Do you?

5 **Commissioner Wilson:** Yes.

6 **Mr. Chairman:** All right, well, let Mr. Wilson ask any
7 question, then, of course, anything that arises from what either I
8 or Mr. Wilson said can be explored. Yes.

9 **Examination By Commissioner Wilson:**

10 Q. Good afternoon, Mr. Khan.

11 A. Hi there.

12 Q. During the conversations this afternoon I became curious. I
13 have sat in—first of all I want to say I don't have any formal
14 training in root cause or failure analysis but I have sat in teams
15 and incident investigations and stuff so I'm going to start there,
16 which generated my curiosity. Is there a difference between
17 failure analysis and root cause analysis, the process?

18 **Mr. Chairman:** I'm sorry, I didn't quite catch the question.

19 **Examination By Commissioner Wilson:**

20 Q. Is there a failure—I mean is there a difference between failure
21 analysis and root cause analysis?

22 A. Root cause analysis is more specific.

23 Q. Okay.

24 A. Targets the root cause.

25 Q. Okay.

26 A. Not direct cause, the root cause. There's a difference between
27 direct cause and root cause.

1 Q. Thank you. So, your report, I think is titled a root cause
2 analysis as well?

3 A. Yeah, that is one of the remit that was given to me by OSHA to
4 find a root cause analysis and what caused it. That's why they
5 used the word causative action.

6 Q. Okay. So the methodology employed in your investigation, and
7 this is why I'm asking the question if there's a difference
8 between—because I didn't hear anything for failure analysis so
9 I understand the philosophy of root cause, um, so you employed
10 a known methodology for root cause?

11 A. Yes. Yeah. Nothing, nothing really failed. You understand?

12 Q. Yeah, I'm following you.

13 A. Nothing really failed in the true sense.

14 Q. Uh-huh.

15 A. Now, but an accident happened.

16 Q. Yes.

17 A. And every accident has its root cause.

18 Q. Okay.

19 A. Every accident has its root cause. There may be several
20 instances where it happened before but the root cause is
21 something. I might be driving and I make an accident.

22 Q. Uh-huh.

23 A. And the direct cause is I bounced another card.

24 Q. Uh-huh.

25 A. But what was the root cause?

26 Q. Maybe you brakes failed?

27 A. I broke the traffic light.

1 Q. Break the traffic light, a number of components?

2 A. Yeah, you see, so, you know, yeah. Every accident has to have
3 a root cause.

4 Q. Okay. So your report addressed direct cause or all the
5 components to be considered in the incident?

6 A. Yeah, the components that contribute to the root cause.

7 Q. Contributed to?

8 A. Because I was asked to determine the root cause.

9 Q. Okay.

10 A. I wasn't asked to determine the circumstances surrounding the
11 accident.

12 Q. Okay.

13 A. The OSH department was specific in their requirement.

14 Q. Uh-huh.

15 A. That is why I was specific in my delivery.

16 Q. Okay. So in your delivery or the report, sorry, I see you
17 mentioned other components like you, um, made some
18 assertions, as Mr. Mootoo indicated, on the permit to work. In
19 your deliberations, did you ever consider interrogating the ICT
20 philosophies or practices of Paria?

21 A. I could make a statement. Am I allowed to make a statement
22 on that?

23 **Mr. Chairman:** I'd rather you didn't. I'd rather you just
24 answer the question from Mr. Wilson.

25 **Examination By Commissioner Wilson:**

26 A. All right, phrase that question for me again please?

27 Q. The components you're taking into consideration for the

1 delivery of your report, did you ever consider interrogating the
2 ICT of Paria?

3 A. No.

4 Q. Okay. Thank you. I'll move on from there. I heard coming to
5 the conversa—

6 A. Er—

7 Q. Sorry, yes?

8 A. But I would like to say there was a—you see, this is one of the
9 reasons I did not go that way, interrogate them. Right? I don't
10 know if you want to hear the reason.

11 **Mr. Chairman:** No, I don't think it's necessary.

12 **Mr. Khan:** Okay.

13 **Mr. Chairman:** You didn't and that's fine.

14 **Mr. Khan:** That's fine.

15 **Mr. Chairman:** That's not what you were asked to do.

16 **Mr. Khan:** Yeah.

17 **Mr. Chairman:** You told us you were asked to make a root
18 cause analysis.

19 **Mr. Khan:** Uh-huh.

20 **Mr. Chairman:** That's what you've done.

21 **Mr. Khan:** Yeah.

22 **Mr. Chairman:** I think that's all we need. Thank you.

23 **Mr. Khan:** All right, good.

24 **Examination By Commissioner Wilson:**

25 Q. Yes, okay, so, I'm moving on from that. But, um, I heard in the
26 rum conversations took you to that night—

27 A. Pardon me?

1 Q. I heard in the room conversations—

2 A. In the room.

3 Q. This room.

4 A. Or yeah, this room.

5 Q. The Commission, yeah, that they took you to that night and
6 asked you—

7 A. They what?

8 Q. The Commission—

9 A. Yeah.

10 Q. —Enquiry that came out today, you're with me so far?

11 A. Yes, okay.

12 Q. Right—they asked you as an engineer if on that night you
13 would have been able to contribute. I'm not with the question
14 as yet. And why I brought up the ICT, it's a process that is a
15 component of what happened on Friday that would have gotten
16 to a probable or an attempted, sorry, er, um, rescue attempt. I
17 would like to know, and from my experiences with root cause
18 analysis, if at any time you would have considered the human
19 factor or behaviour of a dive supervisor and/or the divers as an
20 engineer?

21 **Mr. Chairman:** Can he really answer that?

22 **Commissioner Wilson:** Yes.

23 **Mr. Khan:** I don't have enough information to understand—

24 **Examination By Commissioner Wilson:**

25 Q. Well, where I'm going with it is, a diver or dive supervisor
26 without the benefit of an engineering degree or the competence
27 of a practising engineer, he would be guided by his trade, what

1 he understands. So, in the absence of someone like you or with
2 your competence, a diver hearing that there's a latent Delta P or
3 a possibility of a latent Delta P—

4 A. Event.

5 Q. Or, no, just possibility of it existing in the pipeline, and this is
6 why I'm asking you. I don't have your competence to make the
7 distinction and I appreciate it today so I've learned something.

8 A. Uh-huh.

9 Q. So again, this is why I'm diving you to a dive supervisor,
10 doesn't have the benefit a of an engineering degree—

11 **Mr. Chairman:** I'm sorry, I'm really struggling to understand
12 what you're asking him.

13 **Commissioner Wilson:** Well—

14 **Mr. Chairman:** I'm not sure he's competent to answer that,
15 though, is he?

16 **Commissioner Wilson:** Well, you see, if you're taking into
17 account the root cause analysis and you're looking at all the
18 components that existed that night, right, I mean by virtue of
19 you looked at the permit to work but didn't look at the incident
20 command system, there's a process that takes you up at quality
21 timeline into a probable attempt.

22 **Mr. Chairman:** Yeah, all right. I mean, he's an expert as an
23 engineer.

24 **Mr. Khan:** Yes I'm listening. I'm listening.

25 **Mr. Chairman:** Go on, go ahead. I'm not sure he can answer
26 but, you know—

27 **Examination By Commissioner Wilson:**

1 Q. All right, but; okay, well I'll change it around. In a root cause
2 analysis and/or investigation, um, investigation, incident
3 investigation, is it that a—is it not possible to take into account
4 the human element around decision-making processes?

5 A. Yes.

6 Q. Okay. Did your—and I'd end it here. Did you consider that in
7 terms of the remit given to you by OSHA?

8 A. I did not consider it because in my opinion there was a lot of
9 activities but no actual achievement.

10 Q. Understood. Very much. Thank you.

11 A. Okay.

12 **Mr. Chairman:** A lot of activity but no actual achievement.
13 All right, thank you. Yes, Mr. Mootoo, did you want to ask
14 anything arising from either questions by myself or Mr.
15 Wilson?

16 **Mr. Mootoo:** Yes, Chairman. I wanted to ask a few questions
17 arising out of the questions—

18 **Mr. Chairman:** Of course.

19 **Mr. Mootoo:**—you posed and the answers elicited.

20 **Continued Cross-Examination By Mr. Mootoo:**

21 Q. Mr. Khan, very briefly, the Chairman took you to item 2.0 of
22 the document on the screen.

23 A. Uh-huh. Two point zero?

24 Q. Two point zero.

25 A. Yeah.

26 Q. And I believe you told him you understood that to be clearing
27 the line completely. Yes?

1 A. Yes.

2 Q. You've already told us you are familiar with the evidence
3 which Mr. Kazim Ali has given and we have received evidence
4 in this Enquiry from him that he only cleared the, well, not that
5 he only cleared the line, that he took a ullage reading of 35 feet,
6 yes?

7 A. Yes.

8 Q. You would agree with me that therefore, um, given his
9 evidence, he could not have been of the view that he had
10 cleared the line? I need you to answer.

11 A. No, that's correct.

12 Q. Yes. And therefore, that he, either LMCS did not interpret that
13 as an instruction to clear the line or they didn't comply with it.

14 A. You say that—yeah, okay.

15 Q. Yes?

16 A. Well, to answer your question, yes.

17 Q. Yes. Okay. The Chairman asked you or he put to you certain
18 information you would have had on the night and asked you
19 whether you would have been able to come to a conclusion, and
20 I'm using my words here, whether there was a latent Delta P
21 event present, right?

22 A. No, a latent, a latent Delta P.

23 Q. Delta P?

24 A. Yeah, okay.

25 Q. Yes, sorry, remove the word "event"?

26 A. Event is something else.

27 Q. Yes, yes.

1 A. Yeah, okay, good.

2 Q. I stand corrected.

3 A. Uh-huh.

4 Q. What I struggle with, is, I think it's at—would you agree with
5 me that at that point in time on the night, you therefore would
6 not have known of the state of the plug, the true state of the
7 plug?

8 A. Yeah, I agree with you.

9 Q. Yes. And if you didn't know the true state of the plug, you
10 could not really eliminate the possibility of a latent Delta P in
11 the line?

12 A. Yeah, I could have eliminated that. I don't—

13 **Mr. Chairman:** You need to be by that microphone otherwise
14 you're just talking to Mr. Mootoo and none of us can hear you.

15 **Continued Cross-Examination By Mr. Mootoo:**

16 Q. I'll tell you why I put that to you. If the plug had been sucked
17 into the pipeline but it was only minimally deflated at that time,
18 just marginally, is it not possible that through the violent Delta
19 P the plug itself could have been lodged in that line in a fairly
20 disfigured condition but still reasonably inflated to have created
21 an area of differential pressure?

22 A. Not possible.

23 Q. Not possible.

24 A. [*Nodding*]

25 Q. When you gave your evidence earlier today and you inspected
26 the plug, and I think you also identified this in your report, you
27 acknowledge that—I think it's in photograph three to your

1 report, you acknowledge—

2 A. Photograph three?

3 Q. Yes, I think so. We have a notation it's photograph three. I'm
4 struggling to—yes.

5 **Mr. Chairman:** Page 1408.

6 **Mr. Mootoo:** Right, it's on page 20. Yeah.

7 **Continued Cross-Examination By Mr. Mootoo:**

8 Q. You note a broken inflation nipple.

9 A. Yes.

10 Q. Yes?

11 A. Uh-huh.

12 Q. Is it not, is it not possible that if that nipple is broken or
13 defective or in some way not functioning properly, that that—
14 that the inflatable plug on the night in question could have still
15 been in the pipe but inflated to a substantial degree?

16 A. At what point?

17 Q. In the night, on the 25th?

18 A. What time, after the—

19 Q. After the event.

20 A. After the event?

21 Q. Yes. So in other words the plug is removed—

22 A. The mechanical plug is removed?

23 Q. The mechanical plug is removed.

24 A. Uh-huh.

25 Q. We know that the inflatable plug has been sucked into the line.

26 A. Uh-huh.

27 Q. We—well, is it your evidence that once the mechanical plug

1 was removed, if the inflatable plug was entirely intact, it would
2 have been, it would have been sucked into the line?

3 A. No.

4 Q. Okay, good. I didn't think that was your evidence.

5 A. No.

6 Q. So, what I'm suggesting to you therefore is, is it not possible
7 that the inflatable plug on the night—remember we're on the
8 night in question. Nobody has seen the plug. Nobody's seen it.

9 A. After the incident?

10 Q. After the—

11 A. After the accident?

12 Q. The incident occurs—well, let me take you through it step by
13 step. What we do know is that the plug was sucked into the
14 line. Would you accept from me we don't know the condition
15 of the inflatable plug on the night of the 25th of February. We
16 just don't know the condition of it.

17 **Mr. Chairman:** When you say condition can you be a little
18 more precise?

19 **Mr. Mootoo:** Well, we don't know the physical condition of
20 the plug.

21 **Mr. Chairman:** What, inflated, partially inflated.

22 **Continued Cross-Examination By Mr. Mootoo:**

23 Q. As to the extent it has been deflated, we don't know it.

24 A. We don't know.

25 Q. Good. And therefore you accept it could have been minimally
26 deflated?

27 A. I wouldn't accept minimal.

1 Q. Okay.

2 A. It was deflated to an extent that it can negotiate around an
3 elbow.

4 Q. But didn't you tell us earlier on in your evidence—

5 A. Uh-huh.

6 Q. —that you actually did not—I want to be fair to you.

7 A. Yeah.

8 Q. That you wouldn't have known the rate of deflation?

9 A. Of course, I wouldn't have known the rate of deflation.

10 Q. And you didn't—my note is you didn't compute that.

11 A. Uh-huh.

12 Q. If you—

13 A. So you're right.

14 Q. If you didn't compute it and you wouldn't have known it, I'm
15 suggesting to you that you wouldn't have been in a position to
16 theorize properly about the state of deflation that the plug was
17 in on the night of the 25th of February and that to do so would
18 have been a matter of pure speculation.

19 A. I would have known for sure that the plug is deflated to an
20 extent that it can travel through the line and negotiate an elbow.

21 **Examination By Mr. Chairman:**

22 Q. Can I ask you when—you were given this plug, weren't you?

23 A. Yes.

24 Q. Have you ever traced where the nipple is?

25 A. I asked for the nipple.

26 Q. Yes.

27 A. But they say they couldn't find it.

1 Q. They couldn't find it, right.

2 A. Because I retrieved—I took that plug from the, from the, um—
3 from berth 6 platform itself.

4 Q. Right.

5 A. I looked at the plug then.

6 Q. Right. And was there a nipple then?

7 A. No.

8 Q. No. Where the nipple should go is a hole?

9 A. Is a threaded hole.

10 Q. Is a threaded hole where you screw the nipple in?

11 A. Uh-huh.

12 Q. Yes. If you stand on that plug now, the air that's in there will
13 actually come out of the hole, won't it?

14 A. That's correct.

15 Q. So it's completely open?

16 A. It's open.

17 Q. It's not like there's a valve still in place which may or may not
18 have been letting air in or out?

19 A. Not a one-way valve there.

20 Q. Like think—

21 A. There's no one—one-way valve.

22 Q. Thinking of a car tyre, if you take the valve right, or a bicycle
23 tyre, if you take the valve right out you're left with a hole and it
24 will deflate completely, right? If you leave the valve in and
25 there's a faulty valve or something, it might let some of the air
26 out and then close again. Is there any possibility that the nipple
27 was in place still in that barrier and in some way had closed

1 itself so that it retained some of the air inside?

2 A. Only a one-way valve will do that.

3 Q. Right. And that's not what this was?

4 A. It's not a possibility.

5 Q. Right. So is there any—what Mr. Mootoo is asking you, is
6 there any prospect at all of that being in such a state that it
7 could create a barrier between different pressures on either side
8 of it, any possibility?

9 A. I don't—as an engineer I would say no.

10 Q. No. And if you'd been asked that question?

11 A. I mean to say, the line remained static—

12 Q. Right.

13 A. —for two and a half hours, for whatever, when Mr. Boodram
14 exited the line.

15 Q. Right. But, if that—if you'd been asked that question on the
16 night by anybody from Paria or LMCS you'd have been able to
17 tell them what?

18 A. I would a say hey, the plug was sufficiently deflated—

19 Q. Right.

20 A. —to propel itself through the line and negotiate an elbow.

21 Q. Would it create a problem, as far as you were concerned, in
22 terms of anybody entering that pipe in order to effect a rescue?

23 A. Not if I weigh all the conditions there that existed at the
24 moment, no.

25 Q. Right.

26 A. I will say it wouldn't prevent anybody—

27 Q. I mean, obviously you can't get past it.

1 A. You can't get past it.

2 Q. No, but, given that it's in the line—

3 A. Yes.

4 Q. —clearly you couldn't get past it but would it create an issue, as
5 far as you're concerned, for anybody seeking to effect a rescue
6 in the line at that time?

7 A. I wouldn't say it created an issue.

8 **Mr. Chairman:** You can carry on, Mr. Mootoo.

9 **Continued Cross-Examination By Mr. Mootoo:**

10 Q. Just arising out of that, given the evidence that you've just
11 given, have you looked at the manufacturer's specifications in
12 relation to this plug for the purpose of preparing your report?

13 A. No but I got all the information that is written on that plug.
14 That was, um, sufficient for me to make a judgment on the
15 plug.

16 Q. Okay. So, so for your purposes what the manufacturer's
17 specifications are as to how the plug is to operate, how it's to be
18 inflated, what its properties are, all of those things were of no
19 importance to you for the purpose of making your assessment?

20 A. All those things are important but I said enough information
21 was written on that plug to give me enough guidance with
22 respect to the limitations of the plug, the size, the pressure,
23 everything, the back pressure, everything is on that plug.

24 Q. Right. One last group—well, one last group of questions
25 arising out of that. You told the Chairman when you were
26 conducting a physical inspection of the plug—

27 A. Today?

1 Q. Yes.

2 A. Yes.

3 Q. —that one of the rings, well I'm using the word rings, but one
4 of the rings on the top of the plug was missing. You recall that?

5 A. Yes.

6 Q. Right. Did you—and those rings are to be anchored to
7 something, isn't that right, for the purpose of stabilizing the
8 plug?

9 A. That's correct.

10 Q. Yes. And I think your evidence was, well it was—it's—well,
11 it's supposed to be anchored at three points, isn't that right?

12 A. Well there are—there, there, um, there are facilities there for
13 three points—

14 Q. Yes.

15 A. —of, um, of tethering yes.

16 Q. Yes. And you wouldn't use—

17 A. And those three points there—

18 Q. Right.

19 A. —from an engineering point of view—

20 Q. Uh-huh.

21 A. —is to ensure if you're letting down the plug down a line—

22 Q. Right.

23 A. —it will stay vertical.

24 Q. Right.

25 A. So you wouldn't have any problems when you're inserting the
26 plug into the line in a vertical position.

27 Q. Well, I hear what you say, but would it surprise you to know

1 that the manufacturer says that you are to use multiple points of
2 contact on the plug in order to spread the back pressure or to
3 test pressure forces? Would that surprise you?

4 A. No.

5 Q. So in other words, the manufacturer considers that those
6 anchors are important to deal with—

7 A. Back pressure.

8 Q. —back pressure?

9 A. Yep. Well, at the back of that plug had the three plugs—

10 Q. Right.

11 A. —had the three, um, attachments points. So as far as any
12 restraint on the back of the plug was okay.

13 Q. No, no I'm not talking about—there was no—we know there
14 was no restraint on the back of the plug, don't we?

15 A. That's correct.

16 Q. Right; and we know there was restraint on the top of the plug,
17 don't we?

18 A. Restraint on the top the plug?

19 Q. Yes, for removal purposes, well when you're removing it.

20 A. Yeah, when you're removing it—

21 Q. Yeah.

22 A. —there were, there were—there—

23 Q. Don't you attach it from the—you're supposed to attach it from
24 the three anchor points?

25 A. Well that is the way they recommend it.

26 Q. And that's the way you would recommend it, wouldn't it?

27 A. Yeah, of course, it is to make—

1 Q. Right.

2 A. —it an easier proposition you pull out because you wouldn't
3 have an imbalance in the vertical axis.

4 Q. Well, I'm dealing with the question of pressure at the moment.
5 Do you know what is the cable strength required to be applied
6 for the purpose of securing the plug for removal? You have
7 any information about that?

8 A. No, no.

9 Q. Did you consider it?

10 A. No, I didn't consider it.

11 Q. Do you think that with the appropriate cable strength or that in
12 principle you could have a cable secured at three points to that
13 plug to prevent the plug being pulled in in a Delta P event?

14 A. Well that, that, in that event—

15 Q. No, no, just—

16 A. Yeah.

17 Q. —just answer my question.

18 A. Uh-huh.

19 Q. Yes. Do you accept that?

20 A. Phrase that question again?

21 Q. That you could have utilized their cable at the three anchor
22 points to prevent the plug being pulled into the pipeline in the
23 event of a Delta P event?

24 A. Yes, but where would you attach the cable?

25 Q. Well that's a separate question.

26 A. Yeah.

27 Q. But you accept that? And you accept, and—well you just

1 accepted. I'm not going to go over it. You just accepted that,

2 um—

3 A. But there was no attachment point.

4 Q. For the purpose of removal?

5 A. Well, yeah.

6 Q. Well if there was no attachment point the res—

7 A. No attachment point to anchor.

8 Q. The responsibility—

9 A. Because on top of that plug was the mechanical plug.

10 Q. The re—

11 A. So you have to remove the mechanical plug so you break the
12 attachment.

13 Q. Okay, Mr. Khan, you remove the mechanical plug. You set it
14 aside. You now have the inflatable plug—

15 A. Uh-huh.

16 Q. —fully inflated. It is operational—

17 A. Yes.

18 Q. —at that time. There is no Delta P event at that time because
19 the inflatable plug is—

20 A. Holding.

21 Q. Right. But, in order to remove the inflatable plug, you need to
22 attach the anchors to remove it. We just went through that.

23 A. Yes, correct.

24 Q. So I'm taking you to a situation where the plug is being
25 removed. We've acc—you've accepted that the plug could be
26 appropriately secured so as not to go down in the pipeline but
27 you say there was no point to attach it. When you give that

1 evidence, you mean there was no point to attach it in the
2 chamber?

3 A. No. Where—you—there was no point to a—there was an
4 attachment point on the mechanical seal.

5 Q. No.

6 A. At least the manufacturer—

7 Q. Forget the mechanical seal.

8 A. You take out the mechanical seal—

9 Q. The top of the plug, the top of the plug is sitting exposed.

10 A. Yes.

11 Q. We have the three rings—

12 A. Yes.

13 Q. —that are there.

14 A. No, two.

15 Q. Okay two, but in—

16 A. Yeah, two.

17 Q. Right. In a, in a, in a proper plug—we've gone through this—
18 there would be three?

19 A. There would be three.

20 Q. Good. So if we're using a proper plug, the proper plug is to be
21 secured at those three points for removal?

22 A. Yes.

23 Q. Good. LMCS is to remove it, not Paria?

24 A. Uh-huh.

25 Q. You said to me that there's no proper point to, to anchor or
26 secure the cables.

27 A. On to the mechanical plug but—

1 Q. No, I—

2 A. —but prior to that—

3 Q. No, no.

4 A. —you could have attached the—you could have attached the
5 inflatable plug anywhere you want inside the chamber.

6 Q. Precisely.

7 A. Yes.

8 Q. So if LMCS—

9 A. Uh-huh.

10 Q. —you having accepted that the plug could be anchored at three
11 points and should be anchored at three points—

12 A. Yes.

13 Q. —and that it is being—it is capable of being securely anchored
14 using the appropriate cable—

15 A. Uh-huh.

16 Q. —to resist a Delta P event, it was therefore open to LMCS to
17 utilize the appropriate cables and anchor it in the chamber
18 without it being pulled into the pipe? Would you not accept
19 that?

20 A. Yes.

21 Q. Thank you. No further questions.

22 A. I can't doubt you on that.

23 **Mr. Chairman:** Right. Please?

24 **Further Cross-Examination By Mrs. Persaud Maraj:**

25 Q. Mr. Khan, we've heard evidence from you as to the violence of
26 the Delta P event. Would a restraint prevented—would a
27 restraint have prevented the plug from being pulled with that

1 level of violence?

2 A. It depends upon the strength of the restraint.

3 **Mr. Chairman:** Well, I mean it's obvious, isn't it? If it's a
4 piece of string it's not going to hold it. On the other hand, if
5 it's a steel cable it might, or it might pull the cleats out of
6 whatever it was attached to.

7 **Mr. Khan:** Yeah.

8 **Mr. Chairman:** Who knows? Fact is, it wasn't anchored, it
9 went down.

10 **Mr. Khan:** Yeah.

11 **Mr. Chairman:** All right, thank you very much. Can I express
12 our gratitude for the way in which you've put together your
13 evidence so that we can understand the whole scientific
14 concept? As I expressed earlier, it certainly helped me and I
15 know it would have helped us all understand the dynamics and
16 the mechanics of what happened, so, I want to express my
17 gratitude for you doing that. I think this particular plug is in
18 your possession, is it not?

19 **Mr. Khan:** Yes.

20 **Mr. Chairman:** You can take it with you if you like, and, er,
21 and, um, if you could pick it up.

22 **Mr. Khan:** I am the custodian of the plug right now.

23 **Mr. Chairman:** Right. All right, well I—

24 **Mr. Khan:** So the plug has to be taken downstairs and put in
25 my trolley.

26 **Mr. Chairman:** Well, I was just suggesting that [*Inaudible*].
27 I'm not suggesting—

1 **Mr. Khan:** No, no, no I understand.

2 **Mr. Chairman:**—take it under your arm now. So leave it there
3 now.

4 **Mr. Khan:** Yeah.

5 **Mr. Chairman:** We'll make arrangements for it to be returned
6 to you. Thank you very much indeed. So you're free to go
7 now and with our thanks. Please, yes, go now.

8 What happens next, gentlemen and ladies, is the reading of two
9 statements by the witnesses themselves and a statement which
10 is to be read by Mr. Ramoutar from—

11 **Mr. Khan:** Can I just leave, now?

12 **Mr. Chairman:** Please, please just leave. Yes, that's fine if
13 you go out that way. Take your things with you. Make sure
14 you take your bits with you. [*Crosstalk*] Have you got all your
15 things? Shall we just take two minutes while this is all done?
16 You needn't get up. I'm not going to.

17 [*Mr. Khan leaves Enquiry room*]

18 **5.56 p.m.:** *Enquiry suspended.*

19 **5.57 p.m.:** *Enquiry resumed.*

20 **Mr. Chairman:** Yes, can we resume then, please? So there
21 are two statements which have been edited. I don't know
22 where Mr. Ramadhar has gone now. Shall we have the
23 witnesses then, please? Let's have Afeisha Henry first, please?

24 [*Ms. Afeisha Henry enters Enquiry area and is sworn*]

25 **Ms. Henry:** I, Afeisha Henry, solemnly swear that the
26 evidence I shall give to this Commission in this case shall be
27 the truth, the whole truth and nothing but the truth.

1 **Mr. Chairman:** Now, please take a seat. Make yourself
2 comfortable. Bring that microphone a little towards you.
3 That's it. And first of all let me say thank you for coming.

4 **Ms. Henry:** Sure.

5 **Mr. Chairman:** I know this is not easy for anybody. Take
6 your time. If you need to take a break you just pause. All
7 right? No one will mind. All right? You take a pause. If you
8 need to stop for any reason, you stop, take stock and then carry
9 on. All right?

10 **Ms. Henry:** Sure.

11 **Mr. Chairman:** I've received yesterday your handwritten
12 statement, it's quite long, and I have taken the liberty to remove
13 those parts which are not either admissible or are repetitive. All
14 right?

15 **Ms. Henry:** Okay.

16 **Mr. Chairman:** But I think you've got a copy that has that
17 redaction from it already?

18 **Ms. Henry:** Sure.

19 **Mr. Chairman:** All right, good. Well you take your time, as I
20 say, and you tell us what you have to say. All right?

21 **Ms. Henry:** Okay.

22 My name is Afeisha Henry and I'm the sister of Yusuf
23 Henry. On the 25th of February, 2022 I remember receiving a
24 phone call around 4.45 p.m. from my brother's friend that she
25 called Yusuf's phone and someone by the name of Dexter
26 answered. He immediately said that Yusuf and four other
27 divers were working underwater since about 2.45 p.m. and have

1 not yet surfaced and they seem to be stuck under there.

2 I then took it upon myself and mustered every bit of
3 courage to personally call Yusuf's phone to now get first-hand
4 information from Dexter. I spoke with Mr. Dexter which he did
5 confirm that the information I received were, in fact, truth. I
6 kept asking him how. He really didn't have any additional
7 information or explanation for me. He just kept saying
8 something happened and they believe the guys are stuck in a
9 pipeline.

10 I wasted no time at all gathering my parents to get to that
11 location. Mr. Dexter then gave me a contact number to call for
12 directions to Paria's car park. I was given Mr. Monroe's
13 number. He was said to be the captain of the boat. Mr. Monroe
14 didn't—I also asked Mr.—well, I did get information from Mr.
15 Monroe, but instead offered words of encouragement and he
16 also gave directions to Paria's compound. I remember asking
17 him if he think those guys air supply would last this long. He
18 replied, "I can't be certain. It all depends on the diver's
19 ability." Also he kept repeating, look, deep down in my heart I
20 don't think those boys are stuck in that pipe, you know. God
21 isn't a wicked God. I have a feeling that they all were washed
22 away in the open sea. Then I mentioned if so, that can be good
23 news because in 2018 Yusuf along with couple others were
24 heading to Grenada on a vessel when it turned over and Yusuf
25 was the diver that saved himself and couple others. So if that's
26 the case, chances they can be okay. He then said, "Sister just
27 keep praying."

1 At this point I couldn't remain focused at all so I was on
2 and off calls with Mr. Monroe following directions to get to
3 Paria's compound. We were all coming from the far east,
4 Sangre Grande, which took us up to about three hours after
5 being lost and redirected by police officers that were
6 conducting a road exercise.

7 At around 8.10 p.m. we arrived at Paria's compound. I
8 didn't notice anyone present there but very little movement of
9 vehicles going in and out the car park. I approached the guard
10 booths and spoke with a female security officer. I shared with
11 her the information I learned and then I asked her if she knew
12 anything additional. She said yes, I know about the incident
13 that happened earlier but nothing beyond what you mentioned.

14 I then asked permission to enter beyond the main
15 entrance to gather information but my request was denied by
16 her. She stated that beyond here is unauthorized to anyone that
17 doesn't obtain an identification from their respective
18 companies. Also, "You must be escorted in from this point so
19 no, I can't permit you to enter." My family and I were left in
20 the car park unattended, but instead informed by another
21 security officer that we can stay but please do not leave our
22 vehicles unattended because they won't be responsible if
23 anything happens.

24 We then agreed to remain in the car park and await any
25 information at all. It was now around 11.30 p.m. where I
26 personally called both Dexter and Mr. Monroe for any updates,
27 but nothing changed. Around midnight, Mr. Monroe called me

1 now saying that Paria sent in something called a robot which
2 has a camera attached to it to give them video footage from
3 inside the pipeline. Shortly after another call they both told me
4 that that was a fail and it didn't work.

5 We were still there waiting. Multiple hours has gone and
6 still no one with clarification as to what's going on. Ever so
7 often my mother would cry so hysterically loud I'm certain
8 persons a mile away could have heard her. My mom, my dad
9 and my stepdad, also Yusuf's friend and I all shared a wooden
10 bench and the one vehicle we came with in the car park so we
11 don't miss the opportunity to speak with someone with
12 information or at least victorious news.

13 It's now around 2.00 a.m. and the rain just kept getting
14 heavier. So we are now sitting in the car on sleeping shifts.
15 Still no movement of persons or vehicles at all to assist us. At
16 around 3.09 a.m. or so I saw a vehicle entering the car park. I
17 immediately approached it. Two men introduced themselves as
18 LMCS workers. Minutes after, another vehicle entered the
19 compound and the guy introduced himself as Nicholas Kurban.
20 Nicholas then informed us that he was on the site and the guys
21 are really in fact in the pipeline and still have not been rescued.

22 He also said that he was the one that called for back-up
23 help from his brother, Michael Kurban and up to now they
24 won't let anyone rescue the men. They are purposely taking
25 their time like they want the men to die in there. I asked who.
26 He said Paria officials won't issue a permit to allow the divers
27 or LMCS to go in to do a rescue for the men. He emotionally

1 expressed that his brother is one of the best divers that night on
2 the site and have been begging to gear up and go in and been
3 constantly turned down by a very unpleasant woman on site. I
4 then asked who is her? He said a Paria official. Then asked but
5 why? He kept repeating, they insist they stand down and await
6 further instructions and a permit before any dive rescue starts.

7 This took us up to 4.30 a.m. where the traffic of vehicles
8 started to increase. Three ladies started walking towards me.
9 Then I introduced myself and they told me they are family of
10 Fyzie. I remember a pleasant lady speaking, before I learned
11 she was the wife of Faizal Kurban. She spoke so highly
12 confident of Faizal. She kept saying, "My husband is very,
13 very good diver", and she believed he would do anything he
14 can to save his colleagues and himself. I remained very close to
15 them in order to grasp any information they kept receiving.

16 As the sky started to clear up, more and more persons
17 started gathering in the car park. I even noticed media persons
18 started rushing in and that's where I really believed it all. The
19 adrenalin massively increased. By now media persons are
20 rushing towards us for interviews and pictures and the car park
21 became filled, loud, busy and crazy. Information about a
22 rescued diver now being circulated by them, but the name
23 wasn't certain.

24 Around 9.00 a.m. my family and I was introduced to Mr.
25 Kazim Ali Sr. and his wife, Catherine Ali. This is where the
26 rumour of a rescued diver was confirmed to us but
27 unfortunately the other four as still stuck in the pipe. Learning

1 that Yusuf were one of the men stuck sent my parents into a
2 further state of emotion. Mr. Kazim informed us that he been
3 and still trying to convince Paria officials to allow him a chance
4 to have his diving team perform a rescue but are being told no
5 each time. He expressed it's been hours he begging Paria
6 officials to accept his request because his only son too is also
7 one of the men in the pipe.

8 Mr. Kazim reassured us he is not giving up. He will
9 continue to exhaust and explore every attempt to convince Paria
10 his team can perform this rescue. He asked us all to bear with
11 him but made it absolutely clear he has enough men, equipment
12 and perfect and a perfect plan. Paria is the keep back, before
13 his visit came to an end.

14 I can vividly remember the OWTU members coming out
15 in their numbers and wasted no time sharing food, water,
16 encouragement and prayers with us all. They even began
17 protesting at the main gate still begging the security guards to
18 allow the other LMCS workers or additional divers to enter the
19 compound and proceed to the site.

20 It's about lunchtime and still no one from Paria came to
21 update us all. Information kept circulating about knocking on
22 the pipe from the inside which really lifted us all that there was
23 proof of life. More friendly civilians kept bringing additional
24 chairs, tables and even portable toilets for us at the car park.
25 Small businesses even rendered support of food and drinks.

26 Shortly after lunch we were greeted by a security guard
27 wearing a different uniform saying they were instructed by

1 Paria officials to escort the family of the divers to join in at a
2 secured location that they would be conducting a meeting.
3 Based on how they delivered that message, everyone were
4 annoyed and very reluctant. They spent about 10 minutes
5 trying to convince us to attend the meeting. My cousin, Leah
6 Spann, then announced that it's wise we attend the meeting to
7 at least hear what they have to share and if it somewhat doesn't
8 bring us any comfort we should all ask to be dismissed.

9 On arriving there I saw Minister Stuart Young, Michael
10 Wei, Mushtaq Mohammed, Narissa and many others. There
11 were a ton of armed plainclothes police officers too. They
12 prepared a seating room for the families. Mr. Young took
13 control of that meeting. After introducing himself, he allowed
14 the others to speak. They all were very brief with the same
15 thing to share, that at this time no one was permitted to enter
16 because they must be very certain of the conditions in the pipe
17 before sending another person to be possibly trapped too.

18 I do have recordings of that meeting because we were
19 told then that we are not allowed to go live on Facebook or
20 anything like that so we were just allowed to do audio
21 recording. After learning about this air pocket, et cetera, I
22 personally raised my hand asking Mr. Wei, who was introduced
23 as the engineer and shared some knowledge about it. He
24 looked so confused and couldn't answer the question. I
25 remember shouting at him. "You ain't know anything about
26 this pipeline, et cetera?" Everyone was so outraged that, they
27 called us here. It seems to be nothing but Paria buying

1 themselves some time. It felt like a total distraction.

2 During the meeting a clipboard was passed around to
3 provide them with a contact for each family member to be
4 provided with additional information. Mr. Mushtaq just kept
5 smiling. He then gave his speech that a rescue plan is being
6 prepared at this time and there are men working very hard to
7 leave no stone unturned. There he captured my attention that
8 there is a rescue around the corner. My mom showed him and
9 everyone else a picture on her cell phone. "This is a picture of
10 my two sons that I recently buried. The first one died on 13th
11 December, 2021 and the second on the 29th of December,
12 2021. Please I beg of you I can't afford to bury a third." Mr.
13 Mushtaq reassured her that the guys would be rescued because
14 they have, they have and still requesting some of the best
15 technology to assist a rescue.

16 Mr. Young then expressed that he just got off a very
17 lengthy flight and not even Paria officials knew he was about to
18 attend this meeting, so he advised us that the guys at Paria are
19 working, to please be patient. Narissa announced that Paria is
20 offering counselling for those interested and she promised to
21 create a group chat on WhatsApp for updates with respect to the
22 rescue.

23 In conclusion, Mr. Mushtaq did urge us to be patient.
24 They are working around the clock but it must be done in
25 stages. Tons of questions came from family members and Mr.
26 Mushtaq just kept smiling. Mr. Wei weren't very vocal in my
27 opinion. Guilt was written all over his face, but of course

1 everyone left there even more annoyed than we arrived due to
2 the fact that Paria officials called us here to give us what, a little
3 bit of AC and a room temperature bottled water? Because little
4 to no information was shared. I felt like they could have sent
5 that message with a security guard. So we left their conference
6 room and my mom held on to that promise from Mr. Mushtaq
7 that they would get the men out.

8 On returning to the car park, I shared my contact with
9 Celisha Kurban and few others because my family and I wanted
10 to return home to shower, et cetera. I kept asking if anything
11 changed and still nothing. About 8.00 p.m., Paria official
12 Narissa added me to a WhatsApp group stating that they have
13 started the rescue mission and it would be conducted and
14 carried out in three stages. Stage one has just commenced and
15 they will update us here as the information reach her. I waited
16 all night but not another message was sent from Narissa.

17 Around 8.10 a.m. Sunday morning, that's the 27th of
18 February, that stage one has failed and they were unable to
19 move on to stage two. A machinery part broke causing them to
20 abort the mission. She then asked us for our email address to
21 send additional information there. I became absolutely annoyed
22 and responded with a very ugly message that email and
23 WhatsApp ain't very different. Why can't you just send the
24 stuff here, which Narissa never responded to.

25 Narissa discontinued all communication in the WhatsApp
26 group. At this point everyone became loud, angry and very
27 emotional. More media and plenty movements in the car park.

1 I remember sitting next to a group of persons, one being Mr.
2 Phillip Alexander and an ageable man being called Mr. Ali.
3 They were on numerous calls even with Mr. Kazim Ali that this
4 guy is prepared to assist with a rescue if possible. If possible
5 Mr. Kazim can convince a Paria official for his judgments or
6 inputs. Mr. Kazim kept saying, “Paria is tying my hands and
7 won’t allow an opportunity.”

8 Shortly after media persons there are informing us that
9 Paria has now shift rescue to recovery and just extend
10 condolences to the family of the divers. Everyone was in total
11 shock because they lied to us all. It was the greatest amount of
12 deceit we endured. It’s about 5.30 p.m. when Mr. Phillip
13 Alexander, Mr. Abdulah prepared an area in the car park
14 inviting media persons with adequate camera footage to join in,
15 he’s about to go live.

16 Michael Kurban joined in as he informed the public and
17 everyone in the car park who made the shift from rescue to
18 recovery. He expressed that it was Mr. Piper that stopped all
19 diving since Friday and never signed a permit to allow LMCS
20 or any other company to perform a rescue or even try. Mr.
21 Piper even demand they close the opening of the pipe. Mr.
22 Kurban said it was murder to even do such. He was deeply hurt
23 and emotional. We even made mention of the misleading info
24 Narissa shared with us on WhatsApp.

25 After that heartfelt gathering, my family and I left and
26 returned home to Sangre Grande. On Monday, 28th February,
27 2022 we arrived at a car park around 6.30 a.m. Still no one

1 there from Paria. The entire day passed by and everyone still
2 gathered in the car park. I remember behaving very emotional
3 and loud because I have not yet accept the fact that all my
4 siblings are gone and I'm here in a car park annoyed, angry and
5 torn to pieces, that a big, established company like this made
6 such a bad choice and little to no effort to save my brother and
7 these men.

8 It was about 7.00 p.m. ambulance and DMO are seen
9 entering the main entrance. A OWTU member came
10 announcing that Paria will soon be asking for a representative
11 from each family to visit the site to identify their loved one's
12 body. I made it absolutely clear that no one from the Henry
13 family will be going there because since Friday we made—
14 we've been begging to go there and were being denied. Why
15 now it's now safe to go?

16 My family and I left Paria's car park torn to a million
17 little pieces, really emotional and cold. Very early Tuesday
18 morning Mr. Kazim Ali Sr. called me that they were able to
19 recover only three bodies so one family will be disappointed
20 this morning at forensic facility. On our arrival there, my mom
21 asked her sister, Wendy Phillip, to accompany my dad to now
22 identify Yusuf's body.

23 They both confirmed Yusuf's body was the first in line
24 by his tattoos on his chest and arm. They described the state of
25 the body and features to be a totally different person. If wasn't
26 for his known tattoos they could not recognize him. My dad
27 said all the guys' face, mouth, eyes look at same so he can tell

1 that they died the same way.

2 I've never imagined at such an early stage in my life I'll
3 lose all my siblings. I can't even grieve in peace but instead
4 wait for closure and clarity, justice for one. This pain won't
5 leave me. I live day by day turning, trying to open the next
6 chapter of my life without my riders, that's my brothers. It's
7 one of the hardest things I've ever been faced with. I've sat
8 here at this Enquiry for a number of hearings and witnessed
9 persons laughing while sitting here, telling obvious lies and I
10 can't express how much this has add to my depression.

11 **Mr. Chairman:** Ms. Henry, thank you very much.

12 **Ms. Henry:** No problem.

13 **Mr. Chairman:** I know that was not easy, so thank you for
14 coming and your evidence—

15 **Ms. Henry:** Sure.

16 **Mr. Chairman:**—will be taken into account. Thank you very
17 much. You can go this way. You can stay or go as you please
18 obviously, and take that with you.

19 *[Ms. Afeisha Henry leaves Enquiry room]*

20 **Mr. Chairman:** Mr. Maharaj, I believe the next witness is Ms.
21 Nicole Greenidge, is that right?

22 **Mr. Chairman:** Come this way, Ms. Greenidge. Be careful.

23 *[Ms. Nicole Greenidge enters Enquiry room and is sworn]*

24 **Ms. Greenidge:** I, I Nicole Greenidge, do solemnly swear that
25 the evidence I shall give to this Commission in this case shall
26 be the truth, the whole truth and nothing but the truth.

27 **Mr. Chairman:** It's Nicole Greenidge, is that right?

1 **Ms. Greenidge:** Yes.

2 **Mr. Chairman:** Yes, take a seat. Make yourself comfortable.
3 I know this is not going to be easy but I'm very grateful for
4 your coming. All right? I think it was your daughter who's just
5 given evidence, is that right? All right. Well, um, you just—
6 you've got your statement in front of you. It has been a little
7 edited but if you'll just read it to us now, thank you very much.

8 **Ms. Greenidge:** My name is Nicole Greenidge. I am the
9 mother of the late Yusuf Henry. Yusuf was a dedicated and
10 hardworking father of four, Aliyah, Isaiah, Tamayah and Tariq
11 Henry. Yusuf was a diver and became employed by LMCS
12 from the latter part of 2018 to the 25th of February, 2022.
13 Yusuf was vibrant, determined funny and had a passion for the
14 sea. He was whom one would describe as the life of the party.
15 On Friday, 25th February, 2022 I was at my daughter's Afeisha
16 home, residence, located at Ramnath Terrace, Sangre Grande.
17 At around 4.30 to 4.45 p.m. Afeisha received a call on her
18 mobile phone. She answered and all I heard her said in a loud
19 tone was, "What?" I looked in her direction and noticed a
20 change of facial expression as she sat on a nearby chair. I
21 quickly walked up to Afeisha and asked what was happening
22 while she was still having a conversation with the caller.
23 Afeisha showed me a sign to wait as I stood in front of her.
24 Afeisha then told the caller that she would call back in a bit and
25 in a very low tone said to me, "Ma sit." I asked what was
26 happening and my daughter repeated, "Sit down, Ma." By this
27 time, before actually hearing anything from Afeisha, my eyes

1 were already welled with tears. Afeisha then told me that the
2 caller was a female friend who she said called Yusuf's cell
3 phone and someone by the name of Dexter answered, told the
4 young lady that Yusuf and four other divers were conducting
5 underwater works at around 2.30 to 2.45 p.m. and had not
6 resurfaced to the platform since and they are missing.

7 I kept staring at my daughter in disbelief as the tears flowed
8 down my cheeks. I said to Afeisha, "What are you telling me
9 girl? That man sure about what she said?" The young lady told
10 Afeisha that she had asked Dexter for his contact but he gave
11 her the contact for one Mr. Monroe and said you can call this
12 person. Afeisha asked the young lady for the number she
13 received and quickly got off the phone with her to call Mr.
14 Monroe.

15 The first and second call I believe went unanswered and in her
16 third attempt Mr. Monroe answered. Afeisha introduced herself
17 and Mr. Monroe told her that he was a captain. Afeisha asked
18 Mr. Monroe what was taking place at the moment and he said
19 that there isn't much information he can give her but he heard
20 that Yusuf and other divers were sucked into a pipeline while
21 executing works. Mr. Monroe said that he will keep us
22 informed as soon as he learns more and hang up.

23 Afeisha called her father, Joseph Henry, to inform him of what
24 we were told and I called my common-law husband to do the
25 same. When my husband answered his phone, I hysterically
26 asked him where he was. He said that he was on his way home.
27 I urged him to hurry and that something had happened to Yusuf

1 and four other divers and I need to get to Paria's compound as
2 soon as possible. My husband and my children father, Joseph
3 Henry, arrived at almost the same time at around 5.45 p.m.

4 Eventually we found our way and arrived in front Paria's
5 compound at around 8.10 p.m. Afeisha again called Mr.
6 Monroe informing him that we had arrived and he told her that
7 we can park our vehicle in the car park and he will meet with us
8 there. The security allowed us entry into the car park where we
9 noticed Yusuf's vehicle., along with a few other vehicles. My
10 husband parked his vehicle a little way in front of Yusuf's
11 vehicle.

12 We all got out of the vehicle and started walking around the car
13 park. I walked across to the security booth and asked the
14 officers if they had any information on what had occurred and
15 they said that they did not know much. Afeisha called Mr.
16 Monroe's phone again asking him if any new updates. He told
17 her no but said to her that one of the divers were rescued at
18 around 6.00 p.m. I believe and that he was taken away by an
19 ambulance to the San Fernando Hospital. He did not give a
20 name and we did not ask. We later learned that the rescued
21 diver's name is Christopher Boodram. My family and I kept
22 the faith that the other divers will soon be rescued as well.

23 After waiting in the car park for about two hours I told Afeisha
24 that she should pray. She quickly alerted her father and I
25 alerted my husband. We all got into the vehicle, held hands and
26 individually said a prayer for Yusuf and the other three divers'
27 safe return. As I started praying, the tears kept rolling down my

1 cheeks. I begged God, please, not another one, Lord? Please
2 not Yusuf? Please not Yusuf too, God. We already lost two in
3 December, 16 days apart, God. No, no, no Lord not another
4 one. I felt so scared and confused.

5 **Mr. Chairman:** Would you like some water?

6 **Ms. Greenidge:** [*Nodding*]

7 **Mr. Chairman:** Yes, can we have a bottle, yes? All right.
8 You all right?

9 **Ms. Greenidge:** [*Nodding*] At about 3.55 a.m. to 9.00 a.m. on
10 Saturday, 28th of February, 28th of February—

11 **Mr. Chairman:** I think that's from 4.00.

12 **Ms. Greenidge:** On 26th of February.

13 **Mr. Chairman:** That's from 3.35 to 4.00 on Saturday.

14 **Ms. Greenidge:** Yes.

15 **Mr. Chairman:** Yes.

16 **Ms. Greenidge:** I noticed vehicles entering the car park one by
17 one with some of the vehicles leaving in less than a minute and
18 a few parking available spaces. Around 4.15 on Saturday
19 morning I noticed people walking in the car park. I then
20 noticed my daughter talking to three females if I'm
21 remembering correctly. I remember walking over to where
22 they were and soon learned that one of the women were the
23 wife of Faizal Kurban. We introduced ourselves, shook hands
24 and Celisha Kurban, the wife of Faizal Kurban started
25 interacting with us. She referred to her husband as Fyzie.

26 More hours had passed and by this time more people had
27 entered the car park. Everyone interacted with each other

1 speculating and hoping for the best. We all were devastated
2 and awaiting some kind of information or approach from
3 someone in authority at Paria. I noticed some guys wearing
4 coveralls similar to the ones Yusuf wore. I was approached by
5 a young man who introduced himself as Dave. He asked me if
6 I was Yusuf's mom and I said yes. He looked at me in almost
7 teary eyes and said, "Oh gosh, mom. Oh gosh. Yusuf is a good
8 one. He is we real boy."

9 Dave indicated to me that Yusuf recently returned to work and
10 that the crew knew of the family's bereavement. Dave hugged
11 me and said, "Moms don't worry too much. Yusuf is a fighter
12 and anybody to come out that pipeline next will be Yusuf." He
13 then walked away. Moments after, I was introduced to Michael
14 and Nicholas Kurban, the sons of Faizal Kurban. I understand
15 that they were awaiting permits to enter into Paria's compound
16 to render any assistance necessary. As far as I knew, they never
17 got those permits.

18 Not too long after I met with Vanessa Kussie, the wife of Rishi
19 Nagassar. She came up to where I was standing, asked who we
20 concerned. We introduced ourselves and hugged tightly as if
21 we knew each other. Vanessa also met with Afeisha, Joseph
22 and my husband.

23 Frustration started mounting. Members of the Oilfields
24 Workers' Trade Union arrived, media personnel and other
25 caring citizens. People brought in foodstuff and water for the
26 families. The families expressed gratitude for breakfast and
27 water to drink as we were in the car park for quite some time

1 with no water, no food, no toilet facilities and no information
2 on what was happening that Saturday morning.

3 I met with Mr. Kazim Ali Sr. in the car park at approximately
4 10.00 to 10.30 on Saturday. He informed me that his son,
5 Kazim Jr., was also in the pipeline and that he was trying all he
6 can to get some assistance but authorized personnel were not
7 too cooperative in speedy action that was desperately needed.
8 He apologized and then proceeded as it was a busy morning for
9 him.

10 It could have been around 12.30 p.m. at the time when the
11 families of the divers were approached by a security officer
12 who gave his name as Colin Rodney, I believe. Mr. Rodney
13 informed us the families that officials at Paria wanted to meet
14 with us at the golf course to have a meeting to inform us on
15 what was taking place and, if agreed, we will be escorted to the
16 venue. We all told Mr. Rodney that if we were to attend we
17 will, in fact, record everything being said at that meeting. Mr.
18 Rodney told us that recording was prohibited and we all
19 declined from having a meeting. Mr. Rodney then made a
20 phone call and told us that recording will be allowed but no live
21 streaming. We accepted and were escorted to the venue by
22 security.

23 At Paria's golf course we were directed to a room where we
24 met with Minister Stuart Young, Mr. Mushtaq Mohammed, Mr.
25 Michael Wei and I believed a young lady by the name of
26 Narissa, who was the communications officer. There were a
27 few other people in the room but I paid no attention to them.

1 Minister Young welcomed the families and expressed his
2 regrets for what had occurred with the divers. He then started
3 talking about his travel patterns and arrival into the country but
4 was quickly stopped by Celisha Kurban who indicated to him
5 that no one was interested in his travels. We were all there for
6 information on our loved ones. Another person blurted out,
7 “Yes, give us something to work with, man. Time running
8 out.” Mr. Young shortly turned the floor to Mr. Mohammed.

9 In Mr. Mohammed’s speech he mentioned that it was risky to
10 send someone into the pipeline but they were exhausting all
11 other alternatives and that they received equipment to help in
12 the search and rescue for our loved ones. Family members
13 began asking Mr. Mohammed questions of concern. I raised
14 my hand and was given the opportunity to voice my concern.

15 I introduced myself and deliberately asked Mr. Mushtaq
16 Mohammed how is it that a company of this nature existing for
17 such a long time, how come there is no emergency plan put in
18 place for when or if an accident should occur? We are all
19 aware that jobs conducted here are high-risk so how it is things
20 are taken so lightly with regards to the risk attached to jobs?

21 I also asked Mr. Mohammed, Sir, as we speak, are operations
22 taking place to rescue our loved ones? Mr. Mohammed said
23 yes. I asked again, as we speak, operations are being carried
24 out? And was given the same answer, yes. Someone asked a
25 question and Mr. Mushtaq Mohammed laughed and someone
26 from the Kurban family said to him, “What is the big joke?
27 People here under seriousness and you laughing?” Someone

1 else said, "At least you can laugh." I believe Vanessa Kussie
2 also commented on the laughter by Mr. Mohammed telling him
3 she has a three-year old son home waiting to see his father. I
4 said to Mr. Mushtaq, "Sir, I recently lost two sons in December,
5 16 days apart, and cannot afford to lose another."

6 Mr. Michael Wei then came on to speak but he too did not
7 make sense at all. He stood there lamenting about engineering
8 like if he was giving a quick course. Joseph Henry, I believe,
9 told Mr. Wei that we wanted action, not talk. My husband then
10 said to Mr. Mohammed and Mr. Wei, "With all respect due,
11 what families are being told here and nothing is the same. It is
12 in my view all yuh wasting our time so it's best to end the
13 meeting." Other family members agreed and proceeded to exit
14 the room.

15 Narissa quickly came forward with a notepad, I believe, and
16 asked for a contact number from one member of each family.
17 She said that this request were to create a WhatsApp group chat
18 to keep the families abreast of what was happening. The next
19 thing I was told was that Paria was now asking for an email
20 from the families. This was after we had returned to the car
21 park from this so-called meeting.

22 I remember hearing Afeisha saying in a loud tone, "What is
23 this, boy? So if someone don't have an email address then we
24 won't be able to receive information. Like Paria trying to trip
25 off somebody here or what?" Other families also expressed
26 their disapproval.

27 At around 3.30 to 4.00 p.m. my family and I left the car park

1 and headed to Sangre Grande. At around 7.50 to 8.00 p.m. on
2 Saturday night my daughter received text message from Narissa
3 I think telling her about what was happening around that time.
4 Afeisha asked Narissa how long they got with the rescue and if
5 any other diver were rescued and Narissa said to Afeisha
6 nothing yet. The rescue team is awaiting a permit to commence
7 a rescue and that the procedure will be done in three parts. I
8 blurted out profanities and said but that is not what we were
9 told in the meeting by Mushtaq.

10 Caring citizens continued to provide food and drinks for the
11 families. Later on in the evening on Sunday 27th I heard
12 people talking in the car park that the rescue plan was turned to
13 a recovery.

14 **Mr. Chairman:** I think you may have missed a page. That's
15 all right. Just take your time, all right? So—

16 **Ms. Greenidge:** Okay.

17 **Mr. Chairman:**—it finished on the previous page—

18 **Ms. Greenidge:** What—yeah.

19 **Mr. Chairman:**—when you told us that, um—

20 **Ms. Greenidge:** So that we were told in the meeting by Mr.
21 Mushtaq.

22 **Mr. Chairman:** Yes. Not what they—

23 **Ms. Greenidge:** So Paria taking us for clowns, then? As far as
24 I was aware is that we were fed lies. I broke down in tears
25 saying well those divers' chance of survival now gone to a next
26 level.

27 On Sunday, 27 February my family and I arrived at Paria's car

1 park at around 7.45 a.m. As I got out of the vehicle I heard a
2 voice said, “Look the lady reach”, and was quickly approached
3 by Mr. Ian Alleyne. Mr. Alleyne said, “Good morning,
4 Ma’am” and I answered. He went on to say, “Come with me
5 quickly, Miss”, and alerted the man holding a camera to come
6 along.

7 Mr. Alleyne said to me, “Ma’am, I just want to ask you a
8 couple questions.” He first asked me to introduce myself and
9 state the name of my family that was in the pipeline and his
10 relation to me. I did so. Mr. Alleyne then asked, “Ma’am, is it
11 too that you recently lost two sons?” My eyes immediately
12 weld with tears and I shook my head in a motion to indicate
13 yes. Mr. Alleyne then turned to the cameraman and said,
14 “Trinidad and Tobago, we are here live at Paria car park and
15 this mother recently lost two sons in December and by the look
16 of things possibly a third.” I could not contain my tears at that
17 point and broke down once more.

18 As I walked away I noticed portable toilets were placed in the
19 car park. Caring citizens continued to provide food and drinks
20 for the families. Later in the evening on Sunday 27th, I heard
21 people talking in the car park that the rescue plan was turned to
22 a recovery plan by Paria. Voices became loud and it was
23 difficult to hear properly what one was saying. Everyone were
24 voicing their opinion all at once. I walked over to the vehicle,
25 opened the door and sat in the front passenger seat leaving the
26 door open. Again I broke down in tears.

27 I then felt a little hand on me and realized that it was my

1 granddaughter, Aliyah Henry. Aliyah said to me, “Nana, doh
2 cry nah? My Daddy real strong and he will come out just now.
3 Wait and you will see.” She sounded so sure and hopeful. I
4 just shook my head and hugged her. A short while after, my
5 daughter told me that she had received a call from Narissa
6 inviting us to a room in the golf course area with seating and
7 air-condition. Afeisha said she asked Narissa, “To me you all
8 created a group chat. How come this is an individual call?”
9 And Narissa said to her that she had called the other families
10 and offered the same.

11 Afeisha then said to Narissa, “Well, I think we should have
12 been contacted all at once in the group chat. Afeisha said she
13 also told Narissa that she will have to decline because she’s not
14 making any decisions without her parents, and also, there are a
15 lot of families who came in support and she’s not about to just
16 move away from them. Afeisha also made sure to remind
17 Narissa that since Friday 25th families were left in the car park
18 with no source of comfort and got by. Narissa said to Afeisha
19 that she understood and hang up.

20 My family and I left Paria’s car park around 10.30 on Sunday
21 night. On Monday 28th we returned to the car park around
22 10.00 a.m. By this time my family never received a direct
23 phone call nor in the group chat that Paria had now changed the
24 rescue to a recovery. I found it a bit disrespectful to the
25 families as it was in my opinion a wrong sided decision to have
26 media release before contacting the family, however, we just
27 waited again in the car park.

1 Sometime later on that Monday afternoon I noticed a group of
2 people rushing to one area in the car park. I was unsure of what
3 was taking place and I then learned that it was Vanessa Kussie,
4 the wife of Rishi Nagassar, that fainted. I later learned that she
5 had received a phone call informing her that her husband body
6 was removed—was recovered. I held on to my stomach and
7 immediately felt sick. Moments later, my sister came to me and
8 said that she got a phone call from a close friend who were
9 present for the retrieval of the divers' body that they had just
10 pulled up the body of my son, Yusuf Henry. My sister hugged
11 me and we both started crying.

12 My family and I left the car park around 9.45 p.m. on Monday
13 night. On Tuesday, which would be the 1st of March, 2022 my
14 family and I went to the Forensic Science Centre in St. James to
15 identify Yusuf's body. My sister volunteered to go along
16 Joseph Henry to do the identification as Afeisha and myself
17 were not prepared to do so. I was told by my sister and Joseph
18 that Yusuf's body was the first to be shown to them and they
19 easily identified him by a tattoo on his right arm.

20 Joseph walked out in the yard of the Forensic Centre and started
21 to jump and shake his head while tears streamed down his face.
22 On seeing his reactions, I immediate broke town into tears
23 myself. Joseph was interviewed by a media personnel and a
24 short while after we headed to Sangre Grande. On Wednesday
25 afternoon I believe I heard on the news that the last body was
26 retrieved.

27 **Mr. Chairman:** Yes. Well look, thank you very much indeed

1 for coming. I know that that was not easy for you but I
2 appreciate what you've done and you can be assured that we
3 will take it into account. All right? So please feel free to go
4 and take a seat. The final piece of evidence—

5 *[Ms. Nicole Greenidge leaves Enquiry room]*

6 **Mr. Chairman:**—at this Enquiry will be the reading of the
7 statement of Aliyah Henry. She is the daughter of Yusuf
8 Henry, and it was received by this Commission of Enquiry on
9 the 5th of January of this year. She is 11 years old and I have
10 permitted her statement to be read by Mr. Ramadhar. Would
11 you do that now, please?

12 **Mr. Ramadhar:** Thank you very much, Sir. On behalf of
13 Aliyah Henry:

14 “I am 11 years old. I was born on the 28th of July, 2011.
15 My mother's name is Tia Gopaul and my father's name
16 is Yusuf Henry. I have known my father, Yusuf Henry,
17 all of my life. He was a great dad to me and loved me
18 unconditionally. He all supported me in everything
19 together with my mom Tia Gopaul. I remember him
20 singing happy birthday for my tenth birthday and I can't
21 stop watching the video just to see my dad's face and his
22 smile. He stood with me when my grandmother, Mary,
23 died in 2021. Also during Christmastime he bought gifts
24 for me. He always was in contact with me giving me all
25 the courage and strength and support I needed.

26 When I got word of my father stuck in a pipe at Paria on
27 the 25th February, 2022 I froze to know that, but I prayed

1 and prayed that my father and his friends will be safe. I
2 went down to Paria with my mother and other family
3 members praying for a miracle for my father and his
4 friends. However, same didn't happen. I later received
5 news that my father, Yusuf Henry, died in the pipeline. I
6 will never get over this horrific death of my father. He
7 didn't deserve that death. Every day I wake up is like
8 I'm living a nightmare that my father is no longer with
9 me and I love him so much and every single day that
10 passes I miss him. I remember all the nice times we
11 shared.

12 I write SEA this year and I don't know how I'm going to
13 do it without my dad's support. I will never ever forget
14 him and most of all I will always remember how tragic
15 his death was. Daddy, I miss you dearly and I know one
16 day we will be united again. You will always be my
17 hero. Justice will be served by the Commission."

18 Thank you very much.

19 **Mr. Chairman:** Yes. Thank you. That brings the evidence at
20 this Enquiry to an end with the one caveat that in due course we
21 will be inspecting the hyperbaric chamber that was used as the
22 habitat to effect these works. So the evidence is at an end now.
23 There are one or two documents I think we still asked for which
24 may yet arrive. If that happens then all well and good, we'll
25 take it into account, otherwise, that's it. Tomorrow we'll sit at
26 eleven o'clock with the first address to this Commission from
27 Mr. Ramadhar. Two others—yes.

1 **Mr. Ramadhar:** Out of an abundance of caution, there's an
2 unavoidable issue I have to deal with, a personal matter, in the
3 morning. I expect to be here by 11.00 but I've taken the liberty
4 and I bring it to your attention and permission, in the event that
5 something goes wrong and I'm a bit late, my friend, Ms.
6 Alfonso, would be ready and available to go first but I intend to
7 be here, but I just wanted to put that on caution.

8 **Mr. Chairman:** Well that's all right as far as I'm concerned—

9 **Mr. Ramadhar:** Thank you.

10 **Mr. Chairman:**—provided Ms. Nyree Alfonso is content with
11 that course. Could you make sure you alert somebody here so
12 that I know that before we start?

13 **Mr. Ramadhar:** Absolutely, Sir.

14 **Mr. Chairman:** Yes.

15 **Mr. Ramadhar:** My colleagues will be here. Thank you so
16 much.

17 **Mr. Chairman:** All right, thank you very much. All right,
18 that's how we'll commence tomorrow. I say it's an
19 administrative matter that I have to deal with up until eleven
20 o'clock, so, we're adjourned now and we will hear addresses
21 tomorrow. Thank you very much. You can grab your papers.
22 I'll get up in a moment. I'll just grab all my papers.

23 **6.50 p.m.:** *Enquiry adjourned.*

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27

1 **EVIDENTIARY HEARING DAY 16**

2 **10.59 a.m.: Enquiry Commenced.**

3 **Mr. Chairman:** Good morning, everybody. I am very pleased
4 to see you've been able to make it, Mr. Ramadhar.

5 **Mr. Ramadhar:** I'm so grateful to be here before you at the
6 relevant time, Sir. The stars aligned for me this morning.
7 Thank you.

8 **Mr. Maharaj SC:** Mr. Chairman, I do apologize for Mr.
9 Bissessar for a few more minutes. He will join us in a short
10 while.

11 **Mr. Chairman:** No, that's fine. That's fine. Thank you.

12 **Mr. Peterson SC:** Mr. Chairman, I also apologize for being
13 alone. I just sent for one of my juniors to join me, but, um, I
14 left them with a task to pull some stuff together.

15 **Mr. Chairman:** You look completely deserted, actually, this
16 morning.

17 **Mr. Peterson SC:** I'm feeling completely in that status.

18 **Mr. Chairman:** May I enquire, Mr. Peterson, if, in fact, it's
19 going to be you who addresses the Commission?

20 **Mr. Peterson SC:** At this stage, yes, Sir. If what I left to be
21 done has been put together, then, yes, it would be me. If not,
22 then Mr. Mootoo will do it. But I suspect it will be me.

23 **Mr. Chairman:** All right.

24 **Mr. Peterson SC:** And I will be within the time assigned, Sir.

25 **Mr. Chairman:** Marvellous. All right. Well, then, we'll hear
26 from Mr. Ramadhar, first of all.

27 **Mr. Ramadhar:** Good morning, Chairman, good morning

1 Commissioner Wilson, morning to all. The only bright moment
2 I have had since I became aware of this terrible tragedy came
3 yesterday evening. On the way home I received a call from Tia
4 Gopaul, the mother of Aliyah, and she asked for me to convey
5 to the Commission, to Mr. Maharaj, and all of my colleagues,
6 the gratitude that she feels. And for the first time that Aliyah
7 had any moment of brightness since her father's parting was to
8 have heard her words read so that the public would know that
9 her father meant more than just a number; not just a name, but
10 he was a truly loved person. And I want to personally thank the
11 Commission for taking the robust position that what matters
12 most in this Commission, notwithstanding the
13 recommendations we will make that will affect the way we
14 move forward in things, is the human value it has put on those
15 who have gone and more importantly now, the human value of
16 those who are left with the burden of their loss.

17 To have heard Vanessa Kussie, Catherine Ali, Jaimie Ali,
18 Afeisha Henry, Nicole Greenidge come with the courage that it
19 must have taken to sit and to speak words that emanated the
20 grief that they would have felt, it is really a translation into
21 words of something so horrific, and it's only but a small
22 percentage of what they would truly have felt on the inside.
23 But to have given them that opportunity, it is like a pressure
24 cooker; a release of some stress and burden from their shoulders
25 and from their hearts that was permitted here under your
26 chairmanship, Sir. And that must go completely noted as to
27 how we conduct ourselves; that a Commission is more than just

1 a documentary position. It is about humanity—and I shall say
2 this at the beginning: This is a Commission like no other this
3 country has ever seen.

4 I have had the good fortune of being present at other
5 commissions, and this one, Sir—and I will start where I had
6 intended to end; that wherever I have been in this country—and
7 I have been a lot of places—Trinidadians and Tobagonians
8 come forward and say thank you for what you do, but tell the
9 Commission and the Chairman we are grateful to have had him;
10 to tell Mr. Maharaj that all the years of your experience and
11 expertise you have brought to bear—and you, Sir, you know
12 you are my beloved senior, and I'm so honoured to be in your
13 presence in such a Commission.

14 Mr. Chairman, grief is underrated in this world. And I
15 say this because when one looks at the law in terms of personal
16 injuries or the compensation that one would get—the family
17 that is, for those who have passed—it is almost embarrassing in
18 Trinidad and Tobago in particular, where an arm or a leg will
19 be worth less than a hundred thousand in a judgment; a life will
20 be worth even less sometimes. And I ask: Is this where we
21 are? Is this who we have become?

22 Trinidad and Tobago, Chairman—I know you've been
23 here for a short period of time—to me and to many others, is
24 the most beautiful place on the planet. From the very first
25 breath I took, having been birthed here, and the very first sip of
26 water came from the air of Trinidad and Tobago and the water
27 of this land; every bit of sustenance came from this beautiful

1 spot on the earth called Trinidad and Tobago.

2 I say these things to explain why what is at stake here is
3 not just about apportioning responsibility, but really it's about
4 dealing with the soul of this nation. I grew up in a nation where
5 almost all of us knew the Golden Rule, which is to "Do unto
6 others as you would have them do unto you"; and the biblical
7 edict to "love thy neighbour as thyself".

8 And that is why when I became aware of what had
9 happened that fateful horrific evening of the 25th February—
10 my good friend Phillip Alexander had gone there in aid, like the
11 OWTU, to make known to the public that a tragedy had
12 occurred, but an even greater tragedy was on the horizon,
13 because there was little to no action. And I'm grateful to them
14 both—the OWTU and Phillip Alexander—because he sent me
15 the clip of the interview he did with the son of Fyzie Kurban—
16 Michael Kurban. And when I heard that this young man was
17 prevented from rescuing or endeavouring anything to save his
18 father, I could not believe that that was true. But I had the
19 opportunity to speak with him after, and then, of course, we've
20 seen repeatedly from independent sources that that was, in fact,
21 so.

22 It rings in my ear, and it pains in the heart when you,
23 Chairman, put the question, a most relevant question: If it was
24 your father what would you do? When many may take
25 objection to that, I think that was the heart and the kernel of
26 what we are about. Because here we are, persons with
27 authority, never took responsibility—and we see that way too

1 much in this nation and in many other parts of this world; but if
2 you are given authority it means something. It is not just a title.
3 It is not just a right to earn a higher salary and to have perks.
4 You are expected the higher you go, the greater the
5 responsibility, and that expects of you a different make up of
6 your being. If you weren't with it before, as you elevate
7 yourself, so must you in terms of your learning, in terms of
8 your capacity, in terms of your understanding, and in terms of
9 your philosophy. We have seen a dismal failure in relation to
10 that.

11 In fact, just the opposite. What we have seen in this
12 country, apart from the criminality where life has almost no
13 value on the streets, there is almost a formality, almost an
14 encouragement to treat life as if it is less than what it was,
15 supposed, and intended to be.

16 If I may submit that the greatest value one has is one's
17 life. And then the other greatest value that one has in his life or
18 her life would be the relationships that one has. And this is
19 where we are looking and focusing so that we could learn from
20 this and redirect ourselves if we have already taken a path that
21 we ought not to.

22 Chairman, Commissioner Wilson, what do we have here?
23 An accident occurred. This is not a perfect world. It is the real
24 world. Accidents do happen. But there is a root cause, and we
25 have found, through the help of many, to ascertain as best as we
26 can, maybe not 100 per cent, but with the certainty beyond a
27 reasonable doubt as to what the cause of the accident was. And

1 having learnt from that, we, I expect, put things into place to
2 ensure there is no recurrence. But we also have to put into
3 place something to relegate this culture of uncaring and
4 callousness, where human life is measured in what might be
5 termed monetary views.

6 Yesterday I had a conversation with one dearest to me—
7 my wife, and I had to tell her, you know, colleagues tell me—
8 and I'm seeing it more and more—that in a very clinical way in
9 terms of compensation, and so, it is cheaper for your victim to
10 die than to live, Mr. Maharaj, and that compensation for the
11 long-term care and wellbeing is so great, that it is cheaper if
12 they die and you pay if there is proper proof of the negligence.

13 I am not for a moment suggesting that that occupied the
14 minds of those who had the authority, but did not take
15 responsibility. What we do know is this accident occurred
16 around 3.00 p.m., and in the confusion, clearly, and the
17 uncertainty, zero was done. But I ask you to note that the
18 common sense approach, as we've heard from Mr. Khan
19 yesterday—and anybody—you don't need any specialized
20 knowledge—but if you saw a splash in the chamber and that the
21 men went missing and there is a hole called the pipe that ought
22 to have been plugged, the natural inference would be—because
23 if you're not seeing them in the chamber or in the immediate
24 waters around, that they are more likely than not would be in
25 the pipe. Deathly silence as to where we were between three
26 and later in the evening when Christopher came out.

27 When Christopher came out at around 5.30, already on

1 the white board at the Paria Command Centre was the
2 likelihood of survival was minimal. There was a mind-set. The
3 guys gone. And, therefore, I want to suggest—and it's a known
4 psychological fact and truth, there is a confirmation bias. And
5 one of the witnesses, Mr. Mushtaq, said he knew about it,
6 where you propose in your mind a belief and that you do
7 everything to confirm that belief, notwithstanding there may be
8 other bits of information to undermine the structure of your
9 belief.

10 That was at around 4.30. I put it in general terms. But
11 around 5.30, when Christopher came out it changed the
12 paradigm, because if you did not know before you certainly
13 would have known then. And what did he say to be repeated?
14 Go back; get your father. He's right behind me. His brothers
15 were right there. Go back and save them. What did Paria do—
16 those who had responsibility—absolutely nothing that mattered
17 most: that is the rescue. Because we admit; accident already
18 occurred.

19 The next stage must be if we are to value human life,
20 rescue. And before that even, sustenance. What is the natural
21 consequence of men being in a pipe, possibly with little to no
22 air? They would require the first thing, as air.

23 We've heard that a hose or—somebody—a simple man
24 told me, he say, "Listen, man, join up as many PVC pipes as
25 you could and push it in and pump air in. They will hear
26 bubbles if it doesn't reach them, and they will come towards it."
27 Simple. All of the technology, all of the expertise, all of the

1 high-level ranking jobs didn't consider any of that, but we had
2 an Incident Command Team with a Commander.

3 What a fantastic, resounding name. Commander. One
4 would think immediately to straighten one's spine and resolve
5 that you should salute such a person. But I say, no, I do not
6 salute such a person. Because we heard the evidence of those
7 who peopled the Incident Command Team. You heard
8 Catherine Balkissoon who, on a simple straightforward
9 question: if it were your father what would you do? Burst into
10 tears. And my friends, of course—in Trinidad we have a term
11 “rose”, like if yuh hit a Guêpe nest; everyone in condemnation
12 for the most germane, relevant question. Because that is what
13 would occupy you.

14 You are on site. This is not an artificial, um, thing you
15 looking at TV on. Human beings are around you. The man's
16 son is complaining: “I want to go. I need to go. I could do
17 this.” By which time, of course—and I know all the details will
18 be more than adequately considered by the cumulative efforts
19 of my colleagues, and certainly Mr. Maharaj's team—no
20 permission.

21 Not just no permission; coast guard is called in and an
22 order was made that no one is to go in the pipe. It is resounding
23 in my heart and ringing in my ear—and I shan't say where it
24 came from, but it came in this room—that you would have had
25 to shoot me to stop me. I do hold that view. But it is not you,
26 Chairman; it is not I. We are from a profession that we are
27 trained to be independent; to be strong in the face of adversity,

1 that when you're told no, you must ask why, and show me why
2 it is I cannot do these things.

3 But young Michael is a trained diver and I'm sure
4 Commissioner Wilson will attest that the profession of diving
5 requires serious discipline. And he had been trained by his
6 father to be disciplined; take instructions. And the mindset that
7 you need work permits, and you must take instruction from
8 those who have the authority, and out of fear—and he was
9 honest enough to say that the coast guard did not point guns
10 directly at him. And we would hear from the coast guard
11 themselves—none of them would admit that they were
12 enforcing that instruction to not endeavour a rescue.

13 Of course, because we are looking at this in a rear-view
14 mirror, and they cannot justify their actions that night—cannot,
15 because four men died—so therefore in trying to justify, we
16 come to the position of excuses, or I can't remember, or not
17 knowing. I wouldn't insult the intelligence of all of us to go
18 through the details of the coast guard evidence, where one goes
19 to pick up another, the other senior man doesn't ask a single
20 question en route as to what he's going into. No effort.

21 They quickly said, and rightly so, if it is that they didn't
22 have the capacity to endeavour a dive into the pipe, not trained,
23 not equipped, to say we can't do it. But why do we take the
24 official word of the coast guard as if that was God's given word
25 that it couldn't be done, when there were those who would have
26 come—and I shall get to that in a moment, but they stand
27 around and they wait, and there was a nebulous uncertainty as

1 to what their purpose was.

2 The coast guard wants to tell us that they were there just
3 to offer assistance for dive. But what did Mushtaq say? The
4 General Manager. They were there to protect Paria and
5 Heritage personnel. How does one do that? By exercising, of
6 course, superior force. Armed. What is the message sent. It is
7 a notorious fact in this country—and, Chairman, you may not
8 know, but early last year the coast guard opened fire on a
9 pirogue loaded with human beings—loaded with human
10 beings—and killed an 18-month-old baby. Not just that. There
11 was a ship from Grenada, where it is—it was all over the
12 news—I have some intimate knowledge in that matter—where
13 the coast guard is alleged to have so beaten crew members that
14 a young crew member from that boat had to be hospitalized,
15 passing blood when he should be passing urine.

16 I just give these examples. We've had other situations
17 where the character and notoriety of the coast guard—I'm not
18 condemning all of them; we are grateful for the efforts of the
19 good, but we must certainly recognize the actions of the bad—
20 where one was actually charged for murder shooting a young
21 boy, again, many years ago. I had stood in protest on that,
22 where he died from a coast guard bullet. And people in the
23 waters know that out there one doesn't only expect pirates, but
24 you expect other things.

25 So there we are. The enforcers, I put it in this
26 Commission; they were like laying back; bouncers; just being
27 there and ready. But Catherine, the eyes and ears of the

1 Incident Command Team, says that basically that they were
2 speaking in hostility, and so. One could imagine—and you saw
3 the attitude; you saw the personality: “Don’t talk to me. You
4 can’t talk to me like that.” In fact, to the extent that she to
5 convey—and when I say garbage in, garbage out, it was not
6 intended as an insult, but those whose gardens are prepared to
7 receive the truth will understand that it will bear fruit.

8 So when I said garbage in garbage out, Mr. Piper full
9 well knew that he was—and I’m being generous to him—that
10 he wasn’t given the sort of information that was required to
11 make proper decisions. I give him that as a benefit. But then
12 you have Mushtaq, who with arrogance characterized efforts,
13 and those who were making efforts instead of paper, but in
14 reality, willing to put literally their lives on a line, as mutterings
15 and disregarded.

16 We have put procedure and paper before reality and
17 people. And there we have the character of those who have
18 authority. And there is much more. It has been all over. Mr.
19 Wei when being cross-examined, asked the simply question:
20 four men having died, you being a member of the accident
21 management team, how do you rate your actions? He took a sip
22 of his water, laid back and reflected, and in a very determined
23 way indicated, excellent.

24 Picture this. Incident Command Team; four men having
25 died under your watch, under your authority, under your
26 responsibility, and a year after, almost, ten months after, you
27 have the gall to sit in the face of this nation and this

1 Commission and indicate that your actions were excellent.

2 I gave him a moment of lapse, that that maybe he felt he
3 had to answer. But what's the background to this? He is still
4 on the job. Not just he; Catherine is still on this job. Piper—
5 Mr. Piper is still on the job as Incident Commander, and these
6 are still members of the team. The gall to have heard that they
7 have people doing dangerous work on a daily basis. In fact,
8 that morning that Mr. Mushtaq told us about, he had people
9 dealing with high tension electricity, and so. One shudders to
10 imagine what will happen if an accident was to recur, because
11 the characters have not changed, and they think that what they
12 have done is excellent.

13 I put the name forward here in cross-examination that he
14 knew. Young man, Shaquile Douglas, 29 years old, fell ill
15 while working at Paria. Paria's ambulance came on the scene.
16 I don't want to speculate, but I was told this: That they had no
17 authority to take him to a public institution, but they had to
18 go—they had to take, if at all, to a private one, and therefore
19 there were financial consequences, and therefore they called in
20 the fire ambulance, who came sometime after, did what they
21 could have, and then, of course, waited four hours after his fall
22 to have him pronounced dead by a DMO. That is the culture
23 and the excellence for which we have to condemn and to fix.

24 But it extends beyond Paria. Some matters I was
25 personally involved in, not professionally. My former secretary
26 had to call me in horror that her brother had died. He had gone
27 to work at TCL, and an accident occurred around 3.00 a.m. She

1 arrived on the scene at 6.00. This young man in his 30s with
2 several children, his arm had gone into one of those crushers
3 and he passed. But whilst there, hearing mutterings from
4 foremen, and so, that when they got there he was groaning, and
5 so. No effort was made to save him, because, of course, what
6 we have now is a certification issue. Reports have to be taken
7 and be made, so the priority is not to save lives anymore, but to
8 ensure you dot all the Is and cross the Ts in those moments of
9 anguish. And one could only imagine the pain one would feel
10 waiting and expecting somebody to come and help you, but you
11 bleed out. Sir—and I shall come to my recommendations, but
12 put an asterisk on that.

13 I had to sit—in fact, no, I was cross-examining Mr. Piper
14 when he sought to have a level of compassion. And, of course,
15 I have compassion for everyone. But he says it wasn't easy for
16 me on that evening. I understand it couldn't have been. Put
17 yourself in my position, he says. And I said, of course. You're
18 the boss. You have the power. You have the authority. And I
19 put myself in his position. And if—it is not up to me, but every
20 human being who loves this country will know that you cannot
21 love the land, the water, the air, without loving its people. And
22 if you love people just for a moment, then what would you
23 instinctively—and I'm coming to that—this thing about
24 instinctive and emotional as if it's a negative thing. He says,
25 put yourself in his position.

26 Did he, for a moment, put himself in the position of those
27 who went in the pipe? Understand what had happened. They

1 went in there battered and bruised, I imagine, but still vital,
2 because when I heard the audio like we all did—I heard it on
3 the radio—the power in the voices, they were very much alive;
4 not broken and diminished; not near to death’s door, but vital
5 and alive, and young Christopher—thank God for him—
6 promised them, “I will return or at least I shall send help.”
7 There was great hope and expectation in their heart, and they
8 waited, and they waited. Seconds turned into minutes; minutes
9 turned into hours. I do not know the exact moment of their
10 passing, each and every one of them individually or
11 collectively. What we do know is that zero effort was made by
12 those who had the authority and responsibility to rescue.

13 So we need to consider, is that the sort of personality we
14 wish literally to be in the chair of authority? That you put
15 yourself in your position, and you don’t think about the others?
16 Every single day men and women arise in this nation and head
17 to their jobs. Their mothers, their fathers, their sisters, their
18 brothers, their wives, their children expect to see them return
19 home. There’s an inbuilt expectation that wherever you go to
20 work there’s an environment that I produce the labour, you
21 produce the salary. But there is much more.

22 There is an expectation that if anything should go wrong
23 that somebody is looking out for me. We have laws for that if
24 you didn’t want to do it personally, to ensure safe working
25 environment; to ensure that my life is valued to the point that
26 you must take action. And that was betrayed. So as I stand
27 here today—this is not just about Paria. This is not about

1 Paria's workers alone, whether they be contracted through
2 Kenson or directly or some subcontractor. This is about every
3 single Trinidadian and Tobagonian who works, whether in low
4 office or high; whether in the streets or in skyscrapers; whether
5 we still sit in ivory towers and make decisions. Even they are
6 expected and are entitled to some level of comfort that they will
7 be protected in their environment and the work that they do.
8 Betrayed completely. But yet we continue.

9 These persons use the law; they use the rules and
10 regulations that were designed to protect human life as a
11 shackle, as a stranglehold, to suffocate the very efforts that
12 those laws were prepared and intended to effect. Instead of
13 using the rules and regulations and laws as a tool, in this case it
14 became a weapon. Because all you hear is the procedures that
15 they have created for a risk assessment first and then a plan.
16 But not from mutterings; not from the word of mouth that is
17 required in moments of anguish and anxiety, and certainly of
18 urgency.

19 We talk about even at the quickest to do these things may
20 take half hour. That's in the best of times. But men are on a
21 boat; they're on a barge, and those who are willing and able,
22 capable, competent and equipped are there. But you consider
23 what they suggest as mutterings.

24 Mr. Khan—I don't know if anybody could undermine
25 what he has said; that at the moment when Christopher came
26 out it meant that the entire environment had stabilized, and that
27 was the best time or shortly thereafter, certainly, for any rescue

1 to be done. And that was when all of the things, the stars
2 aligned in terms of human capacity, equipment, will, courage,
3 to go and do the thing that could have saved these lives, but
4 they were not permitted; absolutely, positively stopped.

5 So, Mr. Chairman, there we are. This is the context in
6 which I rose today to speak; that by what we do and the
7 decisions we make, the recommendations that will emanate,
8 must attend to these things. It must mean that the people's
9 resources having been adequately provided with help from the
10 urgings of the Commissioners to get it done was, as I said, like
11 a commission like no other. There must be direct, immediate
12 consequences to this.

13 Let me just say, I am grateful to the Minister of Energy,
14 who I am fortunate and privileged to consider as a friend,
15 because on the Monday night he and I had many conversations.
16 At that time, of course, we knew that rescue was out of the
17 question. But he had given instructions so that family members
18 be permitted to go into Paria so that when bodies were retrieved
19 that families could at least have some level of closure in that
20 moment. Notwithstanding that something somewhere, some
21 authority within did not allow that to have occurred.

22 I also want to thank the Prime Minister and the Cabinet
23 for having the—what shall I say—the willingness to allow a
24 Commission. I know many did not expect for the Commission
25 to go the way it has, in terms of the courage, the forthrightness,
26 the clarity of purpose, and certainly the personalities that
27 populate it. So I thank them. And, Mr. Chairman, there is so

1 much more I can say, but I will be as conservative with the time
2 as I possibly can.

3 I want to make some recommendations to this
4 Commission. And as I enter into the recommendations, I want
5 to make an observation. You might recall with stark clarity the
6 evidence from both Mr. Piper and Mushtaq Mohammed, the
7 General Manager, that whatever happens on Paria's compound
8 or on its property is the responsibility of Paria. But you know
9 the other side of this? It was because they were of the view that
10 this accident occurred on their property they took the godlike
11 authority to prevent a rescue. I do not know where that came
12 from, whether it's private property or public property, but they
13 took that decision, and because of their locus standi in society,
14 Paria's management, a State-owned agency, the resources of the
15 State were used under their authority to prevent the rescue,
16 through the coast guard.

17 We heard that they called in the fire, but they didn't call
18 in the police. Very interesting. Because I asked and I proposed
19 this question, Mr. Maharaj: if such an accident—not certainly
20 one going into the pipe, but a terrible accident where lives were
21 at stake on a private property, meaning one's home as the
22 clearest example, could the owner of that home say no to a
23 rescue? I pause. There is serious gravity in that question.

24 If at your home there is a horrible accident of even a
25 contractor having come, for instance, to put up windows, and
26 the contractor falls, the windows fall, and he's cut and bleeding
27 out; his assistant who was supposed to be there is also cut and

1 bleeding out on the ground, but your place is so fenced and well
2 protected that you say, nobody coming into my property; no
3 rescue; what would that amount to? And I say this for a reason.
4 Because I'm going to make recommendation that is not my
5 inner nature. I've never prosecuted in my entire life. I took a
6 decision to not do that, but I have had to search deep within my
7 conscience. I had to speak to so many, and yesterday morning I
8 made a decision and I confirmed it last night in further
9 deliberation.

10 Yesterday I met two young, beautiful lawyers and I asked
11 them, should I recommend—because they had been following
12 this matter—should I recommend criminal prosecution? The
13 answer, without a blink, was yes, I should. And then I thought,
14 why do I take the position to not ever prosecute, and certainly
15 in this case, why I resisted recommendations for criminal
16 prosecution?

17 And Mr. Peterson knows well, because he prosecutes a
18 lot; that there are times when a statement has to be made that
19 you are not just to hide behind corporate veil and corporate
20 responsibility; that you are not personally accountable except,
21 maybe, you get a Commission and you have to answer
22 questions here, or in a court of law and you answer, and
23 whatever the result is in a civil courtroom, you are not affected.
24 Your salary continues but your entity pays or the State pays. So
25 I am moved against my inner instincts, Sir, that there should be
26 criminal prosecution recommended in this matter.

27 You see, when persons take the view, like Mr. Holder,

1 that we are to interpret rules and regulations to get one hundred
2 per cent safety, and you were so generous to have allowed him
3 to reflect upon it and dig it out of him, that he couldn't be right,
4 that he changed it—but that was the mentality and remains the
5 mentality in the face of the enormity of four deaths: I am
6 waiting for one hundred per cent safety before I will send
7 anybody in.

8 Nobody asked you to send, you know. People were
9 willing to go on their own accord, and we know full well there
10 are devices to protect you if you are concerned about liability.
11 And I put directly to Mr. Piper: were you interested in lives or
12 liability? And it's obvious; it was about liability. Because
13 whose lives was he concerned about? You talk about rescuers
14 could die, and all the coulda, shoulda, woulda.

15 What we do know is that because of time and the running
16 down of that clock, that every minute passed the likelihood of
17 death increased, and they allowed the seconds, the minutes the
18 hours to have passed knowing full well, by their own account
19 that within four to six hours, men most likely will die. And
20 they did nothing. We wait for a camera so that we could get a
21 view, so that we could assess, risk assess and do up the plans,
22 knowing full well that that camera would arrive long after the
23 men are dead or most likely would be dead. How do I
24 characterize that decision? How do I? How do we? How do I
25 tell the families? And they've heard it; they've seen it—this
26 nation—that you will know the countdown is on and you, you
27 dither.

1 You squander away their lives in the moments waiting
2 for more and better information. You know young Boodan here
3 without, I'm sure, thinking it through, asked me when the
4 matter was in progress—and forgive me; I'm going to disclose
5 this—if Mr. Peterson is in a burning house would you go and
6 save him? I say, of course; without a thought. I love Mr.
7 Peterson.

8 **Mr. Peterson SC:** Leave my name out of this.

9 **Mr. Ramadhar:** I am not leaving your name out of it, because
10 it is real. Let us be in the real world. I will go in. I told her
11 without—isn't it true—without a moment reflection I will go.
12 She said, but what if you—you could get killed, or you would
13 be scarred for life. I paused, because instinctively and
14 emotionally he's my brother. I will do it. But I paused. I said,
15 well, I will take—and in response to the question; I will take
16 precautions.

17 I will look and see what I could do so I could better
18 ensure my own safety to ensure that I could get my brother out
19 of the burning building. I'm not a—I mean, I may not be the
20 most intelligent, but I am not stupid. And we assumed that
21 those divers who turned up are not stupid. These are trained
22 professionals, and, therefore, will not risk their lives in a whim
23 or in a fancy, but will take calculated risk, and as they proceed,
24 assess the dangers. And when I spoke about whether they
25 would see an alligator, I did that for the very reason to show the
26 inanity of the proposition, that there were unknown dangers.

27 We knew what was in that pipe. If there was a barrier,

1 the tank, it could be pushed aside. Right? It may not have been
2 easy. Nobody suggests that. And in the moment of the gravest
3 danger, if I should go into that building and realize, wait a
4 minute, I cannot rescue my friend, I shall retreat. But I will do
5 all I could to save his life, even at the peril of my own death, of
6 course, and if it becomes so that I cannot help him, I will not be
7 able to and I won't. But if it should be that I shall be scarred
8 for life, I shall wear that as a badge of honour in the effort if I
9 shall save my friend's life. And that is the way I grew up. This
10 is the way I know my beloved country to be; not the other way
11 around.

12 So having said that, that is why I was moved to make a
13 recommendation for criminal prosecution. And the authorities
14 will, of course, determine whether they should or should not.
15 That is a matter entirely for them. But in good conscience I
16 must, so that a message will be sent, that you cannot repose
17 confidence in—

18 **Mr. Chairman:** Can I ask you this?

19 **Mr. Ramadhar:** Certainly.

20 **Mr. Chairman:** In your making this recommendation, is it a
21 criminal offence to fail to rescue someone?

22 **Mr. Ramadhar:** Yes, it is. When you have a responsibility,
23 you have the capacity to do so.

24 **Mr. Chairman:** Is it?

25 **Mr. Ramadhar:** Well, we shall endeavour—there is an
26 opening of the law on this area. And, in fact, I'm happy you
27 raised that issue, because it's being tested in Florida, where Mr.

1 Peter—no relative, of course to my friend.

2 **Mr. Peterson SC:** You know all my family?

3 **Mr. Ramadhar:** No, you're right. And having regard to your
4 statement, you may very well be related. Scott Peterson, a
5 police officer who actually was on duty at that horrific—I think
6 it was Valentine's Day in 2018 at the Parkland shooting right
7 off Fort Lauderdale, where students were under his
8 responsibility to protect, and instead of going towards where
9 the gunfire came, he retreated or did not do. So, there is—I'm
10 not up to date on it. I tried finding out more, but I know that
11 there was an effort to prosecute there.

12 So that I'm saying that the law is expanding in that way.
13 And if it needs amendment to put it there, so too would be a
14 recommendation, if it is uncertain. Because I know everybody
15 is afraid of our DPP, and rightly so, because, you know, junior
16 to Mr. Maharaj, and a very robust Director of Public
17 Prosecutions, and he will not wither away from his
18 responsibility, nor shall he take public condemnation if he does
19 not. It is for him to look at the facts, all of them, and determine
20 whether a prosecution is [*Inaudible*].

21 So, it is not in my hand or in the Commission's hand, but
22 it's a recommendation I am propelled, because of the numbers
23 of persons who have expressed the need for us to set an
24 example; to set a new standard in this society. If we do not,
25 then it is likely to recur.

26 **Mr. Chairman:** Might it be considered grossly negligent on
27 the part of somebody risking sending a diver into the pipe and

1 therefore make himself liable to prosecution for manslaughter
2 or some other offence, where he has taken an unreasonable risk
3 with the rescuer?

4 **Mr. Ramadhar:** Yeah. Well, and you said it—the words—
5 and I listened to your words, Sir. Not only are you highly
6 favoured in this nation, but you're deeply respected, and it
7 comes from me. The level of respect I have for you, Sir, I will
8 not attempt to tell you here, but you said send. That is the
9 operative word. We are not instructing anybody to go and do.
10 Persons were volunteering. They do it on their own ground,
11 and they stand the consequences of their actions. But they were
12 prevented. And if you were concerned about liability, civil or
13 otherwise—of course, I'm not suggesting for a moment you
14 could write away criminal liability, but I'm saying none shall
15 attend this where this person is not sent, but voluntarily go.

16 **Mr. Chairman:** Is there a realistic difference between send
17 and permit?

18 **Mr. Ramadhar:** Very much so. Because that person is
19 exercising an independent thought. And, therefore, your
20 actions—I am saying, look—for instance we go back to the
21 issue of the home where the accident has occurred, and persons
22 are willing to go through the broken glass and rescue them,
23 because they're bleeding out. How could I be held accountable
24 if I told that person, "Listen, it's very dangerous, please don't
25 go", and they do it against my instruction.

26 So it is not a, what shall I say, robust, clearly defined
27 circumstance. But that is the job of the Director of Public

1 Prosecutions to look, balance, weigh all of the nuances and
2 make a determination. But the very least is that it must be
3 considered. That is all. And if in his robust examination finds
4 that there is a case made out—but not every prosecution leads
5 to conviction; we know this. But if you don't prosecute, well,
6 that's another issue. There's always, of course, the civil court.
7 And we, I could tell you upfront, have already issued pre-action
8 protocols to Paria and others.

9 And, of course, Paria has taken a hands-off approach.
10 They have no liability here, notwithstanding. But we are on the
11 issue of the criminal liability. Is there a distinction between
12 send and allowing? Of course, there is. Or not standing in the
13 way of. And when Mr. Mushtaq Mohammed speaks about
14 ethics, it caused a knot in my stomach to use the words ethics
15 when he proposes—because he's the landlord, he had a superior
16 right to determine life? It couldn't be further from the truth.
17 And, of course, there are legal devices if he was concerned.
18 We've explored that with him. So—disclaimers and so. And
19 they were used. They had lawyers on hand that very night to
20 advise.

21 But that is just one. And I would tell you, Mr. Chairman,
22 this is not something I'm comfortable—this recommendation
23 making, but I feel compelled under my duty to this Commission
24 and to the people of Trinidad and Tobago to make.

25 May I move to another recommendation? Headless
26 chickens. Not knowing who, where, what to do, and doing
27 nothing as a result. I would suggest, whatever name you wish

1 to call it, and I shall just, for the sake of convenience and a
2 hook to hang it on, Emergency Command Centre; a National
3 Emergency Command Centre. This National Emergency
4 Command Centre should be peopled by personalities of an
5 almost military disposition, who are accustomed with the most
6 awful of environments, where lives, either sent into battle—I'm
7 just giving that example—where lives could be lost and
8 determination is made by those with authority to say go. So
9 that there will be no flinching, no fear, and there should be
10 courage attendant to all those who populate that august body,
11 that hard decisions would be made in a very limited period of
12 time. And not just that.

13 This command centre should have access to the resources
14 of all resources of the State and internationally, so that
15 information, which is the lifeline of a future, is available in a
16 moment, and not to wait months after to hear Mr. Khan say that
17 place stable; go—if he had the authority; if he was in a position
18 within Paria to say, “That place is stabilized, go”, those men
19 would more likely than not be alive today.

20 So, this Emergency Command Centre will have access to
21 all of these things, locally and internationally; a register of
22 experts. So you have a certain type of incident, they know who
23 you're going to call; response time. And before that even a
24 plan, not just OSHA neutered, but a plan for all these
25 emergencies. And it's shameful to have heard in an
26 environment of refinery and pumping, and so, that men at the
27 height didn't understand at what stage that evening, before or

1 after, about Delta P.

2 The whole point in Point-à-Pierre is about Delta P,
3 pumping, differential pressure. So it was a stunning example of
4 ineptitude in those in management. Of course, I know I may be
5 condemned by my statements, that some of them knew, but,
6 you know, they didn't know the exact circum—so be it. But
7 they didn't understand it to the sufficiency that once it's over,
8 the likelihood of it recurring is there, but the great likelihood of
9 it recurring will be minimized for a certain period of time, and
10 you have to act. And it's not speculative alone. We'd make an
11 educated guess—and I put it as loosely as that—every single
12 day in our lives to do the necessary things.

13 And let me at this juncture just return to the two terms
14 that have been given a pejorative interpretation: instinctive and
15 emotional. I spoke about my friend, Mr. Peterson. And before
16 I miss the point, what happened in this Commission, it being
17 live and so well followed by our brothers and sisters throughout
18 the length and breadth of Trinidad and Tobago and
19 internationally, to know, this is an example, that you could be
20 opponents but you do not have to be enemies. A noble
21 profession to which you belong, Sir.

22 And we heard, of course, someone who professed to have
23 been part of it, and who certainly was not. We have too many
24 pretenders. But the true nobility of our profession, among other
25 things, is this: that we could fight like—in Trinidad we say—
26 cat and dog, but at the end of it we remain colleagues, and in
27 our case, friends. That is a wider societal message. Because

1 we see so many lives taken for the most trivial of reasons. So
2 you can be opponents. You may have different points of view.
3 You can fight hard for a cause or for a belief, but you do not
4 have to become enemies and seek vengeance on anyone.

5 I was on the point of the Emergency Command Centre
6 where the authority is vested with all these things. OSHA. I
7 think we need to have a retraining for all those who call
8 themselves health and safety experts—I don't know all the
9 terms that they call themselves—to appreciate that this is a
10 guideline and a mere basic foundation within which you operate
11 to ensure a safe working environment, but not as a result of that
12 to believe that where there is an accident that has occurred, like
13 in this case, that you are regimented to a point where you'll
14 need and seek perfection before you act. Cannot be.

15 Because, as I make the point, sometimes you have to act
16 instinctively. You have to act with some level of emotion,
17 because if you remove emotion from anything, then what is the
18 value of you doing anything? If you don't care, you don't care.
19 I don't give a damn. You die, you bleed out. I leave you there.
20 It has no effect on me.

21 The emotion we speak to is not one of a sobbing,
22 faltering, crumpled individual, but an emotion is really about
23 care. And if you're too emotional that it affects your ability to
24 be rational, to be scientific, to be logical, that you cannot then
25 assess that there's too grave a danger, of course. There are
26 degrees in everything. Overly emotional. That's what we're
27 talking about. But don't say these two words as if they are

1 negatives.

2 Instinctive. A mother sees a child about to fall off a
3 counter, I know they will jump and fall and hurt their knees.
4 One of my colleagues, his wife fell to her knees on a rough, and
5 damaged her knees permanently to save her child. That is the
6 instinct. But had she not done that, what would have been the
7 child's circumstance? So let us recalibrate ourselves to the
8 meaning of these words.

9 And I remember—and if you permit me this, an example,
10 13th November, Black Friday, 1981, I was in Barbados, I was
11 on the way home in Grazettes, Mr. Peterson, around 3.00
12 o'clock. I'm alone on this very developed area, and a guy
13 rushes past me, and about 30 feet thereafter, another guy, but he
14 has a knife in his hand. I had never seen violence in my life. I
15 was a mere, I think, 18, whatever it was, having come from a
16 very protective home, and I was on the streets alone, and this
17 guy is running and the guy behind him with the knife, and the
18 guy with the knife comes upon him, throws the other guy on the
19 ground, sits on his chest and starts to stab him.

20 The guy on the ground holds on to the hand with the
21 knife and then the guy takes up a stone and he's attempting to
22 hit him on the head with it. And I'm alone. I walk in without a
23 thought. I held on to both hands from behind and I just said,
24 stop it. I shook him and the knife fell, the stone fell, he got up,
25 he walked away. The guy got stabbed on the face, he was all
26 cut up, he got up and walked away. I dare not tell my parents.
27 It took 25 years before I said a word to any member of my

1 family.

2 I'm not saying that for any other reason than to
3 demonstrate that in a moment of emergency and urgency you
4 will do what you instinctively must do to save life. Of course, I
5 put my life on the line. I could have been the victim. But in
6 that moment, I was not. I have a memory and I have a story to
7 tell. So we mustn't diminish humanity because that is what
8 operates. That is what gives us who we are, what we are and
9 what we shall become. And the moment we remove that we
10 become robots, robotic and we talk about artificial intelligence.
11 All we have is the artificiality without intelligence here.
12 Because the law has now been neutered, made artificial, and
13 therefore dehumanized.

14 So I speak to the retraining, recalibration, of OSHA to
15 explain to those who have the authority and responsibility to
16 apply it with the objective that it was intended for, which is to
17 ensure a safe working environment, but not to be used, as I
18 repeat, as a weapon and not as a tool when things go wrong to
19 prevent rescue.

20 You may not know, Mr. Chairman, but my beloved
21 senior, Mr. Maharaj—and please don't be embarrassed when I
22 say these things—has been the greatest Attorney General this
23 country has ever seen. He brought into our law—

24 **Mr. Peterson SC:** I thought Faris—

25 **Mr. Ramadhar:** Faris is my friend, but he's still junior and
26 nowhere near in terms of the time given to achieve what Mr.
27 Maharaj has achieved in practice and then as Attorney General.

1 I wouldn't even bother much to speak about—thank God for
2 him that we have judicial review as our law in this country.
3 Freedom of information. Mr. Maharaj—his stewardship. And
4 there are so many other things. But you know what also he has
5 under—well, that he should stand proudly upon, was he
6 introduced the criminal injuries compensation law, so that
7 victims and their families who shall suffer the fate of
8 criminality could have a place to go for suckle and support
9 while the wheels slowly turn in terms of justice in the courts, so
10 that their day-to-day lives could continue.

11 I wanted to make a recommendation that our State
12 through this Government put in train through our present
13 Attorney General—and I'm sure Mr. Peterson will take it back
14 if they are not listening today, and if they—because I want this
15 to happen even before, possibly, your report comes to the
16 public domain—to begin the foundations of such a fund, not
17 just for criminal injuries, but for workplace injuries. And I
18 know I'll be met with levels of criticism that we already have
19 workmen's compensation.

20 Without saying more, I could tell you we have written for
21 that in relation to the families for whom we represent. And
22 with disdain, I will tell you, there's been yet no response to that.
23 I had the pain, and I'm sure many others would have seen, that
24 Ms. Kussie who came here with such courage and was able to
25 articulate her pain, had to throw the barbecue before Christmas
26 for funds to sustain her family. I just put that in.

27 I want to also recommend coming off the OSHA

1 retraining that those who are given the authority and
2 responsibility must be of the mettle that is required to show
3 courage, to show strength, and therefore, if they should suppose
4 themselves to present themselves to hold that all empowered
5 position of Incident Management Team and Commander that
6 they must be adequately fortified to do so; not on a question to
7 start shedding tears, crocodile as they may be in the eyes of
8 some, but be hardy and strong. I apologize. I withdraw.

9 **Mr. Chairman:** Not at all. Are you suggesting that members
10 of OSHA, the investigative arm of OSHA should be on an
11 IMT?

12 **Mr. Ramadhar:** I'm saying that they must be that—you
13 know, they must form part of the emergency.

14 **Mr. Chairman:** They weren't, in this case.

15 **Mr. Ramadhar:** No, and this is the point.

16 **Mr. Chairman:** Are you suggesting that they should?

17 **Mr. Ramadhar:** Yes.

18 **Mr. Chairman:** All right.

19 **Mr. Ramadhar:** Thank you. So if there is a need for
20 interpretation and for guidance—don't be afraid of the law; the
21 law is supposed to be a protector; must be a shield and not a
22 weapon only. A weapon for those who wish to deliberately
23 break it, of course, but as a shield to those who seek the
24 protection of the law. And that is why the Emergency
25 Command Centre, whatever name we want to call it, must
26 include all of these agencies and the expertise that reside
27 within, and not ex post facto, as we say.

1 What is the term? I think it was a blood—well, I call it
2 tombstone regulations; tombstone learning. But somebody
3 used a very graphic term the other day. “Safety written in
4 blood”. Should we not have safety written on paper and in the
5 hearts and scribed there? Not in blood. Not after the fact. Not
6 ex post facto, but preventative. So all of these resources should
7 be available through that.

8 And I’m making the point that in that effort—not just
9 those who will populate the Emergency Command Centre—
10 must have some psychiatric, psychological testing to show that
11 they are the mettle, because at the end of the day it’s not your
12 physicality that makes you human; it is your inner being, your
13 emotions, your strength, your courage. In the face of fear—and
14 we do this all the while. I mean, there are fearsome people that
15 we have to deal with, but we deal with them, and adequately so
16 sometimes. And we must not shun away because of our own
17 personal fear.

18 And I made the statement early in this Commission that
19 when I stand I am not Prakash Ramadhar. I represent those
20 who I represent—the families. And therefore I have to reflect
21 their hurt, their feelings, their expectations. And I may make
22 enemies in that process. I don’t want to be enemies. I may be
23 an opponent, but I don’t want to be an enemy. But I know
24 people take the view that if I disagree with you and you
25 disagree with me I shall have vengeance waiting for you. So—
26 **Mr. Chairman:** Mr. Ramadhar, I don’t think you can ever be
27 accused of being anything other than Mr. Ramadhar.

1 **Mr. Ramadhar:** I will have to interpret that. But you are very
2 generous, Sir; very, very generous. And I think we all have to
3 be who we are. But when we take positions—I will never
4 propose myself—which was my first passion actually—to be a
5 neurosurgeon, but I did not have, what shall I say, the dexterity
6 I knew that I would have required, and therefore I went to an
7 even more noble profession, the law. And I will always hope
8 that I can succeed there, the point being I will not propose
9 myself to a position I know I could never fulfil. And if you
10 believe that you, in the face of enormity of consequences of an
11 action or an inaction as a result of your fear, then I shan't put
12 myself there. And that those who put themselves forward
13 should be tested to see whether they have the capacity so to do.

14 I keep going back to Mr. Maharaj. The battles he has
15 fought over the years, he may have been bruised but he's never
16 been beaten. And you know why? He has that inner strength to
17 go forward. In the face of all the adversity when the world
18 would be against him, he knew he was right and he went
19 forward on that.

20 Mr. Peterson, a man who I deeply admire and respect, he
21 too has that. But we are in a profession. None of us will say
22 that we gonna try to operate a nuclear reactor or be a surgeon.
23 You must be fit for purpose, and not just purpose yourself,
24 because you in the system, and you know somebody, and right,
25 you get ah extra. I do not know if they get extra pay for these
26 things. I doh want to cheapen the entire episode on that basis.
27 But don't call yuhself Incident Commander and you command

1 nothing. Don't consider yourself member of a team when your
2 team is only shoo-shooing in your ivory tower, men are dying
3 down there, you send your eyes and ears who really disregard
4 the reality, and therefore you are not properly informed.

5 As my friend Gerard Small, I quoted him before when he
6 said you could delegate but you can't abdicate, and I shall quote
7 him today. He told me many years ago that you could fake
8 your care but you cannot fake being there. Of course they will
9 say that that was part of the procedure to stay away so they'll
10 have a more clinical overview.

11 But if your eyes are blind and your ears are deaf or it
12 gives you, what shall I say, distorted view of what is happening
13 there, how could you make good decision? Garbage in, garbage
14 out. Or no garbage at all. Nothing. Because they knew full
15 well all they needed to have known when Christopher came out,
16 men are alive. Once you hear that, the game changes. Wipe off
17 your white board. But they kept on this thing—the likelihood
18 of success. He was an inconvenient truth. It was easier then to
19 suggest that they were all dead and let's move and flush it out
20 and Paria continues its work.

21 But that is why where I began I return. What are the—
22 and I'm not surprised; and I'm sure Mr. Peterson did not, on his
23 own volition, suggest that the families not be given a voice. I
24 know him for too long; lovely man with his family. He got
25 instructions. And they knew full well to hear the truth, the
26 consequences of one's action which is a part of our lives, that if
27 there are no consequences to your actions, you learn nothing.

1 To have heard it, the pain, each and every one of them—and
2 that is multiplied many times. There are so many other
3 relatives who cannot speak; who will not speak, but who are
4 pained to the end of their lives. Because this is not an accident
5 where everyone died in the moment. This is an accident where
6 there was a clear and present availability—ability to save lives
7 and no one did it.

8 One can only imagine the psychological trauma—and I
9 have permission to speak about Michael and his brother
10 Nicholas. They were there. They are divers. We could do this
11 thing. Conan. Thank God we have men like Conan who came,
12 unconnected, a brother in danger he came, he say, “I’m ready to
13 go. We have the equipment. I have the ability. I have the
14 will.” Mutterings. No, come with your paper. Mutterings.
15 This is what it was described as, therefore disregarded.

16 Wow. So psychological testing and probably—I don’t
17 know if it could be trained in too, but certainly, we must make
18 that effort. Where I began I shall end. Basic common human
19 decency would require in a moment where an accident occurs
20 or shortly thereafter—and this is not a place without resources.
21 They had departments, public relations and communications.
22 These people came, that is the wives and the children and the
23 families of these men not knowing if, first of all, it is true that
24 there was an accident. Can you imagine the anguish?

25 Afeisha and her mom had to leave Grande and come
26 down in all that traffic, wondering, “Is this thing true? I hope it
27 not true. When I get there leh meh hope that dey lie.” They

1 came and they got there. They still don't know whether it true
2 or is a lie. Mrs. Kurban came, her daughter Britney in Canada.
3 And I shan't speak about her, where she's at university; the
4 apple of her father's eye; all the money they earn—I shouldn't
5 say all, but much of it, resource to pay her fees on—you can
6 only imagine. I don't want to say how much it is. That
7 breadwinner taken from them. But we on the point where they
8 converge.

9 Mrs. Kussie and all the other family members—and
10 forgive me if I don't call all of your names. Nobody there to
11 greet you; say, "Listen, we've had an incident. We're very
12 sorry about it, but as far as we know this is what we know. We
13 do not know these things. We are making effort to find out."
14 Keep them in part and parcel—who is more invested than they?
15 Paria? Your father? Your son? Your husband? Who could be
16 more invested than they? And you keep them outside like old
17 dog. Sorry, I should not have said that—but outside the gates
18 for information, speaking to security who I'm sure would have
19 tried their best, but they too don't know. Ambulance in,
20 ambulance out; nobody telling them anything.

21 We've been through this, but it's important for me to
22 highlight it again. And that is why if I had to be pushed at all
23 into criminal prosecution, it is not because of that, but it tells
24 you a mindset that needs to be shattered—needs to be shattered
25 and repaired so that Trinidad and Tobago will restore itself to a
26 country that we had known for love and care.

27 Anyhow, they are waiting out there, day turns into night,

1 night turns into morning and no word. And then an insulting
2 meeting with Mr. Mohammed. I'm not on his case. I don't
3 know the man, but I know what he said and how he acted. And
4 one of the witnesses told us that during that meeting with him at
5 the golf course somewhere at the golf course. The people don't
6 want to go golf course, you know, they want to go on the scene,
7 go out near the water, be as close to their loved one as possible,
8 but they want meeting.

9 I will not criticize that much. Maybe they had reason to
10 go up in the golf course, and they had their meeting there. But
11 Mushtaq, in that meeting, laughs. Now, for a moment I want to
12 say it might be a nervous laughter. It happens. You don't
13 know how to respond. I give you that. But you are the General
14 Manager, and you must know that your body language—what
15 you say do, and your body language is critically important; it
16 will be read, because these people are hungry, thirsting for any
17 bit of information, an insight as to what is happening; what is
18 your intent? What you intend to do?

19 So I give him the benefit that it might have been nervous
20 laughter. But if it was nervous laughter, what did you do?
21 Don't just assume that it's funny. I don't want to believe so—
22 or that you helpless. What did you do? Nothing. Waited more
23 and more. By which time, of course, cameras would have gone
24 in; couldn't go much further. Time ticking, according to them,
25 they had six hours after the accident; they even make it to 12.
26 What did you do? To the end of it there was zero effort for a
27 rescue.

1 I know as I take my seat there are many things I would
2 regret not having said, but I am so confident that my colleagues,
3 all of us contributing to the Commission, the Commission's
4 fantastic team and the Commissioners themselves, Chairman
5 and Mr. Wilson, there is so much more that you would put light
6 on, and insights that we may not have even observed.

7 And as we proceed we know we live in the real world
8 where we require common decency, and know full well that this
9 world was never intended to be a hundred per cent safe, but we
10 must do all we can to make it safe for all of us, and not allow
11 ourselves to be ruled by fear but we'll be ruled by love and by
12 courage that is the price of love. Courage is the price of love,
13 because if you don't love, there is no need for courage. If you
14 don't care there is no need for courage. But if you love and you
15 care then courage is overcoming fear, and the fear of the
16 unknown is what all of humanity has progressed itself on
17 overcoming that fear.

18 By the very essence of this modern time, if we are to
19 return to a position—if we are to stay in a position where we
20 believe that we shall not endeavour into the unknown, then
21 Columbus would have remained in Spain. Whether he should
22 have or should not have, Mr. Peterson would not be my friend
23 today, standing and sitting with each other in Trinidad and
24 Tobago. NASA would not have endeavoured men to the moon.
25 But it's not just these grand things. It's about crossing the road.

26 The gall of Mr. Holder to suggest that he only goes
27 where there are road crossings and lights. I don't know which

1 part of Trinidad he lives. There are places that have them, but I
2 will not travel to Port of Spain to use a crossover when I living
3 Charleville. I'm just giving you an example. So we have to
4 take a real-world approach to all that we do. And as I never
5 imagined to be this long, but I am still within the hour or
6 thereabouts.

7 Let me just say before I take my seat, thank you, Mr.
8 Chairman. Commissioner Wilson, your incisive questions your
9 insights into the very technical areas, I want to assure you have
10 not gone unnoticed in this country. To my beloved Senior,
11 thank you very much. The cross-examination that we continue
12 to learn from like a surgeon's knife, not being a surgeon,
13 without being carried away by the inanity that some of the
14 responses you got clinically dissecting the lies and the frauds
15 that were put before you and passed as sworn truths, thank you.

16 To my noble friend, Mr. Peterson, who does his job as a
17 true warrior, standing where he belongs on the side of his
18 client; whether he holds personal views is irrelevant. This is
19 the nobility of our practice. I say congratulations and thank
20 you, my brother.

21 To my friends who represent LMCS; admirable efforts
22 on your side. Mr. Kangaloo and his team, a name that resonates
23 in the legacy of Trinidad and Tobago; I had the good fortune of
24 knowing his father; bastion of the old values and a man who
25 stood for discipline, and the name resonates in our Court of
26 Appeal, Justice Wendell Kangaloo, one of the foremost
27 brightest contributions that one could have made to our judicial

1 stock.

2 **Mr. Chairman:** This is all very interesting.

3 **Mr. Ramadhar:** I'm about to close. I'm about to close. Once
4 again a junior of Mr. Ramesh Lawrence Maharaj. To young
5 Chase Pegus who I have grown to be very fond of, who I have
6 told that he has a long way to go in terms of his courtroom
7 presence. Young Sebastian, the best outcome of both Mr. and
8 Mrs. Peterson that one could have hoped for. The other best is,
9 of course, his daughter, who I have not had the privilege of
10 being here with us.

11 **Mr. Chairman:** She's the lawyer too, is she?

12 **Mr. Ramadhar:** Oh, yes, but I have not had the privilege of
13 being in the same space with her.

14 **Mr. Chairman:** You think that might be deliberate?

15 **Mr. Ramadhar:** Yes [*Laughter*]. And knowing my friend,
16 it's more than deliberate; it's spiteful. And, of course, Ms.
17 Alfonso who has been a friend for almost 30 or more years, and
18 I am proud to say was the provider of my paper; diligent as
19 usual. And the young Hosein-Shah, who has, I think,
20 impressed all of us with the quickness and responsiveness of his
21 assistance to the Commission on legal issues.

22 So before I take my seat your Secretary, Ms. Sinanan. I
23 have been in government, so if you did not first know I was a
24 minister of government. I have acted as Prime Minister in this
25 country on several occasions. And notwithstanding the word in
26 the wider community about public servants, I could tell you my
27 experience has been that there are persons who carry the burden

1 of the State on their shoulders without any acclamation and
2 acknowledgment, and Ms. Sinanan has been one of those. And
3 I want to say your work is deeply—we are very deeply grateful
4 for it. So Mr. Chairman, Mr. Commissioner Wilson, to all.
5 God bless, and I thank you for having been given the
6 opportunity to be here and to be in your presence. Thank you.

7 **Mr. Chairman:** Thank you very much, Mr. Ramadhar.

8 We're going to take a short break in a moment. Ms.
9 Alfonso, I understand that you are, um—I hope I don't say
10 indelicately—uncomfortable with a particular injury or ailing
11 on the body. Are you all right to proceed today?

12 **Ms. Alfonso:** Yes, Mr. Chairman. I may take the opportunity
13 to stand, although I'm—I'm not actually sure which one will
14 work, but whichever one works I will endeavour to use that
15 one.

16 **Mr. Chairman:** Can I say, first of all, I would appreciate it if
17 you came forward to the place where Mr. Ramadhar is and,
18 perhaps, with his consent, he will allow you to use the lectern
19 that he has, which might assist you to stance upright, as it were,
20 rather than having to stoop over, because if it's a back injury, as
21 I understand it might be, it would be helpful to do that. And
22 whilst you're making your submissions, if you feel the need to
23 sit down, just do. Don't worry about it. Just sit down and then
24 stand up again if you feel. Whatever is comfortable for you,
25 just find the appropriate way to address us from where Mr.
26 Ramadhar is at the moment, and don't be embarrassed about
27 standing up or sitting down during the course of your address.

1 Just do whatever makes you feel comfortable.

2 **Ms. Alfonso:** I'm grateful, Mr. Chairman.

3 **Mr. Chairman:** All right. We'll take a 15-minute break now,
4 so we'll resume at 25 to 1.00. Do you think you'll be finished
5 within the hour as designated?

6 **Ms. Alfonso:** Yes, indeed, Mr. Chairman, I will.

7 **Mr. Chairman:** Good, good. Well, I have something to attend
8 to at five past 2.00. It should only take 10 minutes or so but I
9 need to make sure that I'm there to do that, so that will
10 naturally fall into the hour lunch that we take after you. All
11 right. Thank you very much. So fifteen minutes, please;
12 twenty five minutes to one o'clock.

13 **Ms. Alfonso:** Thank you.

14 **12.19 p.m.:** *Enquiry suspended.*

15 **12.35 p.m.:** *Enquiry resumed.*

16 **Mr. Chairman:** Sorry. I forgot my notepad, and it is just
17 being fetched for me. Ms. Alfonso, as this progresses, we're
18 going to go two more days, but do not feel the need to stand or
19 sit depending on what makes you most comfortable during the
20 course of the next two days, notwithstanding that she might say
21 all rise. If it's more comfortable for you to stay seated, you stay
22 seated. All right. I shan't take it as an offence.

23 **Ms. Alfonso:** Okay, grateful again, Mr. Chairman; very
24 grateful.

25 **Mr. Chairman:** If you just give me one moment, I want to get
26 my notebook which I have left on the desk, so just one moment,
27 please. [*Pause*] Well, the notebook hasn't arrived yet. I'm

1 sure it will, though. I have got a page at the moment to be
2 making some notes, so you make your start and no doubt it will
3 arrive in due course. Thank you very much.

4 **Ms. Alfonso:** I'm again grateful, Mr. Chairman.

5 These closing statements are presented on behalf of the
6 Seamen and Waterfront Trade Union, the SWWTU, which was
7 granted standing in these proceedings on the 14th September,
8 2022. The SWWTU's request to participate in the hearings
9 before the Commission, was firmly supported by the Industrial
10 Transport Workers' Federation [*sic*], which is called the ITF, an
11 international seafarers union with its headquarters in London
12 England. The ITF is the largest global, independent
13 international union of transport workers in all sectors in the
14 world, and operates through nearly 700 affiliate trade unions,
15 and operates in 150 countries, and, of course, the local affiliate
16 is the SWWTU.

17 The ITF connects over 20 million workers and is allied to
18 an even larger union called the International Trade Union
19 Confederation, the ITUC, which represents over 200 million
20 workers. The primary missions of both the ITF and the ITUC
21 are the promotion and defence of workers' rights and interests,
22 including advocating for safe working environment and
23 systems.

24 Our client, the SWWTU, membership includes seafarers'
25 interests, offshore workers and other marine professionals who
26 undertake commercial operations in many capacities and
27 circumstances in both the private and public sectors in Trinidad

1 and Tobago. The union has collaborated with the ILO or the
2 International Maritime Organization, the IMO, and the ILO
3 which is International Labour Organization. These global
4 organizations named have expressed their collective concerns
5 with respect to the tragic circumstances in which Mr. Kazim Ali
6 Jr., Mr. Yusuf Henry, Mr. Fyzal Kurban and Mr. Rishi
7 Nagassar met their tragic and untimely deaths.

8 I have taken the time to state firmly the interest which
9 myself and Mr. Hosein-Shah represents so that our involvement
10 in the Commission's hearings can be fully contextualized. We
11 had no interest to serve, no client to defend or represent beyond
12 the advancement of safety for workers. Rather, we sought to
13 assist in having fully ventilated pre-work—having fully
14 ventilated the pre-work processes engaged and the actual
15 execution of the work for which LMCS had been engaged to
16 undertake.

17 We attempted also to highlight the work experience
18 and/or competencies of the various witnesses who came before
19 the Commission, again, with a view to placing into focus the
20 personnel which each of the main parties to the Enquiry placed
21 the planning and execution of the pre-works, the contracted
22 repairs to the riser at berth 6 of Sealine 36, and the rescue of the
23 stricken divers who ultimately became entrapped in Sealine 36,
24 and met their deaths in circumstances which the nation and
25 beyond have come to know all too well.

26 To the families who lost their sons, fathers and brothers,
27 and to the deceased men's friends and loved ones, we extend

1 our deepest condolences. It is our clients' and their legal teams
2 most fervent wish that the proceedings before the Commission
3 and its eventual findings will bring some closure and sense of
4 justice. Other legal teams will, no doubt, engage in other
5 processes in due course which will have the effect of further
6 ventilating and resolving the facts and evidence which were
7 elicited during the honourable Commission's proceedings.

8 The honourable Commission has been tasked, inter alia,
9 with making such recommendations which address the
10 shortcomings—which will have the effect of addressing the
11 shortcomings of the work processes of the two main parties
12 before the Commission. No doubt the roles of other parties
13 such as the Trinidad and Tobago Coast Guard (TTCG) may be
14 examined. Similarly, our client has committed to use its role in
15 such organizations as the ILO and the IMO to bring about
16 improvements in the work standards touching and concerning
17 in particular the diving industry in Trinidad and Tobago. No
18 doubt the findings and the ultimate report of the honourable
19 Commission will be the foundation of these objectives.

20 As we learned from the witness statement submitted by
21 the Trinidad and Tobago Bureau of Standards, only a voluntary
22 standard for commercial diving exists in Trinidad and Tobago,
23 which can be used by choice by the stakeholders in the
24 industry, and I quote, at their own discretion to guide their
25 operating practices. Despite the fact that Trinidad and Tobago
26 boasts a mature oil and gas sector as well as a shipping
27 industry, the powers that be have taken no step to regulate the

1 diving industry which plays an integral and supportive role in
2 these industries which employ thousands of men and women.

3 By any objective standard, this is simply an unacceptable
4 state of affairs. Our client's respectful recommendation is that
5 a regulatory framework be put in place for commercial diving
6 operations in Trinidad and Tobago. This would include
7 prescribing minimum certification for persons undertaking
8 commercial diving works, audit, and certification of schools,
9 providing instructions to such persons, inspection and audit of
10 diving equipment. We would expect that the said regulatory
11 framework would include robust powers of oversight,
12 enforcement, and prosecution of employers who depart from
13 what would now be a mandatory regulatory framework.

14 The interests we represent are of the considered view that
15 if such standards, even on all fours with the 2010 voluntary
16 standards annexed to the witness statement of Ms. Ramachala
17 of the TTBS, had been implemented, then the tragedy which
18 occurred on the 25th February, 2022, may very well not have
19 occurred, and in the event that a Delta P incident occurred, the
20 divers could and would have been retrieved through topside
21 tendering.

22 I will not seek in a detailed way to critique the actions or
23 inactions—Mr. Ramadhar has done that so much better than
24 me—of the main protagonist in respect of the circumstances
25 which led to this unfortunate tragedy. This task will also fall to
26 the learned Counsel to the Commission. I will, however, in a
27 very brief way, touch on certain evidence which has emerged in

1 respect of the work processes engaged by both Paria and
2 LMCS.

3 LMCS: it is clear from the testimony led before the
4 Commission that LMCS is a contractor with a considerable
5 track record in Petrotrin's and now Paria Trading Company's
6 operations. Indeed, in the year 2020, LMCS had undertaken
7 closely similar works to the riser situate at berth 5. LMCS
8 chose, as we heard, to execute the diving component of the
9 repair works to the riser at berth 6 using scuba equipment. This
10 methodology was clearly outlined by LMCS in its tender and
11 had been previously accepted by Paria during the then and
12 current works as well as previous works.

13 LMCS broke no regulatory provisions by using scuba
14 equipment to gain access to the habitat, which had been placed
15 over the work site, which was at berth 6 riser at Sealine 36,
16 because there was then, and still no regulatory provisions which
17 require the use of commercial diving equipment, which would
18 have involved surface supplied air and that the divers be
19 harnessed and tendered from the surface.

20 LMCS diving supervisors admitted that had the divers at
21 minimum been harnessed by ropes which could have been
22 attached to their respective hips, then when the Delta P event
23 occurred, they could have been retrieved immediately, and we
24 would not be here today, and the family members from whom
25 we have heard would not have experienced the heart-wrenching
26 hurt that must have been attendant not only with the accident
27 but with the management of same after the fact.

1 I share the Commission's sentiments that much more was
2 required to keep the families physically accommodated and
3 informed of the status of your loved ones, and the efforts, if
4 any, to rescue them.

5 We have heard and read much about the emergency
6 response plans of both Paria and LMCS, but it is now
7 unarguable that both these plans and the purported
8 implementation of same fell woefully short. By way of
9 example only, at core bundle page 883, the list of standby
10 divers who presumably would be available in the event of an
11 emergency included LMCS' dive supervisor, Andrew Farah,
12 who was not geared up to enter the water as required by
13 industry norms, as well as Rishi Nagassar and Fyzal Kurban
14 who were actually in the habitat and presumably involved in the
15 execution of the works.

16 In addition, LMCS did not appear to have put in place
17 hyperbaric chambers in the event that the divers were retrieved
18 after prolonged entrapment in the pipe. Christopher Boodram
19 was literally left to fight for a chamber, which he ultimately was
20 not afforded due to a false Covid-19 finding.

21 There is no evidence that specialized medical
22 practitioners or EMTs were put on standby or were, in fact, in
23 place either before the accident or after. It appears that there
24 were other divers such as Conan Beddoe, who we heard from,
25 were on a very loose standby arrangement, and could be called
26 out in the event of emergency, but such divers were not on site
27 or even in close proximity to Paria's operations. It is

1 noteworthy that LMCS' tender documents cited a number of
2 commercial divers who would be utilized in the contracted
3 works, but who did not appear to play any part in those works.

4 Whatever information was received from the GoPro
5 footage does not appear to have been shared with Paria's
6 personnel, and, in general, it appears that both Paria and LMCS
7 were operating in silos, and not in tandem to achieve the only
8 objective, which was to rescue the stricken divers.

9 There was no evidence that LMCS contemplated the risk
10 attendant to a Delta P event occurring, nor put in place any
11 contingencies to mitigate or manage that risk, or indeed to
12 respond to the outcome of same. To the contrary, by removing
13 an unquantified amount of line contents in Sealine 36 and
14 introducing air into the line, LMCS created the environment for
15 differential pressures to exist, which ultimately led to the Delta
16 P event, which caused the five divers to be sucked into the
17 pipeline. Even though LMCS was a well-experienced
18 contractor, they failed to recognize the inherent risk to their
19 divers in removing the habitat and the decommissioning of the
20 air compressor which was pumping oxygen into same, and for
21 that matter, removing the flange at berth 5.

22 Paria. Senior and more junior officers of Paria gave
23 evidence before the Commission. On the round, these
24 employees of Paria and/or Kenson were content to advance that
25 the contract put out to tender, and eventually awarded to
26 LMCS, was a turnkey one, and a specialist job for which a
27 competent specialist contractor had been sought. This position

1 was oft repeated starting with Mr. Hassan Mohammed.

2 It is pellucid that Paria relies on outsourced employees
3 and outsourced contractors to undertake not only its day-to-day
4 operations but also its technical work, such as repairs to
5 pipelines. From various testimonies given and tested, it
6 emerged that Paria does not have the technical expertise in-
7 house or through Kenson to evaluate technical tenders, and
8 more so to supervise or to monitor the resulting execution of
9 technical work.

10 Paria could only review or evaluate risk factors—this is
11 their evidence—which have been drawn to their attention—
12 which would have been drawn to their attention by LMCS.
13 Paria was not aware of the exact amount of the contents of
14 Sealine 36, and took measurement of what was removed either
15 into their slop barges or their tanks on shore.

16 There was a lack of clarity on the documentation as to
17 whether Sealine 36 was required to be fully drained or only
18 partially, so as to create such ullage to install the migration
19 barriers. The most telling evidence that Paria did not have the
20 technical know-how to manage the situation which evolved on
21 February 25, 2022, is its decision to operate in silos from the
22 specialist contractor, and indeed also from available personnel
23 with diving experience at Heritage Petroleum, its own sister
24 company.

25 Paria or its affiliate company, Heritage, called out several
26 diving experts: OTSL, Mitchell's Professional Diving, Hull
27 Support Services, and the TTCG, but aside from instructing

1 TTCG to stop divers from entering the pipeline to effect a
2 rescue of the four men, the aid and assistance of these specialist
3 diving companies was not put in train.

4 We know now that the TTCG divers were not trained nor
5 did they have the equipment to enter the pipeline. We know
6 that Mitchell's divers indicated they were too big to enter the
7 pipeline, and we know now that OTSL and Subsea Global
8 Solutions' vessels, equipment, divers and the supervisors on
9 these vessels, were told to stand by for instructions, which
10 ultimately did not come, and therefore they departed Paria—
11 their Paria berths early on Saturday, 26th February, 2022.

12 We know now that the reason that a rescue of the men
13 was not attempted was due to Paria's lack of knowledge of the
14 conditions in the pipeline and what obstructions were in same.
15 Ultimately it appears that the only identifiable obstruction was a
16 partially buoyant and therefore partially or fully empty dive
17 tank which Christopher Boodram was able to swim past, and a
18 crawler impaired by a slippery environment within the pipe,
19 was able to push some 19 feet.

20 Paria pursued ascertaining the line condition as a pre-
21 condition to an attempted rescue, but seemingly bypassed the
22 narrative of Christopher Boodram who had actually emerged
23 from the same pipe and therefore would have been the best
24 source of information which they so ardently pursued.

25 More than one Paria representative had close contact
26 and/or was in close proximity to Christopher Boodram but no
27 effort was made to speak to him to ascertain the location of the

1 divers and their physical condition, and the conditions in the
2 line. And one would presume that these were critical bits of
3 information which could be utilized to effect a rescue or to plan
4 a rescue.

5 In fact, it is only at almost 10.00 p.m. that Friday night
6 that a brief telephone communication was established between
7 Christopher Boodram and the ICT team. Accepting that
8 Boodram relayed that night—accepting what Christopher
9 Boodram relayed that night, the four remaining divers could
10 have been two seam lengths away from the end of the
11 horizontal of the pipe, even using Mr. Piper's estimation, which
12 was 120 feet away from the elbow, or in my calculation, which
13 is likely to be flawed, one-tenth of the length of horizontal pipe.

14 Even when it became clear that a borescope, an ROV and
15 a crawler could not successfully manoeuvre the pipeline, Paria
16 did not allow willing, able and available divers to attempt a
17 rescue, even though that by at least somewhere between 7.00
18 p.m. and 8.00 p.m. there was optimal equipment and
19 sufficiently trained and experienced commercial divers on site,
20 Paria has been pertinacious in its stance that they had to protect
21 the would-be rescuers who were trained and experienced divers
22 who could, with experienced and qualified dive supervisors,
23 device a safe entry and exit methodology. Instead, Paria called
24 Emergency Response Services, who are confined space
25 technicians, trained in rescues in dry environments and who had
26 no diving expertise.

27 Mr. Johnson's evidence, was, however, important, in that

1 he was able to explain that his company was not called until
2 almost midnight on Friday 25th, and he was not told that the
3 intended rescue would be a subsea one into a water-filled pipe.
4 Mr. Johnson's evidence was also important in that it explained
5 that a quick, dynamic assessment could be undertaken and a
6 rescue plan devised therefrom. Such a plan would not involve a
7 detailed written job safety analysis, a method statement and
8 other such documentation, which apparently Paria required in
9 order to permit the rescue of the men.

10 Mr. Donawa—Mr. Antonio Donawa and Mr. Krishna
11 Fuentes were ad idem that a rescue should be done as quickly
12 as possible. And it is also noteworthy that by the time that Mr.
13 Johnson arrives he's already told that he and his team should
14 expect a recovery effort and not a rescue effort.

15 We have heard from various Paria senior officials, one of
16 whom was brought to tears, and one of whom the Commission
17 allowed to vent his very pent-up angst. I and those whom I
18 represent do not believe that Paria was placed in an easy
19 position on the night of Friday, 25th February, but Paria must
20 accept that they made very wrong decisions on that night and
21 the day following, which ultimately cost these men their lives.

22 While Paria's officials were happy to distance themselves
23 from LMCS' work plan, because it was a turnkey contract,
24 where the company could rely on a specialist contractor, Paria
25 ultimately did not allow the same specialist contractor to
26 undertake or to coordinate a well-planned and well-equipped
27 rescue attempt.

1 Paria was not even prepared to rely on the diving
2 expertise residing with its sister company, Heritage. We heard
3 from Mr. Piper that an air hose—in his witness statement—that
4 an air hose should be sent down to the men in order to provide
5 air to them. We hear nothing further of that, other than that one
6 line in his witness statement. And ultimately, no such air hose
7 was sent to the men, whether through PVC or any other
8 mechanisms as Mr. Ramadhar has said.

9 In this Enquiry there were many villains, and I know
10 counsel here today will vilify and exculpate the protagonist in
11 equal turn. However, it would be remiss of me not to point out
12 the heroes. These were the voluntary rescue divers, who were
13 willing to risk life and limb to save their brother divers, and
14 asked for no reward to do so. These are the heroes.

15 On a final note, I wish to thank the many persons some of
16 them retirees of Petrotrin and Trinmar, who reached out to both
17 Mr. Hosein-Shah and myself to provide valuable information. I
18 particularly want to thank the honourable Commissioners, the
19 Chairman and Mr. Commissioner Wilson for their indulgences,
20 their graciousness, and their patience, both with Mr. Hosein-
21 Shah and myself. And I reiterate once again that the findings of
22 the Commission will find its way in the international fora that I
23 have described with the hopes that we can apply some degree of
24 pressure for the diving standards, at least, to be more robustly
25 put into a regulatory framework and robustly policed.

26 And I have one correction to make, so I don't want to fall
27 into unfortunate errors as another witness, that it was my error

1 when I indicated that Dr. Cheddie had been introduced to me by
2 the OWTU or some of their membership. That was entirely
3 correct. It's a separate person. I have spoken to a lot of people
4 in the last couple of months, so that was my error, and I
5 apologize if anybody was offended by that or took issue with
6 that.

7 And I would also say, judging from the front of one of
8 the daily newspapers—and I only caught the front page—he
9 was also not recommended by my own client, which is the
10 SWWTU. And as I said, the Chairman is quite correct. I have
11 been in practice long enough to see many a witness fall apart,
12 not, perhaps, in such a spectacular fashion, but certainly in
13 other ways. And I do thank my honourable friends—I can't say
14 at the Bar table—at the various tables to the side of me and to
15 the back of me and the honourable Commission's attorneys for
16 also their indulgences and kindnesses, and also for Ms. Sinanan
17 who I have harassed by email and otherwise for some time.
18 Thank you very much.

19 **Mr. Chairman:** Thank you very much. So what we will do
20 now—it's just five minutes past 1.00. As I said, I have a short
21 administrative matter to deal with this afternoon at five minutes
22 past 2.00, so we will resume at quarter past, please—quarter
23 past 2.00 for Mr. Pegus to address us. And you indicated that
24 you would be less than an hour in any event.

25 **Mr. Pegus:** Yes, Mr. Chairman.

26 **Mr. Chairman:** All right. Good. Well, that's where we'll
27 break off then, and I'll see everybody at quarter past 2.00.

1 Thank you.

2 **1.05 p.m.:** *Enquiry* suspended.

3 **2.15 p.m.:** *Enquiry* resumed.

4 **Mr. Chairman:** Good afternoon. Yes, Mr. Pegus.

5 **Mr. Pegus:** Good afternoon, Mr. Chairman.

6 Mr. Chairman, Mr. Wilson, I have some brief
7 submissions to make on behalf of my respective clients, Kenson
8 Operational Services Limited, Kenson Production Services
9 Limited and the individuals, Mr. Houston Marjadsingh, Andrew
10 Dobson, Kirt Scott and Rolph Seales.

11 I could not make these submissions without first
12 expressing my client's deep regret and sincere condolences to
13 the families who lost their loved ones as a result of this
14 incident. Secondly, Mr. Chairman, we wish to express our
15 gratitude to the Commission of Enquiry and its counsel who
16 have provided stalwart service to the nation. I now turn to the
17 submissions.

18 Mr. Houston Marjadsingh, Andrew Dobson, and Kirt
19 Scott are employees of Kenson Operational Services Limited.
20 Mr. Rolph Seales is an employee of Kenson Production
21 Services Limited. The evidence before this Commission shows
22 that Mr. Marjadsingh, Mr. Dobson and Mr. Scott were involved
23 in the ongoing works on the 25th February, 2022 at berth 6
24 Paria. These individuals who were connected to Kenson were
25 under the direction of Paria.

26 The fact that the work and the method of work which
27 they were doing was under the direction of Paria is not

1 challenged. And this fact was contained in my client's
2 respective witness statements. For instance, at paragraph two
3 of the witness statement of Andrew Dobson, which could be
4 found at page 3020 of the supplemental witness statement
5 bundle, he spoke of being under the direct supervision of Mr.
6 Paul Yearwood, the HSE Coordinator—Paria's HSE
7 Coordinator. He further indicated that he would usually take all
8 instructions from the said Mr. Yearwood. This fact was not
9 challenged by Paria.

10 Mr. Marjadsingh at paragraph two of his witness
11 statement which could be found at paragraph 3049,
12 supplemental witness statement bundle, spoke of being under
13 the direction of Paria's Maintenance Planner, one Mr. Terrence
14 Rampersadsingh. At paragraph nine of his witness statement,
15 page 3050 and 3051 of the supplemental witness statement
16 bundle, he outlined instructions he received from Mr.
17 Rampersadsingh on a daily basis.

18 The fact that Mr. Rampersadsingh—sorry. The fact that
19 Mr. Marjadsingh was Mr. Rampersadsingh's subordinate and
20 took instructions and directions from him, that is Mr.
21 Rampersadsingh, was confirmed by Mr. Rampersadsingh at
22 page 28, line 17 to 22 of his interview notes. So not only does
23 Mr. Marjadsingh say in his statement he was under the direction
24 of Mr. Rampersadsingh, Mr. Rampersadsingh did confirm that
25 in his interview with counsel for the Commission. And again,
26 this is something that was not challenged by Paria.

27 At lines 23 to 26 in specific reference to, again, Mr.

1 Marjadsingh, Mr. Rampersadsingh confirmed, even though
2 Marjadsingh was employed by Kenson, he worked out of
3 Paria's maintenance department. It follows that Kenson does
4 not fall within your Terms of Reference, and there is no basis
5 upon which your report would be required to deal with them.

6 This is consistent, Mr. Chairman, with the fact that the
7 Commission of Enquiry has not, at any time, identified Kenson
8 as a subject of this Enquiry under the Act. In this connection I
9 ask that you be aware that Kenson, my client, the Kenson
10 group, have a reputational interest that you are obligated to
11 protect. This is an interest that they take very seriously.

12 As to the individuals—and again I would list their names:
13 Marjadsingh, Dobson and Scott—all were under the direction
14 of Paria, and there was no suggestion that any of them was on a
15 frolic of their own on the 25th February, 2022, at the time that
16 this incident took place. Therefore, no question as to their
17 individual culpability arises with the exception, arguably, of
18 Houston Marjadsingh, which we address separately.

19 As far as your Terms of Reference go, these individuals
20 and Paria are effectively indistinguishable. No individual
21 responsibility can rest on them. I make the point again. In any
22 event, Mr. Chairman, their roles, again, with the exception of
23 Mr. Marjadsingh, were extremely limited. Mr. Marjadsingh,
24 Mr. Dobson and Mr. Scott, all outlined their roles on the day in
25 question in their respective witness statements, as per directions
26 given to them by Paria. And again it is to be noted that Paria
27 did not challenge this in these proceedings.

1 I first turn to Mr. Dobson. Mr. Dobson had a limited
2 function to perform on the day in question. At page 3 of his
3 witness statement, which could be found at page 3020 to 3021
4 of the supplemental witness statement bundle, he outlined his
5 duties on the day in question, as per instructions he received
6 from Mr. Yearwood. His role on the day in question did not
7 extend to supervising LMCS or the execution of the ongoing
8 work at Berth 6.

9 Kirt Scott was merely an offshore operator. He had
10 specific duties as outlined at paragraph two, page 3028 of the
11 supplemental witness statement bundle. Again, his role on the
12 day in question did not extend to supervising LMCS or the
13 execution of the ongoing work at berth 6. Even though there is
14 evidence before this Commission which shows that Mr. Scott,
15 this is, observed the splash on the monitor and alerted the dive
16 supervisor, Mr. Farah, that something went wrong, it was not
17 part of his duty to be stationed at the monitor. Let me repeat
18 that again. Mr. Scott—there is evidence before this
19 Commission that Mr. Scott was the one that observed the splash
20 on the monitor, and he alerted Mr. Farah that something was
21 wrong. Free-standing from that, Mr. Chairman, I ask you to
22 consider that it was not his duty to be stationed at the monitor.

23 In this regard we ask the Commission to note the
24 evidence of Mr. Archbald under cross-examination which can
25 be found at transcript dated 5th January, 2023, page 280, lines 7
26 to 15. There you would find a series of questions, Mr.
27 Chairman, which I put to Mr. Archbald, and he accepted that it

1 was not Mr. Scott's function to be stationed by that monitor.

2 Rolph Seales had nothing to do with the work at berth 6
3 on the day in question. He was called upon after the accident to
4 lend support, and had very limited involvement in this matter as
5 outlined in his witness statement, which could be found at page
6 3130 of the supplemental witness statement bundle. That is all
7 I would say on Mr. Rolph Seales. He effectively had nothing to
8 do with the incident on the day in question.

9 I now turn to Houston Marjadsingh. Houston
10 Marjadsingh's involvement was as an employee of Paria
11 working under the direction and reporting to Mr. Terrence
12 Rampersadsingh, which Mr. Rampersadsingh himself
13 confirmed. He came into focus because he was the applicant
14 under the permit to work procedure on the said 25th February,
15 2022. It is our respectful submission, Mr. Chairman, that this
16 focus was unwarranted.

17 The permit to work procedure was used in these
18 proceedings repeatedly as if it embodied Houston
19 Marjadsingh's obligations in connection with the works. We
20 respectfully disagree that the permit to work procedure can be
21 used in this manner. There was no evidence as to how the
22 permit to work procedure was supposed to work when a
23 contract for specific works was in existence, as was the case
24 here. I ask you to consider that.

25 There was no evidence that the permit to work procedure
26 was a contractually binding document at all. That is our
27 respectful submission. There was evidence, however, adduced

1 under cross-examination, from Mr. Mushtaq Mohammed and
2 Mr. Randolph Archbald as to the status of the permit to work
3 procedure, but no evidence was produced by the Commission
4 of Enquiry itself.

5 Mr. Mohammed stated under cross-examination that the
6 obligations under the permit to work procedure were general
7 guidelines only. He stated this. So that different people with
8 different roles would have an idea, or they would have
9 guidelines around what their roles were in the execution of the
10 works. This could be found at transcript dated 4th January,
11 page 2023. Sorry, 4th January, 2023, page 254, line 24, to page
12 255 line 2. Archbald stated under cross-examination that there
13 are rules and responsibilities that must be followed. This was
14 stated on the 5th February. It can be found in transcript, page
15 258 line 27, to page 259 line 1.

16 It is to be noted, however, that under cross-examination
17 Mr. Mohammed also stated that there is nothing the
18 Commission could refer to to determine what was the intention
19 behind the permit to work procedure. That is in evidence, and
20 it could be found on page 259, transcript dated 4th January,
21 2023.

22 We respectfully—

23 **Mr. Chairman:** Sorry, just a moment. What do you say that it
24 is, then? What is the permit to work? What is its purpose?

25 **Mr. Pegus:** Well, the permit to work procedure, respectfully,
26 Mr. Chairman, sets out its purpose on the beginning of the
27 document which could be found on page 24 of the core bundle.

1 It has what its purpose is. Our respectful submission is that
2 there was no evidence to suggest that this was incorporated into
3 the contract that existed between LMCS and Paria.

4 **Mr. Chairman:** But how can you carry out a contract if you
5 don't get a permit to work?

6 **Mr. Pegus:** Can you repeat the question, please?

7 **Mr. Chairman:** Yes. How can you carry out the contract if
8 you do not obtain a permit to work.

9 **Mr. Pegus:** How can you carry out the contract if you do not
10 obtain the permit to work?

11 **Mr. Chairman:** Yes. You need the permit to work in order to
12 meet the terms of the contract.

13 **Mr. Pegus:** Yes, but there is no provision in the contract, Mr.
14 Chairman, which incorporates the permit to work procedure. I
15 have looked at the contract.

16 **Mr. Chairman:** I know. I can assure you. My concern is that
17 if you were seeking to separate completely the permit to work
18 from the contract, I'm not clear what you are saying the status
19 of the permit to work is.

20 **Mr. Pegus:** Well, Mr. Chairman, respectfully, there are some
21 questions that I am about to outline, which we say must be
22 answered, because this was a problem in these proceedings—
23 what the status of the permit to work is in the face of a contract
24 between the two parties. It is something that the Commission
25 would have to consider.

26 **Mr. Chairman:** I appreciate that you were at pains to make
27 that point during some of the cross-examination. I am slightly

1 concerned about the approach to be taken, because you
2 suggested, and it was a draft, that the permit to work procedure
3 was a guideline. It is not a guideline. It is something that must
4 be adhered to. It follows from that, that you must obtain a
5 permit to work. In order to carry out the contract that's been
6 entered into between the parties, you have to obtain the permit
7 to work. There's no other way of doing the work or meeting
8 the contract without—

9 **Mr. Pegus:** Does the contract say that?

10 **Mr. Chairman:** If it's not explicit, it is certainly implicit.

11 **Mr. Pegus:** Well, I mean, it's open for you to make that
12 finding, Mr. Chairman, but our submission is that it was not
13 incorporated into the contract.

14 **Mr. Chairman:** No, no. Well, formally, maybe not. How is it
15 that you are to perform if you do not obtain a permit to work?
16 How do you perform the contract?

17 **Mr. Pegus:** Well, you see—and that is one of the issues that
18 we have with the permit to work. There was no evidence led
19 before this Commission which would basically inform us as to
20 what was the status of the permit to work procedure, having
21 regard to the existence of a contract between the parties.

22 **Mr. Chairman:** Separate for a moment the procedure from the
23 actual permit to work. There is a procedure to obtain a permit
24 to work, and then you have the permit to work.

25 **Mr. Pegus:** Yes.

26 **Mr. Chairman:** Do you accept that you must obtain a permit
27 to work before the work can be carried out?

1 **Mr. Pegus:** I do accept that.

2 **Mr. Chairman:** All right. And in order to obtain that permit
3 to work, you have to follow the procedure laid out by Paria?

4 **Mr. Pegus:** It was the contractor's obligation to follow that
5 procedure. I have not seen a specific provision—

6 **Mr. Chairman:** I follow, I follow that it is the contractor's
7 obligation to follow the procedure. The procedure is Paria's.

8 **Mr. Pegus:** Yes.

9 **Mr. Chairman:** Right. So Paria has the procedure to obtain a
10 permit to work.

11 **Mr. Pegus:** Yes.

12 **Mr. Chairman:** None of that is effective unless you have a
13 contract with them. I can't just go and apply for a permit to
14 work over at Paria. You have to have a contract in the first
15 instance, don't you?

16 **Mr. Pegus:** Well, in this case, yes.

17 **Mr. Chairman:** Right. Let's deal with this case. All right?

18 **Mr. Pegus:** Yes.

19 **Mr. Chairman:** If you have a contract to work between
20 LMCS and Paria, the only way LMCS can meet that contract is
21 to turn to Paria's procedure for the permit to work, observe that
22 procedure, and then apply for the permit to work.

23 **Mr. Pegus:** Yes, they were—

24 **Mr. Chairman:** Then you get the permit to work and then you
25 can carry it out.

26 **Mr. Pegus:** Yes. And they were obligated to do that under the
27 contract.

1 **Mr. Chairman:** Right. So I don't really understand what your
2 point is.

3 **Mr. Pegus:** With respect to what, Mr. Chairman?

4 **Mr. Chairman:** You are saying that there is nothing to show
5 that the permit to work is part of the contract.

6 **Mr. Pegus:** That is our respectful submission.

7 **Mr. Chairman:** Yes.

8 **Mr. Pegus:** I have not seen a specific—

9 **Mr. Chairman:** How does that impact on the decisions that
10 have to be made here? How does it help us determine the
11 responsibilities or whether they were followed or not? LMCS'
12 duty, once they had obtained this contract, was to go to Paria's
13 permit to work procedure, observe it, and obtain the permit.
14 Their case is well you might have obtained the permit, but the
15 permit doesn't permit you to do what you did. That is their
16 position.

17 **Mr. Pegus:** Yes.

18 **Mr. Chairman:** That is a position I readily understand.

19 **Mr. Pegus:** Yes.

20 **Mr. Chairman:** What I don't understand is the way in which
21 you are putting it. It's as though—what am I supposed to do
22 with the permit to work, then, in respect of your client?

23 **Mr. Pegus:** Well—and what we are saying is that there is no
24 evidence before this Commission which would inform the
25 Commission how to treat with the permit to work procedure.

26 **Mr. Chairman:** Right.

27 **Mr. Pegus:** That is our respectful submission.

1 **Mr. Chairman:** There's no evidence before us as to how to
2 treat the permit to work procedure?

3 **Mr. Pegus:** Yes. And I mean it's apparent from the confusion
4 by Paria's own witness. The general manager has a different
5 interpretation as to the status of the permit to work procedure
6 than the man who drafted the permit to work procedure himself.

7 **Mr. Chairman:** That is has not passed us by, that there is
8 some confusion as to how it's to be applied. There is some
9 confusion about who the applicant is; what his role is. That I
10 entirely understand.

11 **Mr. Pegus:** Yes.

12 **Mr. Chairman:** And some focus has been played upon it by
13 many of the parties.

14 **Mr. Pegus:** Yes.

15 **Mr. Chairman:** Including ourselves. I don't see how that—
16 what I don't understand, and what I'm not following from you
17 is how does it make the slightest bit of difference to make the
18 assertion that you do, that the permit to work is not part of the
19 contract? How does that help you?

20 **Mr. Pegus:** How does it?

21 **Mr. Chairman:** Help you on behalf of your client?

22 **Mr. Pegus:** Well—

23 **Mr. Chairman:** Suppose I was to accept, all right, it's not part
24 of the contract? So what?

25 **Mr. Pegus:** This is my understanding, and I could be wrong.
26 In these proceedings the permit to work procedures—I'm
27 focusing specifically on clause 5.1 of the permit to work

1 procedures—it was used to suggest that the applicant on the day
2 in question, Mr. Marjadsingh, who I represent, had some
3 supervisory role to perform. Because that is in effect what 5.1
4 says.

5 **Mr. Chairman:** Yes.

6 **Mr. Pegus:** That is in effect what 5.1 says; right?

7 **Mr. Chairman:** I agree.

8 **Mr. Pegus:** Good. Our issue with that is that there was a
9 contract between the parties for the execution of the works and
10 in that contract, LMCS had an obligation to provide full time
11 supervision. I have not seen an express provision in the
12 contract which incorporated the permit to work procedure.
13 What I have seen is separate provisions which says that the
14 contractor, LMCS, supposed to abide by the permit to work
15 procedure. I believe it's specifically stated at clause 8, which is
16 something I would get to.

17 **Mr. Chairman:** It's certainly in there. I agree.

18 **Mr. Pegus:** Right.

19 **Mr. Chairman:** Precisely where, I am not—

20 **Mr. Pegus:** Right; good. There is confusion—and you are
21 asking—

22 **Mr. Chairman:** Are you saying your client is confused?

23 **Mr. Pegus:** No.

24 **Mr. Chairman:** Is that your submission; that he was confused
25 about his role?

26 **Mr. Pegus:** No. I'm not saying that my client was confused
27 about his role. What I'm saying is that there is confusion with

1 respect to how the permit to work procedure is treated in the
2 face of a contract.

3 **Mr. Chairman:** You're pushing at an open door. I agree with
4 that entirely. I simply don't get the point you're making about
5 it not being included in the contract. So what difference does it
6 make on the basis—without having to decide whether it is or is
7 not part of the contract?

8 **Mr. Pegus:** Right. The difference is—

9 **Mr. Chairman:** We understand that in order to get to do the
10 work you have to follow the procedure and get a permit.

11 **Mr. Pegus:** Yes.

12 **Mr. Chairman:** Both of those things apparently were done.

13 **Mr. Pegus:** Yes.

14 **Mr. Chairman:** The extent to which people understood
15 precisely what it was and what it means is an issue in this
16 matter.

17 **Mr. Pegus:** Yes.

18 **Mr. Chairman:** And one which we are obviously engaged in
19 considering.

20 **Mr. Pegus:** Yes.

21 **Mr. Chairman:** To that extent you are pushing an open door.
22 I agree with you. But I don't understand the point about it not
23 being—

24 **Mr. Pegus:** So the difference it makes, Mr. Chairman,
25 respectfully, is this. If the Commission accepts that the permit
26 to work procedure was not incorporated into the contract, then
27 there would be no basis, Mr. Chairman, for an advancement to

1 be made that Paria was obligated to supervise the execution of
2 the works.

3 **Mr. Chairman:** I want to get this down. No basis for an
4 advancement to be made that Paria—

5 **Mr. Pegus:**—had an obligation to supervise the execution of
6 the works.

7 **Mr. Chairman:**—had an obligation to supervise the works. So
8 if we are to conclude that—your point then is that if we are to
9 conclude that the work permit system incorporating the
10 procedure and the permit itself, that work permit system is not
11 part of the contract, there is no basis for an advancement to be
12 made that Paria had an obligation to supervise the works?
13 That's your point, is it?

14 **Mr. Pegus:** Yes. Yes.

15 **Mr. Chairman:** Right.

16 **Mr. Pegus:** Now, I know our back and forth may have covered
17 some of the rhetorical questions that I had posed in my
18 document, but I will still—

19 **Mr. Chairman:** I'm sorry if I've knocked you off your stride.
20 Feel free to proceed on the basis that you were planning to
21 proceed.

22 **Mr. Pegus:** Now, on what basis is the permit to work
23 procedure being used as the document which contained the
24 standard of conduct required to be achieved by the participants
25 and not the contract? On what basis will you not find that the
26 permit to work procedure was displaced by the contract as
27 regards Paria? These are some questions that I posed.

1 Now, under clause 8 of the contract, between LMCS and
2 Paria it states: Contractors and contracted personnel are
3 required to follow the permit to work procedure and standard
4 work instructions at all times. Contractors shall ensure that all
5 relevant employees receive the permit to work training—

6 **Mr. Chairman:** That's paragraph which?

7 **Mr. Pegus:** Okay. This could be found in the scope of works
8 which outline the contract between LMCS and Paria, and I'm
9 reading specifically clause 8.0.

10 **Mr. Chairman:** Eight point zero.

11 **Mr. Pegus:** Eight point zero. And if the chairman permits me,
12 I will get the actual page number. A moment please, Mr.
13 Chairman. *[Pause]* I am looking at page 579 of the witness
14 statement bundle. The contract again was attached to the
15 statement of Mr. Kazim Ali Sr.

16 **Mr. Chairman:** Okay, yes. It's in another place.

17 **Mr. Pegus:** Yes, it is also in the—now clause 9—may I
18 proceed, please?

19 **Mr. Chairman:** Yes, please do.

20 **Mr. Pegus:** Clause 9 is one of several clauses in the contract
21 which provides for contractor supervision. It reads:

22 "The contractor shall provide competent supervision at
23 all times during the execution of the job. Contractor
24 supervision must ensure that all employees on the job are
25 aware of the hazards related to the job and the relevant
26 control measures."

27 As to the contract, Mr. Chairman, it is plain that LMCS

1 was obligated to provide full time supervision. It is our
2 submission that that makes commercial and common sense as
3 they were the experts. We ask the Commission to note that
4 both Paria and LMCS knew at all times the works would be
5 subsea, and that Paria were not experts in this particular type of
6 work.

7 Now, upon a perfunctory comparison of the permit to
8 work procedure and the contract, there is overlap as to
9 supervision. And as we established earlier, this has led to much
10 confusion in these proceedings. We submit it makes no
11 commercial sense to have two sets of supervisors with the same
12 sphere of oversight for one set of work, especially specialist
13 works as was the case here. This would lead to inefficiency and
14 confusion in the event of a disagreement as to how the works
15 were to be performed, and makes no commercial sense. I want
16 to pause here for a moment. I see—

17 **Mr. Chairman:** I think that that's a point well made. What I
18 am concerned to know is whether or not you take the view that
19 there might have been oversight at an earlier stage when the
20 initial scope of works and the tender was being made, so as to
21 include an independent assessor of the work that was to be
22 done; the emergency response plan; the various other
23 documents that were necessary in order to win the contract;
24 whether an independent person might have been employed to
25 have tested that.

26 **Mr. Pegus:** I totally agree. I totally agree. Because—

27 **Mr. Chairman:** Whilst I accept, you know, that it might not

1 be necessary for that person to then—I mean, it would depend
2 on each individual firm, I suppose, but it might not be necessary
3 for that person to then carry out the supervision of the job work
4 itself—

5 **Mr. Pegus:** Correct.

6 **Mr. Chairman:**—that it may not be necessary if that expert,
7 for want of a better expression, had considered all the papers as
8 advanced by LMCS, and agreed that they accurately
9 represented both in terms of the work to be done and the order
10 in which it should be done, the work that needed to be
11 undertaken, and if that had been done, then perhaps we
12 wouldn't have been in the situation that we are in.

13 **Mr. Pegus:** This is a point that you, Mr. Chairman, made
14 during these proceedings, and I totally agree.

15 **Mr. Chairman:** Right. So you wouldn't be opposed,
16 representing your clients as you do, to the idea that whatever
17 level of supervision any Kenson employee might have been
18 expected to have applied, be it intermittent, every four hours, or
19 whatever it was, whatever level of or oversight, call it what you
20 will, whatever that was, all of that would have been made much
21 simpler had there been some independent review of the
22 application in the first place.

23 **Mr. Pegus:** Yes. And as we are on the point of standard
24 supervision, I would just like to make one point, which I don't
25 have included here. Even if this Commission is to take the
26 view that Paria, under the permit to work procedure, had some
27 supervisory role to play as regards the works that were going on

1 at Berth 6, it is clear from the evidence that that standard of
2 supervision was lower than that which LMCS was to perform.

3 **Mr. Chairman:** Yes.

4 **Mr. Pegus:** Right. And that was driven home for me from the
5 cross-examination of Mr. Randolph Archbald, when I said that
6 Mr. Marjadsingh was only obligated to supervise what it is he
7 could see, or as much as he can see.

8 **Mr. Chairman:** I mean, I think that that's a matter for
9 consideration by us. Also the suggestion that perhaps, every
10 four-hours was sufficient. Those sorts of things we will
11 obviously review. But you are pushing again at an open door
12 that LMCS clearly had an obligation to review the work
13 continuously and whatever level of monitoring, oversight,
14 supervision might be laid at the door of Paria, the fact remains
15 that it was going to be, on the face of it, it would be your case,
16 less than LMCS'.

17 **Mr. Pegus:** Yes, Mr. Chairman.

18 **Mr. Chairman:** I understand.

19 **Mr. Pegus:** Yes. Now, we submit—I believe I made that point
20 before. Yes. Now, I do here have, Mr. Chairman, some
21 questions that I posed, which I would want to read into the
22 record. It may be that expert evidence as to the industry
23 practice would have assisted the Commission if it was intended
24 to suggest or enquire into the possibility that the permit to work
25 procedure placed a fulltime supervisory role on Paria, but no
26 such evidence was led by this Enquiry.

27 What is the practice in the industry? The risk is always

1 on the specialist contractor as we say should be obvious and
2 make sense, or is this risk shared? Do the prices under the
3 contract vary according to the allocation of that risk? Was the
4 cost here commensurate with the risk being shared? Does the
5 fact that the works were subsea and could not be seen properly
6 by Paria not negate any obligation to supervise? That is a fact
7 that was known by all; the ability to see exactly what was going
8 on in the chamber subsea.

9 **Mr. Chairman:** Well, there was a camera.

10 **Mr. Pegus:** Yes. And even with that camera there wasn't a
11 full view, as the evidence came out. The permit to work
12 procedure—this is our respectful submission, and ultimately,
13 we know, it's for the Commission to decide.

14 The permit to work procedure cannot have placed a
15 contractual obligation on Paria because that is not what the
16 contract says. If the permit to work procedure was binding
17 notwithstanding the existence of a contract, then evidence to
18 that effect was required. In the absence of evidence of that
19 nature, we respectfully suggest that you ought not to find that
20 the permit to work procedure was more than a guideline.

21 Now, I know earlier we had a back and forth over this
22 permit to work procedure.

23 **Mr. Chairman:** I'm not going to do that again. I mean, I have
24 serious reservations about that submission. That is your
25 submission.

26 **Mr. Pegus:** Yes. Right. Now, in terms of recommendations—
27 and I want to be careful with respect to how I craft this.

1 Ultimately, one of the things I see the Commission would have
2 to make a recommendation on is how to improve the execution
3 of works of this nature. And this would have to be done in the
4 absence of evidence as to how works of this nature are
5 ordinarily contracted for and performed. This is just something
6 I put out for consideration.

7 **Mr. Chairman:** Say that again.

8 **Mr. Pegus:** In terms of recommendations, as I see it, one of
9 the recommendations that the Commission would have to make
10 is how to improve the execution of works of this nature on any
11 view, whether we like it or not. There was a problem with the
12 way it was done. And what I'm saying, Mr. Chairman, is that
13 the Commission would have to make this recommendation in
14 the absence of evidence as to how works of this nature are
15 ordinarily contracted for and performed.

16 **Mr. Chairman:** There are international standards we can look
17 to.

18 **Mr. Pegus:** Okay. Well, yes, I agree with that. But I—

19 **Mr. Chairman:** Don't need the evidence for that. I mean, I've
20 got it.

21 **Mr. Pegus:** I'm just putting it out there. It would be
22 something for this Commission's consideration.

23 Now, before I close, on behalf of my clients, I would just
24 like to express gratitude again to the Commission for
25 accommodating us and giving us the opportunity to participate
26 in these proceedings, and unless I can assist you further, these
27 are the respectful submissions I wish to make on behalf of my

1 clients.

2 **Mr. Chairman:** Not at all. Thank you very much indeed for
3 your submissions. I appreciate it.

4 **Mr. Pegus:** Much obliged.

5 **Mr. Chairman:** Right. Well, that takes us for a change to a
6 very early end to the day. I think we are entitled to a few of
7 these on the basis we've had some very, very late days. So we
8 will adjourn now and—I'm sorry.

9 **Mr. Peterson SC:** I was looking at my watch to see if it was
10 defective. [*Laughter*]

11 **Mr. Chairman:** So we will adjourn now, and then we will
12 hear tomorrow from the—first of all from counsel for LMCS,
13 and then we'll hear from counsel from Paria. Have you made
14 up your mind yet as to who is going to be doing or are you
15 going to do a tandem act?

16 **Mr. Peterson SC:** If we will do what, Sir?

17 **Mr. Chairman:** A tandem act.

18 **Mr. Peterson SC:** Are we allowed to? If we do, it would
19 make life easier for both myself and Mr. Mootoo.

20 **Mr. Chairman:** I'm not going to stop you. If you think that
21 we would be greater assisted by one of you concentrating on
22 one aspect of the evidence and somebody else on some other
23 aspect, and that would allow you to be able to address us in a
24 more efficient way, then I'm not going to stop you from doing
25 that.

26 **Mr. Peterson SC:** Whichever mode we adopt, we give the
27 undertaking we will stay within the given—the suggested time

1 frames.

2 **Mr. Chairman:** Well, that's really principally what I'm
3 concerned with, that we (a) hear your submissions in the best
4 possible light, and, (b), that it's constrained in the two hours
5 that you have allotted.

6 **Mr. Peterson SC:** Thank you, Sir.

7 **Mr. Chairman:** All right. Well, thank you very much indeed.
8 See everybody tomorrow morning at ten o'clock, I think I said;
9 yes, ten o'clock.

10 **2.52 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 17**

2 **10.00 a.m.:** *Enquiry commenced.*

3 **Mr. Chairman:** Good morning. Can I deal first of all, please,
4 with the timetable? Because—just give me one moment—I
5 think I said two days in March, we changed it to two days in
6 March, which was the, er—for viewing of the habitat and
7 should it be necessary to hear any further evidence, which I
8 fervently hope is not necessary, but I think I identified the 14th
9 and 15th of March. Is that correct? I discovered that my flight
10 from Doha on the 13th does not get me in in time in Miami to
11 be able to get here until the next day. So I'm going to ask that
12 it's the 15th and 16th, if that is a hopefully not insurmountable
13 difficulty for anyone. Is that all right? All right, lovely, thank
14 you.

15 So it's going to be 15th to view the habitat, Mr. Peterson,
16 if that's possible. You can tell your clients that that's what
17 we'd like to do, and then the 16th as a backup day should it be
18 necessary. As I say, I firmly hope that it's not. But that's
19 where we are at the moment so that we can make it to the 15th
20 to view the habitat, and then, Sarah you'll be able to advise
21 everybody else that that is the date for the view.

22 **Mr. Peterson SC:** I'll arrange it [*Inaudible*]

23 **Mr. Chairman:** Lovely. Thank you very much indeed. Right.
24 Can I ask you what is your anticipated length of your address?
25 I'm not holding you to it but give me some sort of idea.

26 **Mrs. Persaud Maraj:** I believe it may be within the two hours
27 or at least the two hours.

1 **Mr. Chairman:** Right.

2 **Mrs. Persaud Maraj:** I tried to—

3 **Mr. Chairman:** No, that's fine. But if you want to take a
4 short break in the middle of that, and it may be if I don't my
5 colleague might, so pick a moment, just a—we could just take 5
6 minutes if necessary, but, whatever it is, you know, going for
7 two hours without stopping is quite a long time to be on your
8 feet, so, feel free to pick a moment and we'll just take a short
9 break. All right?

10 **Mrs. Persaud Maraj:** Certainly.

11 **Mr. Chairman:** Lovely. Thank you very much indeed. Yes.

12 **Mrs. Persaud Maraj:** Good morning, Mr. Commissioners.
13 One must take care not to cause injury to others but there is no
14 general duty for the benefit of others. The rule is that I must
15 not harm my neighbour misfeasance, not that I am required to
16 save him, nonfeasance. The very parable of The Good
17 Samaritan which was invoked by Lord Atkins in *Donoghue v*
18 *Stevenson* illustrates in the conduct of the priests and the Levite
19 who passed by the other side an omission which as likely to
20 have caused, as its reasonable and probable consequence,
21 damage to the health of the victim of the thieves, but for which
22 the priest and the Levite would have incurred no civil liability
23 in English law. That's an excerpt taken from Winfield and
24 Jolowicz on TUCS, 13th Edition at page 92.

25 It seems that this legal provision is the guiding light
26 which pervades Paria's stance taken from the onset of their
27 position on the scope of works to the decision not to permit a

1 viable or a rescue plan from being mounted in order to save the
2 men trapped in a 30-inch pipeline at Sealine 36 on the night of
3 February 25th, 2022.

4 Scope of works:

5 Contrary to reasonable commercial considerations, industry
6 standards and specifically stated conditions as expressed in the
7 scope of works provided by Paria, Paria Fuel Trading Company
8 Limited seems to be saying to this Commission that the contract
9 itself between itself and LMCS was on a turnkey contract basis.
10 I've extrapolated from various sources the very basic feature of
11 what a turnkey contract is and those things are the design,
12 sourcing of materials, control or substantial control of site and
13 completion time, entirely on the contractor.

14 The turnkey concept of contract envisions that the
15 contractor takes charge of the project. It is not subjected to a
16 system requiring approvals and permits and vesting in the asset
17 owner a stop policy. That is directly contradicted to that
18 concept. In fact, in Paria's investigation report, they
19 themselves were not convinced that the contract was a turnkey
20 project. At page twelve hundred of the core bundle at clause
21 1.9, it states:

22 "Paria contracted LMCS Limited to execute a turnkey
23 type contract entitled miscellaneous repairs and
24 refurbishment works at number 5 and number 6 berths."

25 This report was subsequent to the incident, just to be clear.
26 This scope of work was, according to Paria's code system,
27 under code 8107, for installation and maintenance work which

1 is a category designated by them as high-risk works. And I
2 refer to page 7701 of the bundle of submissions. This particular
3 code is instrumental in deciphering, one would expect, the
4 contract and commercial considerations for the job to be
5 tendered. The inherent high-risk component of the contracted
6 works therefore placed its execution to be subject to permit to
7 work/standard work instruction/safety rules requirement. And I
8 take that specifically from the scope of works at paragraph 8.2
9 provided by Paria.

10 There is no inference of the fact of this condition. It is
11 expressed. It follows, in the context of industry standards, Paria
12 did not attempt at this initial stage of its contract to extricate
13 itself from this duty and the standard contained in their permit
14 to work, standard work instructions and safety rules. Paria's
15 position advanced after the 25th of February is, however,
16 different. I have read and flicked and read and perused the
17 scope of works from which Paria's conditions of work were
18 expressed and I'm still to find one clause which expresses that
19 any of the contracted bidding for this scope of work was to
20 provide expertise, that is to say, advice on the job.

21 We can accept that the contract is for specialist services
22 and equipment but this is very different from the argument
23 being mounted by Paria, or what seems to be mounted by Paria,
24 that they required expert advice and the expertise. At the very
25 introduction, and we have gone through this during the course
26 of cross-examinations of the witnesses, at 1.0 of the scope of
27 work at Paria's page 560 of the core bundle, it says:

1 “Paria Fuel Company Limited is seeking to engage the
2 services of an experienced and qualified construction and
3 fabrication contractors for the execution of miscellaneous
4 works detailed below.”

5 This scope of works is the basis of what Paria required. It is a
6 document being communicated to a number of contractors that
7 are registered under the service code 8107 which, according to
8 the statement from Paria’s Mr. Rajendra Mahase, has some 259
9 recommended applicants. I’m not sure what amount of
10 applicants were approved but at least those were the
11 recommended applicants for the purpose of those kinds of work
12 that LMCS had performed.

13 **Mr. Chairman:** The work extended beyond just the Sealine
14 though, didn’t it? It included, did it not, work on the handrails
15 and various other aspects of the overall bid?

16 **Mrs. Persaud Maraj:** Yes. Yes. There were three
17 components to this particular contract.

18 **Mr. Chairman:** Yes.

19 **Mrs. Persaud Maraj:** So it’s—

20 **Mr. Chairman:** Not all of which would have required the kind
21 of expert or specialist services, whichever way one wants to put
22 it, not all of which would have required that—

23 **Mrs. Persaud Maraj:** Not that degree, please, I agree.

24 **Mr. Chairman:** Right, all right.

25 **Mrs. Persaud Maraj:** I invite you, Mr. Chairman and Mr.
26 Commissioner, to look at this scope of works and come to the
27 very quick conclusion that Paria is peddling a narrative of

1 turnkey and specialized contractor and expert in attempting to
2 do nothing more than to shift the duty of care to ensure a safe
3 system of work from itself to squarely land on the shoulders of
4 LMCS Limited. Paria has a clear appreciation of the difference
5 between service contract and advice contract. They must have.

6 I pause to bring to the attention of the Commission, I
7 heard my learned friend for Kenson's submissions yesterday. I
8 know that I wasn't present personally. But it seems to me that
9 Kenson's position is now or is being advocated to be different
10 from the treatment of which the workers of Paria had been
11 treated with in this Commission and indeed by LMCS. Let me
12 explain just a little bit.

13 For all intents and purposes, work conducted in the, in
14 the premises of Paria Fuel Trading Company Limited, which
15 are to be monitored or whatever other duties devolve to Paria's
16 personnel, whether they be Paria in employment or Kenson in
17 employment, were always and at all material times treated as
18 Paria. In other words, there was an agency understanding. The
19 fact that this may be an issue that has peeked its head, I know
20 that the contract between Paria and Kenson has been deemed
21 privileged.

22 It is my humble submission that, having regard to that
23 argument, if indeed I have my friend's argument correct, would
24 necessarily break that shield of privilege that was awarded to
25 Paria and Kenson in relation to that contract because then the
26 obligations, as I understand it the obligations which devolve to
27 Kenson and Paria's personnel, if it is indeed that they're saying

1 that Kenson's personnel did not have the same or equal
2 requirements and duties as a Paria employed personnel, then the
3 contract arrangement will have to be investigated.

4 **Mr. Chairman:** Are you making such a formal application?

5 **Mrs. Persaud Maraj:** It's, it's not an application, please, but,
6 should it become an issue that this honourable Chairman as a
7 fact-finding Commission sees as an issue, it has not been an
8 issue throughout the course of these proceedings.

9 **Mr. Chairman:** No.

10 **Mrs. Persaud Maraj:** But if it—

11 **Mr. Chairman:** Well, can I reassure you of this much, that if
12 we deem that it is crucial to our decision-making process, that
13 we require sight of the contract or the contractual relationship
14 between Paria and Kenson, then we will convene a hearing for
15 you to argue why we should have it, and for us to consider why
16 it might be necessary and for Paria to be able to respond to that.
17 At the moment, I don't see the need for that at all. All right?
18 So that you can be reassured that if we found that it was
19 necessary or thought that it might be necessary or that it might
20 disclose some additional feature that we hitherto don't have,
21 then certainly that's something I will bring to the parties'
22 attention, and, if necessary, we'll have an argument about it but
23 at the moment I don't see that that's necessary.

24 **Mrs. Persaud Maraj:** I'm grateful. The confirmation that
25 LMCS understood that it was a job for the provision of services
26 and equipment are contained in LMCS' proposal contained in
27 the core bundle at page 654 where LMCS confirms that the

1 work entails the provision of labour, equipment, material as
2 specified and supervision for the civil works required. At core
3 bundle page 658 the work-plan would be carried out as follows.
4 LMCS will work with Paria Fuel Trading Company Limited to
5 confirm all engineering requirements for the contract prior to
6 the placement of purchase orders for equipment and material,
7 Paria Fuel Trading Company Limited and LMCS will conduct
8 job hazard analysis, JHAs, and risk assessments as required for
9 all activities associated with the project.

10 And at core bundle page 656 which says: project control,
11 progress measurements and reporting frequencies and formats
12 will be determined by LMCS and Paria Fuel Trading Company
13 Limited project teams. Paria's reliance on LMCS' expert
14 advice in whichever incarnation of the term is plainly
15 unsupported and ought to be rejected by this Commission as a
16 matter of fact.

17 Expert:

18 The value of having an expert contractually called a
19 project consultant or a project engineer I submit is the
20 fundamental basis upon which Delta P event leading to the
21 death of the four LMCS workers rests for several reasons. The
22 first place, the development of the scope of works lacks crucial
23 information on the layout of Sealine 36. A schematic was
24 presented. There may be no fault on the face of this drawing
25 but it is clearly misleading. To date—

26 **Mr. Chairman:** Which drawing you're talking about?

27 **Mrs. Persaud Maraj:** The schematics that is contained in the

1 tender.

2 **Mr. Chairman:** In the tender itself?

3 **Mrs. Persaud Maraj:** In the scope of works, in the scope of
4 work. There's that line drawing. To date, we still don't know
5 the exact bottom profile of Sealine 36. The system, it seems
6 from the evidence, is of some vintage. The contract carried out
7 by LMCS I am sure will not be the last of contracts to be
8 performed on the system. Paria had and continues to have a
9 duty to contractors to provide services—who are contracted to
10 provide services on its system to have a comprehensive
11 inspection report. This seems to be, at the very least, common
12 sense.

13 The second aspect of the scope of work deficiency is the
14 glaring lack of the expertise to evaluate the intricacies which
15 this job required. Paria's tender note at page 928 of the core
16 bundle raised:

17 "LMCS has demonstrated that in their prior performance
18 that they have the required management and resource
19 competencies to satisfy the contract requirements."

20 And at page 931 under the rubric "Technical Evaluation" the
21 note simply states:

22 "A technical evaluation of five bids submitted was
23 conducted by technical and maintenance department and
24 only one bid submission was found to be technically
25 compliant with the requirements of the scope."

26 We know from the evidence that there is question as to
27 the qualifications and the experience or the expertise that was

1 brought to this evaluation process. From this evidence, Paria is
2 suggesting that LMCS—but Paria is still suggesting that LMCS
3 possessed the expertise. Essentially, it seems to me it's an
4 argument saying that LMCS is hiring itself. Doing this clearly
5 placed LMCS and its employees at an even higher level of risk
6 in the performance of their work as is evident by this tragic
7 incident.

8 Paria has admitted to knowing of its option of hiring a
9 project engineer and consultant who would have been qualified
10 or have the requisite expertise to advise on the contract, on the
11 execution of the contract. In fact, this was done for the 2020
12 contract similar to the part of the contract to be performed at the
13 subsea at Sealine 36. Saving the dollar at the cost of saving the
14 lives or at least safety. This is what this decision comes down
15 to.

16 Execution of works.

17 **Mr. Chairman:** Do you not think it a fair point to make that,
18 “We used LMCS in 2020, we had a project manager then, they
19 did the job without hitch, without complaint, all seemed to go
20 very well, they obviously know what they're doing. Why don't
21 we just use them again?” What is wrong with taking the
22 position that, “We have a perfectly good contractor who's done
23 the same job before?”

24 **Mrs. Persaud Maraj:** It's a high-risk job.

25 **Mr. Chairman:** Yes.

26 **Mrs. Persaud Maraj:** It is classified high risk for that reason.

27 We should not—no one should be taking the risk, the reason—

1 there's no reasonable approach, if I may say that, in saying that,
2 well, because you have done it before you may be able to do it
3 perfectly on this occasion as well. The reason, there must be a
4 rationale for the classification of the works to be done and it
5 was high risk. The purpose and the benefit of having a system
6 in place, of having an expert hired, is to prevent an accident.
7 We can never tell when an accident will happen.

8 **Mr. Chairman:** No, of course, but irrespec—are you saying
9 that irrespective of how many times LMCS might perform this
10 task on behalf of Paria, they would still need to be separately
11 assessed?

12 **Mrs. Persaud Maraj:** At the very least if they don't possess
13 that expertise within their own structure.

14 **Mr. Chairman:** Paria not—

15 **Mrs. Persaud Maraj:** Paria, that is, yes. Perhaps if it
16 becomes a routine, for example, a routine high-risk
17 manoeuvring where all parties involved have the, the—because
18 of its frequency, they have the understanding of the
19 manoeuvring of the contract and what the job entails and they
20 have in-house, that is Paria would have its in-house expertise
21 and LMCS or any other contractor have their in-house, then
22 there may be no—I'm not submitting that there shouldn't be
23 any at all but there may be no great need to have that
24 independent expertise on the job hired by Paria.

25 **Mr. Chairman:** You mean assessment but not oversight?

26 **Mrs. Persaud Maraj:** Assessment, correct.

27 **Mr. Chairman:** How many times? How many times do they

1 have to do it before you agree that assessment without oversight
2 would be okay?

3 **Mrs. Persaud Maraj:** Well, that would, that would—

4 **Mr. Chairman:** Two, three, four?

5 **Mrs. Persaud Maraj:** No. The frequency would, in terms of a
6 high-risk manoeuvre can't be two—I humbly submit it certainly
7 can't be one. It must be something—frequency, the word
8 frequency, it is happening on a regular basis. If there is a job,
9 the contract had that the job performance was to be within 20
10 days' period. So let's say all things are equal and the jobs are
11 carried out within a 20-day window, then every month there can
12 be a job description, as similar to this, and on that basis on
13 every month 12 times per year certainly, that is frequent
14 enough, but one time, two years or at least a year prior? No. I
15 humbly submit that that would be wholly insufficient.

16 **Mr. Chairman:** Wouldn't it also depend, though, on the
17 people who are carrying out the job? It's all very well saying
18 LMCS but if LMCS used different personnel, wouldn't you
19 want to have oversight over those different personnel? They
20 might do something different.

21 **Mrs. Persaud Maraj:** Certainly. As conditions change you
22 have to reassess, certainly.

23 **Mr. Chairman:** Hmm.

24 **Mrs. Persaud Maraj:** Your personnel is different then—

25 **Mr. Chairman:** All right, thank you.

26 **Mrs. Persaud Maraj:** The works were executed presumably
27 under a safe work system which is Paria's permit to work

1 system, work instruction and safety system. On the instructions
2 issued by Paria for line clearing, I will submit that this is not a
3 mere internal document. The fact of its incorporation in the
4 scope of works at paragraph 8.0 is telling. The monitoring
5 system for the line content removal rests squarely with Paria.

6 It is Kazim Ali's evidence that the measurement of the
7 line content received was negligible and LMCS' aim was to
8 ensure an ullage. What is clear is that between the contractor
9 and Paria there seemed to be a variance as to the amount of the
10 line content to be removed and that's in—

11 **Mr. Chairman:** Can you, can help me with something that
12 concerns me a little? Is, am I right in understanding that
13 originally the line content was to be sucked out of the pipe,
14 pumped out?

15 **Mrs. Persaud Maraj:** That was never—that particular
16 question was placed to Mr. Ali and that was never his
17 understanding.

18 **Mr. Chairman:** He always understood it to be blowing?

19 **Mrs. Persaud Maraj:** Pardon?

20 **Mr. Chairman:** He always understood it to be blowing?

21 **Mrs. Persaud Maraj:** Oh the method of—

22 **Mr. Chairman:** Yes, the method.

23 **Mrs. Persaud Maraj:** Yes, yes.

24 **Mr. Chairman:** I'd understood that there was—that the
25 original plan was to suck—I mean I'm not using a very
26 technical word but—

27 **Mrs. Persaud Maraj:** Yes.

1 **Mr. Chairman:**—to pump out of the line the fluid that they
2 wished to remove to acquire the necessary ullage.

3 **Mrs. Persaud Maraj:** Yes.

4 **Mr. Chairman:** That changed for some reason, which I'm not
5 entirely clear about, as yet, to blowing. So rather, to use the
6 non-technical expressions, sucking out the oil or blowing out
7 the oil, and if you just think of having a straw in a glass you can
8 suck out what you want and put it where—and swallow it or put
9 it elsewhere or you can blow down into the glass and that
10 pushes the fluid out.

11 **Mrs. Persaud Maraj:** My understanding is that it was always
12 regulated by Paria that it should be by air blowing, not air
13 sucking, but at the point where there was no or insufficient
14 content being received by Paria, because there was a limit on
15 the air pressure to be applied, I think it was 40 PSI, and at that
16 rate only a certain amount could have reached on to the tank.

17 **Mr. Chairman:** Yes, I'm not sure that the precise figures of
18 how much pressure was used in order to blow particularly
19 helps. We saw the demonstration from Mr. Khan by—about
20 putting a tube down the pipe to take out any additional material,
21 but I had understood that there was evidence to suggest that at
22 least originally it was to be sucking not blowing. So in other
23 words—

24 **Mrs. Persaud Maraj:** Introducing—

25 **Mr. Chairman:**—pumping it out—

26 **Mrs. Persaud Maraj:**—pumping.

27 **Mr. Chairman:**—by—

1 **Mrs. Persaud Maraj:**—blowing.

2 **Mr. Chairman:**—no, by sucking, pumping, pumping
3 something out of the pipe and that that changed, for reasons as I
4 say I'm not entirely clear about as yet, to blowing, in other
5 words, introducing air into the pipe as opposed to drawing fluid
6 out of the pipe. Those it seemed to me are very different
7 scenarios which may have and probably did have very different
8 consequences to the conditions in the pipe once the task had
9 been performed.

10 **Mrs. Persaud Maraj:** I, I understand your enquiry, Chairman,
11 but, for my understanding I did not appreciate that. I
12 understood it to be that the methodology of getting the content
13 out was shifted based on the location of where the content had
14 to have been placed.

15 **Mr. Chairman:** All right. Well I'm—

16 **Mrs. Persaud Maraj:** As opposed to pushing it—

17 **Mr. Chairman:**—I'm not going to interrupt your flow at the
18 moment.

19 **Mrs. Persaud Maraj:**—pushing it to—

20 **Mr. Chairman:** I shall have a look at the material myself
21 before—

22 **Mrs. Persaud Maraj:** Yeah, but—

23 **Mr. Chairman:**—before you sit down and then you can
24 address me on it. If I've got this wrong, then, so be it but I
25 don't think I have.

26 **Mrs. Persaud Maraj:** Certainly.

27 **Mr. Chairman:** All right.

1 **Mrs. Persaud Maraj:** But I do know that the rationale behind
2 the change of the—of, of pumping the contents to the tank farm
3 and putting it into the slop barge was because of the amount not
4 being—

5 **Mr. Chairman:** No that's a different—

6 **Mrs. Persaud Maraj:** Yeah.

7 **Mr. Chairman:**—that's a different point though, is it? That's
8 about the collection of the material. That's not what I'm
9 talking about.

10 **Mrs. Persaud Maraj:** I, I understand.

11 **Mr. Chairman:** Yes.

12 **Mrs. Persaud Maraj:** What is clear is that between the
13 contractor and Paria there seems to be a variance on the amount
14 of line content to be removed, a clear indication that a single
15 appointed project manager engineer from Paria would have
16 eliminated these misunderstandings. If LMCS knew the
17 amount of content being removed, then it would have been
18 clear that it wasn't—there wasn't a solid leg of liquid under the
19 plug on which its methodology was premised.

20 I'd invite the Commission to look at the evidence of the
21 investigation into the incident with Mr. Dexter Guerra in which
22 Mr. Guerra had indicated to Mr. Archbald that there was
23 concerns for pollution. It's my submission that that concern
24 could have only been present because of LMCS' understanding
25 that there was line content or there was fluid, liquid, within that
26 system and this this incident as we know happened prior to the
27 25th of February.

1 **Mr. Chairman:** Did LMC—am I not right that LMCS
2 identified the number of barrels that they thought was necessary
3 to be removed?

4 **Mrs. Persaud Maraj:** It was an estimate indeed.

5 **Mr. Chairman:** Yes, all right.

6 **Mrs. Persaud Maraj:** It was an estimate.

7 **Mr. Chairman:** I follow that it was an estimate, but they did
8 give a figure, I thought was 70, or 60, I'm told 60, it's there or
9 thereabouts anyway, but they gave in the documentation an
10 estimate of the number of barrels to be removed.

11 **Mrs. Persaud Maraj:** Which was submitted. This is the
12 document submitted at the tender.

13 **Mr. Chairman:** Yes.

14 **Mrs. Persaud Maraj:** Yes they did, in that scope of work, yes.

15 **Mr. Chairman:** Right.

16 **Mrs. Persaud Maraj:** There was a—

17 **Mr. Chairman:** Is it your case, then, that that being the figure,
18 that they would have ascertained whether that had been
19 achieved?

20 **Mrs. Persaud Maraj:** No. It, it, it really was an estimate that
21 would have been presented.

22 **Mr. Chairman:** Yes. Whether it's 60 or 70 barrels I'm not
23 going to quibble about that. I don't think that that would have
24 caused a huge difference to the outcome. It's quite a big
25 difference between that and hundreds, isn't it?

26 **Mrs. Persaud Maraj:** Oh certainly.

27 **Mr. Chairman:** Right.

1 **Mrs. Persaud Maraj:** Certainly.

2 **Mr. Chairman:** So, do you think, first of all, is it your case,
3 rather, that they established or sought to establish the number of
4 barrels being removed from the line?

5 **Mrs. Persaud Maraj:** Their main concern was to achieve the
6 ullage, and—

7 **Mr. Chairman:** And I follow that, but there's a way—in order
8 to achieve the ullage, they're two ways you can do it and it
9 seems to me, first of all, you look at how much you need to
10 remove from a full line which should achieve that ullage.
11 Secondly, you can have a look inside the pipe and see where it
12 is. Which is the more reliable, do you think?

13 **Mrs. Persaud Maraj:** Well, in this case it seems as though the
14 more reliable would have been to ascertain the amount that
15 would have been—

16 **Mr. Chairman:** Did they do that?

17 **Mrs. Persaud Maraj:** No, no.

18 **Mr. Chairman:** Why not?

19 **Mrs. Persaud Maraj:** The measurement of what was being
20 taken out or removed from the Sealine 36 was not within the
21 ambit or remit of LMCS.

22 **Mr. Chairman:** Nothing wrong with asking, is there? They're
23 doing the job.

24 **Mrs. Persaud Maraj:** And there was no way that—

25 **Mr. Chairman:** You're working—and just a minute, you're
26 working with Paria, right?

27 **Mrs. Persaud Maraj:** Yes.

1 **Mr. Chairman:** These are clients of yours that you've had for
2 a long time and one might have thought, say, well, "Where are
3 we now?" How much—particularly as the days go by. This
4 wasn't done in one day. This was done over many days.

5 **Mrs. Persaud Maraj:** Yes.

6 **Mr. Chairman:** What was wrong with somebody from Paria,
7 necessary Mr. Kazim Ali or his son, saying to Paria, "Look,
8 how far have we got? How much has been taken out?"

9 **Mrs. Persaud Maraj:** Well, from my understanding, the
10 LMCS would have—not would have, LMCS did enquire from
11 Paria as to what was being removed and the answer was
12 negligible. That's not an amount. That's not an ascertained
13 amount.

14 **Mr. Chairman:** Where do I find that evidence?

15 **Mrs. Persaud Maraj:** It's in—I think this line of cross-
16 examination was put to Mr. Kazim Ali.

17 **Mr. Chairman:** Kazim Ali's evidence, all right.

18 **Mrs. Persaud Maraj:** So it's, I—I believe it's Day Four of the
19 transcripts.

20 **Mr. Chairman:** All right. So, um, do you accept that it is—it
21 was incumbent on LMCS to have enquired how much material
22 had been removed from the line?

23 **Mrs. Persaud Maraj:** I do. And we did.

24 **Mr. Chairman:** You agree with that. You say it happened.
25 And having been told how much had been removed from the
26 line you say I think you used the word negligible.

27 **Mrs. Persaud Maraj:** Negligible.

1 **Mr. Chairman:** That wasn't—acting upon that information
2 they continued to blow into the pipe?

3 **Mrs. Persaud Maraj:** Yes.

4 **Mr. Chairman:** Just pause there for a minute. What do you
5 say about the insertion of the smaller pipe, a six-inch pipe or
6 whatever it was, down inside the riser at berth 6 in order to
7 remove what appeared to be the remainder of the oil in the, um,
8 subsea line, in the horizontal?

9 **Mrs. Persaud Maraj:** It, it—again, it came back to the
10 methodology of trying to get the ullage achieved. So, it was
11 done just to be able to achieve what they were, they were trying
12 to achieve, the ullage.

13 **Mr. Chairman:** Was there any point in time—do you say was
14 there any point in time when LMCS were operating on the
15 premise that they were to clear the line?

16 **Mrs. Persaud Maraj:** No. That was never their understanding
17 of how the work was to be done.

18 **Mr. Chairman:** It always—your position is, it has always
19 been their position that they should only remove that which was
20 necessary to achieve the ullage—

21 **Mrs. Persaud Maraj:** Yes.

22 **Mr. Chairman:**—of 30 feet or whatever it was on either side,
23 yes?

24 **Mrs. Persaud Maraj:** That's correct.

25 **Mr. Chairman:** Right. And is it your case that they were
26 never told that hundreds of barrels had been removed from the
27 line?

1 **Mrs. Persaud Maraj:** They weren't. They weren't.

2 **Mr. Chairman:** Thank you.

3 **Mrs. Persaud Maraj:** The permit to work system incorporates
4 three categories of approved documents, method statement,
5 JHAs and certificates. LMCS produced method statement and
6 job hazard analysis to Paria for review and approval. These
7 were provided by way of emails, the purpose being to execute
8 the works safely. This review and approval process must be
9 predicated on Paria's competence and expertise to effectively
10 evaluate and scrutinize the contractor's proposed work method.
11 This is a burden that Paria carries.

12 Save for one clarification how the plugs, all was accepted
13 and approved. That specific clarification direct with the plugs
14 where Paria was informed that the methodology to be employed
15 will be to remove them manually and to reinstall them to the
16 top. There is no more clarity to this.

17 And this brings me to the issue of the permit to work,
18 9320, which states, which stated, "Barriers to be used".
19 Barriers to be used cannot and should not be equated to "Barrier
20 to remain" or "Barrier not to be removed." This is a convenient
21 argument indeed, as the removal of the barrier was the Delta P
22 event. In a safe system of work, however—

23 **Mr. Chairman:** Pausing there, what do you say to the
24 assertion that there should have been a separate permit to work
25 for the removal of the barriers?

26 **Mrs. Persaud Maraj:** That was not the, the modus operandi
27 that Paria had in terms of—of removal of the barriers?

1 **Mr. Chairman:** Yes.

2 **Mrs. Persaud Maraj:** Yes, no, that was never the modus
3 operandi that Paria had. In fact, the record will show that the
4 permit to work that they have issued contains a number of
5 various steps that has to be, to be carried out. It's not—

6 **Mr. Chairman:** To—your—so just so that I have it in my
7 head—

8 **Mrs. Persaud Maraj:** Yes.

9 **Mr. Chairman:**—your case is that no separate permit to work
10 was required for the removal of the barriers?

11 **Mrs. Persaud Maraj:** No.

12 **Mr. Chairman:** They're two work permits?

13 **Mrs. Persaud Maraj:** Yes.

14 **Mr. Chairman:** The one from the 13th of—

15 **Mrs. Persaud Maraj:** February.

16 **Mr. Chairman:**—February and the one on the 25th. Had the
17 work not been interrupted by Mr. Guerra's untimely movement
18 of the barge, would the works have been carried out under the
19 original permit dated the 13th?

20 **Mrs. Persaud Maraj:** It would have been completed in the
21 same manner.

22 **Mr. Chairman:** Sorry?

23 **Mrs. Persaud Maraj:** It would have been completed in the
24 same manner.

25 **Mr. Chairman:** Yes. But there would have been—

26 **Mrs. Persaud Maraj:** And the barrier—

27 **Mr. Chairman:**—no need for the permit that we have now

1 been inspecting ad nauseam for the 25th?

2 **Mrs. Persaud Maraj:** No. No.

3 **Mr. Chairman:** It simply wouldn't have arisen?

4 **Mrs. Persaud Maraj:** It would not have arisen.

5 **Mr. Chairman:** Is it your case that it's still the position that
6 they would not have required, after the 13th of February's work
7 permit, that they would not have required a further work permit
8 to remove the barriers?

9 **Mrs. Persaud Maraj:** No, they would not have. That
10 permit—

11 **Mr. Chairman:** That's your position?

12 **Mrs. Persaud Maraj:**—would cover the entirety of that.

13 **Mr. Chairman:** Thank you.

14 **Mrs. Persaud Maraj:** In this safe system of work, however,
15 there are checks and balances in place. Therein lies the
16 importance of the toolbox meeting. What we have on this issue
17 is Christopher Boodram's evidence that the removal of plugs
18 was discussed and this is corroborated by the actions of the
19 workers in the chamber. Missing as a check was Mr.
20 Majardsingh from this toolbox meeting who, as it were, was the
21 applicant for the works in relation to Sealine 36 on the 25th of
22 February, 2022 claiming that monitoring of LMCS or any other
23 contractor performing high-risk work periodically around four
24 times per day is wholly unacceptable in the scheme of a safe
25 work system. This is a system failure.

26 Further, communication within the chamber while the
27 men worked was established both by the camera and radio. A

1 simple request to perhaps adjust the view could have been
2 made. It seems ludicrous that Paria can have paid—and, what's
3 more it seems ludicrous that Paria can have paid personnel on
4 site who was actually monitoring the works in the chamber out
5 of curiosity but couldn't do so as a matter of duty. This is a
6 system failure of Paria.

7 **Mr. Chairman:** Can I ask you about the toolbox meeting
8 please? Do you accept that the toolbox meeting, the note
9 relating to that, falls woefully short of what it should have
10 contained?

11 **Mrs. Persaud Maraj:** In relation to what was discussed?

12 **Mr. Chairman:** Well it deals only with health and safety
13 issues, COVID—

14 **Mrs. Persaud Maraj:** Yes.

15 **Mr. Chairman:**—bad weather, you know, rising sea levels,
16 things like that. It doesn't deal with the actual work that's to be
17 undertaken at all.

18 **Mrs. Persaud Maraj:** Yes.

19 **Mr. Chairman:** It says nothing about it at all.

20 **Mrs. Persaud Maraj:** It does because—

21 **Mr. Chairman:** It does or it doesn't?

22 **Mrs. Persaud Maraj:** It does and—

23 **Mr. Chairman:** What do you mean? It says what about the
24 work?

25 **Mrs. Persaud Maraj:** It does fall short of the—

26 **Mr. Chairman:** All right, stop there. We're at cross-purposes.

27 **Mrs. Persaud Maraj:** Sure.

1 **Mr. Chairman:** I thought you were trying to contradict what I
2 was saying.

3 **Mrs. Persaud Maraj:** Yes.

4 **Mr. Chairman:** You're not doing that. You're saying it does
5 fall woefully short of what it should have contained?

6 **Mrs. Persaud Maraj:** Oh, of course, it does. We
7 acknowledge that. Unfortunately, and I have to stand here and
8 say to you, that the only reason for that was that the late Kazim
9 Ali Jr., who would have been the person discussing the method
10 statement and the work to be done within the chamber and for
11 that, um, on that day—

12 **Mr. Chairman:** That was his job to—

13 **Mrs. Persaud Maraj:**—that was his job.

14 **Mr. Chairman:** Right. He should have not only told them
15 what the works, the nature of the work was, what the individual
16 tasks to be completed was, but he should have recorded that on
17 the toolbox meeting.

18 **Mrs. Persaud Maraj:** Yes.

19 **Mr. Chairman:** And he failed to do that?

20 **Mrs. Persaud Maraj:** He failed to do that. I—the evidence
21 from I think Mr. Victor Dhillpaul is that he, he was supposed to
22 do that, er, he was going to do that but he had not—

23 **Mr. Chairman:** Yes. No, I appreciate that there's been
24 evidence to suggest that that did take place.

25 **Mrs. Persaud Maraj:** Yes.

26 **Mr. Chairman:** But that the it—the failing is simply a failing
27 to record it on the document.

1 **Mrs. Persaud Maraj:** Yes.

2 **Mr. Chairman:** Whereas of course Paria's position is, is that it
3 never took place at all.

4 **Mrs. Persaud Maraj:** Yes.

5 **Mr. Chairman:** And of course they're supported in that
6 submission by saying well the contemporaneous material that
7 was available doesn't show that it was mentioned at all.

8 **Mrs. Persaud Maraj:** Well, in relation to there not being a
9 contemporaneous documentation of what took place.

10 **Mr. Chairman:** Uh-huh.

11 **Mrs. Persaud Maraj:** But what we have is Mr. Boodram's
12 evidence as to his undeniable acceptance that that is—

13 **Mr. Chairman:** No, no of course we will have to assess
14 whether we accept that or not.

15 **Mrs. Persaud Maraj:** Yes.

16 **Mr. Chairman:** My concern is simply that the evidence
17 without—the documentary evidence without that line evidence,
18 as it were, would lend support to what Paria is saying that there
19 was no discussion at all about the works that were due to be
20 carried out. In the absence of having Mr. Boodram's evidence
21 about that, we would be completely in the dark, wouldn't we?

22 **Mrs. Persaud Maraj:** Yes, yes we would have been. That is
23 certainly true.

24 **Mr. Chairman:** Yes. And given that you have made it a part
25 of your case, such as it is, to emphasize the importance of the
26 dangerousness of this work, that is something which is, on any
27 view, a significant shortcoming, isn't it?

1 **Mrs. Persaud Maraj:** It is.

2 **Mr. Chairman:** All right. Thank you.

3 **Mrs. Persaud Maraj:** Mr. Chairman, I'm not sure if you'd
4 like to have a short break now. I'm going on to the Delta P and
5 I—and I don't know if this is—

6 **Mr. Chairman:** I'll leave it in your hands. I mean, if you
7 think you're about halfway through, then, by all means we
8 could take 5 minutes. If you think you've got—you're not
9 quite there yet, let's go for a little bit longer, shall we?

10 **Mrs. Persaud Maraj:** We're about halfway through.

11 **Mr. Chairman:** We are?

12 **Mrs. Persaud Maraj:** We are about.

13 **Mr. Chairman:** If you want to take 5 minutes then we will
14 take 5 minutes.

15 **Mrs. Persaud Maraj:** Yes.

16 **Mr. Chairman:** Thank you.

17 **Mrs. Persaud Maraj:** Or no, I don't, I don't please. I don't
18 please. I, I will continue. I just wanted to know if there was
19 any need for a break by—

20 **Mr. Chairman:** No, we'll, we'll take a 5-minute break now
21 and come back, um, what shall we say, well let's come back at
22 ten to 11.00, shall we? Ten to 11.00. Let's take a few minutes.

23 **10.45 a.m.:** *Enquiry suspended.*

24 **10.52 a.m.:** *Enquiry resumed.*

25 **Mr. Chairman:** Yes.

26 **Mrs. Persaud Maraj:** Thank you, Mr. Chair.

27 **Mr. Chairman:** Before you move on, can I just ask you about

1 the document which is in our core bundle Volume III? Just
2 give me a second, please? At page 1033, this is the, um—I
3 don't know if it can be put up on the screen—but this is the
4 document that is said to be the internal document that Paria
5 produced for themselves—

6 **Mrs. Persaud Maraj:** Yes.

7 **Mr. Chairman:**—as a sort of work instruction within the, er—
8 within their ambit which, as we know, and I don't need to refer
9 to it now, but it was referred—it was passed on to LMCS by
10 way of an email.

11 **Mrs. Persaud Maraj:** Yes.

12 **Mr. Chairman:** It doesn't appear to have been inadvertent,
13 rather more—

14 **Mrs. Persaud Maraj:** It was sent.

15 **Mr. Chairman:**—deliberate. Whatever the position might be,
16 it doesn't seem to have been, as it were, part of an email chain
17 and happened to have been attached, do you see what I mean?
18 I'm not—I don't think that that's—they're suggesting that for a
19 minute. But, in any event, what is clear is that, and their case is
20 that this is an internal document for them to be used by their
21 people, yes? This finds itself in your hands.

22 **Mrs. Persaud Maraj:** Indeed.

23 **Mr. Chairman:** What do you say about the receipt of this
24 document and how that may or may not have affected the works
25 for the removal of the material from the line?

26 **Mrs. Persaud Maraj:** In the work instructions, LMCS is
27 required to follow the steps that would have been placed there,

1 whatever the—for the operational aspect of the line contents
2 removal. So, in receiving that document, the process is, within
3 the LMCS side, is that the persons operating from Sealine 36
4 would confer with Paria's personnel on the line contents
5 removal. I'm not sure if that answers your question.

6 **Mr. Chairman:** Well I'm just looking at the wording of the
7 actual section—of the document itself. I don't know why it's
8 not on the screen, but, anyway, the responsibilities, it says the
9 Terminal Operations Manager, that's Mr. Piper, has the overall
10 responsibility for ensuring that this procedure is established by
11 reviewing and approving this work instruction and ensuring the
12 offshore team lead understand the requirements of this work
13 instruction. Pausing there for a moment, the scope of the work
14 is described as clearing of the line between five and six.

15 **Mrs. Persaud Maraj:** Yes.

16 **Mr. Chairman:** Well, that is, to use one of my favourite
17 expressions in this hearing, ambiguous, isn't it?

18 **Mrs. Persaud Maraj:** It is.

19 **Mr. Chairman:** You see, if the line is to be cleared according
20 to—if somebody reading that understood it to mean clearing it
21 completely, that would lend support for why the volume of
22 barrels were removed from the line?

23 **Mrs. Persaud Maraj:** And that, that certainly is a perspective
24 as an attorney that I have taken. In my, in my quest to
25 investigate that with my client, his understanding of that
26 instruction was that it's cleared only to the extent—

27 **Mr. Chairman:** Right.

1 **Mrs. Persaud Maraj:**—of the ullage to be.

2 **Mr. Chairman:** So, in a sense, if there is ambiguity, the fact
3 that your client had this document would have been apparent to
4 him that it wasn't clearing of the line completely. Do you
5 follow what I mean? If this document had remained just in the
6 hands of Paria—

7 **Mrs. Persaud Maraj:** Paria, yeah.

8 **Mr. Chairman:**—Paria might have been able to properly
9 assert—well, whoever was reading it might have been able to
10 properly assert, I thought that was the removal of the line
11 completely say, "I thought that was the removal of the line
12 completely." All right? Because of the ambiguity in the way in
13 which that's expressed, so, that person might have just
14 understood it in that way, but it wasn't just in their hands, it had
15 come to you.

16 **Mrs. Persaud Maraj:** Yes.

17 **Mr. Chairman:** And you knew that you weren't seeking to
18 clear the line entirely. You were only looking for an ullage.

19 **Mrs. Persaud Maraj:** That's correct, but you would—

20 **Mr. Chairman:** So any—surely, any ambiguity in that could
21 have been easily set to one side by the knowledge that you say
22 your clients had, which was that it was only to clear the
23 necessary ullage.

24 **Mrs. Persaud Maraj:** That's correct. That is, that is the
25 operating factor that LMCS took in—

26 **Mr. Chairman:** Yes, so in one sense, having this in your
27 hands doesn't help you at all? Do you see what I mean?

1 **Mrs. Persaud Maraj:** Yes.

2 **Mr. Chairman:** It does the exact reverse because if there is
3 ambiguity in that you were in the best place given it was your
4 job to do them, to remove the material from the line you were
5 best placed to clear up such an ambiguity, weren't you?

6 **Mrs. Persaud Maraj:** Well, it's an instruction that was issued
7 to LMCS, so, so—

8 **Mr. Chairman:** No, no, no, no, no, no. It's not an instruction
9 that was issued to LMCS.

10 **Mrs. Persaud Maraj:** Sorry it's an instruction, sorry. It's an
11 instruction that was issued by Paria.

12 **Mr. Chairman:** It's an instruction issued by Paria to its people
13 to which you were privy.

14 **Mrs. Persaud Maraj:** To, correct.

15 **Mr. Chairman:** That is a different thing, isn't it?

16 **Mrs. Persaud Maraj:** Correct, correct.

17 **Mr. Chairman:** Yeah; to which you were privy. Now I don't
18 have any difficulty with you being privy to it.

19 **Mrs. Persaud Maraj:** Right.

20 **Mr. Chairman:** It seems to me a very sensible idea that, well
21 look—

22 **Mrs. Persaud Maraj:** Correct.

23 **Mr. Chairman:**—this is what we even told our people. This is
24 what is in the document. But if their—if the purpose of that at
25 all is to just make sure that you understand what Paria are
26 telling their own people, then if there is ambiguity in it you
27 were best placed to put paid to that, weren't you?

1 **Mrs. Persaud Maraj:** I would, I would accept that. I would
2 accept that that that would have been—

3 **Mr. Chairman:** Yeah.

4 **Mrs. Persaud Maraj:** The crew that—

5 **Mr. Chairman:** Whereas, if you'd never seen it, if it had never
6 come into your hands at all then you wouldn't have known that
7 that's what is said. You wouldn't have known that there was
8 any such ambiguity, would you?

9 **Mrs. Persaud Maraj:** No.

10 **Mr. Chairman:** Right. But the fact is you did.

11 **Mrs. Persaud Maraj:** Well, in the minds of the operators from
12 LMCS there was no ambiguity in what was required.

13 **Mr. Chairman:** Hmm.

14 **Mrs. Persaud Maraj:** And that's, that's—it's only in
15 hindsight then we can appreciate the ambiguity that comes with
16 it. But to the operators at the material time, no. It was not
17 ambiguous at that point in time. Of course, it becomes the issue
18 now, having regard to the fact of the Delta P.

19 **Mr. Chairman:** You see, some people might argue that it's
20 not even ambiguous, that it's quite clear. Clearing of number
21 36 Sealine section between berth 5 and berth 6. To the ordinary
22 mortal, one might think that that meant empty it.

23 **Mrs. Persaud Maraj:** Yes. No, that was never the
24 understanding by—

25 **Mr. Chairman:** No, I understand it's not the understanding.
26 I'm talking about reading the document.

27 **Mrs. Persaud Maraj:** Yes.

1 **Mr. Chairman:** And what I'm saying or what I'm asking you
2 really is what your position is on that because it does seem to us
3 that be it clear or ambiguous, you were in the best place to
4 make it clear that that is not what was being sought to be
5 achieved.

6 **Mrs. Persaud Maraj:** I accept that, please, Mr.
7 Commissioner.

8 **Mr. Chairman:** All right. Yeah, well thank you.

9 **Mrs. Persaud Maraj:** Operating in—Delta P event.
10 Operating in an environment of consistent systematic failure
11 allowed for the Delta P event to have taken place. LMCS, in
12 proceeding with the methodology to establish the desired ullage
13 from which it is assumed that there was a solid—when it was
14 assumed that there was a solid leg of liquid or fluid behind the
15 plug, however, Mr. Zaid Khan opined that the pressure at No. 5
16 was locked in until 25th of February, 2022 and only released
17 when the riser was opened to conduct the CARBER test. I will
18 invite the Commission to consider that this opinion of the
19 additional danger is not based on what actually occurred.

20 Mr. Ali stated in his examination, cross-examination, that
21 the pressure was released from both ends of the pipe via the
22 risers prior to the ullage measurements between—and that
23 would be found between pages 53 to 61 of the transcripts for
24 Day—

25 **Mr. Chairman:** Just a second.

26 **Mrs. Persaud Maraj:** Sorry.

27 **Mr. Chairman:** [*Writing*] Kazim Ali says what?

1 **Mrs. Persaud Maraj:** That the pressure was released—the
2 term he used was bleed out—from both ends of the pipe.

3 **Mr. Chairman:** On which day?

4 **Mrs. Persaud Maraj:** That would have been on the—I'll take
5 you through it, please, Mr. Commissioner. At Paria's daily
6 report sheet page 7288 line one it shows that the line content
7 removal was completed on the 5th of February, 2022 and
8 thereafter the daily report sheets at page 7291 and 7292 of the
9 bundle of submissions show that for the 10th and the 11th of
10 February the piping at the top of the riser was removed at berth
11 5 and the line plugs were installed and a new flange weld and a
12 riser was constructed at berth No. 5. The line plugs were then
13 removed and the blind flange replaced on a newly installed
14 flange. Paria's reports showed that the line plugs were then
15 installed on the 13th of February at berth No. 6.

16 So the impression created by the expert or the impression
17 that the expert had that the plugs were installed almost
18 instantaneously on achieving the ullage, and thereby stopping
19 or pressurizing the line at berth 5 with the blanking at the riser
20 would not, um, would not be true.

21 **Mr. Chairman:** Well they were blowing fuel out of the pipe
22 over a number of days. Which days were they?

23 **Mrs. Persaud Maraj:** That started I believe it was from the
24 4th or 5th of January, sometime in January.

25 **Mr. Chairman:** Uh-huh.

26 **Mrs. Persaud Maraj:** And it was completed on the 5th of
27 February, of 2022.

1 **Mr. Chairman:** Right. And was it left—are you saying it was
2 left open?

3 **Mrs. Persaud Maraj:** It was—so, and then works were then
4 done at the berth No. 5 on the riser at the top of berth No. 5.
5 So, the statement that the, or the opinion, sorry, that by
6 blanking the—the removal of the blank on the 25th was the first
7 time that the pressurized—pressurization of that pipe was
8 released or, or removed is incorrect, when the CARBER test
9 was being done on the day of the 25th of February.

10 **Mr. Chairman:** Well, whatever days it was—

11 **Mrs. Persaud Maraj:** Yes.

12 **Mr. Chairman:**—that the pumping of the material from the
13 pipeline were done, whatever days it was, we know as a matter
14 of fact that the, um—there was a CARBER test—

15 **Mrs. Persaud Maraj:** Yes.

16 **Mr. Chairman:**—carried out at berth 5—

17 **Mrs. Persaud Maraj:** That's correct.

18 **Mr. Chairman:**—on the 25th.

19 **Mrs. Persaud Maraj:** That's correct.

20 **Mr. Chairman:** And in order to carry out that CARBER test
21 you're saying the evidence is that the blind flange is removed?

22 **Mrs. Persaud Maraj:** Yes, it was removed on that day.

23 **Mr. Chairman:** Right. So the blind flange at—

24 **Mrs. Persaud Maraj:** At berth 5.

25 **Mr. Chairman:**—at 5 is removed, therefore, any differential in
26 pressure that might have existed in the line at that stage would
27 have been equalized? Is that your submission?

1 **Mrs. Persaud Maraj:** No, no not at all. I'm just correcting for
2 the purposes of the credibility of Mr. Kazim Ali in relation to
3 what he said before the Commission. His evidence was that the
4 line was bled out and what we do—and the opinion given by
5 the by Mr. Khan gives the impression that his evidence is
6 incorrect or false or misleading, which lends to the issue of his
7 credibility, no doubt, but that, that's not true. It seems to be
8 that that opinion was based on an assumption and not in fact
9 what happened and that is why I take the Commission through
10 the actual—

11 **Mr. Chairman:** Sequence of events.

12 **Mrs. Persaud Maraj:**—series of events.

13 **Mr. Chairman:** Yeah. So the blind flange at 5 is removed
14 indoor to perform the CARBER test?

15 **Mrs. Persaud Maraj:** Yes, it was.

16 **Mr. Chairman:** Uh-huh.

17 **Mrs. Persaud Maraj:** Yes.

18 **Mr. Chairman:** And then refitted after the CARBER test had
19 been completed?

20 **Mrs. Persaud Maraj:** Yes. Yes, it was.

21 **Mr. Chairman:** Before they come over to No. 6?

22 **Mrs. Persaud Maraj:** Number 6, that's correct.

23 **Mr. Chairman:** So whilst the work was being carried out at
24 No. 6, No. 5 is open?

25 **Mrs. Persaud Maraj:** No. The CARBER test was done at
26 berth No. 5—

27 **Mr. Chairman:** Yes.

1 **Mrs. Persaud Maraj:**—before it reached to berth No. 6.

2 **Mr. Chairman:** I follow that, but they're working in the
3 morning—

4 **Mrs. Persaud Maraj:** Yes.

5 **Mr. Chairman:**—of the 25th at berth 6.

6 **Mrs. Persaud Maraj:** Yes.

7 **Mr. Chairman:** And whilst that is happening, the lid, as I've
8 called it before—

9 **Mrs. Persaud Maraj:** Sorry, sorry, they're working on what at
10 berth 6?

11 **Mr. Chairman:** They were working during the course of the
12 morning at berth 6. That's the evidence.

13 **Mrs. Persaud Maraj:** That is the evidence.

14 **Mr. Chairman:** Yes.

15 **Mrs. Persaud Maraj:** There was the exchange of the topside
16 riser, I think, er—

17 **Mr. Chairman:** They were working there. I don't really care
18 what they were—

19 **Mrs. Persaud Maraj:** Yes.

20 **Mr. Chairman:**—particularly doing. I mean, all I'm
21 concerned about is the removal of the blank but they were
22 working for some hours at berth 6.

23 **Mrs. Persaud Maraj:** That's correct.

24 **Mr. Chairman:** Is it what you're saying to me is that at berth
25 5, whilst they were doing that work at berth 6, at berth 5 they
26 removed the flange—

27 **Mrs. Persaud Maraj:** Yes.

1 **Mr. Chairman:**—the lid as I call it, right?

2 **Mrs. Persaud Maraj:** The lid, that's it.

3 **Mr. Chairman:** Remove the lid at the pop of the pipe so the
4 pipe comes up at 6, there's a lid on top which is sealed, they
5 then remove that in order to conduct the CARBER test—

6 **Mrs. Persaud Maraj:** Conduct the CARBER test.

7 **Mr. Chairman:**—on the inside, is that what you're saying?

8 **Mrs. Persaud Maraj:** That's, that's correct.

9 **Mr. Chairman:** Right. And then they put the lid back on
10 again.

11 **Mrs. Persaud Maraj:** And then put the lid back on.

12 **Mr. Chairman:** And then they went over to No. 6?

13 **Mrs. Persaud Maraj:** And then they—yes.

14 **Mr. Chairman:** Right, okay. And the point that is—

15 **Mrs. Persaud Maraj:** Well, it wasn't on the day in question
16 that I'm talking about but prior to the day in question. It seems
17 as though from the expert evidence or his opinion, sorry, about
18 the pressurization of the, of the line, that the removal of the
19 flange on the 25th was the first time it was being removed after
20 the insertion of the plugs at 6 on the 13th or 14th thereabout.

21 **Mr. Chairman:** Yes.

22 **Mrs. Persaud Maraj:** At least that's my impression of the
23 evidence that was—the opinion that was being given.

24 **Mr. Chairman:** All right, so—

25 **Mrs. Persaud Maraj:** So I take the opportunity to correct the
26 record in relation to that.

27 **Mr. Chairman:** All right. I'm not entirely sure what the

1 consequence of that is.

2 **Mrs. Persaud Maraj:** Well the evidence of Mr. Kazim Ali is
3 corroborated by that fact, by, by the fact of, of what I have just
4 laid out to you.

5 **Mr. Chairman:** The sequence of events.

6 **Mrs. Persaud Maraj:** The sequence of events.

7 **Mr. Chairman:** All right. So it's only really to—

8 **Mrs. Persaud Maraj:** To point that out.

9 **Mr. Chairman:**—point out that Mr. Kazim Ali is correct in
10 what he says?

11 **Mrs. Persaud Maraj:** As to how it occurred.

12 **Mr. Chairman:** Right.

13 **Mrs. Persaud Maraj:** Yes. Rescue.

14 [*Commissioners confer*]

15 **Mr. Chairman:** All right, yes, thank you.

16 **Mrs. Persaud Maraj:** It is accepted that attempting to remove
17 the inflatable plug created the Delta P event causing the men,
18 tools and breathing air to be sucked into the pipeline. Once the
19 disturbed waters around the chamber settled and the chamber
20 returned to normal function, Andrew Farah in two separate
21 incursions determined, one, that the men were no longer in the
22 chamber nor were the tools, bolts and diving gear. Two the
23 riser was full of water and, three, there was no sign of content
24 of the chamber in the immediate vicinity of the riser and seabed
25 or floating around the surface surrounding the berth. This led
26 to the conclusion that the men were in the pipe.

27 After discussion with site personnel, Kazim Ali, Andrew

1 Farah and Dexter Guerra decided that they had, at the least,
2 minimum resources to do an incursion into the pipe. In
3 addition to this on site plan, Farah called out Conrad and Conan
4 Beddoe for additional divers and equipment. Sometime within
5 this time frame, Kazim Ali spoke with Collin Piper and was
6 told of—who was told of his deduction.

7 There was no indication of an ICT being activated. In
8 fact, up until these hearings, LMCS never understood that Paria
9 had activated an ICT. This only highlights further a systematic
10 failure within Paria.

11 **Mr. Chairman:** You're saying you did not—they did not
12 appreciate that an ICT was even in existence?

13 **Mrs. Persaud Maraj:** They did not, not in the structure of
14 what the ICT should be.

15 **Mr. Chairman:** Right. Until?

16 **Mrs. Persaud Maraj:** Until these proceedings, please.

17 **Mr. Chairman:** And you're specifically referring to Mr.
18 Kazim Ali, are you?

19 **Mrs. Persaud Maraj:** Mr. Kazim Ali, Mr. Ahmad Ali, Mr.
20 Dexter Guerra, LMCS.

21 **Mr. Chairman:** Just a minute. Whose fault do you say that is?

22 **Mrs. Persaud Maraj:** The communication of the ICT
23 commander.

24 **Mr. Chairman:** Yeah, right. You say he just never made that
25 clear?

26 **Mrs. Persaud Maraj:** No.

27 **Mr. Chairman:** Mr. Piper?

1 **Mrs. Persaud Maraj:** Mr. Piper. Or any of his—

2 **Mr. Chairman:** Did you put that to him?

3 **Mrs. Persaud Maraj:**—delegates. Pardon?

4 **Mr. Chairman:** Did you put that to Mr. Piper? I don't recall
5 you—

6 **Mrs. Persaud Maraj:** I did, I did—

7 **Mr. Chairman:** I don't recall you—I do not recall you putting
8 to Mr. Piper that he had never made it clear to Kazim Ali that
9 there was an ICT—

10 **Mrs. Persaud Maraj:** That's correct.

11 **Mr. Chairman:**—of which he was the head.

12 **Mrs. Persaud Maraj:** That's correct. I have never put.

13 **Mr. Chairman:** You should have. It's a quite serious
14 suggestion, isn't it, that—it's part of your submissions now that
15 the existence of the ICT was never made clear to Kazim Ali and
16 you never put that to Mr. Piper—

17 **Mrs. Persaud Maraj:** Yeah.

18 **Mr. Chairman:**—when he gave his evidence.

19 **Mrs. Persaud Maraj:** Yeah. That's correct.

20 **Mr. Chairman:** Sometimes, it is said that the reason why
21 counsel don't do that is because they never had instructions
22 prior to that point in time but those instructions came later.
23 Other times it's the fault of counsel for overlooking a fact
24 which they ought to have put.

25 **Mrs. Persaud Maraj:** Yes.

26 **Mr. Chairman:** Which is it in this case?

27 **Mrs. Persaud Maraj:** It's the latter, please.

1 **Mr. Chairman:** It's your fault?

2 **Mrs. Persaud Maraj:** Yes.

3 **Mr. Chairman:** So I shouldn't hold it against Mr. Kazim Ali?

4 **Mrs. Persaud Maraj:** No, please.

5 **Mr. Chairman:** I should hold it against you?

6 **Mrs. Persaud Maraj:** Yes.

7 **Mr. Chairman:** Right. I will. Thank you.

8 **Mrs. Persaud Maraj:** The evidence elicited has shown that
9 Paria prevented LMCS Limited from executing rescue plans
10 that were continuously modified as more resources and
11 information came to hand. The first denial to mount rescue
12 attempts came around 3.30 p.m. when the permit to work was
13 pulled and the countervailing instruction to cease—with the
14 countervailing instructions to cease all diving, close out work
15 permit.

16 Paria made the rescuers believe that the TTCG will be
17 conducting a rescue when, in fact, there was no such
18 determination until around 9.00 p.m. Paria had no plans or
19 attempt at any rescue over the 25th, 26th, 27th of February.
20 Paria was informed of proof of life within the pipeline by the
21 very fact of Christopher's survival and also by distress signals
22 continuing up to and beyond 2.30 a.m. on Saturday the 26th of
23 February. Instead of acting on—

24 **Mr. Chairman:** Do you accept that that is uncorroborated by
25 anyone from Paria?

26 **Mrs. Persaud Maraj:** Yes.

27 **Mr. Chairman:** Right. Okay.

1 **Mrs. Persaud Maraj:** And, instead of acting on proof of life,
2 Paria chose to discredit the knocking heard emanating from the
3 pipe at No. 5, saying it was noise from the equipment running
4 at berth 6, a distance of a quarter of a mile away.

5 After Christopher's lifesaving heroics, Paria also chose to
6 create the denial of the existence of the air pockets saying that
7 they were not seen on camera footage even though Christopher
8 Boodram and four men survived for three hours with five tanks,
9 which would have given them an hour to live if they each had
10 the use of one. Mr. Piper claimed that he wanted more
11 information from camera footage before considering any dive
12 rescue but his repeated requests up to 9.00 p.m. on Friday to the
13 coast guard to do a dive does not support this claim.

14 From the statement of Mr. Seales, it can be seen that the
15 TTCG was requested again to consider a dive at 12.15 a.m. on
16 the 26th of February. After the footage was received at
17 midnight, Mr. Piper again asked the coast guard to dive and
18 remove obstacles in the line, even though they had already told
19 him that there were, they were not trained for that and
20 commercial divers would be more suitable.

21 Mr. Piper ought to have known, through Catherine
22 Balkissoon, that LMCS had experienced commercial divers on
23 site, some related and some not related, who were prepared to
24 dive, yet, they were not asked. Collin Piper, Mushtaq
25 Mohammed, Michael Wei and Randy Archbold all say that they
26 got expert advice that they should not allow diving into the
27 pipe. The experts listed were OSH, TTCG, OTSL, Hull,

1 HHSL, ERS, Eastern Diving Services, Mitchell Professional
2 Diving Services. From this list the evidence shows that the
3 TTCG, ERS and Mitchell Professional Diving Services were
4 only asked if they would conduct a rescue. They said
5 themselves—they said they themselves would not perform a
6 rescue but they never advised that a rescue should not be
7 performed. Mr. Seales denies any involvement as an ICT
8 member or advisor to Paria.

9 Mr. Piper advised all that Christopher Boodram said the
10 men did not make it. Then the other misleading information
11 given was that there were dive bottles lodged in the line. The
12 distance of that blockage location kept increasing in what seems
13 to be an attempt to solicit a particular advice from the experts or
14 at least to deter a rescue plan being conducted or to justify not
15 taking any action.

16 Consider the evidence of Mr. Piper where he explained
17 the spooling of the ROV and the tether. We ask that the length
18 of the tether top of the riser and the slack of the tether must be
19 considered in respect of the actual distance of where the
20 location of that bottle was. There is a difference, it must be
21 appreciated, between I am not prepared to send my men down
22 the pipeline as it is too dangerous for them and it is too risky to
23 send divers into pipeline to rescue the men.

24 The willingness of competent divers trained to undertake
25 these risks with equipment and support for the execution of the
26 plan was all that was needed. The first position seems to sit
27 with all of the experts that Paria placed reliance on, while the

1 latter seems to be the position that Paria has taken.

2 **Mr. Chairman:** I's the difference between send and allow?

3 **Mrs. Persaud Maraj:** That's correct.

4 **Mr. Chairman:** Right.

5 **Mrs. Persaud Maraj:** It is of note that there is no evidence of
6 the expert being asked to show experience or CV or any of any
7 sort to Paria engaging them. In fact, it seems from the evidence
8 that the experts weren't experts at all. In fact, diving into the
9 pipeline is not a thing, yet, there is evidence of Andrew Farah,
10 Kazim Ali, Christopher Boodram and Michael Kurban diving
11 into a pipeline.

12 One point of agreement from both Mr. Donawa, Mr.
13 Seales and Mr. Fuentes seems to be that the very best way to
14 advise on a rescue plan was to undertake a site visit or soliciting
15 information from site personnel. In his witness statement, Mr.
16 Piper made no mention of his fears of confined space rescuers
17 dying whilst attempting to rescue people. Paria has its own
18 confined space rescue protocol that could easily have been
19 employed to formulate a rescue plan from the men in the pipe—
20 for the men in the pipe if they were serious.

21 Mr. Piper's reference spoke mainly of would-be rescuers
22 rushing in to remove a victim without preparation, without
23 breathing air, communication and light. This incident happened
24 at berth No. 6 underwater and would negate any possibility of
25 any rescuer impulsively rushing in without his own breathing
26 gear, scuba or surface supply.

27 All plans considered by LMCS involved divers with air

1 supply and underwater lighting, and initially rope for tethering
2 and signalling and later umbilical in addition to rope that
3 included camera, lights and voice communications. This issue
4 could have been easily dispelled with the hands-on approach
5 with the divers on site or at the very least through Catherine
6 Balkissoon.

7 Head first, feet first.

8 **Mr. Chairman:** Sorry?

9 **Mrs. Persaud Maraj:** Head first, feet first.

10 **Mr. Chairman:** Right.

11 **Mrs. Persaud Maraj:** LMCS always considered a feet first
12 entry for rescue. This was what was discussed with Paria site
13 personnel on Friday the 25th and was the method actually
14 executed by Michael Kurban. If Paria had any degree of
15 interest in the rescue then the derisking of this methodology
16 laid out by LMCS could have been explored with all on site
17 through Catherine or through a simple conferencing via her
18 telephone to the ICT, or those in charge.

19 Time was passing along while workers reported hearing
20 knocking noise. This was determined by varying knocking
21 intensity and frequency. This was heard by LMCS people
22 around 6.15, from about 6.15 and I'd refer to the evidence of
23 Ms. Beverly Howe at page 465 paragraph 36, and that's in the
24 bundles of, of—

25 **Mr. Chairman:** I don't need an awful lot of persuading about
26 there being a genuine knocking.

27 **Mrs. Persaud Maraj:** Yes.

1 **Mr. Chairman:** If you're in that pipe looking for rescue and
2 you are one of those persons, it's the most obvious thing to do
3 assuming you have something with which to knock. It may be
4 that an argument from there, "Well nobody had anything that
5 would resonate along a metal pipe" but, er—

6 **Mrs. Persaud Maraj:** We do know that—

7 **Mr. Chairman:**—we know that there were tanks and we know
8 there were tools and various other things in there. It seems
9 likely that if you were looking for rescue, the one of the few
10 things that you could do would be to knock on the pipe.

11 **Mrs. Persaud Maraj:** Yes.

12 **Mr. Chairman:** All right.

13 **Mrs. Persaud Maraj:** Paria, from their evidence does not
14 share this view, as I have said earlier. Their evidence is that
15 they verified no knocking noises, but, from the autopsy report
16 we know that there was life within the pipeline and at the time
17 that the knocking noises were being heard.

18 Paria continued to prevent a rescue dive plan from berth
19 No. 6. LMCS' main goal on saving these men turned to the
20 entry point at berth No. 5 where the knocking noises were being
21 heard. On being informed of the knocking noise and
22 confirming same with their personnel, LMCS requested from
23 Mr. Piper that the riser at berth No. 6 be installed, for the
24 removal of the blind flange at the top of the riser at berth No. 5
25 and to remove the chamber over the berth No. 6. This would
26 have allowed, at the very least, for an investigation of the
27 system and at best allow easier access into the riser for the

1 purposes of rescue.

2 Compressor failure was not the reason for the request of
3 the riser installation. Mr. Piper himself confirms that LMCS
4 possessed a backup compressor. The compressor in operation
5 was functioning. LMCS, on being presented in real time,
6 revisited rescues and alternative to rescue. In this regard, the
7 suggestion to remove the blank from berth No. 5 was made, to
8 hopefully save the men from that end. However, to do so, the
9 belief was that the riser being extended to atmospheric height
10 would not interfere with the construct within the pipe thereby
11 allowing the blank to be removed from berth No. 5 to conduct,
12 as I said, at very least an investigation as to—and at best to
13 rescue the men.

14 Eventually, Paria authorized the addition of the riser
15 extension and the removal of the blank. However, the
16 permission to remove the blank was withdrawn and not
17 authorized until 5.00 a.m. on the 26th of February. Therefore,
18 from 10.00 p.m. to 5.00 a.m. on Saturday there was no point of
19 entry into Sealine 36. This secured only one thing, prevention
20 of any diver from accessing the pipeline. Removal of the
21 chamber did not come until 9.00 p.m. on the 26th of February
22 and eventually it was removed over the top of the—

23 **Mr. Chairman:** I can't hear you. You're letting—

24 **Mrs. Persaud Maraj:** Sorry.

25 **Mr. Chairman:**—your voice drop and I can't hear you.

26 **Mrs. Persaud Maraj:** To drop? Sorry. My apologies. The
27 removal of the chamber did not come until 9.00 p.m. on the

1 26th of February and eventually it was removed from over riser
2 top. Of course, installation of the riser only meant completion
3 of the subsea works at riser 6.

4 The issue of policing on site to control LMCS workers is
5 a diversion of all efforts on the front for rescue. It takes away
6 Paria from attending to whatever they were attending and to the
7 creation of distrust with LMCS. Had Catherine Balkissoon
8 genuinely felt threatened by the workers' behaviour would she
9 have continued to be in their presence on their barge?

10 Mr. Ali's meeting to plead for rescue on Saturday was
11 not treated with any seriousness or thought. Then the meetings
12 on the 27th of February, 2022 were clearly not for the benefit
13 of—were clearly only for the benefit of indulging LMCS as the
14 decision to move from recovery was already made since
15 Saturday night between Mr. Piper and Mr. Mohammed. In
16 common parlance, it was a pappy show.

17 LMCS' participation in this Enquiry has been channelled
18 to—

19 **Mr. Chairman:** Sorry to interrupt you there. Just before you
20 move on to the next point, do you accept that Mr. Kazim Ali
21 might have made greater effort to communicate a plan to rescue
22 these men on the night of the 25th?

23 **Mrs. Persaud Maraj:** That he could have?

24 **Mr. Chairman:** That he—do you believe that he could have
25 made a greater effort to communicate a dive plan to the—to Mr.
26 Piper, even if he didn't believe that there was an IMT or ICT, to
27 Mr. Piper, knowing that piper had blocked diving? Do you

1 believe he might have communicated a—might have made a
2 better effort to communicate a dive plan to rescue these men on
3 the night of the 25th?

4 **Mrs. Persaud Maraj:** I am thinking about the communication,
5 as I understand it, between him and Mr. Piper.

6 **Mr. Chairman:** Yes.

7 **Mrs. Persaud Maraj:** And I'm taking it within the context of
8 LMCS also being on site—

9 **Mr. Chairman:** Yes.

10 **Mrs. Persaud Maraj:**—with the dive supervisor and divers
11 present there and the train of thought that LMCS possessed in
12 relation to the site being the best place for the formulation of
13 those plans, and my answer to that would be that it could have
14 been done, but the best place to have done it was on the site to
15 Catherine Balkissoon who was, in any event, part and parcel of
16 the team of persons who were deciding.

17 **Mr. Chairman:** And is it your position that he did? Is it your
18 position that he did communicate a dive plan to Catherine
19 Balkissoon?

20 **Mrs. Persaud Maraj:** Yes. Not Mr. Ali—yes, he did. There
21 was a conversation with Kazim Ali over the phone. I believe
22 there's evidence to that.

23 **Mr. Chairman:** Yes. But, I mean, it is rather limited, isn't it?

24 **Mrs. Persaud Maraj:** Well, and that's, that is the
25 interrogation that should have occurred on site at the very least,
26 where you have persons presenting to you that, "We are
27 willing. We have this plan to go down and dive. You may not

1 like—you may think that it's mutterings, you—but—you may
2 not like it, but it was prudent for you at that moment to
3 investigate it because this is a rescue mission and if not for
4 anything, every possible and conceivable option should be
5 exhausted.

6 **Mr. Chairman:** And whose fault was not—was it for not
7 doing that?

8 **Mrs. Persaud Maraj:** For not interrogating it?

9 **Mr. Chairman:** For not looking at each or exhausting every
10 possibility?

11 **Mrs. Persaud Maraj:** It would have been Paria's position,
12 Paria's default in that.

13 **Mr. Chairman:** All right.

14 **Mrs. Persaud Maraj:** They, they had the option of
15 investigating, interrogating what was on site.

16 **Mr. Chairman:** All right, well Kazim Ali wasn't on the site
17 the whole time, was he?

18 **Mrs. Persaud Maraj:** No he was not.

19 **Mr. Chairman:** Right. So he was at a place where, even if it
20 were thought to be unreasonable to ask for a dive plan, even if
21 it were thought to be unreasonable to ask for an emergency
22 response, some sort of job analysis—

23 **Mrs. Persaud Maraj:** Something, right.

24 **Mr. Chairman:**—even if he thought all of that was
25 unreasonable, he was, was he not, in a position, because he
26 wasn't on site, to have typed up his best plan that he could
27 come up with—

1 **Mrs. Persaud Maraj:** Right.

2 **Mr. Chairman:**—and give it to them, couldn't he?

3 **Mrs. Persaud Maraj:** Well, I, I—

4 **Mr. Chairman:** Albeit in very truncated form, bullet points if
5 you like rather than a detailed narrative?

6 **Mrs. Persaud Maraj:** Certainly, if he had known that that was
7 a requirement, he could have produced that. I'm sure he would
8 have had that done.

9 **Mr. Chairman:** You're saying he didn't know?

10 **Mrs. Persaud Maraj:** He didn't know that that was what they
11 were requiring. That was never communicated to LMCS. The
12 only time that a request was made for plan in writing was after
13 the meeting on Sun—the morning of Sunday, 27th of February.

14 **Mr. Chairman:** You remember the evidence of Mr. Piper that
15 he made a number of attempts to speak to Mr. Kazim Ali,
16 and—

17 **Mrs. Persaud Maraj:** During the course.

18 **Mr. Chairman:**—during the course of the enquiring, not
19 always answering, for no doubt good reasons, but, Mr. Kazim
20 Ali understood that there was a bar on diving being—having
21 been placed there by Mr. Piper.

22 **Mrs. Persaud Maraj:** Yes.

23 **Mr. Chairman:** In order to effect a rescue, if he was to effect a
24 rescue, would it not have been prudent at the very least for him
25 to have spoken to Mr. Piper to say, “Look, this is the plan that
26 have to rescue these men. Lift the bar”?

27 **Mrs. Persaud Maraj:** Analyzing what has occurred, or what

1 we know to have occurred, it is the most prudent thing that
2 ought to have been done. The issue is the conversation between
3 Mr. Piper and Mr. Ali and what they had actually, in fact,
4 discussed—

5 **Mr. Chairman:** Hmm.

6 **Mrs. Persaud Maraj:**—and how they discussed, because the—

7 **Mr. Chairman:** And all we've got is what they each say about
8 it?

9 **Mrs. Persaud Maraj:** Yes.

10 **Mr. Chairman:** All right. Yes, I'm reminded that they knew
11 each other quite well personally.

12 **Mrs. Persaud Maraj:** Yes. They did.

13 **Mr. Chairman:** So it's not as though you're dealing with
14 some corporate faceless individual. These were two men who
15 knew each other in the industry over many years.

16 **Mrs. Persaud Maraj:** Certainly.

17 **Mr. Chairman:** Makes it—it should have made it easier,
18 shouldn't it?

19 **Mrs. Persaud Maraj:** It should have, but, from Mr. Piper's
20 evidence itself, he—his disposition had always been that LMCS
21 were too emotional and the question now becomes whether or
22 not there was anything that was being said by Kazim Ali that
23 was taken into account. Because all of Saturday morning, this
24 is going into the next day, Mr. Ali sat trying to explain and to
25 get corporation in the—

26 **Mr. Chairman:** I'm much more interested, if I may say so—

27 **Mrs. Persaud Maraj:**—on this night—

1 **Mr. Chairman:**—on the Friday night because, it won't come
2 as any surprise to you that I take the view at the moment that it
3 was highly unlikely that there was anybody going to be alive on
4 the Saturday and that the action needed to take place on the
5 Friday night, not Saturday.

6 **Mrs. Persaud Maraj:** Yes, certainly, certainly, but what I'm
7 drawing to you, Mr. Chairman, is the attitude with which Mr.
8 Ali was treated by Paria, by the personnel. They—their
9 disposition was that he was an emotional person and they did
10 not pay heed to him. That much is clear. They did not pay
11 heed to him—

12 **Mr. Chairman:** Well his son was in the pipe. Of course he
13 was emotional.

14 **Mrs. Persaud Maraj:** They did not pay heed to him after the
15 25th and one can only extrapolate that they did not pay any
16 heed to him on the night of the 25th.

17 **Mr. Chairman:** Okay. All right. That's your submission
18 anyway. Yeah.

19 **Mrs. Persaud Maraj:** Yes. LMCS' participation in this
20 Enquiry has been channelled to ensure that it delivers all that it
21 knows. However, LMCS itself possessed no strategy of
22 conjuring or redesigning what actually took place, however,
23 what has become clear from the live evidence elicited in these
24 proceedings, there are three categories, distinct categories of
25 information to be considered, what was, what could have been
26 and what should have been.

27 These are not proceedings confined to pleadings, and as

1 this Commission will retire to deliberate on the evidence from
2 the various documents, statements and viva voce evidence, I
3 wish to volunteer to the Commission that should there be the
4 need to seek any clarification on any aspect for which LMCS
5 may be able to assist, we stand ready.

6 I know that—Mr. Commissioner, this brings me to the
7 end of my closing. I know that, Mr. Commissioner, you've
8 asked us to consider whether there be any recommendations
9 that we wish to put forward. From the evidence that has been
10 or is before this Commission, what is clear is that from the
11 design of the scope of works to the ineptitude of the emergency
12 response and the lack of consideration of the families by Paria,
13 there is a systematic failure within that institution.

14 Of course, whilst I have not been able to coach a
15 recommendation in the parameters of a term, I would like to
16 commend to you, Mr. Chairman and to Mr. Commissioner the
17 need to recommend or the need to consider some form of an
18 internal audit system that could or ought to address the
19 coordinated functions within Paria. It seems to be that that
20 system is in a dire wont of coordination add that's a danger, not
21 just as we've seen here to LMCS, but it's a danger to all
22 contractors working in Paria and who continue to provide
23 services that may be high risk.

24 I have been asked for the Commission to consider
25 standards for dive that can be implemented in a manner that
26 bridges not just the institution and the performance of work but
27 the training, the requisite standards of the training facilities that

1 are present in Trinidad.

2 **Mr. Chairman:** Training facilities in what area?

3 **Mrs. Persaud Maraj:** In, in—for diving on the general—it
4 seems from the evidence or from what we've observed in this—
5 at this hearing, that there is need to standardize or to at least
6 have proper accreditations, et cetera, to what training there is to
7 divers in this jurisdiction.

8 **Mr. Chairman:** Mr. Cheddi was offering some training.

9 **Mr. Peterson SC:** [*Inaudible*]

10 **Mr. Chairman:** All right. Anything else?

11 **Mrs. Persaud Maraj:** Unless I may be of any further
12 assistance?

13 **Mr. Chairman:** No, I was—well yes, to this extent please?
14 Having heard the evidence as you have, you've been here every
15 day, in the course of this Enquiry, do you believe or is it your
16 submission, I should say, that scuba should not have been used
17 for this hazardous work?

18 **Mrs. Persaud Maraj:** No.

19 **Mr. Chairman:** It's not your submission or it should not have
20 been used?

21 **Mrs. Persaud Maraj:** No, that's not my submission—

22 **Mr. Chairman:** Right.

23 **Mrs. Persaud Maraj:**—that it should not have been used.
24 From my understanding of the evidence and what we have, the
25 scuba should have been used. It, it was merely to access the
26 chamber.

27 **Mr. Chairman:** All right.

1 **Mrs. Persaud Maraj:** It would have been safer, I believe,
2 from what I have heard, and been able to assess, that had they
3 have those—that helmet that was brought to this Commission,
4 the dangers and the risks associated with that is just adding and
5 mounting to what already exists.

6 **Mr. Chairman:** I don't think anyone's suggesting that the
7 helmet that Mr. Wilson brought along would have been ideal
8 for the works that needed to be done.

9 **Mrs. Persaud Maraj:** Yes.

10 **Mr. Chairman:** I shudder to think of the strength of Mr.
11 Wilson's neck in order to hold such a helmet, but, um, we've
12 heard a good deal of evidence about the desirability of using
13 scuba equipment in an environment such as this particular one,
14 given the hazardous nature of the work and so on, and I haven't
15 concluded a view yet but it does seem to me that having an
16 umbilical attached to you whilst you carry out that work, being
17 tethered whilst you carry out that work has some merit.

18 **Mrs. Persaud Maraj:** It does. I, I, I agree.

19 **Mr. Chairman:** And perhaps, had that happened, perhaps,
20 they might not have died. I'm not saying I have formed a view
21 about it because I do accept that really all you were doing was
22 to get into the habitat and that a tether might have been
23 provided within the habitat in any event, whether you were
24 using scuba equipment or not, but, um, anyway, your position is
25 that scuba equipment in order to carry out those works was
26 perfectly acceptable.

27 **Mrs. Persaud Maraj:** I believe so.

1 **Mr. Chairman:** That's what you're saying?

2 **Mrs. Persaud Maraj:** I believe so.

3 **Mr. Chairman:** All right. Thank you, that's all I need to ask
4 you.

5 **Mrs. Persaud Maraj:** Mr. Chairman before I finish if I may
6 have just a moment, I follow in my friends from yesterday
7 footsteps of thanking the Commission and thanking all of my
8 colleagues present here, but, as a remit from LMCS as well,
9 being that these are public hearings, I would like to say in a
10 public forum, at this forum, sorry, that LMCS wishes to thank
11 all of the volunteers who would have presented themselves in
12 order to lend the necessary help and assistance as they could
13 have on that night and continuing.

14 **Mr. Chairman:** Yes.

15 **Mrs. Persaud Maraj:** Yes.

16 **Mr. Chairman:** Yes, well thank you very much on that. All
17 right. We're going to take our break now, a little bit earlier
18 than we had planned, but can I suggest then, that we're quarter
19 to 12.00 now, Mr. Peterson, what is the plan from your team?

20 **Mr. Peterson SC:** We were anticipating that you take a short
21 break now, we start at 12.00, possibly break at 1.00 for lunch
22 and then resume and do the next hour.

23 **Mr. Chairman:** Well I'm content with that course. If that
24 suits you.

25 **Mr. Peterson SC:** Yes, that suits us.

26 **Mr. Chairman:** Let us have 15 minutes now.

27 **Mr. Peterson SC:** Yes.

1 **Mrs. Persaud Maraj:** We'll start at twelve o'clock. Who's
2 going to address me?

3 **Mr. Peterson SC:** I am going to, Sir. Sorry to—

4 **Mr. Chairman:** Right.

5 **Mr. Peterson SC:** Sorry to foist that on you. Yes, Sir.

6 **Mr. Chairman:** Right. For the whole two hours?

7 **Mr. Peterson SC:** You sound like you would like to hear Mr.
8 Mootoo also, Sir.

9 **Mr. Chairman:** No. I was rather looking forward to Mr.
10 Mootoo, but then, never mind. So, you'll address us for an
11 hour now or shortly and then we'll have our lunch break and
12 then we'll come back and that will conclude the presentations
13 today?

14 **Mr. Peterson SC:** Yes, Sir.

15 **Mr. Chairman:** Lovely. Thank you very much indeed. We
16 will do that, we'll resume at twelve o'clock, please.

17 **11.45 a.m.:** *Enquiry suspended.*

18 **12.00 noon:** *Enquiry resumed.*

19 **Mr. Chairman:** Yes, Mr. Peterson.

20 **Mr. Peterson SC:** Thank you Mr. Chairman and fellow
21 Commissioner. These submissions, Mr. Chairman, are made by
22 Paria Fuel Trading Company, Paria, and Heritage Petroleum
23 Company Limited, Heritage, in these circumstances where they
24 have not been called upon to answer any specific or general
25 allegation of wrongdoing against them in relation to the events
26 of this Enquiry but we recognize that the Commission has
27 indicated that the well-known procedure in relation to the

1 issuance of Salmon letters, should that become necessary, will
2 be forwarded in due course before the delivery of your final
3 report. Accordingly, Sir, the submissions which follow are
4 necessarily to be treated as provisional in the nature and subject
5 to amplification should the need arise after receipt of the letters.
6 So Paria and Heritage, Sir, wish to reserve the rights to add to
7 or modify these statements and submissions if necessary.

8 **Mr. Chairman:** You have my absolute assurance that that will
9 be the position.

10 **Mr. Peterson SC:** Thank you, Sir.

11 **Mr. Chairman:** If Salmon letters are issued I will expect
12 obviously—

13 **Mr. Peterson SC:** Yes, Sir.

14 **Mr. Chairman:**—comprehensive responses.

15 **Mr. Peterson SC:** Yes, Sir. As mentioned in the opening, in
16 our opening statement at this Enquiry, this Enquiry is largely
17 concerned with an examination into the circumstances which
18 led to the loss and unfortunate event of the death of four
19 employees of LMCS Limited. Those persons are Kazim Ali,
20 Jr., Rishi Nagassar, Yusuf Henry and Faizal Kurban. The loss
21 is not measurable to these families, it's significant and we
22 recognize that, Sir. It would be less human of us not to do so.

23 But the events of the 25th of February, 2022, while these
24 men were in the process of undertaking work as employees of
25 LMCS on the Sealine riser at Paria led to their death. There is
26 no truly compensatory measure that could be done to these
27 families. The loss of their loved one is irreplaceable. Paria and

1 Heritage appreciate that to assist in bringing closure to these
2 persons in an effort to avoid the recurrence of this event of the
3 25th that they fully participated and they did not hold back,
4 with the greatest of respect, in any way in assisting this
5 Commission because they recognized that this event should not
6 re occur.

7 To this end, Paria and Heritage have voluntarily made
8 available to the Commission all such persons in their respective
9 employ that they considered to be relevant and helpful to this
10 Commission. Even as a continuing obligation which resulted in
11 what Chairman described as a dumping of material, our advice
12 was, we need to dump it, we can't hold it back, once we
13 discover it or once it's requested. So we apologize for the
14 inconvenience caused but we were grateful for the day off on
15 that occasion. [*Interruption*] Siri heard me, Sir. She likes my
16 voice.

17 **Mr. Chairman:** One of your fan club?

18 **Mr. Peterson SC:** No, Siri, my phone, Sir. Whilst some may
19 take the view that Paria should have handled matters differently
20 and although there may well be room for some divergence of
21 views on that as Paria should or should not have done in
22 relation to LMCS, as retaining LMCS to carry out the work, the
23 execution of the works up to and including the 25th of
24 February, 2022 and the rescue and recovery efforts at the end of
25 the day taken by Paria were entirely reasonable in light of a
26 range of options that were open to it.

27 For the reasons which follow, we respectfully submit that

1 there is no or no reasonable basis for Paria to be faulted or to
2 bear any liability in relation to, one, its selection of LMCS as a
3 contractor and to undertake the works, the role played by and
4 during the execution of the works having regard to other things
5 such as the fact that it did not—that Paria did not possess the
6 capabilities to execute such works.

7 Also, the fact that it took reasonable steps to satisfy itself
8 that the independent contractor it ultimately hired for the works,
9 namely LMCS, was a competent and well-established specialist
10 contractor operating in the oil and gas sector with the requisite
11 knowledge, skill and experience in successfully executing
12 works of a similar nature.

13 I could not help but observe counsel for LMCS this
14 morning seek to paint LMCS as not being a specialist
15 contractor. I don't think that that could be sustained. The
16 contractual arrangements ultimately entered into between Paria
17 and LMCS followed a competitive tendering process. The
18 information and the specialist advice provided to it by LMCS
19 prior to and during the course of executing of the works and its
20 decision and the actions of touching and concerning the rescue
21 and recovery efforts took place between February 25th and
22 March 4th, 2022. Paria was assessed and accepted to be
23 competent to do the work—um, LMCS.

24 I now turn to the works. In summary, the works for
25 which LMCS was contractually engaged by Paria following the
26 competitive process of tendering, three separate categories of
27 works were identified to be executed. LMCS was required to

1 change—first, LMCS was required to change out a section of
2 subsea riser and tie in piping on Sealine No. 36 at berth 5 and
3 berth 6. Second, LMCS was required to remove, service and
4 repair and reinstall marker buoys and storm mooring buoys
5 located at the Pointe-a-Pierre harbour. The third category of
6 work is that LMCS was required to fabricate and replace 300
7 feet of main walkway on Paria's main viaduct at Pointe-a-Pierre
8 harbour.

9 The matters which occupied this Enquiry pertain to the
10 first set of works with respect to the changeout of the section of
11 the subsea riser between berth 5 and berth 6. The tender
12 process, in an effort to attract suitably qualified contractors,
13 went out and 27 contractors who were pre-qualified in relation
14 to marine installation maintenance responded to that invitation.
15 Paragraph seven to paragraph 18 of the witness statement of
16 Rajendra Mejias has set out the procedure for the
17 prequalification of contractors and I just flag that for your
18 consideration, Commissioners.

19 **Mr. Chairman:** Do you have a page number for that?

20 **Mr. Peterson SC:** No. Paragraphs seven to 18 of Mr. Mejias'
21 statement dated the 12th of September, 2022.

22 **Mr. Chairman:** All right.

23 **Mr. Peterson SC:** And also you could find paragraph 26 of the
24 statement of Manmohan Balkaran. His statement is dated the
25 30th of September, 2022.

26 The tender process was engaged by Paria for a period of
27 approximately one month from the 29th of April to the 28th of

1 May, 202021. On the 4th of May, 2021, a mandatory virtual
2 site visit for bidders was attended by 16 vendors and then there
3 was a scheduled in-person visit but that had to be aborted due to
4 the advent of COVID-19. Five bids were received during the
5 period prescribed for the submission of bids. LMCS was the
6 only bidder that provided all documents required by Paria's
7 scope of works and therefore the only bidder which provided
8 the valid, what we can describe as a valid technical bid, and this
9 can be seen at paragraphs 26 to 29 of the witness statement of
10 Mr. Manmohan Balkaran.

11 The technical specifications for the works with which
12 bidders were required to comply provided, among other things,
13 the following, that the bidders were required to demonstrate
14 that they possessed the experience and resources, both
15 equipment and personnel, and also technical capability, to
16 successfully complete the works. Bids would only be
17 considered if they were validly submitted. Among other things,
18 they were to be STOW certified or there should be STOW
19 certification of the entity, an audited HSE management system
20 for high-risk offshore services, inclusive of drilling services,
21 diving services, lifting services, piling works, pipeline
22 construction and repairs an HSE plan, a quality assurance plan,
23 method statement and overarching risk assessment and dive
24 plan. They also needed to provide résumés of key personnel
25 and their experience in similar projects.

26 **Mr. Chairman:** Can I ask you about that? Given that Paria
27 are a national company dealing with the distribution of oil and

1 other hydrocarbons, put out a tender for this kind of work,
2 which is not an insignificant amount of work to be done, at no
3 doubt considerable cost, does it come to you as a surprise that
4 there was only one bidder who was compliant in the whole of
5 this country?

6 **Mr. Peterson SC:** No, Sir, not really. Because of the nature of
7 the work, it narrows down the persons available to do that
8 work.

9 **Mr. Chairman:** Yes.

10 **Mr. Peterson SC:** Because of the specialized nature of the
11 work, again, a narrowing factor, so the pool will then get very
12 small, and the fact that we also have COVID with respect to
13 persons being available and a lot of companies may not be
14 operational or fully operational at the time and may not—
15 because you hear the—you may recall the evidence of Mr.
16 Donawa that—I think it may be in his statement I don't know if
17 he said it live—that due to COVID they had at one point a
18 hundred and something staff and I think they shrunk down to a
19 certain number.

20 **Mr. Chairman:** Yes.

21 **Mr. Peterson SC:** So that may have accounted for—

22 **Mr. Chairman:** Well, I'm sure that's affected a lot of people
23 and a lot of business, so you think probably—

24 **Mr. Peterson SC:** That may have accounted for it.

25 **Mr. Chairman:**—more to do with the COVID outbreak than
26 anything else?

27 **Mr. Peterson SC:** Yes, Sir. That may have accounted for the,

1 um—

2 **Mr. Chairman:** Yes, all right, thank you.

3 **Mr. Peterson SC:**—small number of responders.

4 Paria, in the course of assessing the bids, checked
5 LMCS' references by calling persons, entities' names to verify
6 the materials and services that were successfully provided—and
7 references that were successfully provided by LMCS to Paria.
8 Further, the Petrotrin database disclosed that during the period
9 2015 to 2018 LMCS carried out 124 jobs for Petrotrin and
10 obtained a rating of acceptable for each job with the only other
11 available rating as unacceptable. So it was either acceptable or
12 unacceptable and they did 124 and they got acceptable ratings.

13 Previous jobs undertaken by LMCS for Petrotrin
14 included but were not limited to rerouting of Sealine risers,
15 structural repairs to berths, renewal of piping and renewal of
16 risers. I cite paragraph 12 to paragraph 17 of the witness
17 statement of Mr. Rajendra Mejias dated September 12, 2022.
18 In addition to that, Sir, in the year 2020 LMCS successfully
19 completed subsea maintenance works at berth No. 5 of almost
20 identical nature to those in respect of which Paria had invited
21 them to tender.

22 And this could be supported also from the statement of
23 Mr. Kazim Ali Sr. at paragraphs 16 and 17 of the supplemental
24 statement bundle where Mr. Ali detailed in that statement that
25 the job was so similar that inflatable plugs was also used and I
26 think he used the phrase same techniques were used. So
27 paragraphs 16 and 17 of Mr. Kazim Ali Sr's. statement.

1 I am reminded that their performance on that job was
2 rated as excellent. Indeed those 2020 works involved the
3 replacement of an old riser with a new riser with the aid of a
4 hyperbaric chamber and required the installation of migration
5 barriers at a subsea level.

6 **Mr. Chairman:** Do we know if there was any fluid in the line
7 before the works were carried out?

8 **Mr. Peterson SC:** I don't, Sir, and that's why we were trying
9 to track the, the, the documents but—

10 **Mr. Chairman:** Yes.

11 **Mr. Peterson SC:**—as we said—as the documents contained in
12 themselves, they have a destruction clause that allows them to
13 be destroyed within three months of completion of the works
14 unless they are outstanding issues.

15 **Mr. Chairman:** I just wondered if there was any actual
16 evidence from somebody about whether or not there was
17 anything in the line.

18 [*Commissioners confer*]

19 **Mr. Peterson SC:** [*Mr. Peterson SC confers with Mr. Mootoo*]
20 He said he might have seen something that would help us.

21 **Mr. Chairman:** Yeah. All right, well, of course I'd be—

22 **Mr. Peterson SC:** That would be helpful too, Sir if it's—

23 **Mr. Chairman:** Yeah.

24 **Mr. Peterson SC:**—because it's a similarity or lack thereof as
25 the case may be.

26 **Mr. Chairman:** Yeah. I was particularly interested in whether
27 they were sucking or blowing in order to get the—

1 **Mr. Peterson SC:** Whether it was air blowing? Sir that, yeah,
2 that's—I heard the question you posed to counsel for LMCS
3 and that is the different something that accounted because that,
4 I will be very candid, that's a point that Mr. Mootoo and I had
5 been debating about. When did that shift take place from
6 pumping to air blowing?

7 **Mr. Chairman:** Yes.

8 **Mr. Peterson SC:** Because that seems to have, based on all the
9 evidence, including the experts, to have had some impact or
10 some contributory impact to the events of that day.

11 **Mr. Chairman:** Indeed.

12 **Mr. Peterson SC:** And we found something that may point us
13 in the direction as to when that change would have, um—that
14 shift would have taken place.

15 **Mr. Chairman:** Yes. I think we've got something on that as
16 well—but, yeah.

17 **Mr. Peterson SC:** You all got some—yes.

18 **Mr. Chairman:** Yes.

19 **Mr. Peterson SC:** Ys. Accordingly, Sir, it cannot be doubted
20 that at the time of tender LMCS objectively presented as a
21 specialist contractor that was well qualified and experienced to
22 execute the works in question. I don't think—well I can't recall
23 any evidence in this Enquiry challenging the ability to execute
24 the works of this nature.

25 Paria notes that during the course of this Enquiry
26 suggestions have been made to the effect that this ought to have
27 had adequate—that it ought to have had adequate internal

1 resources with the relevant skill and experience to rigorously
2 evaluate all of the technical aspects of the bids received,
3 inclusive of the method statement, the risk assessment and the
4 emergency response plan, or, that it should have retained an
5 external consultant capable of so doing. While these are not
6 unreasonable views, the reality is that the law did not impose
7 such a requirement on Paria, legally speaking. All that Paria
8 was required to do was to take reasonable steps to satisfy itself
9 that the independent contractor returned retained by it to carry
10 out the works had the requisite level of competence.

11 Applying this legal standard, it could hardly be suggested
12 that Paria was negligent in the selection of LMCS as a
13 contractor, given LMCS' knowledge, extensive experience,
14 STOW certification and track record in executing works of a
15 similar nature to—of those—similar to those that Paria was
16 seeking to invite the bids. In any event, there is nothing
17 contained in LMCS' method statement that accompanied its bid
18 which, if adhered to, would have given rise to the Delta P event
19 or to the risk of such an event reasonably occurring. In this
20 connection, the following evidence is of critical importance.

21 Mr. Chairman, before I go on to the evidence that
22 showed—that I'm about to deal with, with respect to the Delta
23 P event with respect to LMCS, I want to go back to answering
24 the question you asked, Mr. Chairman, as to whether in the
25 previous job there was any indication as to whether the line had
26 contents.

27 **Mr. Chairman:** Yes.

1 **Mr. Peterson SC:** The same paragraph 16 of the statement of
2 Kazim Ali Sr. of the supplemental bundle, the statement dated
3 the 22nd of November, no, the 8th of November, 2022,
4 paragraphs 16 and 17.

5 **Mr. Chairman:** Yes.

6 **Mr. Peterson SC:** When you read the two statements—the
7 two paragraphs together, Sir, it catered for—it catered for the
8 utilization of the plugs, the barriers, to stop hydrocarbon
9 vapours and the fact that he said that the techniques that were
10 employed is similar to the techniques to be employed in 2022, I
11 think one can read and infer to that it's the same steps, the
12 clearing of the line, the insertion of the plugs, the removing of
13 the riser—

14 **Mr. Chairman:** Well, I'm not sure about that. I mean, it does
15 seem to me of some importance and we're not—we don't have
16 the documents because they've been destroyed, but it does
17 seem to me to be of some importance to know whether the line
18 was cleared firstly by them, secondly by pumping or blowing.

19 **Mr. Peterson SC:** Or blowing.

20 **Mr. Chairman:** And thirdly, what quantity might have been
21 taken out of the pipeline at the time, things of that kind, a direct
22 comparison could have been made. And I think you're right,
23 we can infer that it was a similar job. Exactly what happened,
24 though, couldn't have been the same otherwise they wouldn't
25 have been here to have done the second job.

26 **Mr. Peterson SC:** It doesn't condescend to particular thing.

27 **Mr. Chairman:** To that detail?

1 **Mr. Peterson SC:** Yes.

2 **Mr. Chairman:** No, quite. All right, well thank you for that
3 anyway.

4 **Mr. Peterson SC:** Yes. The evidence I say, Sir, that would
5 have removed the risk of a Delta P is as follows. A, LMCS'
6 method statement at tender expressly provided that the liquid
7 content from Sealine 36 was to be removed to a level sufficient
8 to allow the replacement of the corroded section and once the
9 level in the riser had dropped to 35 feet below sea level, a line
10 plug would be installed. So it recognized a clearing of the line
11 to the point of 35 feet below, and that could be found at page
12 659 of the core bundle of documents.

13 Secondly, LMCS' HSE manager, Mr. Ahmad Ali,
14 testified that its method statement required that LMCS only
15 remove enough line content sufficient to give it room to install
16 the plug, the plugs, while leaving the rest of the contents in the
17 line and that such removal would not have created a void in the
18 line providing enough space for something to suck anyone in.
19 See paragraph 13 of the supplemental statement of Mr. Ahmad
20 Ali dated the 31st of October, 2022.

21 Third, LMCS' Managing Director, Mr. Kazim Ali Sr.,
22 testified that LMCS did not propose the removal of the entire
23 line contents between berth five and six. He said that is so
24 because it wanted to see, it wanted to set the plug on a solid leg
25 of liquid and that LMCS did not mention Delta P in its
26 discussions in the method statement or risk assessment because
27 Delta P was to be taken care of by ensuring that there would

1 be—there would have been no pressure difference across the
2 plugs. See paragraph 26 of the supplemental witness statement
3 of Mr. Ali dated the 22nd of November, 2022.

4 The fourth piece of evidence, Sir, is that LMCS'
5 Managing Director, Mr. Kazim Ali Sr., also testified that he
6 was of the impression that Paria understood that the method for
7 the removal of liquid only required the creation of a 35-foot
8 space to set the plug and that he did not think that Paria wanted
9 LMCS to clear the entire line. See paragraphs 33 and 36 of the
10 supplemental witness statement of Mr. Ali.

11 Both LMCS and Paria interpreted and subsequently
12 treated both LMCS' method statement insofar as it pertains to
13 the removal of the liquid of the, liquid content of the line, and
14 Paria's response to the query, one, in the Addendum I—
15 Addendum I is at page 598 of the core bundle, which referred to
16 the ensuring that the line is clear and dry. That phrase that had
17 consumed a considerable time of this Commission, Sir, as to
18 what is meant by the term clear and dry.

19 Both LMCS and Paria understood what that meant. Mr.
20 Chairman, at several points in the, in this Enquiry, Mr.
21 Chairman made the point, and Commissioner Wilson, that it's
22 vague or it could—it's vague when one reads it because it does
23 not say that all the content was not to be removed and they put
24 it to several witnesses what they understood by clear and dry.
25 My respectful view, Sir, is that that phrase has to be taken in the
26 context of the contract, it has to be taken in the context of the
27 industry and it has to be taken in the context because since we

1 are enquiring in to the vents of the 25th it has to be taken
2 against the backdrop of what the contracting acting parties
3 understood by that phrase. And my respectful submission is,
4 neither Paria nor LMCS accepted that phrase as clearing the
5 line completely of all contents. They understood—

6 **Mr. Chairman:** Do you agree, though, that, to us—

7 **Mr. Peterson SC:** Yes.

8 **Mr. Chairman:**—looking at it with the benefit of hindsight
9 obviously just reading the documentation the combination of
10 that addendum in which the response from Paria is the
11 contractor is responsible for the safe removal of hydrocarbon
12 contents from the line and to ensure that the line is clear and
13 dry.

14 **Mr. Peterson SC:** Yes.

15 **Mr. Chairman:** That, combined with the internal instruction at
16 Paria, that the clearing of Sealine 36 section between berth 5
17 and 6, that the clearing of that line and the clear and dry
18 suggests to us that that would have been emptying the line.

19 **Mr. Peterson SC:** Yes, Sir. To, to, I don't want to say the
20 uninitiated, but—

21 **Mr. Chairman:** Well we are uninitiated, aren't we? Yes.

22 **Mr. Peterson SC:**—we would read it literally as meaning clear
23 and dry, clean it out, dry it out.

24 **Mr. Chairman:** Yes.

25 **Mr. Peterson SC:** But I think it was the evidence of Mr.
26 Michael Wei and also from Kazim Ali that they understood,
27 well I think Mr. Wei said he understood it to mean the area to

1 be worked on is to be clear and dry in order to effect the works.

2 **Mr. Chairman:** Right.

3 **Mr. Peterson SC:** But Sir, when you look at it, with respect, it
4 boils down to no troubling moment in that even the evidence of
5 Mr. Zaid Khan, once the ullage was checked and whether it was
6 30 feet, 35 feet, there was ullage, inherent in that is that there
7 was content in the line. So once it was understood that the aim
8 of the exercise or the mission was to achieve an ullage of 30, 35
9 feet and everyone was moving towards achieving that, whether
10 they had got it false reading and all of that later on is a different
11 issue, but once the mission was always to achieve an ullage of
12 35 feet, inherent in that is the presence of content.

13 **Mr. Chairman:** Yes.

14 **Mr. Peterson SC:** So no one understood this phrase,
15 notwithstanding how clear it is linguistically—

16 **Mr. Chairman:** Yes.

17 **Mr. Peterson SC:**—no one read it and applied it to mean clear
18 and dry as we, as we accept, the uninitiated, would have
19 thought it was.

20 **Mr. Chairman:** Yes. But do you accept that it was only Paria
21 who had the information as to actually how much was removed
22 from the line?

23 **Mr. Peterson SC:** Well, yes, Sir, that is—well, because it
24 went into Paria's tanks and facilities.

25 **Mr. Chairman:** Yes.

26 **Mr. Peterson SC:** But of course that has its own, um,
27 challenges if we were to rely on that because, as Mr. Kazim Ali

1 admitted, there was commingling of product because it joins
2 other lines, one, and also, I don't think if parties, and I was
3 discussing that with Mr. Mootoo this morning, if parties were at
4 idem with respect to seeking an ullage of 35 feet, I don't think
5 it mattered and I don't think anybody would really be
6 monitoring quantum, because it's not like if they are selling it
7 to a third party—

8 **Mr. Chairman:** No, no, it's self-evident they could not have
9 been monitoring, I mean the people who were actually
10 concerned with getting the line to where it should be, they
11 could not have been concerned with quantum because, had they
12 been, they would have realized that there's far too much being
13 taken out of the line.

14 **Mr. Peterson SC:** Exactly, Sir.

15 **Mr. Chairman:** There's no question about that. But what I'm
16 concerned about is that firstly the only people who knew how
17 much was being taken out of the line within certain limitations
18 because there are whole days where nothing was recorded even
19 though there was blowing taking place, and so there was an
20 unknown quantity removed from the line, but, leaving aside that
21 for the moment, on any view, hundreds of barrels of oil were
22 removed from the line. We know that to be a fact because this
23 would not have happened without it, right.

24 **Mr. Peterson SC:** Yes, that's a fact, Sir.

25 **Mr. Chairman:** So, what I want to try and understand is that it
26 is only Paria's knowledge, it was only within Paria's
27 knowledge as to how many barrels were removed, wasn't it?

1 **Mr. Peterson SC:** Well, it could—well, it was available to
2 Paria if one was focusing on that. So, to answer your question,
3 it was going into Paria's onshore facility—

4 **Mr. Chairman:** Yes.

5 **Mr. Peterson SC:**—and if one was required to monitor that or
6 to focus on it, they would have picked that up. But I think, Sir,
7 in trying to determine at this Commission what happened on
8 that day, I think we have to look at things in the context. What
9 was the focus point of that—of those works? The focus point,
10 the mission we're on is to get ullage down to 30 or 35 feet.

11 **Mr. Chairman:** Sure. I mean, I don't mean think there's any
12 doubt about that.

13 **Mr. Peterson SC:** If there was a corresponding default check
14 and persons were put to monitor that then one coulda pick up,
15 based on the quantity here, something is wrong there.

16 **Mr. Chairman:** Uh-huh.

17 **Mr. Peterson SC:** But to be fair to all parties on that day, if
18 even they checked there and they see a certain quantity and they
19 may be alarmed, when they check the ullage, not knowing then
20 what we know now, and they see 35 feet I could see one just
21 dismissing that because it's not been sold to a third party, it's
22 not being dumped in the sea, it's in our tank but we got the
23 main mission we're seeking, 35 feet ullage, we got it here, let's
24 insert the plugs and get on with the job.

25 **Mr. Chairman:** But is that really a tenable argument, Mr.
26 Peterson, if somebody had looked at the amount that was being
27 pumped out of that line? We're not talking about some modest

1 discrepancy in the terms of the number of barrels that was
2 necessary to achieve that ullage. We're not talking about that,
3 but potentially by a thousand per cent. I mean—

4 **Mr. Peterson SC:** Sir, I hear that and I understand that.

5 **Mr. Chairman:**—hundreds and hundreds of barrels were
6 removed from the line. I find it difficult to believe that people
7 working in the industry, for years the people that Paria
8 employed, experienced in that industry, people LMCS
9 employed and their experience in the industry, that they would
10 not have been alarmed at the sheer volume of material that was
11 removed from that line in order to seek to achieve an ullage of
12 just 35 per cent.

13 **Mr. Peterson SC:** That's what I'm saying, Sir.

14 **Mr. Chairman:** The fact that they didn't do it is something we
15 have to consider in due course as to a double-check if you like,
16 for the future, that if you're seeking to establish an ullage on
17 either side in order to remove a piece of pipeline, that you're in
18 a position to be able to, on the one hand have a dip down your
19 pipe to see where the fluid ends and then corroborate that so as
20 to avoid this situation developing by looking at actually what
21 was removed from the line.

22 **Mr. Peterson SC:** Yes, Sir.

23 **Mr. Chairman:** As I put it rather blithely on a number of
24 occasions—

25 **Mr. Peterson SC:** I under—

26 **Mr. Chairman:**—you could have stuck a bucket down there
27 and removed enough to get 35 feet.

1 **Mr. Peterson SC:** I understand, I understand the concern you
2 have, Sir, but that presupposes a correlation between the
3 clearing of the line, the operations clearing the lines, and people
4 back at storage that may possibly, I want to say, to use the term,
5 lend their tanks, their storage, so they there managing storage,
6 they have the tanks, the—lending the storage, let's say, but they
7 are not part of that repair and operation.

8 **Mr. Chairman:** No, clearly not.

9 **Mr. Peterson SC:** Had there been a correlation between that—

10 **Mr. Chairman:** Yes.

11 **Mr. Peterson SC:**—that [*Inaudible*], then one would have said,
12 “But look how many barrels we're getting here. LMCS you're
13 telling me 35 feet ullage but look 500 barrels or whatever.”

14 **Mr. Chairman:** What's the position about this internal
15 document that is essentially for Paria's own staff, all right, in
16 order to carry out this clearing of the line?

17 **Mr. Peterson SC:** Beg your pardon, Sir?

18 **Mr. Chairman:** The document that we had at one zero—

19 **Mr. Peterson SC:** Yes.

20 **Mr. Chairman:**—three three, this is the clearing of section of
21 the line, the work instruction which was the internal document,
22 yes?

23 **Mr. Peterson SC:** Yes.

24 **Mr. Chairman:**—if that is an internal document, would that
25 not have gone also to the people who are monitoring the tanks?

26 **Mr. Peterson SC:** No, Sir. I understand this to be an internal
27 document for the operations at line 36, Sir.

1 **Mr. Chairman:** Yes.

2 **Mr. Peterson SC:** So to say—and that is how—and I could
3 see although it was not intended for LMCS, but I could see—it
4 getting into their hands, I could see no harm by that, but what it
5 was setting out is a step by step procedure as to what was
6 happening with the procedure.

7 **Mr. Chairman:** Yes.

8 **Mr. Peterson SC:** They're following the steps for the clearing
9 of the line. Now if there was a correlation between all the
10 parties—

11 **Mr. Chairman:** Well just pause for a minute. And have you
12 got the document in front of you?

13 **Mr. Peterson SC:** Yes, Sir.

14 **Mr. Chairman:** Well would you look to page one zero three
15 four, please? One zero three four, I don't know if it's possible
16 to bring it up on the screen. It's page 2 of the document.

17 **Mr. Peterson SC:** Page 2, right.

18 **Mr. Chairman:** Do you have that?

19 **Mr. Peterson SC:** Yes, Sir.

20 **Mr. Chairman:** Do you see it says—I mean this is under the
21 subheading "Preparation for Installation of slip blank."

22 **Mr. Peterson SC:** For installation of slip blank, yes.

23 **Mr. Chairman:** Right. And then it gives as a prerequisite this
24 is the step by step guide to what should happen, isn't it?

25 **Mr. Peterson SC:** Yes, Sir.

26 **Mr. Chairman:** And just taking by way of example the
27 thirteenth step in that is monitor tank 111 levels and gauge

1 pressure. What's tank 111?

2 **Mr. Peterson SC:** I understand that to be an onshore tank.

3 **Mr. Chairman:** Right, where the fluid is coming into it?

4 **Mr. Peterson SC:** Yes, Sir.

5 **Mr. Chairman:** Right? So in monitoring that tank, its levels
6 and the gauge pressure—and gauge the pressure, all right?
7 Now, forgive me, if that is meant to be one of the steps—

8 **Mr. Peterson SC:** Sir, I understand—

9 **Mr. Chairman:**—somebody must be looking at that and there
10 has to be a purpose for doing that.

11 **Mr. Peterson SC:** Yes, Sir.

12 **Mr. Chairman:** And that purpose must relate surely to the
13 amount of material that's taken out of the line.

14 **Mr. Peterson SC:** Sir, I saw this and I did not read it that way.
15 It will give an indication as what is taken out of the line.

16 **Mr. Chairman:** Yes.

17 **Mr. Peterson SC:** But remember, the person who may be
18 monitoring the tank is monitoring the tank in the event of
19 overflow to switch it to possibly tank 112 or 113.

20 **Mr. Chairman:** Right. You mean just the few barrels that was
21 necessary to be removed from this line, he might have to switch
22 between these enormous tanks for those few barrels to be—so
23 that it doesn't overflow?

24 **Mr. Peterson SC:** Sir you hit the nail on the head, but that is
25 the problem—no, that's the problem with the issue, Sir, when
26 one's seeking to use the actual amount that came out against
27 Paria, because there's no—

1 **Mr. Chairman:** You mean against [*Inaudible*]. I just want—I
2 mean, it just seems to me a failure all round that nobody
3 seemed to understand what I would have regarded as basic
4 mathematics in order to achieve the ullage that you're looking
5 for you need this number of barrels removed. If you take
6 hundreds and hundreds more than that, something has gone
7 wrong. Anyway—

8 **Mr. Peterson SC:** Yes, Sir, and—but the point is, Sir, that
9 the—remember that—the one one—that is presupposing, Sir,
10 that 111, tank 111 is dedicated solely for that purpose and that's
11 the point I'm making.

12 **Mr. Chairman:** No.

13 **Mr. Peterson SC:** There was no connection between the
14 works going on at 36 and the utilization of the storage on—it
15 was almost like if the project is borrowing storage in the
16 meantime because they have to repump. You have to put back
17 fuel when they finish.

18 **Mr. Chairman:** Yes.

19 **Mr. Peterson SC:** And because there was no obligation at the
20 clearing on Paria to monitor the, the amount of fuel being taken
21 out and that is probably what led to the, um, to the excess if
22 not—

23 **Mr. Chairman:** All right. Well, cutting through all of that, do
24 you agree that had someone been monitoring that, the alarm
25 bells might have been rung?

26 **Mr. Peterson SC:** Alarm bells might have been rung but I
27 factor into that that there was comin—I call it commingling,

1 but, as Mr. Ali also agreed with the term, because tank could be
2 fed from different sources.

3 **Mr. Chairman:** Yes, but, is it really to be suggested that as the
4 same time as they were pumping oil from Sealine 36 into tank
5 number 111 and monitoring the levels that there might have
6 been fuel coming from some other source at the same time?

7 **Mr. Peterson SC:** I'm subject to correction, but I think the—
8 they're all inter—they're all—the pipe—the lines are
9 interconnected. That's the term.

10 **Mr. Chairman:** No, no I follow they're all interconnected but
11 I'm assuming, perhaps wrongly, because I don't know anything
12 about this, that they would close off valves leading into that line
13 that would take it into tank 111 and just measure what was
14 actually being taken out of Sealine 36. And Mr. Wilson
15 suggests that there will be a manifold to do so.

16 **Mr. Peterson SC:** I was just reminded of some of the evidence
17 that when—I was just reminded that when you blow at 36 it
18 moves into 66 and it moves the product in 66 further ahead. So
19 that's what I was saying, Sir, unless there was a dedicated
20 assignment of monitoring, it may have raised an alarm bell as
21 well as it may not have.

22 **Mr. Chairman:** But isn't that what this is? This is your
23 document. This is the internal document for Paria to—for the
24 works to be, as it were, monitored all right? This is what you
25 describe, your document describes, clearing of Sealine 36
26 between berths 4—between 5 and 6, and it's described as the
27 work instruction from the terminal operations to offshore and

1 one of the—as it says—procedure, the following are the steps
2 that should be followed for the clearing of the Sealine between
3 5 and 6. Step number 13 or rather step number 12, “Open tank
4 111 valve to receive line content of 66.”

5 **Mr. Peterson SC:** Of 666 Sealine, yes.

6 **Mr. Chairman:** Yes. And then it says, “Monitor tank 111
7 levels and gauge pressure.” But surely the, the, the, the purpose
8 for doing that is so that you know how much has come out of
9 66.

10 **Mr. Peterson SC:** I don’t think so, Sir.

11 **Mr. Chairman:** You don’t?

12 **Mr. Peterson SC:** No.

13 **Mr. Chairman:** Right. So what is the purpose of having that
14 there? What is the purpose of opening the valve and
15 monitoring the contents?

16 **Mr. Peterson SC:** To receive whatever is coming.

17 **Mr. Chairman:** Yes.

18 **Mr. Peterson SC:** But there is no requirement at that stage for
19 dedicated assignment of monitoring, because they don’t need to
20 monitor what’s coming. It’s their product, their tanks—

21 **Mr. Chairman:** But it says so.

22 **Mr. Peterson SC:** Right.

23 **Mr. Chairman:** Monitor tank levels and—

24 **Mr. Peterson SC:** Sir, that’s what I’m telling you. That
25 monitoring is not to determine—it’s not like if they’re buying
26 product and they say, well, I’m buying a thousand barrels. Let
27 me see how much I actually receive into this tank before I pay

1 you.

2 **Mr. Chairman:** Right. Well, that's why I referred you to the
3 previous paragraph, number 12: "Open the tank valve to receive
4 line content of 66."

5 **Mr. Peterson SC:** Because line content is coming to occupy
6 the storage for a while before the—when the work is finished to
7 pump back, because the scope of works required pumping back
8 some product back into the line.

9 **Mr. Chairman:** Okay. But—

10 **Mr. Peterson SC:** So they, at that point—Sir, I understand
11 what you're saying, you know. What I'm saying to you, Sir,
12 had there been the system where, X, you pump; A, you go and
13 check that, we want to pump out a certain amount, we're
14 looking for a—to ullage of 35 feet, look and see what's coming
15 at you there. Everyone say, "Well we expect about—to pump
16 out about 100 barrels, 60 barrels, 0 barrels. If that assignment
17 is set up or that work schedule is set up, I agree you, Sir that the
18 person at the tank will say, "But you tell me a hundred man. I
19 cross 200. What going on here?"

20 **Mr. Chairman:** Yes.

21 **Mr. Peterson SC:** But what is happening here, from I
22 understand this document, is that, "Tank farm, we want to
23 borrow some storage. Open up—we using 111."

24 **Mr. Chairman:** Right.

25 **Mr. Peterson SC:** "We going and pump. Check and make
26 sure—

27 **Mr. Chairman:** And the man at the other end says, "Well how

1 much you're going to be pumping in before I decide which tank
2 to let you use?"

3 **Mr. Peterson SC:** Well if he—that's why he—

4 **Mr. Chairman:** Am I [*Inaudible*] this?

5 **Mr. Peterson SC:** That's why he—well, that's it. No, well,
6 he—they're using 111 because that that is available, but they
7 tell him to monitor it to make sure that it, that every—all goes
8 well. That's a standard step—

9 **Mr. Chairman:** Yeah, but—

10 **Mr. Peterson SC:**—to monitor the gauge and the pressure.

11 **Mr. Chairman:** All right. I mean, I hear what you're saying.

12 **Mr. Peterson SC:** So I don't think I could—

13 **Mr. Chairman:**—and I will give it further thought—

14 **Mr. Peterson SC:** Yes, Sir.

15 **Mr. Chairman:**—in the light of what you've been saying to
16 me, but, I have to say I was struggling a little to understand
17 anything other than that the—Paria had the information as to
18 the barrel quantity and I will be the first to accept that it will be
19 necessarily an imprecise number, but we're not dealing with
20 some minor discrepancy between what might have come out of
21 the line and the amount that was actually required to come out
22 of the line. We're dealing with hundreds and hundreds, if not a
23 thousand barrels more than should have been necessary, and
24 that should have set off an alarm.

25 Now, irrespective, it seems to me, of what was or was not
26 done and we know it couldn't have been done on the day, for
27 the future, and for our purposes in making recommendations so

1 as to avoid this ever happening again, it's clear, isn't it, that it is
2 A, capable of being measured, the amount that is taken out of
3 any line, B, capable of identifying the sort of quantity that is
4 necessary to achieve the purpose being sought, and, three, that
5 there should, once you made that measurement, for somebody
6 to be standing by that and saying to the people who are doing
7 the blowing or pumping, "You're done. We've got enough,
8 thank you very much", and if it's not showing it at the right, at
9 their end, that that would cause an alarm to be rung as to what
10 the position might be.

11 **Mr. Peterson SC:** Exactly, Sir. And let me see if I could
12 assist you. That, Sir, is a correct procedure and the alarm bell
13 would be rung—

14 **Mr. Chairman:** Yes.

15 **Mr. Peterson SC:**—and people down at 36 they will say
16 what's going on? Look at what we're getting.

17 **Mr. Chairman:** Right.

18 **Mr. Peterson SC:** But that—that's what I'm saying, Sir. That,
19 you see that, that is perfect recommendation going forward, but
20 when we're Looking at the event, we're looking back at what
21 happened on the 25th.

22 **Mr. Chairman:** No, no, I agree.

23 **Mr. Peterson SC:** Had there been that correlation and the
24 dedication at both point, I could see anybody at the other point
25 raising an alarm, but that seems not to have been the
26 arrangement.

27 **Mr. Chairman:** No.

1 **Mr. Peterson SC:** But going forward I think it's a perfect
2 recommendation, Sir.

3 **Mr. Chairman:** Right. Well, I'm grateful for that, um, but the
4 only point I suppose I'm making is, is that it wasn't beyond the
5 wit of man to have thought of that then. I appreciate they
6 didn't, but it seems a pretty straightforward thing to have done.
7 "How much are we taking out of this line?"

8 **Mr. Peterson SC:** Sir, I think what—the flipside of that I think
9 is the aim was really 35 feet, and everybody know once you get
10 to 35 feet you're monitoring that, they couldn't take out that
11 much.

12 **Mr. Chairman:** All right.

13 **Mr. Peterson SC:** So there was no—nothing would alert them
14 to put a second monitoring on that side. Now we know. Now
15 we know, but when—if they were dipping and they saw an
16 empty line, then they would know, well look, where all of this
17 oil gone? But when there dipping and they get, as Mr. Khan
18 point out, wrong—a wrong measurement but they're getting to
19 30, 35, they say, right, and that is—well we all know from—
20 what flowed from that.

21 **Mr. Chairman:** Yes. All right, thank you.

22 **Mr. Peterson SC:** And the last piece of evidence on that point,
23 Sir, is—came from Mr. Khan.

24 **Mr. Chairman:** Sorry, yes, you'd said four point points and
25 this—

26 **Mr. Peterson SC:** Yes.

27 **Mr. Chairman:**—is your fifth, yes.

1 **Mr. Peterson SC:** Yes.

2 **Mr. Chairman:** Thank you.

3 **Mr. Peterson SC:** The evidence from Mr. Khan that, as an
4 expert witness he gave oral evidence to the effect that the divers
5 would not have been sucked into the pipeline if LMCS had
6 effectively only removed the contents of the line to a depth of
7 35 feet or ullage of 35 feet it's because, as we accept now and
8 from his assistance, there would have been no Delta P, well I
9 don't know if to say Delta P event or—I kind of scared to label
10 it now, is it event or—Delta P event.

11 **Mr. Chairman:** Yes, you—I'm in the same situation. I'm
12 slightly scared about using the expression but—

13 **Mr. Peterson SC:** Yes.

14 **Mr. Chairman:**—I think he means—

15 **Mr. Peterson SC:** There would have been no Delta P event.

16 **Mr. Chairman:**—there would have been no Delta P event.

17 **Mr. Peterson SC:** Yes. So that's correct, no Delta P event.
18 Accordingly, given the contents of the LMCS tender package
19 and the documents produced before the award of the contract,
20 the retention of an independent professional with sufficient
21 knowledge, skill and experience to evaluate the technical
22 aspects of the bid received could not have reasonably resulted
23 in LMCS' bid being deficient or rejected, because, when one
24 looks at LMCS, the removal of the 35 feet, that was perfect and
25 that was reasonable.

26 And the reason the bid would not have been rejected as
27 being deficient is that, looking at that bid, no one would have

1 also seen the issue of Delta P arising because getting an ullage
2 of 35 feet would not have bring a Delta P event into play and
3 that is why in my opening, Sir, to this Commission, I said I'd
4 searched all the documents and I could not find in the bid and
5 tender documents any expression of Delta P.

6 **Mr. Chairman:** Yeah, I—and, and you, you know, you're
7 pushing an open door there. I think we're all agreed about that,
8 but I suppose my concern about it is this, is that if the purpose
9 of taking an ullage of 35 feet on either side was so as to ensure
10 that the line remained full, so as to ensure that there was no
11 Delta P event, why wasn't that ever expressed by anybody?

12 **Mr. Peterson SC:** The, the word Delta P?

13 **Mr. Chairman:** Well—

14 **Mr. Peterson:** Yeah.

15 **Mr. Chairman:**—that's just what I've said.

16 **Mr. Peterson SC:** Yes.

17 **Mr. Chairman:** That we only want to take a 35-foot ullage at
18 either side because we're going to put in the plug, we need to
19 retain the fluid in the pipe so as to ensure that no Delta P event
20 or Delta P, latent Delta P would exist and therefore not trigger
21 any event when removing the plug.

22 **Mr. Peterson SC:** Yes. Mr. Ali's answer to that is, well he
23 factored it in by putting it on a solid liquid leg, putting the plugs
24 on to that so he knew that by that Delta P wouldn't feature.

25 **Mr. Chairman:** Are we agreed that when working on pipes
26 this way, that there should be a heading somewhere, in either
27 the method statement, in the bid, in the work permit, I don't

1 really mind particularly where it appears, but it should appear
2 somewhere, that Delta P has been considered?

3 **Mr. Peterson SC:** You just took my second recommendation I
4 was hoping to make to you.

5 **Mr. Chairman:** Have I—I've just eliminated your second
6 one?

7 **Mr. Peterson SC:** Yes.

8 **Mr. Chairman:** All right, okay. I'm sorry about that.

9 **Mr. Peterson SC:** That is some—it's like we do in judicial
10 review.

11 **Mr. Chairman:** Yes.

12 **Mr. Peterson SC:** You state that there is no other refer
13 remedy.

14 **Mr. Chairman:** Yes.

15 **Mr. Peterson SC:** You have to, you have to say that.

16 **Mr. Chairman:** Yes.

17 **Mr. Peterson SC:** You tend to say that.

18 **Mr. Chairman:** Quite.

19 **Mr. Peterson SC:** So it's like one of those. You put Delta P
20 and you say, well, it does not arise. I eliminate the—

21 **Mr. Chairman:** Because X, Y—

22 **Mr. Peterson SC:** Well this is how I—

23 **Mr. Chairman:** We've done this. Yes.

24 **Mr. Peterson SC:** This is how I eliminate it.

25 **Mr. Chairman:** Yes.

26 **Mr. Peterson SC:** But going forward, that's the a good
27 recommendation, Sir.

1 **Mr. Chairman:** Right. All right, thank you very much.

2 **Mr. Peterson SC:** So in the circumstances, Mr. Chairman, it
3 cannot be reasonably, it cannot be reasonably argued that any
4 causative link exists between Paria's acts or omission in
5 connection with the tender process and the Delta P event which
6 occurred on the 25th. Indeed, given LMCS' stated method of
7 work as identified at the tender stage, the possibility of a Delta
8 P event occurring could not have been reasonably foreseeable.
9 I take your point, Sir, with respect to avoiding that, you state in
10 future, you put it under a heading, you put it under a rubric and
11 you keep it—

12 **Mr. Chairman:** I know, but, you know, you and I have come
13 to this, relatively recently I suspect, in dealing with pipes and
14 the like. But, those who've been involved as part of their entire
15 careers in the operations of hydrocarbons and pipes and the
16 kind of environment which we all visited, I don't know you did
17 but we visited recently at Paria, surely must recognize that there
18 exists at least the potential for a Delta P event when there are
19 likely to be differential pressures on either side of valves and
20 pipes that are being opened and closed on a regular basis. Just,
21 just taking fuel out of a tank there must be an opening
22 somewhere on the tank to allow the air to fill up the void
23 otherwise you're going to create a vacuum, and all these sorts
24 of thing must be surely at the forefront of the minds of those
25 who are working in the industry?

26 **Mr. Peterson SC:** That is, in fact, so, Sir, but I am attracted
27 and reminded to bring to mind the evidence of Ms. Catherine

1 Balkissoon. She said what she would do as an engineer is
2 engineer it out.

3 **Mr. Chairman:** Right.

4 **Mr. Peterson SC:** So I think that that's what Mr. Ali and they
5 may have done in their bid. They recognize we're dealing with
6 pipelines, we're dealing with clearing. How do we—although
7 again, it didn't find expression in those words in the bid—

8 **Mr. Chairman:** No.

9 **Mr. Peterson SC:**—but he probably say, “Well, if I keep the
10 content in the line, go down 35 feet, put my plug on a solid
11 liquid, Delta P does not arise. I don't need to cater for that.”

12 **Mr. Chairman:** Never arises? Yeah.

13 **Mr. Peterson SC:** Yes.

14 **Mr. Chairman:** No, and, and, and, and whether that's a true
15 expression of what they were thinking at the time or whether
16 that's a post-event analysis, I'm not sure, but I take the point.
17 But, it is, it is surprising is that nobody anywhere in the
18 thousands of pages that we've got dealing with experts from all
19 over this field, anybody mentioned it at all. All right, thank
20 you.

21 **Mr. Peterson SC:** So taking the fact that the bid—when one
22 assessed the bid in that way, Sir, it really removes, um, had it
23 been executed in the manner intended, the hazardous nature of
24 those works.

25 I now want to move on to the contract itself, Sir. The
26 contract was awarded on June 1st, 2021. Paria awarded that
27 contract for the works to LMCS. Apart from the contractual

1 terms and conditions contained in the invitation to bid
2 document, which comprised, among other things, the technical
3 scope of works, the commercial proposal and the accompanying
4 drawings, LMCS was also bound by Paria's general conditions
5 of contract. Those general conditions of contract, Sir, could be
6 found at page 973 of the core bundle and at paragraph 34 of the
7 statement of Mr. Michael Wei of the 16th of August, 2022. The
8 contract imposed the following material and extensive
9 contractual obligations on LMCS.

10 **Mr. Chairman:** The contract or the conditions—Paria's
11 conditions of contract?

12 **Mr. Peterson SC:** The technical scope of works, Sir.

13 **Mr. Chairman:** Technical, thank you.

14 **Mr. Peterson SC:** And outlined in the technical scope of
15 works. And some of them I wish to highlight as follows.
16 LMCS had the obligation under item 3.1.4 to verify all
17 measurements, information, on site prior to fabrication and
18 removal of the riser in that section of the pipe. Item 3.1.5,
19 LMCS was required to perform the following activities.
20 Isolation, deisolation, depressurization, pressurization and
21 draining and filling of product from Sealine 36 at berth 6 and
22 berth 5.

23 Under 5.1, LMCS was required to supply adequate,
24 competent and certified licensed labour for the specific job
25 functions and provide full-time supervision, also tools and
26 equipment for the timely completion of the scope of works. At
27 item 5.1.2, LMCS became familiar with the—and conform to

1 Paria's permit to work procedure.

2 **Mr. Chairman:** You mean 5.12?

3 **Mr. Peterson SC:** Yes, five—it will be—yeah, I think it's
4 5.12.

5 **Mr. Chairman:** Yes, it's 5.12.

6 **Mr. Peterson SC:** 5.12.

7 **Mr. Chairman:** "The contractor shall become familiar with
8 and conform to Paria's permit to work procedure—

9 **Mr. Peterson SC:** And maintain permits to execute the—

10 **Mr. Chairman:**—and at his own expense and limitations—

11 **Mr. Peterson SC:** Yes.

12 **Mr. Chairman:**—provisions are required pertaining to the
13 permit—

14 **Mr. Peterson SC:** It had a full stop where it wasn't to be.

15 **Mr. Chairman:** Yes.

16 **Mr. Peterson SC:** Yes. Because at 5.16, LMCS was required
17 to prepare a job hazard analysis and risk assessment for review
18 by Paria.

19 **Mr. Chairman:** Yes.

20 **Mr. Peterson SC:** At item 5.18, LMCS was to follow all
21 guidelines within Paria's health and safety requirements for
22 contractors.

23 **Mr. Chairman:** Yep.

24 **Mr. Peterson SC:** Under item 6.1.1, LMCS was required to
25 instruct its personnel on the safety regulations, safe working
26 practices and conditions that are required for an industrial
27 marine environment.

1 I wish to draw the Commission's attention to item 6.1.2
2 that LMCS was to provide and maintain all safety equipment
3 and requirements necessary for its personnel and for execution
4 of work and that LMCS was required to instruct its personnel
5 on their proper use and maintenance.

6 At item 8.9 subparagraph four, LMCS was required to
7 conduct suitable and sufficient risk assessment or job hazard
8 analysis for all activities and all the work permits and that it
9 developed and implement the appropriate control to ensure that
10 the risk is as low as reasonably practicable.

11 **Mr. Chairman:** This is 8.9?

12 **Mr. Peterson SC:** Yes, Sir, 8.9 sub four zero.

13 **Mr. Chairman:** Ah right, sorry, yes. Risk assessment JHA
14 and job safety method statement, yes.

15 **Mr. Peterson SC:** Yes.

16 **Mr. Chairman:** Thank you.

17 **Mr. Peterson SC:** At item 8.9, subparagraph 5.2, LMCS was
18 to ensure that its personnel have the required training and
19 certification to carry out their duties in a safe manner.

20 **Mr. Chairman:** Just a minute. Eight point nine, five—I've
21 only got a 5. I don't have a 5.2.

22 **Mr. Peterson SC:** Sir, this might have been—

23 **Mr. Chairman:** Eight point nine is the subheading "HSE
24 Requirements for Contractors" and you're directing me to, I've
25 got a 5 which says, "Awareness Training and certification". Is
26 that what you're referring to?

27 **Mr. Peterson SC:** Sir it may be—I would try to get the hard

1 copy because we're typing through the night, so, just, um—
2 when I get some sleep I'll be able to tell whether it's right.

3 **Mr. Chairman:** All right, well, come back to it by all means.
4 I just want to make sure that I make a note of everything that
5 you're saying.

6 **Mr. Peterson SC:** Yes. At item 8.9 subparagraph 8.0, LMCS
7 personnel are required to follow Paria's permit to work
8 procedure—

9 **Mr. Chairman:** Yep.

10 **Mr. Peterson SC:**—at all times. I wish to bold that and
11 underline it, Sir, at all times.

12 **Mr. Chairman:** Underline what?

13 **Mr. Peterson SC:** At all times. And item 8.9 subparagraph
14 9.2, LMCS was to provide competent—

15 **Mr. Chairman:** Again I don't have a 9.2?

16 **Mr. Peterson SC:** Nine point oh, 9.0.

17 **Mr. Chairman:** A 9, "Supervision"? That's it.

18 **Mr. Peterson SC:** Yeah, 9.0, Sir.

19 **Mr. Chairman:** I'm looking at page 593, which is the, um—

20 **Mr. Peterson SC:** And to backup, Sir we just found it. It's 5.0
21 and not 5.2 on the earlier one. So it's item 8.9—

22 **Mr. Chairman:** Yes.

23 **Mr. Peterson SC:**—subparagraph 5.0—

24 **Mr. Chairman:** Yes.

25 **Mr. Peterson SC:**—the last three lines of that paragraph.

26 **Mr. Chairman:** Okay. "The contractor shall ensure that all
27 personnel have the required training and certification to carry

1 out their duties in a safe manner”, et cetera, yes?

2 **Mr. Peterson SC:** Yes, Sir.

3 **Mr. Chairman:** Okay.

4 **Mr. Peterson SC:** And the last one I wish—no the second to
5 last one I wish to refer you to, Sir, is, item 8.9. You have me
6 conscious now. I checking all—

7 **Mr. Chairman:** There’s no 8.9. There’s an eight and there’s a
8 nine.

9 **Mr. Peterson SC:** There’s an 8.9 subparagraph—yeah, there’s
10 a 8.

11 **Mr. Chairman:** The whole thing is under subparagraph 8.9.

12 **Mr. Peterson SC:** Eight point.

13 **Mr. Chairman:** Then it’s divided and it’s slightly confusing
14 me into 1, 2, 3, 4, 5, 6, 7, 8, 9—

15 **Mr. Peterson SC:** Yes.

16 **Mr. Chairman:** And it’s not the easiest document to follow,
17 which is why I’ve got to make sure I’ve got a note of what
18 you’re saying.

19 **Mr. Peterson SC:** [*Mr. Peterson SC confers with Mr. Mootoo*]
20 All right, 8.9 subparagraph 8.0.

21 **Mr. Chairman:** Right.

22 **Mr. Peterson SC:** [*Mr. Peterson SC confers with Mr. Mootoo*]
23 And this one is—

24 **Mr. Chairman:** This is the one you said “at all times” I should
25 underline which I have.

26 **Mr. Peterson SC:** Both have “at all times”.

27 **Mr. Peterson SC:** Nine is supervision, which is what I

1 anticipate you're going to next?

2 **Mr. Peterson SC:** Yes, Sir.

3 **Mr. Chairman:** "Contractor shall provide competent—

4 **Mr. Peterson SC:** Provide competent supervision—

5 **Mr. Chairman:**—supervision—

6 **Mr. Peterson SC:**—at all times.

7 **Mr. Chairman:**—at all times.

8 **Mr. Peterson SC:** That's another "at all times" to be
9 underlined and—

10 **Mr. Chairman:** Yes.

11 **Mr. Peterson SC:**—highlighted, Sir. On the other hand, Sir,
12 Paria's contractual obligations were extremely limited in nature
13 under the contractual terms.

14 **Mr. Chairman:** Well I think Paria's responsibilities in a
15 document that ranges over a total of, er, 20—ranges over 20
16 pages or so, in quite fine print with many paragraphs and
17 subparagraphs, the obligations that Paria takes upon itself
18 manages to cover, I think. eight lines.

19 **Mr. Peterson SC:** Yes, Sir?

20 **Mr. Chairman:** You're not exactly taking a great deal upon
21 your own shoulders, are you?

22 **Mr. Peterson SC:** That's why we hired an independent
23 contractor, Sir.

24 **Mr. Chairman:** That's why you hired an independent
25 contractor. All right, fine, thank you.

26 **Mr. Peterson:** Sir and this is a convenient time to take the
27 break—

1 **Mr. Chairman:** It sounds like a very sensible time to take
2 lunch, yes.

3 **Mr. Peterson SC:** Yes, Sir.

4 **Mr. Chairman:** Yes, thank you very much. We will resume at
5 two o'clock please. Two o'clock.

6 **1.07 p.m.:** *Enquiry suspended.*

7 **1.58 p.m.:** *Enquiry resumed.*

8 **Mr. Chairman:** Yes, good afternoon.

9 **Mr. Peterson SC:** Thank you, Mr. Chairman. When we took
10 the lunch break, Mr. Chairman, we were dealing with—I was
11 about to deal with the retained responsibility that Paria retained
12 under the contract. I did observe, as you did, Sir, I agreed with
13 your observation, that Paria did not retain much, and, of course
14 that will—freedom of contract, parties could agree their terms.
15 Paria did not retain much but they had to pay for what they
16 contracted for LMCS to provide, and I'm sure they did so
17 handsomely.

18 So, Paria's retained contractual obligations are really
19 embodied and encapsulated in item four of technical
20 specifications. And those are really to supply personnel for
21 organizing work permits and certificates, monitor the
22 contractor's performance and work standards, and carry out
23 quality assurance audits. This, in my respectful view, is normal
24 in even one's domestic arrangements. If you hire a painter and
25 he tells you today, "When you go to work I painting bedroom
26 number one." When you come home you'll expect you see
27 bedroom number one painted but you're not expected to see

1 how he mix the paint, what thinners he put in the paint and all
2 of that.

3 **Mr. Chairman:** Can I ask you about that in this respect,
4 because it just takes back on what we were dealing with before
5 lunch? That at 4.3 it says, “Provide a slop barge capacity 40
6 barrels to assist in the removal of the line content”, and bearing
7 in mind that this is a document which was prepared before any
8 works were carried out—

9 **Mr. Chairman:** Yes, Sir.

10 **Mr. Chairman:**—for people to understand what it was that
11 they were bidding for, it does seem to me that at that point in
12 time Paria had at least estimated what they thought was likely
13 to be necessary for removal of the content from the line for the
14 purposes of carrying out the works—

15 **Mr. Peterson SC:** Yes, Sir.

16 **Mr. Chairman:**—and had estimated it at about 40 barrels—

17 **Mr. Peterson SC:** Yes, Sir.

18 **Mr. Chairman:**—and a slop barge in order to remove that?

19 **Mr. Peterson SC:** Yes, Sir because I could see Paria retaining
20 that responsibility because, of course, Paria has a responsi—
21 although the contract provided for a no spill operation, Paria
22 would be the one practically in that context to have the barge
23 available and they retained the contractual obligations to supply
24 that, but that still doesn't cast on Paria a monitoring
25 responsibility as to the quantity taken out of the line. It just
26 provide the vessel to pour it into, basically, and that comes
27 down to also one of the obligations, the retain obligations, with

1 respect to the draining and filling of the line. Paria is to deal
2 with the method and to keep an eye on the method as opposed
3 to the quantum.

4 **Mr. Chairman:** Yeah. I think what I meant by that more than
5 anything else was the fact that at the time of the drafting of this
6 in order to be sent out for the bidders to consider bidding for the
7 work, they must have appreciated, since they were only going
8 to provide a slop barge which had a capacity of 40 barrels, 42
9 gallons per barrel, it's not a very large barge, okay? So they
10 could not have anticipated that there would have been much to
11 be removed from the line.

12 **Mr. Peterson SC:** No, Sir. What I remembered from the
13 evidence, there are two sets of removal and I think I had to
14 take—I'll take you to something my friend dealt with this
15 morning with respect to when she said enquired—as LMCS had
16 enquired as to the amount and they said it was negligible. I'll
17 deal with that in one second.

18 **Mr. Chairman:** All right, yes.

19 **Mr. Peterson SC:** But I understand the barge was at a
20 different stage, because they were to take topside or to drain
21 entire topside and then they were to drain 36, because when
22 they removed the elbow that connects 36 to the rest of the
23 infrastructure, then there will be a lot of oil, because they had
24 66, which is a 50-inch line prime—

25 **Mr. Chairman:** No, I follow that, and I do understand it. It
26 may be that the barge might have had to make three trips or
27 something—

1 **Mr. Peterson SC:** Yes.

2 **Mr. Chairman:**—like that, but, what we're talking about is a
3 barge that had a capacity of 40 barrels, not a thousand or more.
4 What I'm saying is, if they had anticipated that hundreds if not
5 a thousand plus barrels had to be removed, topside and/or
6 bottom line, you wouldn't have provided a barge which could
7 only hold 40 barrels, would you? It would take forever.

8 **Mr. Peterson SC:** Sir, I don't understand—I don't understand
9 the evidence to be that the barge was solely for the removal of
10 the—all the material to be removed, all the contents, you know,
11 because that's why they were pouring some back into 111—

12 **Mr. Chairman:** What they're saying is they're providing—
13 this, this bidding document identifies what they regarded as
14 their responsibility. They're not talking about using a line to
15 remove the material at all, are they? They're talking about the
16 material being pumped or blown, whichever it is, into a barge
17 which only had a capacity of 40 barrels.

18 **Mr. Peterson SC:** Not all the materials, Sir. That's why it's
19 connected to line 66. The barge was for a part of the process.
20 Okay, if they need to—for example, if they just need to take out
21 a 10-barrel, for example, they need to put it somewhere.

22 **Mr. Chairman:** Yeah.

23 **Mr. Peterson SC:** Because Paria is concerned about spillage
24 and—

25 **Mr. Chairman:** Yes.

26 **Mr. Peterson SC:**—pollution.

27 **Mr. Chairman:** Yeah.

1 **Mr. Peterson SC:** So the obligation is really to assist in
2 removal, but I did not understand the evidence and all the
3 documentation that all the product to be removed to get the
4 certified ullage was to be put into that barge. I didn't
5 understand it at all because then, Sir, it's inconsistent with even
6 the connecting of the evidence from Ali Sr.

7 **Mr. Chairman:** But, if that's right—I'm sorry to interrupt
8 you, Mr. Peterson, but if that's right why wasn't it listed under
9 Paria's responsibility to provide the sealine to take whatever
10 was to be removed onshore and placed in a tank?

11 **Mr. Peterson SC:** Sir, I could see that not being here because
12 it can't go anywhere else, because it's in Paria's compound,
13 Paria's infrastructure, 36 is connected by an elbow to 66 and
14 other lines, so I don't think I need to specify that you would
15 provide lines because the lines are there. So the barge that—

16 **Mr. Chairman:** So why do you need to provide a barge?

17 **Mr. Peterson SC:** Because I understand that the barge is to
18 assist. For example, when they could not pump, if they needed
19 to take a line to take out 20 barrels, you can't put it back into
20 the line, into 66, they will then put it in the barge. So the barge,
21 the barge may not, at the end of the day, have been used. It was
22 used but it doesn't have to be used. That's how I understand
23 this contact to have operated.

24 **Mr. Chairman:** All right.

25 **Mr. Peterson SC:** The barge was not intended to be the sole
26 vehicle to remove the contents of the line.

27 **Mr. Chairman:** But in such a comprehensive document I'm

1 surprised they wouldn't have said something about it's to be—
2 you know, lines otherwise to be used and stored in one of our
3 tanks. You see?

4 **Mr. Peterson SC:** Because, Sir, the—well then, Sir, to take
5 your point to its conclusion, then the provision of the—um, this,
6 the work instruction is inconsistent with the provision of a
7 barge if the barge is intended to be the sole source of
8 transportation of the fuel. Then one, one—tank 111 here would
9 have had no relevance if the source of removing the oil from 36
10 is meant to be exclusively the use of the slop barge.

11 **Mr. Chairman:** Yeah, I mean, the difference being there's an
12 eight-month gap between the two documents. The first
13 document is dated April of '21 when they were looking for the
14 bid. This one no doubt once they perfected many of the issues
15 that arise from that is dated the 5th of January, '22. Eight
16 months later they're now using a tank rather than a barge.
17 Anyway, I just—

18 **Mr. Peterson SC:** I think, Sir, that is—

19 **Mr. Chairman:**—I just point it out.

20 **Mr. Peterson SC:**—also—that is also employed, you know,
21 Sir.

22 **Mr. Chairman:** Yeah. And I note that actually that document
23 does deal with a barge, at 6.4, removal of elbow on the SL riser
24 at berth 6 where it actually points out that they are to position
25 slops barge with catchment and drain hose, drain the upper
26 section of the 36 riser to the slops barge, open the valve in the
27 stub-in section location below flags, they're talking gibberish to

1 me, but, in any event what it amounts to, as I understand it, is
2 that the slops barge is to be used for the purposes of draining
3 material from the—above water line.

4 **Mr. Peterson SC:** Yes, Sir.

5 **Mr. Chairman:** So—

6 **Mr. Peterson SC:** And that brings me perfectly to—

7 **Mr. Chairman:** So you're saying that that's why this
8 document doesn't refer to the pipeline being used to drain the
9 material from the subsea line?

10 **Mr. Peterson SC:** Exactly, Sir.

11 **Mr. Chairman:** All right.

12 **Mr. Peterson SC:** And that bring me perfectly to the point that
13 my learned friend was being dealt with this morning for LMCS.
14 I think my friend misinterpreted the evidence when she said
15 that they were checking with Paria and Paria keep saying the
16 amounts coming on the other end was negligible. Under the
17 cross-examination by Mr. Maharaj, my learned friend, at Day 4
18 of the transcript, page 36 and 37, Mr. Maharaj was cross-
19 examining and got from Mr. Ali Sr. about negligible being the
20 answer and Mr. Maharaj said, but that is with respect the
21 topside, correct? And Mr. Ali said yes. So that negligible
22 indication from Paria to LMCS was with reference only to the
23 topside removal, not the rest of the 36 line, just the topside
24 removal.

25 **Mr. Chairman:** So the negligible amount was in relation to
26 what was removed topside?

27 **Mr. Peterson SC:** Topside.

1 **Mr. Chairman:** Only?

2 **Mr. Peterson SC:** And that's from—at page 36 and 37 of Day
3 4 of the evidence, of the transcript.

4 **Mr. Chairman:** Who as it—

5 **Mr. Peterson SC:** Cross-examination by Mr. Maharaj. It's
6 under the rubric—

7 **Mr. Chairman:** Of?

8 **Mr. Peterson SC:** Kazim Ali.

9 **Mr. Chairman:** Kazim, right, okay.

10 **Mr. Peterson SC:** Yes. Under the rubric “Cross-Examination
11 By Mr. Maharaj SC”.

12 **Mr. Chairman:** Thank you. Thank you for that.

13 **Mr. Peterson SC:** During the course of the evidential hearings
14 here Sir, Paria witnesses have cross-examined extensively with
15 a view to establish that Paria, through its agent, Kenson, in
16 particular Houston Marjadsingh, was bound by extensive
17 obligations ordinarily imposed to an applicant under the permit
18 to work system. You may remember that cross-examination,
19 Sir, where they went to the—where the witnesses, the—Paria's
20 witnesses were taken to the rubric of “Applicant” under the
21 permit to work system and by that means sought to impose on
22 the Paria employee/Kenson certain obligations beyond what
23 was retained in the contract.

24 Our respectful submission on that, Mr. Chairman, is
25 those work permit systems or the work permit form for the
26 applicant in the context of this contract is not applicable to
27 employees of Paria and employees of Kenson because the

1 principle there is, Sir, that it's inconsistent. If the permit to
2 work is applied to those employees in would be inconsistent
3 with terms of the contact, the obligations contractually retained
4 by Paria. Because the question would then be whether the
5 permit to work could expand the contractual terms. And our
6 respectful submission is that it cannot and there's legal
7 authority for that, Sir, that the permit to work has to be
8 submissive to the host contract, so where a contract seeks to
9 incorporate another document that may be inconsistent with
10 some of its terms, in this case the retained obligations by—
11 contractual obligations by Paria, the permit to work is to be
12 read against the background of the host contract and the host—
13 the terms of the contract will take precedence over the
14 incorporated document.

15 **Mr. Chairman:** Yes.

16 **Mr. Peterson SC:** We have authorities for that, Sir. And as
17 I'm on that, I was speaking with my team during the break and
18 we have a comprehensive speaking note, and, with your
19 approval, Sir, we could file it because I realize that I
20 underestimate. Two hours would not be enough, so, if we get
21 your leave, it can save me some time, I will stay within my two
22 hours but we seek your leave to file what would commonly call
23 a speaking note.

24 **Mr. Chairman:** No, I do the same myself, have a speaking
25 note when I'm addressing the court and I'm perfectly happy for
26 you to supply—

27 **Mr. Peterson SC:** Well we have the cases. We hear cases

1 here to support proposition.

2 **Mr. Chairman:** Well, then, that would be useful if I may say
3 so. I'm perfectly happy with that. I'm not sure it's particularly
4 controversial to suggest that obligations that might arise in
5 another context must necessarily be subservient to the primary
6 contract.

7 **Mr. Peterson SC:** If they're inconsistent, Sir, yes.

8 **Mr. Chairman:** Even where there is an inconsistency between
9 the two. It rather presupposes that one has to find that there is
10 any inconsistency in the first place.

11 **Mr. Peterson SC:** Yes, Sir.

12 **Mr. Chairman:** But yes, I take your point.

13 **Mr. Peterson SC:** Thank you, Sir. So I can move on. So, to
14 the terms of the contract between LMCS and Paria are
15 contained in the walls of the technical scope of works and
16 Paria's general conditions of contract. Paria permit to work
17 procedure is a document incorporated into the technical scope
18 of works by reference. See paragraph 5.1.2, I hope I have those
19 numbers correct now, and 8.9 subparagraph 8.0—

20 **Mr. Chairman:** Just a minute. [*Perusing document*] What
21 project are we dealing with? Are we still on the scope of
22 works?

23 **Mr. Peterson SC:** Technical scope of works.

24 **Mr. Chairman:** Technical scope of works.

25 **Mr. Peterson SC:** Yes, Sir.

26 **Mr. Chairman:** Yes and you're referring me to paragraph—

27 **Mr. Peterson SC:** Five point one point two.

1 **Mr. Chairman:** —5.2? Right.

2 **Mr. Peterson SC:** And—

3 **Mr. Chairman:** Of the contractor's responsibility?

4 **Mr. Peterson SC:** Yes, Sir, and 8.9.

5 **Mr. Chairman:** Right, just a minute. Yes.

6 **Mr. Peterson SC:** Subparagraph 8.0.

7 **Mr. Chairman:** Eight point oh.

8 **Mr. Peterson SC:** Sir, I seem to have the numbers wrong
9 again.

10 **Mr. Chairman:** Eight point nine, subparagraph?

11 **Mr. Peterson SC:** [*Mr. Peterson SC confers with Mr. Mootoo*]
12 Or yes, Sir, and the first one I said 5.1.2, that's the same error
13 from earlier, Sir. It's 5.12.

14 **Mr. Chairman:** Five point 12, right, good—

15 **Mr. Peterson SC:** Five point 12, and—

16 **Mr. Chairman:**—because I didn't quite get what you were
17 saying. Yes, all right. Hang on a second.

18 **Mr. Peterson SC:** I didn't give the further correction from
19 earlier on, and 8.9, subparagraph 8.0. And our respectful
20 submission there is that that incorporates the permit to work
21 procedure—

22 **Mr. Chairman:** Yes.

23 **Mr. Peterson SC:**—by reference to those two paragraphs.

24 **Mr. Chairman:** “To maintain permits to execute the entire job
25 the contractor shall become familiar with and conform to
26 Paria's permit to work procedure at his own expense and
27 limitations, provisions or requirements in or pertaining to the

1 permits”, so it incorporates the permit to work procedure—

2 **Mr. Peterson SC:** Yes, Sir.

3 **Mr. Chairman:**—within the contract?

4 **Mr. Peterson SC:** Yes, Sir.

5 **Mr. Chairman:** But what you’re saying is that if there’s
6 something inconsistent in that permit to work procedure with
7 the primary contract—

8 **Mr. Peterson SC:** You go back to the host contract.

9 **Mr. Chairman:**—you have to go to the primary contract?

10 **Mr. Peterson SC:** The host primary contract.

11 **Mr. Chairman:** And so you’ve referred me to that paragraph
12 in 8.9 was it, 8.9 what?

13 **Mr. Peterson SC:** Eight point nine sub 8.0, subparagraph 8.0.

14 **Mr. Chairman:** Got you, yes. Got you.

15 **Mr. Peterson SC:** The technical scope, Sir, also places the
16 following express contractual obligations on LMCS. One, to
17 execute the works to provide full-time supervision. Two, full-
18 time supervision for the works, and I wish to ask
19 Commissioners to underline “full-time supervision”. Three, to
20 implement an appropriate HSC management system for its
21 employees. Four, to prepare a job hazard analysis and risk
22 assessment in relation to the works.

23 Five, to ensure that its employees are aware of the
24 hazards related to the job. Six, to have an appropriate medical
25 emergency response plan for its employees for injuries or
26 illness. Seven, Mr. Chairman, to provide its employees with
27 required PPE. You don’t need to spend time on that. Eight,

1 instruct its personnel on the safety regulations, safe working
2 practices and conditions that are required for an industrial
3 marine environment. And, nine, to provide all safety devices,
4 emergency response equipment and other equipment for the job
5 as required for the task of the risk assessment and the job
6 hazard analysis.

7 These expressed contractual obligations make it clear that
8 LMCS not Paria is to be knowledgeable of the hazards
9 associated with the works, the necessary controls for these
10 hazards and the safety of all its employees engaged in executing
11 those works. Given that these express contractual obligations
12 are imposed on LMCS, then to require Paria, members of the
13 Commission to require Paria to be responsible for the same
14 obligations under any or by virtue of the permit to work
15 procedure would conflict with what the parties had agreed in
16 the provisions of the written contract, again freedom of parties
17 to contract, and it would be contrary to good business common
18 sense, I don't need to pound this point much, I believe Mr.
19 Pegus—he's not here—but Mr. Pegus made that point I think
20 very, very powerfully, an obligation with which the parties had
21 expressly contracted that LMCS will bear that responsibility
22 and it had always been a standing principle of contracts that
23 parties are free to contract as they see fit.

24 In the circumstances, Mr. Chairman and member Wilson,
25 it would plainly be wrong if this Commission, and I say it with
26 respect, is to view Paria's actions in relation to the events under
27 inquiry as though it carried the obligations of an applicant

1 under the permit to work system. That permit to work system,
2 in the context of this contract, doesn't bear that responsibility
3 on the shoulders of Paria or Kenson.

4 The foregoing contractual analysis is of course not to be
5 taken to mean that Paria's entire work permit system is
6 rendered inoperable. That system remains contractually intact
7 and alive save that the obligation imposed upon the applicant
8 thereunder, the obligations do not bite where Paria or Kenson
9 employee is the functioning applicant. In this regard, there is
10 no question that that part of clause 5.0 of the permit to work
11 procedure that provides so—that provides that work cannot
12 start until the work permit is properly authorized and issued still
13 stands.

14 I now wish to move to the execution of the works. My
15 co-counsel is telling me that—my co-counsel is telling me to
16 repeat the point. I don't think a point gets more profound with
17 repetition but I think Mr. Pegus made that point yesterday and I
18 made it earlier that it would not make business sense if both
19 parties were to retain the same obligations.

20 **Mr. Chairman:** I do have that point very firmly in mind, yes, I
21 do. I mean, he's, he's, he's—he made much of it both in his
22 address and earlier.

23 **Mr. Peterson SC:** Yes. It's clear. The execution of the
24 works—line clearing and installation of the plug. Under the
25 contract, one of the first activities to be undertaken by LMCS
26 was the removal of sufficient fuel oil from the line so as to
27 facilitate the installation of migration barriers in order for the

1 replacement of the Sealine riser to be undertaken. It is
2 undisputed that LMCS conducted this activity prior to the 13th
3 of February, 2022, using an air blowing method. See
4 paragraphs 42, 43 and 47 of the supplemental witness statement
5 of Kazim Ali Sr. dated the 22nd of November, 2022. It is also
6 undisputed on the evidence before this Commission that after
7 the process of air blowing had been completed by LMCS, an
8 ullage of 35 feet was measured in the riser. That is not in
9 dispute. See paragraphs 32, 37 to 40 of the supplemental
10 statement of Mr. Ali.

11 On the 13th of February, 2022 LMCS installed a
12 migration barrier in the riser to Sealine 36 at berth 6. On that
13 date, it also installed a hyperbaric chamber to the said Sealine at
14 the same location. These activities were expressly made the
15 subject of Paria's permit to work number four eight three two
16 and that permit could be found at page 1075 of the core bundle
17 of documents—1075 of the core bundle.

18 Thereafter, on the 15th of February, 2022 LMCS
19 engaged in a range of activities outlined at paragraph 18 of the
20 amplified statement of Mr. Kazim Ali Sr. No work was
21 undertaken by LMCS on the site during the periods of the 16th
22 of February to the 24th of February, 2022. The events of the
23 25th of February, 2022.

24 **Mr. Chairman:** Do you agree with me that had there not been
25 the intervention of Mr. Guerra's, um—

26 **Mr. Peterson SC:** Disobedience.

27 **Mr. Chairman:** Sorry?

1 **Mr. Peterson SC:** Disobedience.

2 **Mr. Chairman:** Yes, disobedience, certainly his precipitous
3 movement of the barge, the works would ordinarily have been
4 completed under the work permit 4832?

5 **Mr. Peterson SC:** No, Sir. I thought it—no, Sir, I don't agree
6 with that. I thought where you were taking me is if there had
7 not been the suspension of the works during that period—

8 **Mr. Chairman:** Yes.

9 **Mr. Peterson SC:**—that they might have completed it on the
10 13th 14th and then all of—some of the events may or may not
11 have happened.

12 **Mr. Chairman:** Well, yes. Well, no, what I was going to—
13 what I am asking, perhaps badly, is that the work permit that is
14 4832 does its best, on the face of it, to include the works that
15 needed to be done, so much so that they actually start to
16 scribble down the side of the page, and, um, it's dated the 13th
17 of February.

18 **Mr. Peterson SC:** Yes, Sir.

19 **Mr. Chairman:** It would have lasted a week.

20 **Mr. Peterson SC:** Yes, Sir.

21 **Mr. Chairman:** Taking us to the 20th of February.

22 **Mr. Peterson SC:** Yes, yes, Sir.

23 **Mr. Chairman:** What I'm asking you really is whether, had it
24 not been for Dexter Guerra's behaviour, suspending all works,
25 would the works not have been done under that to work permit?

26 **Mr. Peterson SC:** When you say the works, Sir, all the works?

27 **Mr. Chairman:** Well, all the works that are set out there,

1 which includes removing the hyperbaric chamber.

2 **Mr. Peterson SC:** No, Sir, it couldn't be under that because
3 that's a point of contention, and you may remember very early
4 in this Commission my cross-examination of LMCS personnel
5 and they tried to resile, in my respectful view, from it
6 unsuccessfully. The barrier was to be removed, in my review
7 and on the evidence, the way it was installed. They, on the
8 25th, removed the barrier in the chamber, and that is what
9 caused the, um, delta—the latent delta to become active and
10 become an event.

11 The plugs were installed from on top. I don't have all the
12 identification of the evidence now but you may recall, Sir, that I
13 was asking, I think it is Mr. Guerra from LMCS, whether the
14 new riser was dressed or undressed and whether you needed to
15 cut it and do hot works with respect to fitting it back to fall
16 back into the elbow at topside.

17 That is why those barriers were to stay in place, because
18 they used a long tool to install it and they still—shoulda used a
19 long tool, after bringing in the new riser, to remove them. So in
20 the event they had to cut and adjust the top, the barriers would
21 have been in place to protect the lines from tools falling into it
22 and prevent hot works from going into the, um—the
23 hydrocarbons to cause an ignition. So that, notwithstanding
24 4832, the removal of those barriers was never to be done under
25 that.

26 **Mr. Chairman:** All right, so there—

27 **Mr. Peterson SC:** If even they were to remove the hyperbaric

1 chamber, the barriers were to stay in place and the barriers were
2 to be removed from a—with a T-tool from on top.

3 **Mr. Chairman:** So a new work permit would have inevitably
4 had to have been raised in order to do those works?

5 **Mr. Peterson SC:** Yes, Sir. And that's I think the core
6 evidence—

7 **Mr. Chairman:** Even if it was within the time period of this
8 work permit?

9 **Mr. Peterson SC:** Yes. And I think that came over from Mr.
10 Osei Flemming-Holder and somebody else, Mr. Khan, Mr. Zaid
11 Khan.

12 **Mr. Chairman:** Okay, thank you. Thank you.

13 **Mr. Peterson SC:** And I'm urged to make a point that we did
14 discuss that the installation of the plug, one may say well
15 whatever the installation, the installation of the plug is different
16 from the removal of the plug. The installation of the plug is to
17 create the protection. The removal of the plug exposes one to
18 danger and that is why that has to be a focused permit to work
19 and deliberate act of removing those. So the removal and the
20 installation are no to be equated, with respect, at all—I know
21 the Commission not dong that but I'm just saying that.

22 **Mr. Chairman:** Yes. But all of the—all of the things, though,
23 set out in the specific tasks listed in that work permit obviously
24 were intended to be carried out under that work permit?

25 **Mr. Peterson SC:** Could be carried out, yes, Sir.

26 The events of the 25th of February, 2022. On the
27 morning of the 25th of February, 2022, Paria issued permit to

1 work 9320 and this could be—well, I don't need to refer to this
2 to the point of finding—we dealt with this so many times—
3 page 1074 of the core bundle.

4 **Mr. Chairman:** Indelibly imprinted on my head, yes.

5 **Mr. Peterson SC:** Yes, Sir, by which LMCS was authorized to
6 execute the works mentioned therein. The permit made no
7 provision, no provision, for the removal of the inflatable plug or
8 the mechanical plug. On the contrary, it specifically provided
9 that the barriers were to be used, so it presupposes the
10 continuation of the barrier, and that is my respectful submission
11 that I ask the Commission to note, Commissioner to take on
12 board, that migration—there was reference several times to this
13 phrase “migration barrier to be used”. What that tells me, it
14 tells me nothing about removal. It tells me about something
15 that is static and in place, that migration barriers are to be there.

16 The permit was signed by Mr. Rudolph Gonzales, an
17 LMCS employee. The said permit was issued and signed in
18 circumstances where, A, Paria's permit to work procedure
19 provides that work cannot start unless a work permit in respect
20 of such work is properly authorized and issued. Two, the
21 unshaken evidence, and in my view the unshakable evidence
22 from Paria's witnesses, is that in the absence of a permit
23 authorizing the removal of the migration barriers, LMCS was
24 prohibited from doing so. LMCS was not authorized to do so.
25 Any removal of those barriers, when they did, was, as Mr.
26 Guerra did, in disobedience.

27 The use of work permits, is common in the oil industry

1 and in the gas industry and that where crucial aspects of work
2 are to be undertaken, there should be a separate work permit for
3 every major activity, in this case the removal of the barrier.
4 That is the evidence of Mr. Zaid Khan of In-Corr-Tech Limited,
5 an independent—

6 **Mr. Chairman:** Can you, can you help me about this? If the
7 work permit is to last a week and it was anticipated that the
8 conclusion of these works would take place from the 25th
9 onwards, why did the work permit 9320 not include those
10 features? Why would it not include them?

11 **Mr. Peterson SC:** The removal of the plug, Sir?

12 **Mr. Chairman:** Yes. I mean, what it says is the works that
13 they describe being done are to remove and install a 50-inch
14 flange, to remove and install a 30-inch riser pipe and then to
15 remove the 30-inch solid blank. This is, I anticipate, at 6, sorry,
16 at 5, conduct the pressure test on the flange weld.

17 **Mr. Peterson SC:** Yes.

18 **Mr. Chairman:** Right? So, that's the CARBER test, and then
19 to remove the chamber, that's the hyperbaric chamber, and
20 blank the top of the new riser. So I'm assuming, although it
21 doesn't actually specifically say so, to fit the new riser.

22 **Mr. Peterson SC:** The blank, yeah—well, yes, Sir, but
23 remember from the cross-examination there's still works to be
24 done or possible works to be done on the installation of the
25 riser. It may line up. You may be doing the elbow a bit higher,
26 it may not mesh and it may not mate I think is the—

27 **Mr. Chairman:** What I'm asking you I suppose is this. Is if

1 the specific tasks listed there were to be performed on the 25th
2 going forwards, either on that day or the subsequent days
3 because it lasts seven days, doesn't it, why doesn't it say to,
4 um—well, after the conducting of a pressure test on the flange
5 weld and then remove the chamber and then a blank—blank the
6 top of the new riser, nowhere does it seem to seemingly—I see.
7 No, I've just got—I've got to go back a bit. I understand.
8 Please.

9 **Mr. Peterson SC:** I think the answer to that question, Sir,
10 came I think from—it's either Mr. Osei Holder, Flemming-
11 Holder or Mr. Zaid Khan. Pipes are never left open.

12 **Mr. Chairman:** No, that makes sense. I get that.

13 **Mr. Peterson SC:** So the point is that when they put that
14 flange, I understand it to be like a temporary cover and when
15 they're ready to do all the connection to the elbow, they remove
16 that, they use the T-tool, remove the barriers for which there
17 will then be a dedicated independent permit to work to remove
18 those barriers, and then they do the connection if they need to.

19 **Mr. Chairman:** Yes.

20 **Mr. Peterson SC:** So they didn't need to put that in this
21 permit, but they put into this permit up to the point of tapping
22 off the top of the riser pending the removal of the—

23 **Mr. Chairman:** I suppose part of my difficulty is that the
24 specific tasks that are set out in the work permit give you just
25 three lines, right? And to fit everything into three lines, as
26 we've seen from the previous work permit, is not always
27 possible. Do you see what I mean? Because they've had to

1 start writing down the side of the page, and all I'm trying to
2 understand from you is this, is that whatever the position might
3 be, ultimately, the plugs were to be removed. Correct?

4 **Mr. Peterson SC:** Yes, eventually, yes.

5 **Mr. Chairman:** Exactly. And the new piece connecting it
6 altogether fitted.

7 **Mr. Peterson SC:** [*Inaudible*], Sir.

8 **Mr. Chairman:** The riser comes up—

9 **Mr. Peterson SC:** Yeah.

10 **Mr. Chairman:** It's got a flat—they're going to take that off
11 and put the new piece on, we're now above the waterline.

12 **Mr. Peterson SC:** Yes, Sir.

13 **Mr. Chairman:** It's all been put back together with a nice new
14 piece of riser.

15 **Mr. Peterson SC:** Yes.

16 **Mr. Chairman:** That's the whole point of it, isn't it? What
17 I'm not really understanding is, first of all, why this doesn't
18 include the removal of the plug even if that is to be done.

19 **Mr. Peterson SC:** Removal of the blank?

20 **Mr. Chairman:** Yes.

21 **Mr. Peterson SC:** Well no, that's it, Sir, because it's supposed
22 to cover—the placing of the blank, the cover, when the permit
23 to remove the, the barriers, I could see that permit saying to
24 remove the, um—I don't even think the permit need to say that
25 because how it getting to the—if it says remove the plugs, you
26 have to remove that to get to the plugs.

27 **Mr. Chairman:** Yes.

1 **Mr. Peterson SC:** So I could see the permit either being silent
2 and say, obvious, you have to do that, or say that and also then
3 provide for the deliberate removal of the plugs. But if they had
4 put it in this permit, it coulda cause confusion.

5 **Mr. Chairman:** You mean it's deliberately not put into this
6 permit to avoid confusion?

7 **Mr. Peterson SC:** I could see why it would be deliberately not
8 put in the permit.

9 **Mr. Chairman:** All right.

10 **Mr. Peterson SC:** So that's why you didn't find it there, Sir,
11 because the removal of the plugs would have been independent
12 in a permit and therefore they could have possibly put the
13 removal of the flange because it's a step immediately prior, it's
14 the pre step to removing the barriers. So they did not need to
15 put it on this, which is the closing off of that work.

16 **Mr. Chairman:** Okay. All right. Um, I heard how you put it,
17 yeah.

18 **Mr. Peterson SC:** Section 8, Sir, could be one of the
19 recommendations from the Commission with respect to, um,
20 adjusting of this form.

21 **Mr. Chairman:** Well, I mean, I think there's little doubt that
22 the giving just three lines under the specific tasks required is
23 clearly not sufficient and it clearly leaves it open for some
24 doubt about what might or might not be done on any one day
25 and/or the sequence in which it might be done, given the
26 importance of the work being done in a particular sequence.

27 **Mr. Peterson SC:** Yes, Sir.

1 **Mr. Chairman:** All right, thank you.

2 **Mr. Maharaj SC:** Just for completeness, the evidence of Osei
3 Flemming-Holder could be found at transcript of the 6th of
4 January at page 299. The removal of the mechanical plug and
5 the inflatable plug were crucial aspects of the work that the
6 LMCS had to undertake or embark upon such removal, they
7 required a specific work permit for that purpose.

8 **Mr. Chairman:** Uh-huh.

9 **Mr. Peterson SC:** There was nothing mentioned in the work
10 permit concerning the removal of the plugs, nothing. LMCS
11 and its personnel were trained by Paria with respect to its
12 permits to work system. They were fully conscious of that
13 requirement. At all material times, LMCS was well aware that
14 the permit served as the most powerful control document.

15 I don't have the time, Sir, but I just wish to remind the
16 Commission of that email following the step that was take—the
17 unauthorized step that was taken by Mr. Guerra where Mr.
18 Ahmad Ali of LMCS using the email address of Mr. Kazim Ali
19 had sent an email, and I commend that email—

20 **Mr. Chairman:** This one does all the replies—

21 **Mr. Peterson SC:** That does all the replies.

22 **Mr. Chairman:**—to the queries that are raised by Paria, yes.

23 **Mr. Peterson SC:** Yes, Sir, and in particular question 2 and 3
24 where Mr. Ali assured Paria—assured Mr. Archbald that they
25 recognize the paramountcy of the permit to work system and
26 that they will honour it going forward.

27 **Mr. Chairman:** Yes.

1 **Mr. Peterson SC:** LMCS and its personnel were trained by
2 Paria to observe that system. At all material times LMCS was
3 well aware that the permit served as the most powerful
4 document. The language also of the LMCS method statement,
5 and I wish to commend that to commissioners, the method
6 statement dated the 4th of January, 2022 provides at the top of
7 that method statement in bold and in italics that all steps
8 identified in the method statement, all steps are only to be
9 carried out in full compliance with Paria's permit to work
10 system.

11 So whatever is set out and in whatever order it is set out
12 in the method statement, it is always trumped by the permit to
13 work system. LMCS recognized that in the email I referred to.
14 Notwithstanding—

15 **Mr. Chairman:** I'm aware of that, but, I mean, this document
16 is actually appended to the work permit, isn't it?

17 **Mr. Peterson SC:** Yes, Sir.

18 **Mr. Chairman:** And appears to set out the steps sequentially.

19 **Mr. Peterson:** Right.

20 **Mr. Chairman:** Does it not?

21 **Mr. Peterson SC:** Yes, Sir. I know that question would have
22 been posed.

23 **Mr. Chairman:** Did you?

24 **Mr. Peterson SC:** The permit to work—

25 **Mr. Chairman:** I take it you have an answer to it, then?

26 **Mr. Peterson SC:** Sir, I hope to have an answer for
27 everything. The permits to work has that attached to it and it

1 has a certain sequence.

2 **Mr. Chairman:** Yes.

3 **Mr. Peterson SC:** But, notwithstanding howsoever it is set out
4 in the method statement, it is always [*Inaudible*] back to the
5 permit to work—

6 **Mr. Chairman:** I now, I do follow that, yeah.

7 **Mr. Peterson SC:**—especially the removal of—

8 **Mr. Chairman:** I mean, you just pointed out that paragraph—

9 **Mr. Peterson SC:** Yeah.

10 **Mr. Chairman:**—or that sentence—

11 **Mr. Peterson SC:** Yes that sentence?

12 **Mr. Chairman:**—at the top of the method statement. But, I
13 mean, it does seem on the face of it a kind of obvious question.
14 Well, if anybody who knows what they're doing looked at this
15 method statement, surely they would realize, well, what's set
16 out at 56 and 57 simply cannot be appropriate in the place in
17 which it's put.

18 **Mr. Peterson SC:** One can come to that conclusion, Sir, but,
19 in the context of this project, if—once the ullage was correct,
20 that method statement could have been reversed in any order it
21 wanted and no event would have occurred. I make the point—

22 **Mr. Chairman:** Well, I mean, had they done what they should
23 have done and only removed the amount of material from the
24 line that they should have done, it wouldn't have happened.
25 There might have been a little bit of gas coming into the
26 chamber, they might have dropped a tool down inside the pipe,
27 everybody would have been unhappy about it, I dare say, but

1 nobody would have died. That's beyond all doubt. All I'm
2 saying is that Paria's concerns were those two things. They
3 weren't in the least bit concerned with Delta P because no one
4 considered Delta P. So their position was this, as I understand
5 it, "Do not remove those barriers because if you do it might let
6 gas into the Chamber or allow something to fall into the pipe.
7 These are two things we do not want to happen", and, therefore,
8 when they looked at the method statement, and what appears to
9 be a sequential programme of work, nobody said, "This is
10 wrong." Do you agree?

11 **Mr. Peterson SC:** Nobody said that, Sir. That is—

12 **Mr. Chairman:** Nobody said it was wrong.

13 **Mr. Peterson SC:** That is the beautiful thing about the permit
14 to work system. It's a failsafe system.

15 **Mr. Chairman:** Well it isn't, though, is it? I mean, it clearly
16 didn't.

17 **Mr. Peterson SC:** Well, it is if people obey it, and that is why
18 Paria make sure that they're trained in the permit to work
19 system so they were supposed to know, regardless of what that
20 method statement says, and that is—that could inform why
21 LMCS inserted that on top of there—

22 **Mr. Chairman:** No, no, no, no let's assume LMCS have got
23 this wrong, I mean I'll go with that, right? They've got this—
24 the method statement that they've set out, the document that we
25 are looking at, that paragraphs 56 and 57 which for those who
26 were watching includes the removal of migration barrier and to
27 deflate the plug—

1 **Mr. Peterson SC:** Yes.

2 **Mr. Chairman:**—those two things are itemized at number 57
3 and 56 in a long list of things that go to nearly a hundred, right?
4 What I'm saying is that anybody at your end, that is to say
5 Paria's end, that looked at the method statement, which they are
6 required to produce by Paria, aren't they?

7 **Mr. Peterson SC:** Yes, Sir.

8 **Mr. Chairman:** Yes. So Paria require you to produce a
9 method statement of how you're going to do these works, here
10 it is, Paria. Now, leave aside Delta P. It's irrelevant for these
11 purposes because no one recognized Delta P. Somebody at
12 Paria presumably read this, somebody must have read the
13 method statement and if they read the method statement and
14 come to paragraphs 56 and 57, for the reasons I've just
15 identified, nothing whatever to do with Delta P, would have
16 been saying to whoever submitted this document, "Look, I see
17 what you say there are the steps to be done. This is wrong. Do
18 not remove those plugs until we tell you, and it's certainly not
19 at paragraph 56 or 57 because we don't want any of your men
20 to be gassed, we don't want to lose any of your tools down our
21 tube."

22 **Mr. Peterson SC:** Right. That's one option, Sir, and it's an
23 option that could have been exercised, but that's what I'm
24 saying. So that was missed, or did not—was not flagged. But
25 Paria had a permit to work system which I said is a failsafe
26 system, so when that is missed, LMCS also telling its people, "I
27 have this here, I think I have it right, but, you see Paria permit

1 to work system that I trained all yuh in, that is what you abide
2 by, but this I have it right”, but of course you have it wrong.
3 Somebody in Paria may have missed it but that is why I said the
4 permit to work system is a good default system by Paria.

5 **Mr. Chairman:** Because if it’s not stated in the permit to work
6 you shouldn’t do it?

7 **Mr. Peterson SC:** Right.

8 **Mr. Chairman:** That’s what you’re saying?

9 **Mr. Peterson SC:** No, it’s not only the permit to work that
10 should do it.

11 **Mr. Chairman:** It has to be in there before you can do it?

12 **Mr. Peterson SC:** Yes, before you could do it.

13 **Mr. Chairman:** But, I, I—and I mean, I do understand that.

14 **Mr. Peterson SC:** But it’s the perfect—it’s perfect that if it
15 could have been picked up back there, then—

16 **Mr. Chairman:** Perfectly—

17 **Mr. Peterson SC:** Yeah.

18 **Mr. Chairman:**—reasonable point to make if I may say so, but
19 my slight concern with that is, is that this is specifically
20 appended to a document that when it says in that document as a
21 permit to work specific tasks gives you three lines, this is six
22 pages long sequentially, and all I’m saying is that, and maybe
23 I’ve got this wrong, but, if I were working and I were being
24 given this task, I would go to the method statement and I would
25 look at the sequence. I think one of the witnesses said he didn’t
26 even do that. But, be that as it may, it is perhaps a, I don’t want
27 to characterize it wrongly, I mean, it’s a great shame that

1 somebody at Paria didn't pick that up, even for the reasons that
2 they wanted the barriers in place, because, had they picked it
3 up, then this wouldn't have happened, would it?

4 **Mr. Peterson SC:** Well, no, I don't think so, Sir. I think had
5 they picked it up, it would have been corrected, but if LMCS
6 people still want to disregard the permit to work system or
7 where they ought to have a permit to work to remove it,
8 whether that was corrected would not have prevented the event
9 because they would have been disobeying the proce—permit to
10 work—

11 **Mr. Chairman:** The work, permit to work in any—

12 **Mr. Peterson SC:** That would have been corrected and in
13 another event, another project, that is a great thing that they
14 should try to be closer and make sure they pick up errors like
15 that, and that is why I say the permit to work system is a great
16 default—

17 **Mr. Chairman:** Right.

18 **Mr. Peterson SC:**—because when you miss it there—

19 **Mr. Chairman:** I follow you. I follow you.

20 **Mr. Peterson SC:**—you can't move forward.

21 **Mr. Chairman:** But it is something that Paria could have
22 done. I mean, this is not so technical that they were—or
23 specialist that they would be unable to recognize that as a
24 problem.

25 **Mr. Peterson SC:** That is why artificial intelligence is taking
26 and replacing us as human beings, Sir.

27 **Mr. Chairman:** Not in my lifetime, hopefully, or yours I

1 suspect, but it may affect our children. All right.

2 **Mr. Peterson SC:** Because we, as humans, we miss things.

3 **Mr. Chairman:** Yes.

4 **Mr. Peterson SC:** One minute please? I think I've covered
5 some of—by answering the questions. [*Perusing documents*] I
6 just want to wrap up that point by saying, Sir, that Paria we
7 respectfully submit that even on the most generous
8 interpretation of the language on that permit, it could not lead
9 or properly lead to a reasonable construct that it was
10 authorizing the removal of the migration barriers on the 25th. It
11 is simply not ambiguous because it does not deal with removal
12 at all.

13 LMCS, in this Enquiry, also sought in its evidence to
14 contend that removal of the migration barrier was discussed at
15 the toolbox meeting. I wish to deal with the toolbox meeting.
16 They had two meetings that morning at 9.15 a.m. and at 9.30
17 a.m. on the 25th of February. LMCS seemed to be suggesting
18 that the discussion of the barriers had been—the removal of the
19 barriers had been discussed. This position is untenable as a
20 matter of fact.

21 In this regard, Paria respectfully submits, Sir, that the
22 removal of the plugs was plainly not discussed at the toolbox
23 meeting on February 25th. This is supported by the
24 contemporaneous document, namely the toolbox form
25 themselves that had nothing to do with removal of barriers. As
26 Mr. Khan pointed out, Mr. Zaid Khan in his evidence he said it
27 makes no reference to the removal of the plugs.

1 **Mr. Chairman:** It makes no reference to any work at all.

2 **Mr. Peterson SC:** Yes, in particular no removal of the plugs.
3 And then Sir, LMCS cannot escape the evidence of Andrew
4 Dotting relatively contemp—um, Dopson, Andrew Dopson, his
5 contemporaneous note written on that same day as to what
6 transpired at the toolbox meeting that morning, and this is
7 significant, Sir. And those notes could be found at page 1022
8 of the core bundle.

9 In assessing evidence, Sir, and believability and
10 credibility of evidence, a good tool that all Tribunals would
11 apply in assessing evidence is whether there was a motive to
12 concoct, fabricate or alter one's evidence. Significantly, this
13 evidence by Mr. Dopson was prepared by him at a time when
14 neither the Commission of Enquiry was set up nor any legal
15 proceedings were contemplated. Accordingly, there was no
16 motivation for the document to be manipulated, and in this
17 Enquiry no one suggested to him that his notes at that time were
18 fabricated.

19 **Mr. Chairman:** No, I don't think anyone has suggested the
20 notes were fabricated. I thought it was more to do with whether
21 he was actually at the meeting. There were two meetings
22 weren't there? There was one—sorry? Yeah, there was one at
23 9.15 and one at 9.30. The one at 9.15 took place at berth 6 and
24 the one at 9.30 took place at berth 5.

25 **Mr. Peterson SC:** Five.

26 **Mr. Chairman:** And there was a question about whether he
27 could have been at both as I recall it, bearing in mind you've

1 got to get from one to the other. And the one that we're
2 concerned with was at 9.15. He would have had to have
3 delivered the toolbox meeting and then get back onto his boat,
4 whatever boat it was, and then get himself over to berth 6 in
5 order to bear the toolbox meeting at berth 6.

6 **Mr. Peterson SC:** Sir, he was at the one at—he was at berth 6.
7 In fact, he signed the form at number 39. It's the other way
8 around.

9 **Mr. Chairman:** Yes, I thought—that's right. Didn't he sign
10 the one that he wasn't at and didn't sign the one that he was at?
11 I can't remember exactly what his evidence now. It's a little
12 while ago, but I—

13 **Mr. Peterson SC:** Well, he only signed—

14 **Mr. Chairman:** He only signed one and he told, I think me,
15 that he wasn't there at that one.

16 **Mr. Peterson SC:** We are trying to pull up his evidence, Sir.
17 It's at page—no, that's the document.

18 **Mr. Chairman:** Well perhaps somebody can look at it while
19 you carry on addressing me and identify what he did say about
20 it because I do recall there was an issue about whether he could
21 possibly be at both and he made clear that he wasn't. I thought
22 he made it clear that he wasn't at both. Have I got that right?
23 [*Crosstalk*] Marjadsingh? Ah, right, that was Marjadsingh.
24 Sorry, it might be my fault. It may be it was Marjadsingh who
25 was saying that rather than Dopson. Never mind. Sorry, I may
26 have misled you. It may be it's Majardsingh, I think, who was
27 telling us that he couldn't have been at both, correct.

1 **Mr. Peterson SC:** Majardsingh signed the—

2 **Mr. Chairman:** So forgive me for that.

3 **Mr. Peterson SC:** I'm asking the Commission to place
4 substantial weight on the evidence of Mr. Dopson.

5 **Mr. Chairman:** On what he says and on his contemporaneous
6 note?

7 **Mr. Peterson SC:** Yes, because his note chronicles what he
8 witnessed and it doesn't in any way deal with the removal of
9 the plugs, so I commend his evidence for serious weight and
10 consideration.

11 **Mr. Chairman:** All right.

12 **Mr. Peterson SC:** Although contrary to evidence that was led
13 by the Commission, led before the Commission by LMCS
14 employee in the person of Mr. Andrew Farah, and also
15 employee Mr. Dhillpaul, we respectfully submit that the
16 Commission ought to reject their evidence for this reason. As
17 for Mr. Dhillpaul, it is significant to note that in his witness
18 statement of November 10th, 2022, his evidence was this, and
19 I'm at paragraph 24 of his statement. He said:

20 "I discussed general safety as I'm accustomed to doing
21 and identified the general hazards around the work area.
22 I can't recall exactly what I discussed."

23 See paragraph 21. And Mr. Kazim Ali Jr., whom my friend this
24 morning said would have been the one discussing this, Kazim
25 Ali Jr. also spoke about the job to be done. I can't remember or
26 recall what he said about the job in particular. He gave no
27 evidence whatsoever in this—in that statement, that the removal

1 of the plug was discussed. Kazim Ali's statement could be
2 found at, I mean, um, Dhillpaul's statement could be found at
3 paragraph 24.

4 It is my respectful submission that something as removal
5 of the plug, one remembers discussing safety, one remember
6 discussing the general hazards. I commend that had something
7 as significant as removal of the plugs been discussed, that that
8 would have find expression in their memory.

9 Further, in Dhillpaul's statement given to OSHA, which
10 is dated, and this is important, Sir, with respect to the dates, this
11 event occurred on the 25th of February, 2022. Mr. Dhillpaul
12 gave a statement to OSH, to OSHA, dated March 14th, a mere
13 three weeks after this incident, and he was speaking specifically
14 to an agency that is drilling into the events of the 25th. So
15 there's focussed attention on the events of the 25th, and in
16 particular the toolbox meeting of that day.

17 He specifically addressed the toolbox meeting with the
18 their agency as to what was discussed, but he did not identify
19 any discussion took place concerning the removal of the plugs.
20 So even if we come here 10 or 12 months later, when he was
21 three weeks after the event one could forgive him if one is
22 reasonably generous, one could forgive him for not
23 remembering, but three weeks after in the fresh stress of the
24 event he did not recall to tell the OSHA authority, which should
25 have been focusing on that event, as to whether the plugs was
26 discussed?

27 Further, although under cross-examination Mr. Dhillpaul

1 sought for the first time to suggest that removal of the migration
2 barrier was discussed, he did that here for the first time, it does
3 not accord with his earlier detailed evidence as to the toolbox
4 meeting.

5 Finally, Sir, Mr. Dhillpaul did not present as a witness of
6 truth. My respectful view is that he was evasive under cross-
7 examination and effectively asked the Commission to believe—
8 he's asking you to believe that his memory got better with time
9 because in March he did not recall but when he came here in
10 November he wanted to recall and accept his testimony that the
11 removal of the barriers had been discussed. It's only one liquid
12 I know that gets better with time, Sir. I think it's wine. This is
13 not credible testimony.

14 **Mr. Chairman:** Whisky works too.

15 **Mr. Peterson SC:** I must try that.

16 **Mr. Chairman:** Don't believe—

17 **Mr. Peterson SC:** This is not credible evidence or credible
18 testimony by Mr. Dhillpaul because his memory back in
19 2014—on the 14th of March, 2022 to the authority did not
20 speak to that event.

21 As to the evidence of Mr. Andrew Farah, although he did
22 testify that the job scope for the day, which included the
23 removal of the plug was discussed at the toolbox meeting, that
24 evidence is not supported by the toolbox forms nor the
25 contemporaneous note of Mr. Andrew Dopson, and that is why
26 I would ask the Commission to attach significant weight to Mr.
27 Dopson's evidence because it shows that Mr. Farah could not

1 be accurate. I want to put it neutral.

2 **Mr. Chairman:** On any view the failure to record it in the
3 document—

4 **Mr. Peterson SC:** Yes.

5 **Mr. Chairman:**—would have—is a significant, as I think has
6 been conceded, a significant flaw?

7 **Mr. Peterson SC:** Yes. And Mr. Farah also did not produce
8 any contemporaneous notes but he relied on his memory again
9 of nine months prior. We therefore submit on behalf of Paria
10 and Heritage, Sir, that the Commission ought to find as a fact
11 that there was no discussion in relation to the removal of those
12 plugs at that toolbox meeting on the 25th of February, 2022. In
13 any event, in any event we respectfully submit that even if the
14 removal of the plug was discussed at the toolbox meeting,
15 which we deny, such discussion was not capable of overriding
16 the express requirements imposed on LMCS and its personnel
17 to fully comply with the clear requirements of the Paria permit
18 to work system.

19 In all the circumstances, the deliberate removal of those
20 barriers, by LMCS on February 25th, caused the delta event to
21 become active and I hope I correct—put the terms correctly.
22 Because it was wholly unauthorized and in disobedience to
23 Paria's permit to work system and it wholly disregarded the
24 well-established standards of practice in the industry.

25 Paria wishes to make one further point, Sir, in relation to
26 the events of the 25th of February, 2022 and that additional
27 point is this. If this learned Commission rejects Paria's

1 submissions as set out above to the effect that the obligation
2 imposed upon the applicant under its permit to work system,
3 that did not as a matter of construction did not apply to Paria's
4 employees or those of Kenson and the facts before this
5 Commission, Paria cannot, and I say this with respect, cannot
6 be found to have been in breach of the applicant's duty, the
7 applicant's duty under that system, to continually monitor the
8 job in accordance with clause 5.1 of the permit to work
9 procedure.

10 The reasons for this are relatively straightforward. The
11 duty to continually monitor in the context of the permit to work
12 system can only be construed as a duty to monitor works which
13 are the subject of the daily issued permit to work. The removal
14 of the migration barriers was not subject to any permit to work
15 and accordingly no duty to monitor arose at that point.

16 Second, a duty to monitor can only properly arise at a
17 time when works are scheduled to be executed. Indeed, if the
18 works were wrongly executed by LMCS outside scheduled
19 working hours, it could hardly be said that Paria was in breach
20 of any duty to monitor, so too in the case of works executed at
21 lunchtime. This—in this connection it is significant to note that
22 on the evidence the activities relative to the removal of the
23 migration barriers stopped at 1.45 p.m., 1345, and occurred
24 during the luncheon interval on the 25th when—which resulted
25 in the splash being seen on the screen at around 2.45 at berth 6.
26 This much is confirmed by the combined evidence of Andrew
27 Dopson, which could be found at paragraphs 12 and 13 of his

1 statement, and also of the combined evidence of his—

2 **Mr. Chairman:** Is it your case that 2.45 is lunchtime?

3 **Mr. Peterson SC:** No. They took lunch. That's when they
4 took lunch. In this Commission lunchtime is two o'clock.

5 **Mr. Chairman:** Not always.

6 **Mr. Peterson SC:** That's when they took lunch, because
7 remember the evidence of Dopson.

8 **Mr. Chairman:** I do.

9 **Mr. Peterson SC:** Yes.

10 **Mr. Chairman:** Well, you've you make your point about it.

11 **Mr. Peterson SC:** Yes.

12 **Mr. Chairman:** I have certain reservations about that but the,
13 the, the—it, it—

14 **Mr. Peterson SC:** I could help you with—

15 **Mr. Chairman:**—it doesn't, it doesn't really—does it really lie
16 in anyone's mouth to be able to say that because the work
17 permit didn't permit the removal of the plugs there was no duty
18 to monitor the removal of the plugs when there is a stop system
19 in existence that allows the lowest paid member of staff to be
20 able to say, "You're doing something you shouldn't be doing.
21 Stop"?

22 **Mr. Peterson SC:** No, so if I'm to go with that for the time
23 being, the lowest person could have stopped if works were
24 scheduled to go on. So that provision that anyone can—

25 **Mr. Chairman:** Well we know that there was somebody who
26 did actually see what was going on.

27 **Mr. Peterson SC:** Yes Kirt Scott, I think Mr. Kirt Scott.

1 **Mr. Chairman:** Yes.

2 **Mr. Peterson SC:** I think he was passing and he saw this
3 splash on the screen, but the point is that if—to answer your
4 point as to whether there is a duty on anybody to ring the bell,
5 so to speak, but that is where work was in progress, but the
6 work had stopped, they were on lunch, and that is the
7 unauthorized, well, resuming of the work. So when one is
8 considering any obligation to monitor, one has to take into
9 context the time at which the wrongful removal, apart from
10 wrongful removing of the barriers—

11 **Mr. Chairman:** You're saying that it happened all during
12 lunchtime, so even if there was some monitoring supposed to
13 take place—

14 **Mr. Peterson SC:** Nobody could—

15 **Mr. Chairman:**—no—there was no monitor there to observe
16 the work.

17 **Mr. Peterson SC:** That's the point.

18 **Mr. Chairman:** Got you.

19 **Mr. Peterson SC:** Mr. Chairman, I am told that I didn't say
20 that there was no duty to monitor when the works were not in
21 progress. I said that. I said—

22 **Mr. Chairman:** You did.

23 **Mr. Peterson SC:**—if even there—even if one had an
24 obligation to monitor, one could not monitor work that was to
25 resume out of schedule.

26 **Mr. Chairman:** Sure. I understand that's what you're saying.

27 **Mr. Peterson SC:** Yes.

1 **Mr. Chairman:** That there's—first of all there's no duty to
2 monitor at all—

3 **Mr. Peterson SC:** Yes.

4 **Mr. Chairman:**—at the level that's been suggested by LMCS.
5 If there is a duty to monitor at all, it must at least take place
6 when work is actually supposed to—

7 **Mr. Peterson SC:** Is scheduled to—

8 **Mr. Chairman:**—scheduled to take place. And if something
9 took place during a lunch break, then there would not
10 necessarily have been anyone to monitor it and neither would
11 there have been an obligation—

12 **Mr. Peterson SC:** Well, two things are unauthorized here.

13 **Mr. Chairman:**—to do so.

14 **Mr. Peterson SC:** Two things unauthorized. Removal of the
15 plug is unauthorized and the resumption of the work during the
16 lunchtime is unauthorized, so there's no obligation could have
17 been to monitor coulda ever been complied with—

18 **Mr. Chairman:** Doesn't arise.

19 **Mr. Peterson SC:**—if one had that obligation.

20 **Mr. Chairman:** I got you. It doesn't arise at all. Right.

21 **Mr. Peterson SC:** Finally, Sir, I wish to move to the events,
22 the rescue and recovery.

23 **Mr. Chairman:** How much longer do you think you're likely
24 to be, given that you're over your allotted time? I'm not going
25 to stop you, but—

26 **Mr. Peterson SC:** Twenty, Sir.

27 **Mr. Chairman:** Twenty minutes? You all right? Do you

1 want to take a break?

2 **Mr. Peterson SC:** All right, 5 minutes, Sir.

3 **Mr. Chairman:** Five-minute break?

4 **Mr. Peterson SC:** Yes, Sir.

5 **Mr. Chairman:** Let's do that. Let's take a 5-minute break and
6 then we can conclude.

7 **3.12 p.m.:** *Enquiry suspended.*

8 **3.19 p.m.:** *Enquiry resumed.*

9 **Mr. Chairman:** Yes.

10 **Mr. Peterson SC:** Thank you, Mr. Chairman. Before I move
11 to the rescue, Mr. Chairman and Commissioner Wilson, I was
12 reminded to draw the—to remind the Tribunal, the
13 Commission, of the evidence of Mr. Khan, Mr. Zaid Khan, with
14 respect to the plug when he demonstrated that there were
15 systems for attaching the inflatable plug to the chamber and I
16 think the Chairman had asked had that been rigged above
17 whether it could have prevented it disappearing into the pipe,
18 and I commend that evidence for your consideration, not only
19 that the plug would not have disappeared into the pipe, I think
20 most likely the men would not have either.

21 So the manufacturers of that plug had certain
22 specifications as to how to operate that plug. So I ask you to
23 take that into account that there was—there had not been
24 compliance with the manufacturer's specification in employing
25 that plug, and, as Mr. Zaid Khan said that it was possible to
26 attach cables to the plug and affix it to the chamber which could
27 have, had the events on the 25th still occurred, we may have

1 had a different result.

2 **Mr. Chairman:** Yeah, I mean, we don't know what breaking
3 strength any cable might have had. I don't imagine they were
4 using, you know, anchor chain or something like that, but—

5 **Mr. Peterson SC:** Well, I—

6 **Mr. Chairman:**—so it would depend on the strain and what
7 force was on that plug.

8 **Mr. Peterson SC:** Yes. So I'm hoping that some of that may
9 be revealed when the Chamber is, is um—

10 **Mr. Chairman:** Well, it's one of the things I would love to
11 have a look at and one of the reasons why I'm particularly
12 anxious to see—

13 **Mr. Peterson SC:** Yes.

14 **Mr. Chairman:**—to see the, um—

15 **Mr. Peterson SC:** I think that may shed some light on that.

16 **Mr. Chairman:** Yes. All right, thank you.

17 **Mr. Peterson SC:** The rescue and recovery efforts. In the
18 course of this Enquiry, Paria has been the subject of a number
19 of criticisms in relation to its conduct concerning rescue of the
20 divers from that pipeline. On a proper review of the factual and
21 expert evidence adduced before this Commission, these
22 criticisms to a great extent cannot be supported. As will be
23 explained below, Paria's action in relation to the rescue efforts
24 were wholly reasonable given the conditions under which it was
25 operating on the evening of the 25th of February, 2022, not
26 today.

27 The resources available and the need to take into account

1 the safety potential for the proposed rescuer would have been a
2 live issue for the decision-makers at Paria. In examining the
3 reasonableness of Paria's conduct, I ask this Commission and I
4 invite this Commission to consider 11 factors and bear them in
5 mind when assessing and judging Paria.

6 First, in the context of the contractual arrangements
7 between Paria and LMCS, the obligation to formulate, to
8 formulate and action an emergency rescue plan in respect of
9 LMCS employees rested on the shoulders of LMCS, not Paria.
10 Paria was not obligated to play anything other than a supportive
11 role to those efforts and plans.

12 Second, between—

13 **Mr. Chairman:** I'm on it. I've taken note of each of these
14 points, 11 points that you've got. Before you move on, do you
15 say that in relation to your first point that Paria had no duty to
16 effect a rescue at all? I mean duty in a legal sense.

17 **Mr. Peterson SC:** That's correct.

18 **Mr. Chairman:** Right. Thank you.

19 **Mr. Peterson SC:** Second, between 2.45 p.m. and 5.30 p.m.
20 thereabouts, Paria was unaware that the divers were in the pipe
21 and I don't think that could be challenged and I think it's
22 accepted in this Commission that it's when Mr. Boodram
23 emerged from that pipe was the first time persons were aware
24 that the men were in the pipe because they were searching at
25 sea.

26 Third, LMCS personnel were generally uncooperative
27 and/or hostile to Paria's representatives on the 25th of

1 February, 2022. And I pause there to make the point, Mr.
2 Chairman I think you asked my friend this morning and I did
3 not remember that, that Mr. Kazim Ali Sr. and Mr. Collin Piper
4 knew each other well. In fact, Mr. Piper's evidence is that he
5 knew Kazim Jr. as a lad, he often called him the young lad.

6 I don't subscribe to getting personally involved in a
7 matter but Mr. Kazim Ali had not testified here that, "I went to
8 Collin", because they know each other, "my son is in the pipe, I
9 want to dive. This is my plan", and that is missing from this
10 Commission of Enquiry. There is no evidence that LMCS had
11 a plan. All we keep hearing LMCS wants to dive and Piper
12 stop them. They wanted to dive and Piper stop them.

13 But nobody said LMCS had a plan A, B, C, D that they
14 communicated to Paria or to Mushtaq that this is the plan and
15 they refused it, apart from whether it should be lighting and
16 derisk and all of that, that's another issue, but even the
17 existence, the fact of the existence of a plan, no one has said
18 that, that "I had that plan and I told Mr. Piper this." All I
19 hearing is, "We had plan and we said—we told them we had
20 plan."

21 Nobody said, "This was the plan and I communicated to
22 Mr. Piper at so-and-so time and tell him to consider this and he
23 told me, "No", he didn't like that or he didn't like that. At least
24 for the Friday evening. That's what we're dealing with, Sir.

25 **Mr. Chairman:** But if your first point is that there is no
26 obligation on the part of Paria to effect a rescue, no legal
27 obligation, I leave aside the morality at the moment, no legal

1 obligation on them to effect a rescue, and LMCS appreciated
2 that, was it necessary for them to communicate such a plan to
3 the IMT?

4 **Mr. Peterson SC:** The reason it's necessary, Sir, is—

5 **Mr. Chairman:** And second to that is, the submission that has
6 been made is that Mr. Kazim Ali was wholly unaware of the
7 existence of this IMT.

8 **Mr. Peterson SC:** Well, Sir, I heard, I heard my friend say
9 that. I, I can't remember that being the evidence, but I'm
10 subject to be corrected, but that would be very, very spectacular
11 that Mr. Kazim Ali who boast of being in the industry for all
12 those years is not aware that an event like this will trigger the
13 formation of an ICT.

14 **Mr. Chairman:** Right.

15 **Mr. Peterson SC:** That would be a spectacular development.

16 **Mr. Chairman:** And, and presumably concomitant to that
17 would be obliged to have disclosed to Mr. Piper or the IMT,
18 "Here's my plan"?

19 **Mr. Peterson SC:** Yes, Sir.

20 **Mr. Chairman:** Okay.

21 **Mr. Peterson SC:** Third, LMCS personnel were generally
22 un—well I got that.

23 Fourth, owing to LMCS' rescue plan and its inability to
24 provide adequate resources for the purpose of attempting a
25 rescue, Paria engaged multiple specialist services or service
26 providers. So in assessing Paria's response that evening, Sir,
27 notwithstanding their lack of a legal obligation to do so, they

1 engaged Mitchell, they engaged Eastern Divers, they engaged
2 HSSL, they engaged Subsea Global and Offshore—OTSL and
3 also Hull Support Services. They relied on the connections of
4 their sister company, Heritage, to activate a lot of these
5 resources, including equipment and also personnel. And also
6 they had the assistance of Mr. Rolph Seales and Heritage
7 Operations HSSE Manager, Flemming-Holder. Paria also
8 contacted the coast guard which would always be an obvious
9 first port of call once you're dealing with a diving issue.

10 Fifth, the information which Paria had concerning the
11 conditions within the pipeline was inadequate in material
12 respects, that is to say, Paria did not know the condition nor the
13 location of the inflatable plug within the pipe. Paria also did
14 not know where the divers were located within the pipe or their
15 physical condition.

16 Sixth, the information Paria had about the conditions
17 which obtained in the pipe indicated that hazards existed
18 therein. Paria was for some time understandably operating
19 under the assumption that significant quantities of fuel oil were
20 present in the line. And I think Mr. Chairman—

21 **Mr. Chairman:** They were best placed to know what was in
22 the line.

23 **Mr. Peterson SC:** Not, well—

24 **Mr. Chairman:** They were best placed to know what was in
25 the line. Whether they did or not is another matter, but during
26 the course of the evidence that we've heard, I asked I think a
27 number of people about that and, well Mr. Maharaj did, but the

1 fact is nobody ever enquired of their own records what had
2 actually been pumped out of the line, even though this had now
3 happened.

4 **Mr. Peterson SC:** I think one that could be explained for all
5 parties, Sir, all—everyone on that evening was operating under
6 the LMCS method statement that a 35 ullage was achieved so
7 therefore the line has substantial hydrocarbon. We know from
8 this Enquiry factually that that turned out to be inaccurate, but
9 on the evening, and that's why I keep saying when Paria's
10 conduct is being examined it should be examined at Paria
11 compound Friday evening.

12 Everyone operating, yes that work was going on, yes
13 there were plugs, there was 35 ullage, the plugs were put in and
14 this event happened. Boodram emerged from the pipe. He
15 came out covered in oil, so all everyone operating on the
16 statement of LMCS that that 35 ullage was achieved so
17 therefore the rest of the line had hydrocarbons, oil. But we
18 discovered from Mr. Khan's analysis that that was inaccurate,
19 but, on the Friday evening that is what persons were operating
20 under.

21 **Mr. Chairman:** Well, they also had the evidence or would
22 have had the evidence of Mr. Kurban going into the pipe.

23 **Mr. Peterson SC:** I coming to that, Sir.

24 **Mr. Chairman:** Good.

25 **Mr. Peterson SC:** The emergence of Christopher Boodram
26 from the line at approximately 5.30 p.m. completely covered in
27 oil supported the assumption that the line had substantial

1 hydrocarbons.

2 **Mr. Chairman:** This is number seven, is it?

3 **Mr. Peterson SC:** No, I just finishing six, Sir.

4 **Mr. Chairman:** Six.

5 **Mr. Peterson SC:** Further—

6 **Mr. Chairman:** Sorry, yes.

7 **Mr. Peterson SC:** Further, as the evening progressed, Paria
8 deduced that the inflatable plug was in the line thereby giving
9 rise to the possibility of a further Delta P event within the line,
10 and that is a debatable point. The Commission will decide on
11 that but I don't think it can be dismissed as a far-fetched
12 possibility at that Friday evening. Further still, into the night
13 Paria became aware, through the use of cameras, that there was
14 also oxygen tanks lodged—an oxygen tank lodged within the
15 line.

16 **Mr. Chairman:** Lodged?

17 **Mr. Peterson SC:** Lodged in the line.

18 **Mr. Chairman:** It's not what the video shows.

19 **Mr. Peterson SC:** I didn't say wedged, you know. I didn't say
20 wedged.

21 **Mr. Chairman:** That's not really what the video shows,
22 though.

23 **Mr. Peterson SC:** I didn't say wedged, Sir. I say lodged.

24 **Mr. Chairman:** Yeah. What's the difference?

25 **Mr. Peterson SC:** Continuous and continuously.

26 **Mr. Chairman:** What's the difference?

27 **Mr. Peterson SC:** One is that it's present and one is that—one

1 is that it's merely in there and one is that it's wedged in there.

2 **Mr. Chairman:** Right. You're not suggesting wedged?

3 **Mr. Peterson SC:** No, I'll—no, that it was in the line.

4 Seventh, Mr. Collin Piper, Paria's incident commander,
5 was at the time well aware of the incident locally and abroad
6 where rescuers had perished in the course of effecting a rescue.
7 See paragraph 102 of Mr. Collin Piper's statement dated the 1st
8 of September, 2022. I think Mr. Piper drew some criticism
9 from, I cannot remember if it was Mr. Ramadhar, most likely it
10 was, for that knowledge but the fact is that if that is the man's
11 knowledge, you have to—all decisions of every human being,
12 every individual, every entity, is made on the basis and
13 factoring in their knowledge at the material time of making a
14 decision. So Mr. Piper included in his statement that he was
15 aware of that on that evening.

16 **Mr. Chairman:** One of the things that I've struggled with, as
17 you'll appreciate during the course of this evidence, is that
18 nobody seems to have been working to any timeline, including
19 Mr. Piper, who was ultimately in charge of the IMT. I mean, I
20 have to say I do find that an extraordinary feature that any IMT
21 would be operating with a view to trying to effect a rescue
22 without having very clearly in mind, and every decision being
23 made, against the background of a timeline. And nobody
24 seemed to me to have addressed that issue at all.

25 Seems as if the first time it was ever mentioned was
26 when I raised it or Mr. Maharaj raised it during the course of
27 questions of any of the witnesses and then they were being

1 asked to put timelines on it, we've had various different hours
2 being placed on it. But it seems to me that even given the heat
3 of the moment that that was almost certainly the first thing that
4 should have gone up on that whiteboard, hour 1, 2, 3, 4, 5, et
5 cetera and that all decisions should have been made against the
6 background of what was expected to be the life expectancy of
7 the people in the pipe. Do you agree with that?

8 **Mr. Peterson SC:** That's a reasonable observation, Sir. That's
9 a reasonable observation.

10 **Mr. Chairman:** Thank you.

11 **Mr. Peterson SC:** Eight, none of the entities or persons
12 contacted by Paria were prepared to undertake entry into that
13 pipeline. The coast guard advised that their personnel were
14 neither trained nor did they possess the specialist equipment to
15 undertake a rescue from within the pipeline. Mr. Johnson from
16 Eastern Emergency Response Limited advised that their
17 confined space technicians did not have the expertise to do an
18 underwater rescue. Mr. Fitzroy King, dive supervisor from
19 Mitchell Professional Diving Services Company Limited
20 advised that the risk of diving into the pipe was too high and he
21 could not send his divers into the pipeline.

22 **Mr. Chairman:** I'm happy to accept that none of the people
23 that your clients spoke to about this were—that they had
24 engaged were prepared to enter into the pipeline.

25 **Mr. Peterson SC:** Thank you, Sir. So I can move on, Sir.

26 **Mr. Chairman:** Yes.

27 **Mr. Peterson SC:** Ninth, several of the diving experts who

1 have given evidence have advised that in circumstances it
2 would have been unsafe to enter into the pipeline to undertake a
3 rescue of the divers. That came from Mr. Krishna Fuentes. I
4 think he put it graphically, you don't dive into pipe. Mr. Rolph
5 Seales and Mr. Antonio Donawa.

6 **Mr. Chairman:** Well I think they all postulated the prospect
7 that it was possible providing the right equipment and features
8 were in place. They didn't rule it out.

9 **Mr. Peterson SC:** No, we will—

10 **Mr. Chairman:** None of them ruled it out.

11 **Mr. Peterson SC:** I'm coming to that, Sir.

12 **Mr. Chairman:** Right.

13 **Mr. Peterson SC:** Ten, The evidence of Mr. Seales and Mr.
14 Fuentes is that a rescue operation to be safely undertaken into
15 the pipe would require, I counted it I hope I got it right, about
16 seven commercial divers, each with their own umbilical
17 attachment and he gave a description as to different points
18 along the way where each person had to be put.

19 **Mr. Chairman:** Well I'm not sure that's entirely correct. I
20 think partially is I don't think each were required to have their
21 own umbilicals because some of them would have been
22 onshore.

23 **Mr. Peterson SC:** No, one was in the habitat.

24 **Mr. Chairman:** Seven divers, as I understand it, you need first
25 of all a supervisor.

26 **Mr. Peterson SC:** Yes.

27 **Mr. Chairman:** Now he would have been onshore, and there

1 would have been tenders for the umbilicals.

2 **Mr. Peterson SC:** Upstairs, that's two.

3 **Mr. Chairman:** Well, whether that's right or not, there'd have
4 been at each point in which it might get snagged there would
5 have to be a tender. So, the person at the entrance to the
6 chamber would have had to have been there tending that. As it
7 goes into the pipe there'd be another one on the inside of the
8 chamber in dry conditions tendering the umbilical there.

9 **Mr. Peterson SC:** I count that as four.

10 **Mr. Chairman:** Then there was another one at the elbow
11 inside the pipe itself.

12 **Mr. Peterson SC:** That's five.

13 **Mr. Chairman:** And then there's one along the pipe who's
14 affecting the rescue.

15 **Mr. Peterson SC:** That's six.

16 **Mr. Chairman:** That's six. I took it to be six or seven.

17 **Mr. Peterson SC:** I said seven.

18 **Mr. Chairman:** And it may be there were others but they
19 wouldn't all need to have their own umbilicals. Clearly the
20 ones in the pipeline would have to have their own umbilical.

21 **Mr. Peterson SC:** And I think the one in the—the seventh I
22 got was the stand—there was a standby diver.

23 **Mr. Chairman:** And a standby. You're quite right.

24 **Mr. Peterson SC:** That is the seventh.

25 **Mr. Chairman:** There was a standby as well, um, yes, so
26 perhaps that's right, but not all requiring their own—

27 **Mr. Peterson SC:** Not all requiring, no. The standby needs to

1 have, I think the man in the chamber but those on top don't
2 need to have.

3 **Mr. Chairman:** All right, thank you. Anyway, that—they
4 were identifying the sort of number of people that were
5 necessary, yes, in their view.

6 **Mr. Peterson SC:** That brings me to the eleventh point.

7 **Mr. Chairman:** The eleventh, yes.

8 **Mr. Peterson SC:** Mr. Kurban went in the, and when we heard
9 10, 12 feet past the elbow and came back out.

10 **Mr. Chairman:** Yes.

11 **Mr. Peterson SC:** Then we heard that Mr. Beddoe and his
12 brother were prepared to go, but even though—if you factor in
13 Mr. Kurban, Mr. Beddoe and his brother, that's three. So if we
14 are to accept the evidence of the experts that we need at least,
15 let's say six, we're still short of—we only have part of the team
16 of Mr. Kurban, Mr. Beddoe and Mr. Guerra I think and Mr.
17 Farah as the supervisor. So we're still short of persons,
18 according to the expert evidence, to effect a safe rescue into the
19 pipe and also another factor, a variable we have not factored
20 in—

21 **Mr. Chairman:** So your point is not enough men were
22 available even if they had gone in? Yes.

23 **Mr. Peterson SC:** Exactly. Yes, Sir. And another factor, I
24 think Mr. Fuentes alluded to it, is—well, there are two other
25 factors. I didn't put them here but I now remember them.
26 There are two other factors, that, when a diver goes in, he may
27 experience difficulty because he may have to come back out

1 and he replaced. He said that. That he make to a certain point
2 in the line and he may have to come back out. If he comes back
3 out, you cannot use him immediately, so you have to rest him.

4 **Mr. Chairman:** Well, depends how long he's been in.

5 **Mr. Peterson SC:** Yes, that's it. So it depends—you may—
6 you have to rest—

7 **Mr. Chairman:** Yeah, but he might have only been in 15
8 minutes.

9 **Mr. Peterson SC:** And if he didn't then you have to—so, in
10 planning and that's why planning is important.

11 **Mr. Chairman:** Yes.

12 **Mr. Peterson SC:** So in planning a dive you have to factor in
13 that factor, and that is the point I wish to leave it, because—

14 **Mr. Chairman:** Well, I know. But, I mean, the point here is
15 the attempt at rescue. Any attempt at rescue doesn't mean it's
16 going to succeed.

17 **Mr. Peterson SC:** No, no, no.

18 **Mr. Chairman:** And the criticism, such as it is, is that there
19 was no attempt to rescue. Now, if somebody had gone in the
20 pipe and for whatever reason had to come out and then there
21 wasn't another dive available to swap with him, well, then
22 you'd at least have attempted. You've done something.

23 **Mr. Peterson SC:** Yes, Sir.

24 **Mr. Chairman:** It can't work because this is what happened,
25 but—

26 **Mr. Peterson SC:** And that is the difficulty in this matter.
27 We're moving to the point of, "You did not attempt a rescue",

1 but we have to put—we're dealing with the decision to even
2 attempt. That's where we're at, Sir.

3 **Mr. Chairman:** Yes.

4 **Mr. Peterson SC:** We [*Inaudible*] even the decision to even
5 attempt and that is where we are to act, and we hear from
6 LMCS namely that, I think Mr. Ramadhar called it a order, not
7 to dive, not to dive into the pipe, but the evidence is that diving
8 continued even after Mr. Piper said that and—

9 **Mr. Chairman:** Well, yes, diving into the habitat certainly
10 continued.

11 **Mr. Peterson SC:** It continued.

12 **Mr. Chairman:** It seems clear to—

13 **Mr. Peterson SC:** And no one said that they were restricted
14 physically, although we hear about guns and all of that, from
15 diving and even after Mr. Piper suggested that, apart from
16 Kurban going in and coming back out, Beddoe's evidence, Mr.
17 Beddoe's evidence is that he went into the habitat in order to go
18 into the pipe along with young Kurban but then he recognized
19 that, and reasonably so, that Kurban could not have assisted
20 him because of obvious circumstances.

21 So, even when one is trying to blame Mr. Piper for
22 saying no diving into the pipe, after that, attempts were made to
23 go into the pipe and when Mr. Beddoe got there he realized that
24 Mr. Kurban could not assist him and he came out. But then
25 when you marry that against the expert advice, because that is
26 taken into account, Mr. Fuentes and—well, I don't have any
27 discipline in diving but Mr. Fuentes and they evidence I don't

1 think could be challenged, and Mr. Beddoe would have the
2 same kind of knowledge and expertise as them, so we have to
3 take—

4 **Mr. Chairman:** Well I know. But, I mean, what's clear to me
5 from the various people who have given evidence and talked
6 about the prospect of carrying out a dive in those
7 circumstances, each seems to have had a slightly different
8 approach. One would say, "I need this", another one would
9 say, "I need that" and so on and I suppose it must inevitably be
10 up to the individual diving supervisor to make a determination
11 of what he regarded as being important before he would effect
12 such a search, and it seems to me that there are different views
13 about that and each individual supervisor might have had a
14 different view.

15 **Mr. Peterson SC:** A point—

16 **Mr. Chairman:** And it must bring me to the point, sorry, just
17 while I have it in my mind, it does bring me to the point which
18 has been explored with a number of people, is, is there a
19 difference between permitting and inviting or asking,
20 permitting someone to dive into the pipe and/or asking people
21 to dive in the pipe? Do you see a distinction between those
22 two?

23 **Mr. Peterson SC:** There is a distinction, Sir. There is a
24 distinction, and I hear Mr. Ramadhar talk about sleeping home
25 and he go run in building for me and thing. I would be
26 appreciative if he save me and thing, but, I could understand if
27 he didn't but—I ain't go be around, but—the point is, there's a

1 difference, Sir. Paria is a plant, a gas and oil installation. It is
2 not a situation where one is on a beach and see someone in
3 difficulty and they could decide, “I go try to save him, you
4 know. I could swim well”, or, “I not good enough. I not taking
5 that risk.”

6 **Mr. Chairman:** Yes.

7 **Mr. Peterson SC:** If Mr. Piper had made that decision and
8 send in someone in that pipe and they succumbed, I could see a
9 Commission of Enquiry and I could hear Mr. Ramadhar and
10 others, “Did you know the condition inside that pipe when you
11 authorized the men to go in there?” “So you send men in, you
12 know men missing., men could have been dead and you
13 sending other people?” And then I hear about exoneration and
14 indemnity. Mr. Piper and Paria have been criticized for asking
15 for a plan, but, against that I hearing that he should have did—
16 get somebody to sign an indemnity to exonerate Paria to go into
17 the pipe. No one could exonerate and give persons indemnity
18 against criminal Prosecution.

19 **Mr. Chairman:** I agree, and I doubt how effective that would
20 have been.

21 **Mr. Peterson SC:** I was—well, I’m always a student, but I
22 was willing to learn if it’s something I missed in law school
23 because some classes I didn’t go to, but, I was wondering if
24 there was something I missed. So no one—so when they’re
25 throwing that at Paria and Mr. Piper that he could have—you
26 couldn’t do that and one may say whether persons voluntarily
27 going or you’re permitting or you’re allowing, there’s nice

1 words but the point is, anyone who had gone into that pipe that
2 evening would have been going in there under the auspices of
3 Paria and the management of Paria.

4 **Mr. Chairman:** But is that entirely correct? I mean, I
5 appreciate it's their plant, all right, they're responsible for their
6 own land, their own plant, but is there a distinction to be drawn
7 between somebody who says, not to put too fine a point on this,
8 just being quite crude about it for the moment, just to illustrate
9 the point I'm making, if the criteria for effecting a rescue is a
10 better than 50 per cent chance, let's say, and somebody says,
11 "Well there isn't a better than 50 per cent chance and therefore
12 I'm not going into the pipe to effect a rescue, that's on the one
13 hand, one could understand that.

14 So, Mr. Piper saying you—one of your—the teams that
15 he's employed, is there a better than 50 per cent chance of
16 effecting a rescue, they say no, and so he says, "Well I'm not
17 going to ask you to go into the pipe, all right, on that basis."
18 Somebody else says, "I accept that it's not a better than 50 per
19 cent chance, there's only a 30 per cent chance of it being
20 successful, but I am willing to take that chance", should Mr.
21 Piper in those circumstances prevent him from taking that
22 chance?

23 **Mr. Peterson SC:** The difficulty Mr. Piper would have had at
24 that point, Sir, is that he had experts and I only factored in not
25 knowing the conditions within the pipe, if he were to be—if he
26 were to attract criminal liability to himself, but you just made
27 appoint again, against him making that decision, because

1 there's a, I coulda hear lawyers asking him in a Commission,
2 "Mitchell tell you them ain't sending in their people, this one
3 tell you they're not sending in their people, OSTL—and you
4 know they're commercial divers you know they have
5 equipment and they say they're not sending in people but you—

6 **Mr. Chairman:** You don't have to pretend to be Mr.
7 Ramadhar.

8 [*Laughter*]

9 **Mr. Peterson SC:** Well that's the only way I coulda make the
10 point effectively, Sir.

11 **Mr. Chairman:** I get the point. Yes.

12 **Mr. Peterson SC:** Yes.

13 **Mr. Chairman:** But, you know, Mr. Piper might have said, for
14 example, "Look, I am, I am not going to stop you, physically
15 stop you. I'm telling you don't go in the pipe. I'm saying it is
16 unsafe in the pipe. All the advice we've had suggest that it is
17 completely wrong for anyone to entertain such a risk and that is
18 the position that we adopt. Do not go in that pipe but I'm not,
19 and I make clear, I'm not going to physically prevent you from
20 doing it. If that's what you want to do, that's on your head."

21 **Mr. Peterson SC:** Well, Sir, that is exactly the point too.
22 There is no evidence of anybody physically preventing anybody
23 from going into that pipe.

24 **Mr. Chairman:** Right.

25 **Mr. Peterson SC:** The evidence is—

26 **Mr. Chairman:** But do you agree with me that he could have
27 taken that—if that had arisen, could have taken that—there is a

1 difference between asking people to effect a rescue and
2 effectively allowing those who, in defiance of your best advice,
3 seek nonetheless to try and rescue?

4 **Mr. Peterson SC:** One could have done that but that is—will
5 be totally a personal decision, because if you had done that and
6 the person perished, I could see Mr. Piper for the rest of his
7 days saying, “But why I didn’t stand firm and tell this man he
8 can’t go in the pipe?”

9 **Mr. Chairman:** Yeah, well, I’m assuming—

10 **Mr. Peterson SC:** So, it is not that—

11 **Mr. Chairman:** I’m assuming he would have done that, would
12 have said no. Given his evidence—

13 **Mr. Peterson SC:** Yes.

14 **Mr. Chairman:**—and the approach he’s taken during the
15 course of the IMT, his position was, “I never had sufficient
16 information to be able to justify anyone going in that pipe.

17 **Mr. Peterson SC:** And—yes, Sir, and the point I wish to make
18 there’s no evidence of anybody physically restraining anybody
19 from going into that pipe but what we hear here is that, “Well, I
20 was—

21 **Mr. Chairman:** Well, there’s a little bit. But, I—

22 **Mr. Peterson SC:** No, what we have here, Sir, is that, “I was
23 there. I saw coastguardsmen”—in fact, at one point somebody
24 started to allude to, but I think they back off from the evidence,
25 that there was coast guard—a huge cost guard vessel off the
26 berth, um off the jetty and they were prevented—they had guns.
27 I mean, there’s no evidence to bring that to the shore.

1 **Mr. Chairman:** You don't have to persuade me.

2 **Mr. Peterson SC:** But—but yeah, but there's no evidence, Sir,
3 that anybody was physically restrained from disregarding Mr.
4 Piper and going into the pipe, but now, when we're in these
5 nice surroundings, people are saying, "Well, I would have gone
6 if"—maybe. But then the point too that Mr. Piper—and Mr.
7 Piper made a point in his evidence that I didn't think of, I think
8 in answer to the Commission, or maybe Mr. Maharaj, he said,
9 "You know, it would have been easier for me to just make—the
10 easiest decision to make was to tell people go?"

11 **Mr. Chairman:** Yes, I'm—

12 **Mr. Peterson SC:** "The hard decision was really to tell people,
13 in the face of the unknowns, not to go."

14 **Mr. Chairman:** Certainly that's what he said, yes. How are
15 we doing?

16 **Mr. Peterson SC:** Two more minutes, Sir.

17 **Mr. Chairman:** Well we got to point 11 so I'm assuming there
18 aren't any more points on that issue.

19 **Mr. Peterson SC:** I see I had 12, Sir. I know I said 11 but I
20 always couldn't count.

21 **Mr. Chairman:** You've got a number 12?

22 **Mr. Peterson SC:** None of the divers or diving professionals
23 had a workable or credible res—well, I think I made that point
24 already.

25 The last point for completeness, Sir, it is necessary to
26 address one final allegation which has been levelled against
27 Paria in connection with this issue that afternoon and rescue

1 efforts, namely, that Paria stopped LMCS and others from
2 carrying out any rescue attempt that night, that's the allegation,
3 or during the 26th of February, 2022. We respectfully submit,
4 Sir, that this allegation cannot be supported out of a proper
5 analysis of the facts. While it is not disputed that Paria told
6 persons not to dive into the pipe because it is too dangerous, the
7 reality is that persons were not prevented from doing so
8 because the evidence shows that persons continued to dive
9 thereafter into the night.

10 **Mr. Chairman:** Now, well I mean you've made that point but,
11 I mean, I think there's a distinction between those who were
12 diving into, for example, the habitat for the purposes of no
13 doubt ensuring that if anybody was trying to come out that they
14 would have been able to be pulled out, because we knew that
15 Mr. Boodram was unable to get out of the pipe himself having
16 got to the surface level of fluid in the pipe. So it doesn't
17 surprise me that people, whilst there was a habitat in place,
18 diving into the habitat to ensure that if anybody else managed to
19 crawl their way through this pipe that they would have been
20 able to be taken from there, but I think apart from Mr. Kurban,
21 nobody else went into the pipe. Certainly there's no evidence
22 of that.

23 **Mr. Peterson SC:** Yes, Sir, and that's the point. Persons who
24 allowed—

25 **Mr. Chairman:** The point you're making is—

26 **Mr. Peterson:**—people were not be—

27 **Mr. Chairman:**—they could have done if they wanted to.

1 **Mr. Peterson SC:** People were not prevented from going into
2 the habitat. You get into the habitat, you could get into the
3 pipe. So the fact that they weren't prevented from going into
4 the habitat, once they get into the habitat, the habitat is
5 underwater.

6 **Mr. Chairman:** Yeah. Well, there would have had to have
7 been quite a lot of more activity, I mean, they were—to fit the,
8 um, all the appropriate equipment would have taken some
9 effort. I don't know what would have happened. Anyway, I've
10 got your point.

11 **Mr. Peterson SC:** But I want to suggest, Sir, in closing that
12 the—I wish Mr. Ramadhar was here because I wanted to
13 describe his invitation to the Commission for criminal
14 proceedings against Paria or its personnel as outrageous on the
15 evidence. It would grab a good headline, it will grab newspaper
16 headline and front page, but, on the evidence it cannot be
17 supported. There is no evidence here of anything close to
18 criminal conduct. There would have been something close to
19 criminal conduct—

20 **Mr. Chairman:** Well it would have to be—we'd have to find
21 that there was gross negligence with—

22 **Mr. Peterson SC:** To have that?

23 **Mr. Chairman:** Yes.

24 **Mr. Peterson SC:** Yes, Sir. And that is why I was a bit taken
25 aback at the invitation, but I know that the Commission would
26 not fall prey easily to such temptation.

27 But I have two recommendations I've been able to put

1 together so far, Sir, and one is this. That you may want to
2 recommend, Sir, guidelines for scuba and it seems from the
3 experts that scuba is not to be used in commercial work like
4 this. So that is one recommendation that I would respectfully
5 put forward for your consideration.

6 **Mr. Chairman:** Well, guidelines in relation to, um—

7 **Mr. Peterson SC:** The use of diving and—

8 **Mr. Chairman:** Commercial diving?

9 **Mr. Peterson SC:** Yes, and the type of diving for commercial.

10 **Mr. Chairman:** Yes.

11 **Mr. Peterson SC:** Secondly Sir, that we heard the evidence
12 here that there has not been any—we heard about persons being
13 qualified in saturation dive. Commissioner Wilson, I may be
14 encroaching on his area here but we heard people talking about
15 saturation dive and confined space diving. There may be some
16 recommendation around that with respect to fine-tuning that
17 confined space to include things like maybe pipeline 50 inches,
18 30 inches as the case may be, since Trinidad and Tobago is an
19 oil and gas industry and have several industrial plants.

20 So apart from just general confined space, I don't know if
21 there could—I don't know the discipline whether it could be
22 further tweaked and be more specific to deal with the more
23 likely risk that would arise in the oil and gas industry.

24 **Mr. Chairman:** What, that there should be some training for
25 people to dive into a pipeline?

26 **Mr. Peterson SC:** I don't know if that's physically. It may be,
27 it may be.

1 **Mr. Chairman:** Why don't we get rid of 30-inch pipelines,
2 have them either smaller or bigger? If they're smaller you can't
3 get sucked in and if they're bigger you could turn around.

4 **Mr. Peterson SC:** [*Inaudible*] Well, well I would—Mr. Farah
5 say he could turn around in—anyway. I have this
6 recommendation, Sir, that there be a national registry through
7 resources to respond to emergencies, because, if you realize in
8 the evidence, Sir, that there was a lot of calling around. “Do
9 you have a ROV, do you have this, do you have that aspect?”
10 If we have—and they could model it from—there's some
11 legislation in Trinidad for procurement, for example, where
12 they have a registry of skills and that kind of thing, if there's a
13 national registry.

14 So if I example, get a certificate in some specialized area
15 of diving, not from a witness that was here, but if I get a
16 certificate from in some area, I may go and register and
17 voluntarily put myself on the register in the event that there's an
18 emergency that I could be contacted. So if you have a—
19 develop a national registry for assets and personnel and their
20 specialized area of training so that when there's an event, you
21 call the emergency registry and you know that there is A, B, C,
22 they could be contacted at these numbers, these assets, so you
23 don't have to be calling around and say, “I wonder if so-and-so
24 has this equipment. I wonder if so and so has this equipment.”
25 You could go there and at the first call to see what is available
26 to respond to an emergency or a crisis.

27 **Mr. Chairman:** Well, I mean, I see some value in that. There

1 is an argument, isn't there, for any plant of the kind that we're
2 dealing with here to have certain equipment available to them
3 all the time. I mean, leave aside the question of people being
4 sucked into a pipe, there may be any number of other reasons
5 why you would want to put a camera inside a pipe, for example,
6 that tools, things get caught up in there, there are gurglings,
7 whatever it might be, within a pipe that might justify putting a
8 camera in there and one might have thought that some—a
9 company as big as Paria might have had some sort of
10 mechanism on site for achieving the same. That's certainly
11 something I would consider with Mr. Wilson as to whether or
12 not such a recommendation should be made.

13 **Mr. Peterson SC:** Yes, Sir.

14 **Mr. Chairman:** But I think as to a national registry, whilst, I
15 mean I'm attracted to it to this extent.

16 **Mr. Peterson SC:** Yes—or, sorry.

17 **Mr. Chairman:** It seems to us that there are emergencies
18 which take place which could not be predicted. This one, as a
19 matter of happening, might have been predicted but it wasn't,
20 all right? So it falls into the category of emergency that might
21 take place that is not predicted. So this country doesn't
22 experience hurricanes, so not much is being done to deal with
23 hurricanes. Similarly, supposing on that day a ship had come
24 along and had rammed straight into the berth out of control.
25 Now, that couldn't be predicted, but they would have to kick in,
26 wouldn't they, some sort of emergency procedure to try and
27 help the people that might be in the ship, it's gone down, the

1 half that's now underwater, any number of possible scenarios
2 that could emerge in an emergency situation where you haven't
3 predicted what might happen.

4 And certainly it seems to me at the moment, and I think
5 that Mr. Wilson is not unpersuaded, that there may be some sort
6 of general emergency plan that people ought to have that can
7 kick in in that situation, and the sort of register you're talking
8 about might assist in that. It would necessarily bring together
9 certain skills that might be outside of the interested parties—

10 **Mr. Peterson SC:** Right.

11 **Mr. Chairman:**—which might have its own attraction. But,
12 I—and—so certainly yes, I think that there are—

13 **Mr. Peterson SC:** Because I was going to say, Sir, this
14 recommendation is wider than Paria.

15 **Mr. Chairman:** Yes.

16 **Mr. Peterson SC:** I use Paria as the example but there may be
17 smaller companies that will have similar emergencies but don't
18 have the resources or have the equipment so they can go to this
19 registry and right away they know where they could locate,
20 instead of asking around and getting, now fishing around to see
21 who may have—like Mr. Fuentes talked but a hazmat, a hazmat
22 suit? For example, if someone has a hazmat suite, instead of
23 having it thrown in their warehouse somewhere, they'll go and
24 register, "I have a hazmat suit", so if you're looking for hazmat
25 suit you don't have to be calling around—

26 **Mr. Chairman:** In what, three different sizes or—you know, I
27 mean—

1 **Mr. Peterson SC:** Well, Sir, I told Paria with their PPE to—
2 they have to get bigger sizes, Sir, after this Commission. But
3 that's what I was thinking about.

4 **Mr. Chairman:** You're pointing at me when you say that? All
5 right, I mean, yes, are there any other recommendations?

6 **Mr. Peterson SC:** No, Sir, I want to rest it there for the time.
7 Or, yes, um—

8 **Mr. Chairman:** Do you think that Paria might have carried
9 out some sort of testing of their system since this event, that is
10 to say, they have—this has happened, it happened back in
11 nearly a year ago now, and the same people are in place.
12 Whatever the level of confidence in those people might be, do
13 you not think that they ought to have carried at a drill, a system
14 of—yes what's called a tabletop exercise of the issues involved
15 here to see what might have gone wrong, what forms might be
16 changed, what things might have been done to correct, albeit
17 they don't accept any responsibility but correct the potential
18 flaws or ambiguities that we've identified in the course of this
19 Enquiry?

20 I mean, a number of your witnesses and others have
21 accepted ambiguities at best and misleading statements at worst
22 contained in documents and so on, and I'm slightly
23 disappointed that a company the size of Paria, unlike Heritage
24 which seems to do regular testing, that they've done nothing
25 apparently since this has happened, beyond what looks to be a
26 relatively cursory examination with two very small
27 recommendations that no drill or tabletop excise has been done.

1 **Mr. Peterson SC:** I'm sure that would be undertaken, Sir, if
2 not I'll pass on your recommendation, but, your suggestion I'm
3 sure has not been lost.

4 **Mr. Chairman:** Well, you know, we're going to write our
5 report. I've made it pretty clear that we will have it ready by
6 April. I'm not in control of if—whether it is published or not.
7 That is in the hands of others, but to say you're going to wait
8 till the outcome of this Enquiry before carrying out anything, as
9 I think Mr. Mohammed said, is perhaps a little disappointing.

10 **Mr. Peterson SC:** Your sentiments would be, would be
11 factored in, Sir.

12 **Mr. Chairman:** All right, thank you.

13 **Mr. Peterson SC:** It is left for me to thank you, Mr. Chairman,
14 and fellow Commissioner Wilson and Counsel for the
15 Commission and my colleagues for tolerating me.

16 **Mr. Chairman:** Now, I thank you very much for your
17 submissions.

18 **Mr. Peterson SC:** And I have one complaint, Sir, and a
19 compliment. I have a compliment for Ms. Sinanan behind you
20 for her competencies, efficiencies.

21 **Mr. Chairman:** Yes.

22 **Mr. Peterson SC:** But, I don't understand how people be
23 sending email two o'clock in the morning and three o'clock. I
24 thought she used to sleep, Sir.

25 **Mr. Chairman:** Yes, well, I mean, believe me, I've had
26 messages all kinds of hours of the night from her.

27 **Mr. Peterson SC:** Thank you, Sir.

1 **Mr. Chairman:** All right, lovely. Thank you very much
2 indeed. Right, so that is it for today. Would it be inconvenient
3 to sit at 9.30 tomorrow? Anybody have a problem with that? I
4 think the sooner we finish the sooner we can stop and have
5 some refreshments and close this Enquiry or the evidential
6 stages of this Enquiry. Thank you very much indeed.

7 **Mr. Peterson SC:** Mr. Mootoo asked to be excused in the
8 morning. He's in Court of Appeal but I'll be here at 9.30, Sir
9 and he will join us later.

10 **Mr. Chairman:** Of course, of course; no problem at all. All
11 right, well I will see you all tomorrow 9.30. We have a target
12 time of middayish I think is where we're aiming for one way or
13 the other to close these proceedings. All right, thank you very
14 much indeed. Please gather your papers. I'll be doing the
15 same.

16 **4.05 p.m.:** *Enquiry adjourned.*

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1 **EVIDENTIARY HEARING DAY 18**

2 **9.26 a.m.:** *Enquiry commenced.*

3 **Mr. Chairman:** Yes, good morning. On our final day. I see
4 you've repositioned yourself, Mr. Maharaj. I've seen the
5 speaking notes that you've prepared and I'm grateful for that. I
6 understand it may be that you will last, potentially, up to three
7 hours or so?

8 **Mr. Maharaj SC:** Yes.

9 **Mr. Chairman:** That's fine. I say to you as I did to others,
10 take a break when you feel you need one. If you need two
11 breaks in that period of time, you won't have any complaint
12 from me. So pick your moment, we'll take a break, and then
13 proceed again after a short 10 minutes or so.

14 **Mr. Maharaj SC:** Much obliged, Mr. Chairman.

15 **Mr. Chairman:** Thank you. Yes.

16 **Mr. Maharaj SC:** I can start, Mr. Chairman?

17 **Mr. Chairman:** Yes, please do.

18 **Mr. Maharaj SC:** Good morning, Mr. Chairman. Chairman
19 Jerome Lynch KC and Commissioner Gregory Wilson, as
20 Counsel to the Commission and on behalf of my team, Mr.
21 Ronnie Bissessar and Ms. Vijaya Maharaj, I wish to thank both
22 of you for so expertly managing the procedural and now this
23 evidentiary hearing and for your helpful and instructive
24 directions so that the public has complete access to all the
25 evidence and documents which are before the Commission. I
26 would like to give special thanks to you, Mr. Chairman, for the
27 leadership you have provided to this Commission in ensuring

1 that the commitment that you gave to the public, that the
2 Enquiry would be completed expeditiously, has been kept.

3 This Commission is historically significant because it's
4 the first, as far as I'm aware, locally, that has uploaded all of the
5 documents, correspondence, orders, and directions online,
6 consistent with the access to justice principle. Further, all of
7 the proceedings have been broadcasted live on national TV and
8 streamed, and the public has, by their social media comments,
9 followed the proceedings with great interest.

10 This is one of the most important public Commissions of
11 Enquiry held in Trinidad and Tobago. The Cabinet of Trinidad
12 and Tobago recognize that these facts demanded a public
13 Enquiry, and wide section of members of the public have
14 participated in the hearings before this Commission, and have
15 followed the events at the Commission of Enquiry. I am sure
16 that the public is anxiously awaiting the report of this
17 Commission of Enquiry and that the Government would lay
18 that report in the Parliament of Trinidad and Tobago.

19 This Commission has advised that a final report is likely
20 to be presented to the President by the 30th April, 2023. This
21 has suggested a nine-month gestation period from your
22 appointment as Chairman, which is, as far as I'm aware, one of
23 the quickest, if not the quickest turnaround in the history of the
24 Commonwealth.

25 The Commission's work was greatly assisted by the
26 secretary, Ms. Sarah Sinanan, and the Commission's staff, and,
27 on behalf of the legal team assisting the Commission, I wish to

1 express our gratitude for her and her team's support, diligence,
2 and enthusiasm.

3 The Commission's deliberations were also assisted by the
4 various counsel for the parties given standing and others who
5 attended on behalf of witnesses, and the legal team is also
6 grateful for their respective contributions.

7 I also wish to thank the members of my legal team, Mr.
8 Ronnie Bissessar and Ms. Vijaya Maharaj, for their complete
9 devotion and assistance to me in performing my functions as
10 Counsel to the Commission.

11 Finally, I also wish to thank the persons behind the scene
12 who, through their individual initiative and diligence, have
13 helped to prepare the venue and have taken us to this point
14 where the evidentiary hearing is likely to be closed today or
15 would be closed today, if I may say so.

16 The structure of my submissions is as follows.
17 Submissions have been made on how the contract and permit to
18 work procedure ought to be interpreted, and whether the permit
19 to work procedure is part of the contractual obligations of the
20 parties. I would first respond to those issues in order to show
21 that the permit to work procedure imposes contractual
22 obligations on the parties.

23 I would then deal with non-delegable common law duty
24 by care by Paria to ensure that measures were put in place for
25 the works to have been done safely having regard to the
26 inherently dangerous nature of the works. These established
27 principles of the common law were recently applied by the

1 High Court of Trinidad and Tobago in a reported judgment.

2 I would then refer to the works on the 25th February,
3 2022, to show that there were serious breaches of the contract
4 and the permit to work procedure by both LMCS and Paria,
5 then I would deal with the LMCS documents which include the
6 method statement, risk assessments, job safety analysis, and the
7 emergency response plans, which were submitted to Paria and
8 which Paria reviewed and accepted, and in which both Paria
9 and LMCS did not identify that a Delta P hazard could have
10 occurred in the method of the execution of the works.

11 Those documents were reviewed by Paria; accepted by
12 Paria. Paria in its evidence before this Commission, however,
13 admitted that it did not have the competence and expertise to do
14 so. Notwithstanding that, Paria did not appoint an expert client
15 representative to assist it in that review, and accepted those
16 documents without doing so. The failure of both Paria and
17 LMCS to identify the risk of a Delta P event in the execution of
18 the works was the root cause of the accident.

19 I will then deal with the line clearing. The underlying
20 factor which led to this accident was the removal of the line
21 contents of Sealine 36, both in terms of quantity and the method
22 used. This caused the gaseous void in the pipeline which
23 created a latent Delta P hazard when the habitat was installed.
24 That latent Delta P hazard was activated when the inflatable
25 plug was removed which caused the seawater to flood the
26 habitat and the vortex to be created which sucked the five
27 divers into the 30-inch diameter pipeline.

1 I would then deal with the post-accident response by
2 Paria and LMCS. There was no emergency response plan in
3 place because the emergency response plan which was
4 submitted by LMCS to Paria and which was reviewed and
5 accepted by Paria as a suitable emergency response plan, did
6 not identify a Delta P hazard. Consequently, there was no plan
7 in place on the 25th February, 2022, when the latent Delta P
8 hazard in respect of the works was activated and caused the
9 accident.

10 I would summarize the evidence of the efforts made by
11 both LMCS and Paria to show the efforts made by both of them
12 to rescue the divers from the pipeline in the context of the
13 limited time which they had to rescue the divers alive from the
14 pipeline. I would then address the evidence of the treatment of
15 the relatives following this tragic accident and I would then
16 address the Commission on the proposed recommendation.

17 **Mr. Chairman:** Thank you. That sounds good.

18 **Mr. Maharaj SC:** First, I would just say some of the
19 principles of law which govern the assessment of the evidence
20 in this matter. And I may say this, Mr. Chairman, I would not
21 refer to cases or references. I would just make the submissions.
22 It would be online afterwards with my submissions, and I
23 suppose all can see the references.

24 **Mr. Chairman:** Yes.

25 **Mr. Maharaj SC:** Where a tribunal has to determine questions
26 of fact where there are disputed facts, the courts have held that
27 in determining the credibility of witnesses it is essential that the

1 tribunal weigh their credibility against the important
2 contemporaneous documents. In other words, the credibility of
3 a witness must be put correctly into the scales of the important
4 contemporaneous documents and weigh the evidence against
5 those documents.

6 It is a well-established principle of law that where a
7 party, without reason, fails to call a witness or witnesses that
8 would be expected to be called, if that party's evidence would
9 be favourable to that party, it would be open to the court or
10 tribunal to infer that that person's evidence would not have
11 helped that party's case. The same principle applies to the
12 failure of a party to produce documents when it might
13 reasonably be expected the party ought to have produced those
14 documents.

15 Any inconsistency between a witness' evidence and an
16 earlier statement goes to credibility. Where a witness gives
17 evidence which is inconsistent with previous evidence given on
18 oath or a previous statement, a tribunal can regard the evidence
19 of that witness as unreliable, unless the witness gives a
20 reasonable explanation for the inconsistency.

21 I would first deal with the scope of works in the context
22 that it has been stated a lot in this case, that this contract
23 resembled the 2020 contract between Paria and LMCS. The
24 scope of works developed by Paria for the contract works is at
25 CB2, page 564. It was prepared based on the scope of works
26 which had been done for a 2020 project completed by LMCS,
27 berth 5. Both the 2020 and the 2021 projects involved the

1 change out of subsea piping. The main difference between the
2 2020 and the 2021 projects was that the 2021 project involved
3 additional works above the sea, and further, the leak in the
4 subsea line was about five or 10 feet deeper.

5 In dealing with the scope of works for the 2020 project
6 which is contended to be similar to these works, Paria
7 employed a project engineer who developed the scope of works
8 and oversaw the execution of the whole project. The scope of
9 works for this project, CB2564 refers to an estimated volume of
10 product between isolation points between 2000 barrels. Paria's
11 evidence is that this represented an estimate of the volume of
12 the product into subsea line between berths 5 and 6. The
13 evidence of Paria was that neither the scope of works nor the
14 method statements required the underwater pipeline between
15 berths 5 and 6 to be completely drained.

16 Paria's Addendum 1, to the scope of works at core
17 bundle 598, query one states who is responsible for pumping
18 back from the berth to clear the lines with water; and the
19 response is the contractor is responsible for the safe removal of
20 hydrocarbon contents from the line and to ensure that the line is
21 clear and dry. Paria's evidence, however, was that this meant
22 that only part of the line where the works were to be carried out
23 would be clear and dry.

24 We shall demonstrate, however, when addressing the
25 issue of line clearing later in our submissions how the evidence
26 of Paria's witnesses that the pipeline was not meant to be
27 completely drained is inconsistent with the contemporaneous

1 documentary evidence in respect of the line draining. The
2 scope of work also sets out the contractual responsibilities of
3 the parties. The contractor is required to provide competent
4 supervision at all times during the execution of the job. They
5 are also required by section 5.4 to provide live video feed
6 stream during the subsea works. At paragraphs 3.1.11 and
7 3.1.12, reference is also made to the provision of a video stream
8 being provided topside during work activity for Paria
9 representatives.

10 Paria's responsibilities are at section 4 and include,
11 among other things, supplying all work permits certificates
12 thereby recognizing that permits to work are to be issued before
13 works; monitoring contractor's performance and work
14 standards; approving work to be done by the contractor and
15 carrying out quality assurance audits; provide slop barges to
16 assist in the removal of line content; provide personnel to
17 oversee isolation, de-isolation, depressurization, pressurization,
18 draining filling product from lines at berths 5 and 6.

19 Response to submissions of Paria and Kenson in respect of the
20 contract. In response to their submissions that there was no
21 evidence that the permit to work procedure was a contractual
22 obligation on the contract, we submit as follows:

23 Firstly, section 2 of the permit to work procedure under
24 the headings "Scope" states this permit to work procedure
25 applies to contractor maintenance, civil inspection, and
26 turnaround related activities.

27 Secondly, it is clear from section 8 of the scope of works

1 that contractors are contracted personnel and contracted
2 personnel are required to follow the permit to work procedure
3 and standard work instructions at all times. There was,
4 therefore, a contractual obligation that the permit to work
5 procedure would apply to the contract.

6 Thirdly, according to the evidence of Mr. Randy
7 Archbald of Paria, it is clear that the permit to work procedure
8 did apply to the contract. At paragraph 11 of his witness
9 statement he stated that the permit to work procedure applies to
10 contractor maintenance, civil inspection, and turnaround related
11 activities. And at paragraph 12 he stated that during the
12 execution of the contract, several permits to work were issued
13 to LMCS by Paria.

14 Fourthly, it is clear that the permit to work procedure sets
15 out the roles and responsibilities of a contractor official. At
16 section 5.6 we address this next when dealing with the permit to
17 work procedure in more detail.

18 Paria had a common law non-delegable duty of care and
19 the permit to work system was, therefore, designed to ensure
20 that that duty was carried out regardless whether or not an
21 independent contractor was retained. In these circumstances,
22 both Paria and LMCS had a joint and concurrent duty of care to
23 ensure that the works which were inherently dangerous were
24 carried out safely. We will also address this later in these
25 submissions.

26 Sixthly, this is not a civil case in which there are
27 pleadings. It is an Enquiry governed by a Terms of Reference.

1 If Kenson's position is that evidence ought to have been led to
2 show that the permit to work procedure is not incorporated as
3 part of the contractual terms, Kenson had a duty or Paria had a
4 duty to lead that evidence or cause it to be led in relation to that
5 issue.

6 Permit to work Procedures. Paria has a control of work
7 system which controls the works to be done and how they are to
8 be done. The system includes the permit to work procedure.
9 According to Terrence Rampersadsingh, the control of work
10 system not only includes the permit to work procedure, but
11 everything from the Operations Department notifying the
12 Maintenance Department of the need for the job to the signing
13 of the contract. He stated that all of this is part of the control of
14 work system, meaning that if work is not supposed to be done,
15 it isn't done. Mr. Randy Archbald in his witness statement at
16 paragraphs 10 to 11 states:

17 "The permit to work procedure was developed to provide
18 a formal documented process for controlling risk
19 associated with certain work activities such as contractors
20 and maintenance work. Without a permit to work being
21 generated, no work can be undertaken by a contractor.

22 The procedure intended to, among other things:

- 23 1. Establish the requirements for identifying critical
24 information on jobs such as the nature and extent
25 of the work to be done; the exact location of the
26 job; the equipment to be used; the hazards
27 involved; and the precautions to be taken;

- 1 2. Prevent incompatible work from taking place
- 2 simultaneously;
- 3 3. Clearly identify who makes the application to do
- 4 the job, who authorizes the job, who develops the
- 5 necessary precautions, and who gives approval for
- 6 work to commence;
- 7 4. Ensure that work is not carried out unless there is
- 8 proper authorization;
- 9 5. Clearly identify high-hazard work and the
- 10 requirements precautions to be followed; and
- 11 6. Establish monitoring and auditing requirements for
- 12 permits jobs.”

13 The following is established in the permit to work procedure:
14 Wherever work is to be done within Paria, the Operations
15 Department makes a request to the Technical and Maintenance
16 Department for the specific work to be executed. The
17 Technical and Maintenance Department then plans the works in
18 conjunction with the Operations Department. Before the work
19 can be started, all of the requirements of the permit to work
20 system must be followed. This includes that work does not
21 start until the work permit is properly issued and authorized.
22 All persons on the job must receive a briefing from the
23 appropriate supervision on the works to be done and all persons
24 on the job must understand the precautions to be taken before
25 they start to work.

26 Section 5 including section 5.1 and 6 deals with the roles
27 and responsibilities of key personnel under Paria’s permit to

1 work procedure. And they include the following:

2 The applicant is described in section 5.1 as the person
3 who initiates the job by completing section A of the permit to
4 work. He must have the necessary competence to execute the
5 job or to supervise the execution of the job, and he shall be
6 knowledgeable of the hazards associated with the job and for
7 the safety of the people who work on the job.

8 His functions include, among other things, one, to
9 continually monitor the job to ensure that it is performed in a
10 safe manner and within the conditions prescribed in the work
11 permit certificates and JHA risk assessment; to stop the work if
12 there are changes in the site condition that increase the risk, or
13 if new hazards are identified, and promptly notify the site
14 authority of these changes.

15 It has been submitted on behalf of Paria that since the
16 applicant was a Kenson employee that Paria was not the
17 applicant to the permit to work. This submission is wrong for
18 the following reasons:

19 The evidence shows that although Kenson persons were
20 employed with Kenson, they worked at Paria; they had their
21 offices at Paria; they took instructions and directions from Paria
22 personnel and was subordinates of Paria officials.

23 Marjadsingh admitted in cross-examination that he was
24 representing Paria to ensure there was a compliance with the
25 works being done by LMCS and had a duty to stop the works if
26 the works were not being done in accordance with the work
27 permit. Marjadsingh also admitted that he took instructions

1 from Paria. He works at Paria and Paria tells him what to do
2 and how to do it.

3 Terrence Rampersadsingh, Paria's then Maintenance
4 Planner, stated that Mr. Marjadsingh was a subordinate, that he
5 took instructions and directions from him and that even though
6 he was employed by Kenson, he worked at the Maintenance
7 Department of Paria. Also the submissions on behalf of
8 Kenson to the Commission in this Enquiry agreed with this
9 position; that is, the submission made by Mr. Pegus agreed with
10 that position. In any event, any issue concerning the
11 relationship between Kenson and Paria is an issue between
12 them, and it's not a matter for this Commission of Enquiry.

13 A competent person is described in the permit to work
14 rules at section 5.2. The site authority is described in section
15 5.3, which includes that—it ensures that a suitable and
16 sufficient JHA has been prepared for the job. It specifies on the
17 permit any precautions to be taken during the work;
18 periodically monitor ongoing work either in person or through
19 his team to determine whether site conditions and precautions
20 have been maintained; suspends the job if unsafe conditions
21 have developed or likely to develop. The Area Authority is
22 described in section 5.4 of the procedure and his duties are
23 stated therein. The Senior Authority is described at 5.6 and the
24 contractor official is described at section 5.8.

25 It is clear that the permit to work procedure is part of the
26 contractual terms and obligations of the parties and are binding
27 on them. The permit to work rules are also consistent with

1 Paria's obligations at common law, having regard to an
2 inherently dangerous nature of certain type of works undertaken
3 at Paria's site.

4 Non-delegable Duty in Common Law. The general
5 principle is that an employee, being Paria in this instance, is not
6 generally liable for torts committed by his independent
7 contractor, being LMCS in this instance. However, that
8 ordinary principle is displaced where the law imposes an
9 employer, Paria, a non-delegable duty, not merely to take care,
10 but to ensure that care is taken.

11 In one of the cases referred to, decided by the Supreme
12 Court under non-delegable duties of care stated: The
13 expression non-delegable duties of care is commonly used to
14 refer to duties, not merely to take personal care in performing a
15 given function, but to ensure that care is taken. The expression
16 does refer to a higher standard of care than the ordinary duty of
17 care.

18 Duties involving this higher standard of care are
19 described as non-delegable, because they cannot be discharged
20 merely by the exercise of reasonable care in the selection of a
21 third party to whom the function in question is delegated. Such
22 a non-delegable duty arises where the employer, Paria, employs
23 an independent contractor to execute inherently dangerous work
24 from which in the natural course of things, injurious
25 consequences and others must be expected to arise, unless
26 measures are adopted to prevent such consequences.

27 In such consequences, the employer, Paria, cannot relieve

1 itself of its responsibility by proving that he had delegated the
2 performance of his duty to a contractor, LMCS, employed to do
3 the work, however competent the contractor may be, or even if
4 the employer regards the contractor as a specialist contractor.
5 Where the work which the independent contractor is employed
6 to do is of a character that is inherently dangerous unless done
7 with proper precautions, the employer is responsible to anyone
8 who sustains injury in consequence of the manner in which the
9 work is done.

10 It is to be noted that under section 5.1 of the permit to
11 work procedure it is stated that the applicant shall be
12 responsible for the job and the safety of the person who work
13 on the job. Not only—and it's my comment—not only persons
14 who are employed with Paria. And I put the authorities there,
15 and I have quoted a few authorities there, Mr. Chairman, which
16 I would not refer to. It would be on the record, and it spans a
17 few pages. And then I submitted and I showed that at
18 paragraph 45 onwards that there could have been a bargain with
19 the contractor that he shall perform the duty and stipulate for an
20 indemnity, et cetera.

21 I should mention that at the end of paragraph 45, these
22 cases were all referred to in a local High Court case in CV2015-
23 03381 *Ray Cheddie and Another v National Infrastructure*
24 *Development Company Limited* at paragraphs 100 to 107.

25 **Mr. Chairman:** Yes, I've seen that case. That's the one where
26 the road building affected somebody's property.

27 **Mr. Maharaj SC:** Yes.

1 **Mr. Chairman:** I note that it took them eight years to secure
2 any compensation.

3 **Mr. Maharaj SC:** Yes, My Lord. It is submitted that on the
4 evidence, it is clear that the scope of works which LMCS was
5 required to perform was inherently dangerous and could have
6 resulted in injurious consequences unless appropriate measures
7 were taken to avoid the differential pressure hazard. Based on
8 these governing principles of law it is clear that Paria, in the
9 circumstances, had a common law duty of care to ensure that
10 those precautions were taken.

11 Having regard to the extent of the duty of care imposed
12 on an employer who employs an independent contractor to do
13 inherently dangerous works, the employer has a duty to employ
14 competent experts to ensure it discharges that duty. So—

15 **Mr. Chairman:** Can I ask you, is that submission that the
16 employer has the duty to employ competent experts in addition
17 to the contractor?

18 **Mr. Maharaj SC:** Yes.

19 **Mr. Chairman:** Yes. So they employ a specialist contractor.
20 Your submission is that the employer had a duty, nonetheless,
21 to employ some independent contractor who could assess that
22 work?

23 **Mr. Maharaj SC:** Because the employer has to protect his
24 obligation also with duty of care.

25 **Mr. Chairman:** And that arises quite independently of—

26 **Mr. Maharaj SC:** Independently of the permit to work
27 system.

1 **Mr. Chairman:** Of the permit to work system.

2 **Mr. Maharaj SC:** Yes. I was about to say that.

3 **Mr. Chairman:** Right. Thank you.

4 **Mr. Maharaj SC:** I now go to works on the 25th February
5 2022. LMCS contends that the removal of the plugs form part
6 of the work plan for the 25th February, 2022, and relied on the
7 method statement attached to the permit to work whilst Paria
8 contends it was not part of the work plan, and relies on the fact
9 that the permit to work does not list the removal of the plugs as
10 a task to be done and stipulates that the migration barrier was to
11 be used.

12 Johnathan Ramdhan was the site authority and person to
13 the permit to work procedure and the person who issued the
14 work permit. Mr. Ramdhan in his witness statement stated that
15 he was not trained nor did he possess the expertise to assess the
16 suitability or sufficiency of the JHA, JSA even though this is
17 one of the duties of the site authority.

18 Mr. Ramdhan had a duty as site authority to periodically
19 monitor ongoing work either in person or through his team to
20 determine whether site conditions and precaution were being
21 maintained. He also had the duty to suspend the job if
22 conditions were unsafe. Mr. Ramdhan, in cross-examination,
23 confirmed that he has no qualifications or experience in subsea
24 work. He fulfilled his responsibility by posting Mr. Kirt Scott
25 at berth 6 on the 25th February, 2022.

26 In cross-examination by the Commission Counsel, Mr.
27 Ramdhan stated that Mr. Kirt Scott was posted at the site to

1 periodically monitor to determine whether the site conditions
2 and precautions to ensure operational safety were being
3 maintained. He stated that the migration barrier was a
4 precaution, but there was no way to monitor the barrier because
5 in order to monitor it, you would have to dive and go into the
6 chamber.

7 It is clear, however, from the evidence of Kirt Scott that
8 he saw topside live footage of when the mechanical plug was
9 being removed, but did not have the knowledge or experience
10 to identify that this was part of the migration barrier which was
11 stated by Mr. Ramdhan on the permit to work as a precaution
12 which was to be used. So if he had that training and knowledge
13 he would have known then that it was not being used.

14 **Mr. Chairman:** Their case, though, is that that wasn't his job
15 at all.

16 **Mr. Maharaj SC:** At all. But according to the permit to work
17 system, it was.

18 **Mr. Chairman:** His job or Mr. Ramdhan's job?

19 **Mr. Maharaj SC:** Well, Mr. Ramdhan delegated that job to
20 him, and he was also employed by Paria. So Mr. Ramdhan and
21 Paria cannot say it is not responsible by delegating the job to a
22 further incompetent person.

23 **Mr. Chairman:** Yes. I mean, he didn't even know what the
24 scope of works were, really.

25 **Mr. Maharaj SC:** Yes.

26 **Mr. Chairman:** In fairness to him.

27 **Mr. Maharaj SC:** At day five, page 228, lines 19 to 25 on the

1 6th December, his evidence was as follows:

2 "Q. Did you see them on the screen? Well, you saw
3 the pipe they were working on?

4 A. Yes.

5 Q. Taking out something from the pipe?

6 A. Yes.

7 Q. What you saw they were taking out?

8 A. First, I saw they were working, moving some bolts
9 from on the blank, right, and during another time,
10 another period—because every time I pass I would
11 take a look—I saw personnel operating a chain
12 blow and turning something.

13 Q. Turning something? I wonder if the witness can
14 see the mechanical plug on the screen. I want to
15 show you on the screen something and you will
16 tell me if you recognize it.

17 A. Yes.

18 Q. Was it something like that you saw them working
19 on?

20 A. Something like that. I saw them take out the pipe."

21 The mechanical plug was removed before lunch on the
22 25th February, 2022. And I put the—that is from the evidence
23 of Mr. Boodram. And according to Mr. Boodram it involved
24 the use of a spanner to remove 22 bolts, and took over 30
25 minutes to remove.

26 It is clear, therefore, if Mr. Kirt Scott had the necessary
27 competence and experience to monitor the works on behalf of

1 Mr. Ramdhan as site authority, he would have been able to stop
2 the works when the mechanical plug was being removed.

3 **Mr. Chairman:** But isn't the evidence that even if he wasn't
4 site authority, anybody, the teaboy could stop the works if he
5 had appreciated something was being done that shouldn't be
6 done?

7 **Mr. Maharaj SC:** Correct.

8 **Mr. Chairman:** So if he had appreciated—your submission, as
9 I understand it, is that if he had appreciated that this first barrier
10 had been removed before lunch, it's something that he could
11 have stopped the works?

12 **Mr. Maharaj SC:** He could have communicated it to
13 whoever.

14 **Mr. Chairman:** Irrespective of any role as to site authority?

15 **Mr. Maharaj SC:** Yes, yes.

16 **Mr. Chairman:** All right.

17 **Mr. Maharaj SC:** Houston Marjadsingh was the applicant on
18 the permit to work. He was a Kenson employee working at
19 Paria, and he admitted in cross-examination that he was
20 representing Paria. Mr. Marjadsingh's evidence was that he did
21 not have any specialist knowledge about the job LMCS was
22 doing. He filled out section A of the permit to work based on
23 information which he was given by Mr. Rampersadsingh. He
24 stated that his function was to ensure that the form was
25 completed and any documents to be attached were attached.

26 In cross-examination—and I've placed a reference—Mr.
27 Marjadsingh's evidence included that:

- 1 1. He had no experience in subsea maintenance
- 2 works.
- 3 2. He first arrived at berth 6 at about 2.00 p.m. on the
- 4 25th February.
- 5 3. He did not monitor in the morning period as the
- 6 first time he arrived was at 2.00 p.m.
- 7 4. He was not present at the toolbox meeting and
- 8 signed the toolbox form when he arrived at berth 6.

9 It is clear, therefore, that Mr. Marjadsingh did not have the
10 necessary experience or competence to supervise the execution
11 of job by LMCS as required by Paria's permit to work
12 procedure.

13 **Mr. Chairman:** Well, he didn't supervise it all in the morning.

14 **Mr. Maharaj SC:** At all.

15 **Mr. Chairman:** And certainly, until he got there at two
16 o'clock, there couldn't have been any supervising by him,
17 because he wasn't there.

18 **Mr. Maharaj SC:** So, in effect, Paria's obligations to
19 supervision was not fulfilled.

20 **Mr. Chairman:** I mean, whatever the period of that
21 supervision, whether it's every 20 minutes, every hour, or as
22 one witness put it, every four hours, the truth of the matter is he
23 wasn't there at all in the whole of that morning and the first
24 time he arrived was at two o'clock.

25 **Mr. Maharaj SC:** Yes, Mr. Chairman.

26 **Mr. Chairman:** The only person who was there was Paul or
27 Kirt Scott.

1 **Mr. Maharaj SC:** Kirt Scott.

2 **Mr. Chairman:** Yeah. All right, thank you.

3 **Mr. Maharaj SC:** So we have submitted he also failed in his
4 duty as stated in the permit to work procedure at pages 28 and
5 29 to ensure that pre-start meeting were conducted with the
6 crew to discuss the job and to ensure that all personnel read and
7 understood the JHA and assessment.

8 Mr. Boodram's evidence was that the work plan was
9 discussed at the toolbox meeting and that it included the
10 removal of the plugs. If this is correct, had Mr. Marjadsingh
11 been present at the toolbox meeting, he would have been able to
12 assert Paria's position, which is that the removal of the plug
13 was not part of the work plan for that day, and the plugs were
14 required to be in place during the execution of the works.

15 Further, he also failed in his duty to continually or
16 periodically monitor the works. In fact, he did not monitor the
17 works at all. He only arrived at the site at 2.00 p.m. The
18 mechanical plug had been removed prior to the lunchtime.

19 The applicant, which in this case is Paria, must have,
20 according to the permit to work rules, the necessary competence
21 to execute the job or to supervise the execution of the job. So if
22 Paria is putting someone else, well, someone to do it on its
23 behalf, the person must have the competence; shall be
24 knowledgeable of the hazards associated with the job, and the
25 necessary controls for these hazards. He shall be responsible
26 for the job and the safety of the people who work for the job. It
27 also required Paria to continually monitor the job to ensure that

1 it is performed in a safe manner as prescribed in the certificates
2 and JHA assessments and to stop the work if there are changes,
3 et cetera.

4 LMCS Documents.

5 **Mr. Chairman:** Just before you move on, one of the
6 witnesses, I can't remember exactly who it was now, had
7 suggested that it was wrong for them to have identified the
8 applicant as being someone that they employed; Mushtaq
9 Mohammed, yes, thank you. When I think either myself or you
10 were asking questions, he conceded that on reflection it would
11 have been sensible for the applicant to have been LMCS rather
12 than somebody that they themselves employed, which seemed,
13 on the face of it, to illustrate a lack of understanding, perhaps,
14 of the role of the applicant. Be that as it may, would you say it
15 was open to Paria to have contracted out of that particular
16 element of the permit to work procedure?

17 **Mr. Maharaj SC:** No, Mr. Chairman. It would seem to me
18 that from the permit to work rules, there must be a permit to
19 work in respect of works, especially works which are of a
20 certain kind. And the applicant—we got in evidence when
21 evidence was being given, that Paria is normally the applicant.

22 **Mr. Chairman:** Yes.

23 **Mr. Maharaj SC:** And we have no evidence in this case, no
24 evidence from Paria, that the contractor ought to have been the
25 applicant. And it would seem to me that when you look at the
26 contents of the role and the procedures in the permit to work
27 procedure, Paria could not contract out of that. But if Kenson

1 employed by Paria, working at Paria, is, for all practical
2 purposes, representing Paria, that is no defence to the fact that it
3 was Paria's—

4 **Mr. Chairman:** No, no, I wasn't stressing that. What I was
5 wondering in the light of what Mushtaq Mohammed had said
6 was whether or not it was impossible for LMCS to have been
7 the applicant. You say no?

8 **Mr. Maharaj SC:** No.

9 **Mr. Chairman:** Right. Secondly, then, it would have been
10 possible for them to have employed someone else. As it
11 happens on this occasion, they were employing someone from
12 Kenson, but they could have employed someone—

13 **Mr. Maharaj SC:** An expert.

14 **Mr. Chairman:**—who did have those skills. There may have
15 been someone at Kenson for all I know who has those skills.
16 But the fact is, the person that they did use didn't have the skills
17 that you say they should have had.

18 **Mr. Maharaj SC:** Yes.

19 **Mr. Chairman:** Right. So—and it would have been open to
20 Paria to have employed somebody else in that role?

21 **Mr. Maharaj SC:** Oh, yes; oh, yes; someone with the
22 necessary skills in order to perform the functions of
23 supervision.

24 **Mr. Chairman:** Yes.

25 **Mr. Maharaj SC:** And, Mr. Chairman, remember, Paria being
26 the applicant is consistent with the common law non-delegable
27 duty I talked about.

1 **Mr. Chairman:** Yes. All right.

2 **Mr. Maharaj SC:** The next area that I—as part of my
3 submission, is to consider—under the heading “LMCS
4 Documents”.

5 **Mr. Chairman:** Right.

6 **Mr. Maharaj SC:** It is undisputed that the method statements,
7 risk assessment, job hazard analysis, and emergency response
8 plan for these works which were submitted by LMCS to Paria,
9 Paria reviewed them and accepted them and acted upon them.
10 And I have given the references of the documents, and I would
11 not take up time with that, because I think we all know what the
12 documents are.

13 **Mr. Chairman:** Well, I think it’s worth saying, isn’t it, it
14 includes the method statement, the risk assessments themselves,
15 the emergency response plans, and further risk assessment in
16 relation to the line clearing.

17 **Mr. Maharaj SC:** The JHA for Phase I, air blowing, the
18 method statement in Phase II, the JHA for Phase II, line
19 clearing, the method statement to install the subsea flange, and
20 the JHA to install the subsea flange.

21 **Mr. Chairman:** Yes. A significant number of documents,
22 anyway, submitted by LMCS for review by Paria.

23 **Mr. Maharaj SC:** And Paria accepted it. I mean, and there’s
24 no defence for Paria to say we didn’t have the competence to do
25 it. If they didn’t have the competence to do it, Paria had a duty
26 both under the rules and under the common law duty to get an
27 expert.

1 It is not disputed that a potential Delta P hazard was not
2 identified in any of the documents submitted by LMCS to Paria,
3 and which were accepted by Paria. The LMCS documents were
4 reviewed and accepted by Paria's multi-departmental team
5 comprising personnel from the HSE, Maintenance, and
6 Operations Department. Paria's evidence is that the purpose of
7 the review was to ensure that LMCS understood what it was
8 contracted to do; that it identified the safety risks associated
9 with the job, and that it had developed a plan to manage those
10 risks.

11 I must confess, this has always concerned me. If a
12 company does not have the competence to do the works or to
13 assess the works, how could you accept these documents
14 without getting an expert to review them on your behalf?

15 **Mr. Chairman:** Well, I suppose the parallel that's been drawn
16 is that, you know—I think Mr. Peterson says if you employ a
17 painter to come and paint your house and he starts in the first
18 bedroom upstairs and he submits a plan for what he's going to
19 do, you may have not the first idea about painting, no idea
20 about the mixtures that need to be made, and so on. You're
21 only interested in the colour, perhaps, and that the work is done,
22 and that your expertise beyond that is limited. If a person goes
23 up a ladder and falls off, how can that be your responsibility?

24 **Mr. Maharaj SC:** Well, Mr. Chairman, that is the point. This
25 was not a contract like that. This was not a painting contract.
26 This was not a contract like that. This was a contract which,
27 under the permit to work procedure, impose an obligation for

1 Paria to control the works and control how it was to be done.
2 And under the common law this was a contract which was for
3 inherently dangerous works.

4 **Mr. Chairman:** Well, I was going to ask you that. Does it
5 make a difference that the place where the contract is to be
6 executed is itself a hazardous environment?

7 **Mr. Maharaj SC:** Well, it adds to it, Mr. Chairman. It adds to
8 it. So this is a contract, inherently dangerous work and at a
9 place where the place itself is in a hazardous environment.

10 **Mr. Chairman:** Yes. I mean, when we went there, we weren't
11 allowed to move around without putting on a whole lot of
12 equipment, in particular shoes and gloves and hats and
13 everything.

14 **Mr. Maharaj SC:** I was not fortunate to be in that—I opted
15 out of it.

16 **Mr. Chairman:** No, no. When I said “we” I was looking at
17 Mr. Bissessar. You avoided that particular one. Not just you,
18 Mr. Peterson did too, I noticed.

19 **Mr. Maharaj SC:** We share the same concern, My Lord.

20 **Mr. Chairman:** All right. Yes, well, thank you.

21 **Mr. Maharaj SC:** Yes.

22 Further, Paria's evidence is that because the works which
23 were to be executed by LMCS were highly specialized in nature
24 and were not of a kind which Paria had the competence or
25 experience to execute, Paria necessarily relied on the specialist
26 expertise of contractors, such as LMCS, to identify the relevant
27 safety risks. Well, this is probably on hindsight. This ought not

1 to have been done at all. It couldn't be.

2 Notwithstanding that Paria admitted that it did not have
3 the competence or experience to execute the works, it held itself
4 out as competent to review and accept the LMCS documents.
5 Paria, therefore, did not do a genuine review of the LMCS
6 documents and Paria on its own admission relied exclusively on
7 the specialist expertise of LMCS to identify the safety risks.

8 **Mr. Chairman:** And if they get it wrong, so Paria got it
9 wrong?

10 **Mr. Maharaj SC:** Correct.

11 **Mr. Chairman:** And there's no doubt, they did get it wrong,
12 didn't they?

13 **Mr. Maharaj SC:** They did get it wrong. LMCS got it totally
14 wrong.

15 **Mr. Chairman:** Yes.

16 **Mr. Maharaj SC:** And since Paria did not have the expertise,
17 it rubber-stamped—

18 **Mr. Chairman:** The error.

19 **Mr. Maharaj SC:**—the error.

20 **Mr. Chairman:** Yes.

21 **Mr. Maharaj SC:** Paria did not take the steps to have a client
22 representative engineer expert to advise it in reviewing the
23 LMCS documents before acceptance. Paria was in breach of
24 the PTW rules and also in breach of the principle of the
25 common law referred to above.

26 It would appear that if Paria had taken the steps in the
27 2020 contract to have a project engineer it may not have got it

1 wrong, because the project engineer—

2 **Mr. Chairman:** Well, they all came out alive in that project.

3 **Mr. Maharaj SC:** Yes, yes.

4 The above evidence must be considered in the context of
5 the evidence of the expert, Mr. Zaid Khan of In-Corr-Tech, in
6 which he stated that the root cause of this accident was the
7 failure by both Paria and LMCS to recognize that a latent
8 hazardous differential pressure condition, Delta P, would have
9 been created by the methodology used in the execution of the
10 works with particular reference to the removal of fuel oil from
11 Sealine 36. He further stated that if this hazard was recognized,
12 then simple mitigation steps and/or change in the methodology
13 of the works could have been instituted to eliminate this hazard.

14 In our submission, the failure by LMCS and Paria to
15 identify a latent Delta P hazard had a ripple effect throughout
16 the project. As a result, the risk assessment and job hazard
17 analysis did not identify control measures to reduce the risk of
18 such a hazard occurring, and as a result, no control measures
19 were in place. There was no adequate emergency response plan
20 to the accident of a Delta P event when it occurred. Thirdly,
21 LMCS and Paria employees who relied on the assessment of
22 LMCS and Paria were unaware of the risk and the control
23 measures for those risks. There was, therefore, a breach of duty
24 of care by both Paria and LMCS.

25 I will now go to the line clearing which I think is one of
26 the important aspects in this case—in this Enquiry.

27 **Mr. Chairman:** Yes.

1 **Mr. Maharaj SC:** We all know, according to the final In-
2 Corr-Tech report, at paragraph 3.1 that:

3 “The removal of the content with respect to the quantity
4 and method in line between berth 5 and 6 was the
5 underlying factor that led to this accident. The removal
6 created a gaseous void in the riser and sealine setting up a
7 latent differential pressure condition between the habitat,
8 and a gaseous void in the sealine when the mechanical
9 seal and the inflatable plug were installed and the habitat
10 was pressurized.”

11 End of quote.

12 The line clearing process began on the 18th January,
13 2022, and was completed around 3rd February, 2022.
14 According to Johnathan Ramdhan, Paria’s Operations Team
15 Supervisor, LMCS undertook to conduct the line draining in
16 accordance with Paria’s work instruction effective 5th January,
17 2022. The Paria work instructions—I put the reference—this is
18 a step-by-step instruction for the clearing of Sealine between
19 berths 5 and 6 developed by Paria’s Operation Department. It
20 was revised by Paria’s Visham Harrichan and approved by
21 Paria’s Jason Beckles and authorized by Paria’s Collin Piper.

22 Mr. Ramdhan stated that the purpose of the document
23 was to oversee the draining process and that the Operations
24 Department of Paria had control over the process. It is to be
25 noted that there are also method statements produced by LMCS
26 for both phases one and two. On page 1038 it is stated on the
27 work instruction that the operator at Paria was to be assigned

1 for monitoring and emergency response.

2 Mr. Ramdhan in cross-examination also confirmed that
3 Paria officials were witnessing, present, and overseeing the
4 draining process—and I put the reference to the [*Inaudible*].
5 Remember that Mr. Ramdhan is Paria.

6 Also, section 8 of the scope of works required the
7 contractor to follow not only the permit to work procedure but
8 also standard work instruction. So these were work instructions
9 with which the contractor had to follow.

10 **Mr. Chairman:** Is that what we have at page 1033?

11 **Mr. Maharaj SC:** Yes.

12 **Mr. Chairman:** What's been described as the internal
13 documents for Paria's staff, but which found itself into the
14 hands of LMCS?

15 **Mr. Maharaj SC:** Yes. And the scope of works require the
16 contractor to follow work instructions of Paria. Therefore,
17 LMCS would have had a contractual obligation to follow
18 Paria's work instruction. This work instruction was emailed by
19 Paria Maintenance Planner, Mr. Terrence Rampersadsingh, to
20 LMCS on the 10th January, 2022, and it was attached to the
21 work instruction.

22 **Mr. Chairman:** To the email. That work instruction was
23 attached to the email.

24 **Mr. Maharaj SC:** I'm sorry. The work instruction was
25 attached to the email.

26 **Mr. Chairman:** I think it was something I asked Mr. Peterson
27 yesterday. I mean, this wasn't done inadvertently. You know

1 how sometimes you can have an attachment to an email which
2 you don't really intend to be passing on. But in this case it was
3 deliberate.

4 **Mr. Maharaj SC:** In my respectful submission, the reasonable
5 inference to be drawn, it was intentional.

6 **Mr. Chairman:** Yes. And it is, as you say, literally a step-by-
7 step instruction of exactly how it's to be achieved, isn't it, and
8 in which order each step is to take place. Yes.

9 **Mr. Maharaj SC:** And then the scope of works at paragraph
10 4.5 provides that Paria's responsibility included providing
11 personnel to oversee isolation, de-isolation, depressurization,
12 pressurization, and draining filling product from lines at the
13 berth 5 and berth 6.

14 **Mr. Chairman:** This is one of the few things that they've
15 retained for their own responsibility in that very large
16 document.

17 **Mr. Maharaj SC:** Yes, Mr. Chairman.

18 **Mr. Chairman:** Yes, but it includes this. And on that
19 occasion there is no ambiguity. It says "oversee".

20 **Mr. Maharaj SC:** "Oversee". Mr. Terrence Rampersadsingh
21 of Paria who had the responsibility of overseeing the execution
22 of the project stated that this meant that operations would have
23 identified all of the points that need to be isolated, line up the
24 clamps and the valves for the product to go in. He further
25 stated that the contractor would be responsible for draining the
26 product to the required height and the Maintenance Department
27 would provide all the permits and all the mechanical support

1 that is required and the process would be overseen by Paria
2 through its Operations Department. That is his evidence, and I
3 put the reference in the—

4 **Mr. Chairman:** Yes. I have to say, I'm still struggling to
5 understand precisely why it was felt necessary to move from
6 pumping to blowing. I've read something in the papers that one
7 of the suggestions was that there was a danger that water would
8 ingress into the pipe at berth 6 when seeking to draw the fluid
9 from the pipe, and that that might have been one of the reasons
10 why they moved away from sucking to blowing, as I put it. But
11 I have to say, I have struggled a little with the idea, bearing in
12 mind you're only taking a relatively small amount out of it
13 altogether. And if there was a problem at one end, because it
14 was too low and there was a danger of water ingressing into the
15 pipe, do it at the other end—

16 **Mr. Maharaj SC:** Other end.

17 **Mr. Chairman:** Because you've got a pipe, that if you're
18 sucking it from that end it will eventually—as was
19 demonstrated, it would equalize.

20 **Mr. Maharaj SC:** It's basically a U.

21 **Mr. Chairman:** Yes.

22 **Mr. Maharaj SC:** It's a U. So if you couldn't do it at one end,
23 do it at the other end.

24 **Mr. Chairman:** I have to say, I have struggled with this idea
25 that it was felt necessary to move from one to the other. Whose
26 idea was it to move from one to the other?

27 **Mr. Maharaj SC:** It seems as though it was a joint decision.

1 **Mr. Chairman:** Between LMCS and Paria?

2 **Mr. Maharaj SC:** Yes. And both of them thought that by
3 doing it at the method and as submitted to that they would have
4 achieved the result. They obviously, genuinely thought that.

5 **Mr. Chairman:** No, no, I don't suppose they did it
6 deliberately, no. That's never the issue in this. No one is
7 suggesting any of this was deliberate. It's a question of
8 whether it was negligent at all.

9 **Mr. Maharaj SC:** But it would seem to anyone that even if
10 there was an error, why it was not detected when all this oil was
11 being—that is the difficulty in this case, in this Enquiry.

12 So it was the evidence of both LMCS and Paria that the
13 intention was never to drain the entire underwater pipeline
14 between berths 5 and 6, but rather to remove only sufficient
15 content to achieve a 30-foot ullage at berth 6 to install the plugs
16 in order for the works to be carried out.

17 Mr. Kazim Ali Sr. in his supplemental witness statement
18 at paragraphs 31 and 32 describe Phase I and Phase II line
19 clearing process by way of air blowing. This was a change
20 from the original method statement which proposed the use of
21 an air pump from the line clearing exercise. The use of the air
22 pump would have involved introducing an air pump at an open
23 riser at berth No. 6. However, this method was changed to air
24 blowing after LMCS was awarded the contract following
25 discussions at a kick-off meeting around June 2021 where
26 LMCS and Paria looked at the job in more detail.

27 **Mr. Chairman:** I mean, is there ever a justification for

1 pumping air into a pipe unless you are genuinely looking to
2 clear it completely? I simply don't have the answer to that.

3 **Mr. Maharaj SC:** Even someone who is a non-expert can
4 think that you're going to use the air to blow from one end to
5 the other end, what is the purpose of doing that, but to clear the
6 line?

7 **Mr. Chairman:** Yes, to clear the line. I can understand if, for
8 example, it was felt necessary to say wash the pipe in some
9 way, you know, that you would want to completely clear it of
10 all fluid, and then pump in, no doubt, some sort of cleaning
11 substance to remove all the gunk that has acquired over the
12 years. And then having done so, you flush it out and then you
13 refill it with fuel. I think if you're working on a line—well, you
14 know, it does seem extraordinary that anyone would have
15 thought that pumping air into the pipe was a good idea. And
16 we're dealing here with two highly experienced professional
17 companies: LMCS with many years' experience, and Paria
18 with many years' experience.

19 All right, thank you.

20 **Mr. Maharaj SC:** Mr. Kazim Ali Sr. stated that he decided
21 that the use of an air pump was not practical.

22 **Mr. Chairman:** That's the sucking?

23 **Mr. Maharaj SC:** Sorry?

24 **Mr. Chairman:** That's sucking. The way I put it—forgive me
25 for using non-technical expressions, but it helps me to
26 understand what it means. So the air pump to suck out the fluid
27 rather than pushing it out?

1 **Mr. Maharaj SC:** Pushing, yes. And he said because they
2 would have had to remove the flange from the top of the riser in
3 order to get the pump in and this risked water entering the riser
4 and was possibly an environmental hazard concern.

5 Further the top of the riser would have had to be open for
6 a prolonged period of time. If an air pump was used and if
7 water entered, this would have caused the oil in the riser to rise
8 and escape from the riser into the sea causing pollution. So
9 this—

10 **Mr. Chairman:** Again, I don't really understand that. How
11 would it have taken a long period of time for the lid to be
12 opened, as it were? You're only taking a few barrels out. I
13 mean, this is a company that must pump tens of thousands of
14 barrels of oil on a daily basis.

15 **Mr. Maharaj SC:** And those barrels could have been taken
16 out, as you said, in a bucket.

17 **Mr. Chairman:** Yes. Well, I know I've used that expression.
18 I know I've used that expression, but, I mean, realistically,
19 we're talking about 50, 60 barrels of oil. A barrel is only 42
20 gallons. Surely this is something ought to have been done
21 within an hour, call it two. How does it need to be open for a
22 prolonged period of time?

23 **Mr. Maharaj SC:** Ten days.

24 **Mr. Chairman:** I mean—anyway.

25 **Mr. Maharaj SC:** It is to be noted, however, that the evidence
26 of Paria with respect to its understanding that the line clearing
27 exercise was only to achieve a sufficient ullage to install the

1 plugs is inconsistent with the plain language of the following
2 contemporaneous documents.

3 The scope of works at page 564, CB3, paragraph 315
4 where it's stated:

5 "Properly coordinated works with Paria operations
6 maintenance and HSE personnel to perform the following
7 activities including but not limited to isolation, de-
8 isolation, depressurization, pressurization, and draining."

9 **Mr. Chairman:** The point you made before?

10 **Mr. Maharaj SC:** Yes.

11 **Mr. Chairman:** As I say, one of the features that they retain
12 for themselves, that is, Paria, as incumbent upon them, is the
13 oversight of draining. Yes.

14 **Mr. Maharaj SC:** And then the addendum, which made it
15 clear that the contractor was responsible for the safe removal of
16 hydrocarbon contents from the line to ensure that the line is
17 clear and dry. I mean, those are clear, unambiguous words.

18 **Mr. Chairman:** Well, yes. But even if one was charitable, it's
19 certainly at best ambiguous, isn't it—at best?

20 **Mr. Maharaj SC:** Yes.

21 **Mr. Chairman:** And given the seriousness with which this
22 kind of work ought to be taken, there should be no room for
23 ambiguity at all.

24 **Mr. Maharaj SC:** At all.

25 **Mr. Chairman:** None of the personnel, be they LMCS or
26 Paria, working on this particular project should have been in the
27 slightest possible doubt that there was only to be removed a

1 certain limited amount of fuel or substance from the line. And
2 to say as it does in a specific query raised by a contractor, not
3 necessarily LMCS, but a contractor, to Paria, the company
4 engaging them, that the line is to be clear and dry, does leave a
5 considerable gap between that which I would have thought
6 ought to have been made paramount and clear, rather than, as I
7 say, at best, ambiguous.

8 Yes, thank you.

9 **Mr. Maharaj SC:** Much obliged, Mr. Chairman. And Paria
10 work instructions refers to the scope as being clearing of
11 number 36 SL section between berths 5 and 6; clearing. The
12 permit to work at page 1074, which states in section B “line
13 drained”.

14 **Mr. Chairman:** This, as you know, has troubled me, and I
15 know Mr. Wilson, for some considerable time. As I say, at best
16 ambiguous, but combined pretty clear that the instruction seems
17 to be the complete removal of the fluid in the line. Anybody
18 who might not have been privy to the negotiations and what
19 was ideally attempted to be achieved by Mr. Kazim Ali and/or
20 the contractors, employer at Paria, would be forgiven for
21 thinking that that was exactly what it was that they were trying
22 to do. And, therefore, when hundreds and hundreds of barrels
23 were being removed from the line nobody would have been
24 alerted, would they? Because they wouldn't have been—if they
25 had known this language they wouldn't have thought anything
26 of it.

27 **Mr. Maharaj SC:** No.

1 **Mr. Chairman:** To say it's one of the most clear and obvious
2 flaws in the process that was—and, I mean, given the volume of
3 material that we've looked at, the words of every, every
4 particular clause, you would have thought at least somewhere it
5 would have been absolutely clear. We only need a small ullage,
6 therefore, no more than. And I think there's one document
7 where it was speculated that just a few—

8 **Mr. Maharaj SC:** Well, if I may offer it, it could be simple,
9 “Do not drain more than so and so”.

10 **Mr. Chairman:** Yes. Anyway, yes, thank you for that.

11 **Mr. Maharaj SC:** But to crown it all in Paria's daily work
12 reports compiled by Paria's personnel, which I refer to below,
13 these documents record that Paria was aware that more than
14 1,252 barrels of oil was received in its tank farm and also in
15 sloop barges. This as we shall demonstrate is more consistent
16 with the line being drained than an intention to partially drain to
17 achieve 30-foot ullage.

18 The fact that the daily work report show that Paria
19 wanted the line to be drained and it participated in the draining
20 process as it was monitoring the draining of the line, in order
21 for the line draining process at Paria's compound to be done,
22 Paria's resources and facilities including its workers were used
23 in that process, and it is clear from the daily work reports that
24 Paria kept a record of the draining of the oil.

25 **Mr. Chairman:** I noted from that when you were dealing with
26 it in the evidence that there were days when they were draining
27 and there was no record of how much was being drained, but it

1 would appear for whole days or at least substantial parts of days
2 there was draining taking place without recording the amount
3 that had been drained. So when you describe the 1,252 barrels
4 that was actually recorded, it is on any view in excess of that.

5 **Mr. Maharaj SC:** 1,252 plus.

6 **Mr. Chairman:** Bearing in mind that on some of those days as
7 I say, they were draining for much of the day.

8 **Mr. Maharaj SC:** Yes.

9 **Mr. Chairman:** And we've made it clear, I think, during the
10 course of the evidence that we've heard, that something in the
11 order of 50, 60, 70 barrels or so ought to have done it. So we're
12 not talking about some marginal difference here.

13 **Mr. Maharaj SC:** Major difference.

14 **Mr. Chairman:** Yes. Thank you.

15 **Mr. Maharaj SC:** Much obliged, Chairman.

16 I will now go to the total content of the topside piping.
17 The evidence showed that—

18 **Mr. Chairman:** Do you want to—I was going to suggest if
19 you finished this part of it we might take a short break.

20 **Mr. Maharaj SC:** Yes. Thank you very much.

21 The evidence show that Mr. Kazim Ali Sr. believed that 300
22 barrels had to be removed from the topside piping to drain the
23 topside piping. With respect to the underwater piping, Mr. Ali
24 Sr's evidence was that 60 barrels had to be removed to achieve
25 a 30-foot ullage in the riser at berth 6. Based on that evidence,
26 therefore, no more than 360 barrels ought to have been removed
27 during the entire line clearing exercise; that is 60 barrels from

1 the underwater riser at berth 6 and 3 barrels from the topside
2 piping. And if I can just follow just the next part.

3 **Mr. Chairman:** Yes. I mean, that was using his rule of
4 thumb, one 1 barrel per foot, wasn't it?

5 **Mr. Maharaj SC:** Yes. However, Paria produced
6 contemporaneous daily work reports created by its maintenance
7 technicians which shows 960 barrels were removed during
8 Phase I and 336 barrels were removed during Phase II. And
9 that is how I get the total of 1,252. Those daily work reports,
10 according to the evidence of Mr. Rampersadsingh, were
11 emailed to him on a daily basis. They were copied to Mr.
12 Manmohan Balkaran, Assistant Planning, and where required,
13 Operations.

14 **Mr. Chairman:** So it's not as though they were living in
15 sublime ignorance of it.

16 **Mr. Maharaj SC:** No. Paria—in the bosom of Paria it knew.
17 The imputed knowledge was that it knew the line was being
18 drained in excess of what was intended, and LMCS knew that
19 too.

20 **Mr. Chairman:** Right. And just to take the figures you were
21 dealing with earlier, that 916 barrels were removed under Phase
22 I and 336 under Phase II, even if in some odd way Phase I did
23 not have anything whatever to do with the subsea line and was
24 to do with top line pipes, or whatever it might have been didn't
25 involve that, it still left 336 barrels plus, I think, one day of
26 blowing without recording the amount.

27 **Mr. Maharaj SC:** Yes.

1 **Mr. Chairman:** So you had on any view even if you were to
2 take that lesser figure for Phase II, it was still hundreds of
3 barrels more on the face of it than it should have been.

4 **Mr. Maharaj SC:** Should have been. Correct, Mr. Chairman.

5 **Mr. Chairman:** Yes. Is that a useful moment to break off for
6 a short break?

7 **Mr. Maharaj SC:** Much obliged, Chairman.

8 **Mr. Chairman:** Well, let's do that then. Let's take—should
9 we resume at 10 minutes to 11.00, please, 10 to 11.00?

10 **Mr. Maharaj SC:** Much obliged.

11 **Mr. Chairman:** Thank you.

12 **10.38 a.m.:** *Enquiry suspended.*

13 **10.49 a.m.:** *Enquiry resumed.*

14 **Mr. Chairman:** Yes. I feel the final hurdle approaching.

15 **Mr. Maharaj SC:** Yes, yes, Chairman. I think everyone in
16 this room is looking forward for this evening, so that we
17 wouldn't have to be here on Monday morning.

18 **Mr. Chairman:** Sounds a little disappointing. I thought you
19 were all looking forward to it.

20 **Mr. Maharaj SC:** No, that is not because that we do not want
21 to be here, to be in your company and the company of Mr.
22 Wilson.

23 **Mr. Chairman:** That's a poor recovery.

24 *[Laughter]*.

25 **Mr. Maharaj SC:** It is just that there are other things to be
26 done and nothing else could have been done because of this
27 Commission.

1 **Mr. Chairman:** Of course. No, for my part I'm delighted
2 that—we have some comments to make a little later—but I'm
3 delighted that we've managed to maintain the timetable that
4 you've expressed right at the outset. Yes. Right.

5 **Mr. Maharaj SC:** Thank you very much. Thank you, Mr.
6 Chairman.

7 Mr. Chairman, I want to draw the Commissioners'
8 attention to a letter in the record from OSHA to Mr. Mushtaq
9 Mohammed. It's a letter dated the 20th July, 2022.

10 **Mr. Chairman:** It's in the bundle, I think, isn't it?

11 **Mr. Maharaj SC:** Yes. It's at pages 2905 and 2908 in the
12 electronic bundle submissions. It was signed by Mr. Mushtaq
13 Mohammed to OSHA in which OSHA asked certain questions
14 about the volume of the oil removed. And if you look at
15 page—

16 **Mr. Chairman:** As you say, this is a letter dated the 20th July?

17 **Mr. Maharaj SC:** Yes, 20th July, 2022.

18 **Mr. Chairman:** Well, I'll see it on the screen now.

19 **Mr. Maharaj SC:** And if you look at page 2906, it's headed
20 "Clarification of whether an Air Driven Pump or an Air
21 Compressor was used to remove hydrocarbon from Sealine 36
22 between berths 5 and 6 prior to the installation of the subsea
23 slip-on flange. Response." Paria confirms that an air
24 compressor provided by LMCS limited was used to remove
25 hydrocarbon from Sealine 36 between berths 5 and 6 prior to
26 the installation of the subsea slip-on flange 30 inches. And then
27 there was another question—

1 **Mr. Chairman:** So the highlighted part is the query from
2 OSHA?

3 **Mr. Maharaj SC:** Yes.

4 **Mr. Chairman:** And then underneath the responses from
5 Paria?

6 **10.52 a.m.**

7 And then you go to four, the question:

8 “Response of hydrocarbon removed from Sealine 36
9 between berths 5 and 6 prior to the installation of the
10 subsea slip-on flange 30-inch diameter as per method
11 statement.

12 Response: Given the configuration of the system, it is
13 impossible to segregate and measure the displaced
14 volume.”

15 So what this letter is saying that it is impossible to measure,
16 although from the daily report it showed that there could have
17 been some measurement, and there were measurements.

18 And then the next question: the volume of the
19 hydrocarbon removed from the Sealine 36 between berth 5 and
20 6 after the accident.

21 “Response: The volume of hydrocarbon removed is
22 estimated at 125 barrels. The quantity is based on the
23 estimated spilled hydrocarbon 6 barrels, and the recorded
24 volumes of hydrocarbons recovered in the Sea Manatee
25 119.88 barrels.”

26 **Mr. Chairman:** Sea Manatee is a slop barge I think or some
27 sort of barge was it not.

1 **Mr. Maharaj SC:** Yes, yes. That's what I understand.

2 **Mr. Chairman:** Yes. So they were able to tell the amount of
3 hydrocarbon—

4 **Mr. Maharaj SC:** In the underwater—

5 **Mr. Chairman:**—that came out of the pipe after—

6 **Mr. Maharaj SC:** Yes.

7 **Mr. Chairman:**—the incident happened, in other words, when
8 they were pumping in order to recover the bodies, and they
9 described that as about 125 barrels, but they were unable, at the
10 time that this document was signed by Mr. Mushtaq
11 Mohammed on the 20th of July, to tell OSHA how much had
12 been taken out of the pipe before the accident happened.

13 **Mr. Maharaj SC:** Yes.

14 **Mr. Chairman:** Well that's not true, is it?

15 **Mr. Maharaj SC:** No.

16 **Mr. Chairman:** I mean, they did know?

17 **Mr. Maharaj SC:** Yes, they did know.

18 **Mr. Chairman:** I mean, those daily report records were
19 contemporaneous, were they not?

20 **Mr. Maharaj SC:** Yes. And they were dated when? From
21 where? And I'm reminded that those records were compiled
22 contemporaneously so in January and February of 2022.

23 **Mr. Chairman:** As and when it happened?

24 **Mr. Maharaj SC:** As and when it happened.

25 **Mr. Maharaj SC:** Yes.

26 **Mr. Chairman:** And so to say, as he does in OSHA's inquiry
27 back in July of last year: "Given the configuration of the system

1 it is impossible to segregate and measure the displaced
2 volume”, that is simply not the case, is it?

3 **Mr. Maharaj SC:** No.

4 **Mr. Chairman:** Or even if you were unable to give an exact
5 figure, he was certainly in a position, was he not, to have given
6 the figures that you’ve given us before we had the break?

7 **Mr. Maharaj SC:** Yes.

8 **Mr. Chairman:** One thousand two hundred and fifty-two
9 barrels?

10 **Mr. Maharaj SC:** And this is a letter signed by the head of
11 Paria.

12 **Mr. Chairman:** Yes. It’s perhaps a pity we didn’t put this to
13 Mr. Mohammed when he was here.

14 **Mr. Maharaj SC:** Yes.

15 **Mr. Chairman:** Because it’s something that perhaps he ought
16 to have explained. What I’m going to do is this. This is
17 obviously quite a serious matter. I think that the sensible thing
18 would be to allow Mr. Mohammed, Mushtaq Mohammed, to
19 address this.

20 **Mr. Maharaj SC:** Yes.

21 **Mr. Chairman:** So I’m going to ask Mr. Peterson, obviously
22 it’s of some importance, and there may be a perfectly good
23 explanation, so can I ask that you invite Mr. Mushtaq
24 Mohammed to have a look at the letter that he wrote? I mean,
25 obviously it’s been part of the bundle from the start to finish so
26 it’s not as though it’s only something that’s just emerged. It’s
27 perhaps, as I say, a little lamentable that this wasn’t—that he

1 wasn't asked about it when he gave evidence, but, no loss.
2 What we can do is, perhaps you'll be good enough to provide
3 him with a copy of this and ask him if he would be good
4 enough to explain what he meant by, in paragraphs four and
5 five, if he's able and we will take that into account.

6 **Mr. Peterson SC:** I would do that, Sir, but, I could observe for
7 the time being that the focus between—the exchange between
8 my learned friend and the Commission is only focused and
9 isolated on measurement as opposed to the inability to
10 desegregate or deaggregate I think he said, desegregate the
11 system.

12 **Mr. Chairman:** No.

13 **Mr. Peterson SC:** So the quantity—

14 **Mr. Chairman:** If that's his explanation.

15 **Mr. Peterson SC:**—the 1,200 barrels dealing with
16 measurement but does not recognize the connectivity and the
17 interplay of the system, but Mr. Mohammed, I guess, will better
18 explain it.

19 **Mr. Chairman:** Well I—

20 **Mr. Peterson SC:** But I make that observation for the time
21 being.

22 **Mr. Chairman:** No, I'm grateful for that observation and of
23 course, as I've said, there may be a perfectly good explanation
24 as to why he gave that answer. On its face it doesn't seem to be
25 entirely accurate, to put it neutrally, and so I would welcome
26 any contribution he might wish to make in relation to that and I
27 shall ensure that that contribution is put up on the website once

1 we receive it, and anybody who wants to make a comment
2 about it would be free to do so. As I say, and we will certainly
3 take it into account, all right?

4 **Mr Peterson SC:** Sure.

5 **Mr. Chairman:** Thank you for drawing that to our attention.

6 **Mr. Maharaj SC:** Yes, Chairman. And I do apologize that it
7 was not brought before but in preparing the submissions,
8 looking at everything—

9 **Mr. Chairman:** Well, you know—

10 **Mr. Maharaj SC:**—and there are so many documents, yes.

11 **Mr. Chairman:** I, I, I, I am not going to hold anybody
12 responsible. It's equally my responsibility. These are
13 documents that have been as part of the bundle for a long time
14 now. We've managed tens of thousands of pages one way or
15 the other and—that we—there was an oversight of this, all of us
16 overlooked it. Mr. Peterson's team, your team, me and
17 everyone else. So—but we've clearly got to give him an
18 opportunity to address this—

19 **Mr. Maharaj SC:** Sure, sure.

20 **Mr. Chairman:**—and I'll invite him to do so. Thank you very
21 much for bringing it to our attention.

22 **Mr. Maharaj SC:** I now come to some of the evidence Mr.
23 Zaid Khan gave after he did the presentation and some of the
24 evidence as it relates to the line clearing. Mr. Zaid Khan in
25 the—in his In-Corr-Tech report in his letter dated the 6th of
26 January, 2022 stated that out of the 916 barrels removed during
27 Phase I, he estimated that approximately 200 barrels were

1 drained from the topside. This is based on his personal
2 knowledge of the capacity of the topside piping and therefore
3 that 777 barrels were removed from the underwater Sealine
4 during Phase I.

5 In Phase II, he states that at least 336 barrels were
6 removed from the underwater Sealine. Therefore, in his
7 opinion, a total of 1,052 of the 2000 barrels would have been
8 removed from the underwater line. These figures do not take
9 into account where air blowing occurred on occasions and the
10 quantities of the fuel oil removed were not recorded.

11 **Mr. Chairman:** Right.

12 **Mr. Maharaj SC:** This—there was no taking into
13 consideration of the quantity of the oil being removed. The
14 evidence shows that even though Paria had available to it the
15 daily records of the fuel oil being removed, those figures did
16 not form part of any consideration by LMCS or Paria to ensure
17 that only the target amount was removed from the riser at berth
18 6 to achieve the 30-foot ullage. LMCS did not measure the
19 quantity of fuel oil which was removed but was measuring the
20 ullage. It would appear that Paria also depended on the
21 measuring of the ullage rather than considering the actual
22 quantity of fuel oil which existed and what had been removed.

23 In Johnathan Ramdhan's evidence, and I have the reference
24 there, he stated that he couldn't say the quantity which was
25 removed. He stated that Operations was overseeing the
26 draining process by the contractor and that LMCS was doing
27 there ullaging to determine if the right amount of oil was

1 removed.

2 Then Visham Harrichan, reference there, stated that he was of
3 the impression that the ullage was actually giving the amount in
4 the line. Collin Piper, reference there, stated that the dip on the
5 line is the measurement that the contractor was going to.
6 Visham Harrichan also stated in cross-examination that he
7 could not say how much oil was drained or even how much had
8 to be drained. In fact, Mr. Harrichan was surprised by the
9 actual amount of line content which was drained. And the
10 question to him was:

11 “So having become aware of that now, would you not
12 agree that the unlimited draining of the line, the
13 underwater line between berths 5 and 6, should have
14 been closely monitored if it had to be drained?”

15 “Yes. And I thought it was closely monitored.”

16 And then the question here: “By whom?” And his answer was:
17 “The contractor and the maintenance department”, which is the
18 maintenance department of Paria.

19 However, Mr. Terrence Rampersadsingh of Paria maintenance
20 department who was in charge of overseeing the execution the
21 project, stated that he never worked out how many feet of the
22 content in the riser was equivalent to the terms in barrels—in
23 terms of barrels. Mr. Collin Piper Terminal Operations
24 Manager agreed that he had the overall responsibility of
25 ensuring that Paria instruction procedure was established by
26 reviewing and approving the work instruction and ensuring that
27 the offshore team lead understood the requirements of the work

1 instruction.

2 Mr. Piper agreed that the Paria work instruction was a step by
3 step process which was sequential for the line clearing process.

4 However, notwithstanding the evidence of Johnathan Ramadan
5 that the line clearing was undertaken by LMCS pursuant to

6 Paria work instruction, Mr. piper stated that the work
7 instruction did not go to LMCS and is solely an internal

8 instruction for Paria operators. However, this is inconsistent
9 with not only Mr. Ramdhan's evidence but also with

10 contemporaneous documentary evidence of the email from Mr.
11 Terrance Rampersadsingh copied to Mr. Manmohan Balkaran

12 and sent to LMCS on the 10th of the January, 2022.

13 In that email, Mr. Rampersadsingh attaches the work
14 instruction and states:

15 "Please see attached signed draining procedure. Let us
16 meet tomorrow at 10.00 a.m. to discuss draining
17 schedules. I want to start as early as possible this week,
18 bearing in mind the crude ship loading is on the 14th. I
19 will discuss with Ops now to firm up on any other
20 issues."

21 End of quote. According to 5.3 of the permit to work
22 procedure, Paria as the site authority was directly responsible

23 for the site facility and is responsible for ensuring that
24 conditions required for the safe conduct with the job are

25 maintained. Paria, pursuant to this duty and also in monitoring
26 the works, should have been able to identify from its record that

27 more fuel oil than was required was being drained from the

1 line. LMCS also ought to have known that more fuel oil than
2 was required was being drained from the line.

3 **Mr. Chairman:** The sheer time that it took might have
4 indicated that, mightn't it?

5 **Mr. Maharaj SC:** Yes.

6 **Mr. Chairman:** I mean, bearing in mind LMCS, it is their case
7 and indeed Paria's, that all they wanted to do was to achieve a
8 30-foot ullage on either side, the mere fact that this seemingly
9 took days, days of pumping, must have told them surely that
10 they were taking out more than the 30-foot ullage that they
11 required on either side. As I've indicated before, you could do
12 it with a bucket, you know, and it does seem somewhat
13 extraordinary that nobody at LMCS was saying, "Well hang on
14 there. How much are we actually taking out, if this is taking
15 day upon day upon day?"

16 **Mr. Maharaj SC:** And one would have thought that LMCS
17 who was actually operating the—ought to have realized that
18 more than that was being—

19 **Mr. Chairman:** Yes. I mean, it is the evidence of Kazim Ali
20 that he, he—that's all he wanted. He only wanted this 30-foot
21 ullage. I mean, someone of his experience must have
22 appreciated, surely, as the days ticked by, that they must be
23 taking out more than the ullage that is required and it's all very
24 well saying, "Well, I kept putting a dipstick down and to see
25 how—where it was", but the truth was that, um, he must—why
26 didn't he query it, is the obvious question I suppose. But he
27 didn't, did he?

1 **Mr. Maharaj SC:** He didn't.

2 **Mr. Chairman:** No. Thank you.

3 **Mr. Maharaj SC:** I now refer to Mr. Zaid Khan's evidence in
4 which he showed, from his evidence, the measuring of the
5 ullage did not detect the gaseous void.

6 **Mr. Chairman:** All right, will you just give me one moment?
7 I just want to make a note against there that, er—[*Writing*]
8 Thank you.

9 **Mr. Maharaj SC:** Mr. Zaid Khan said that the removal of the
10 line, and this is what he said in evidence before this
11 Commission, that the removal of the line contents to 35 feet
12 below sea level in the riser, if that had been undertaken, no
13 gaseous void would have been formed on the installation of the
14 plugs.

15 **Mr. Chairman:** That's his video number four?

16 **Mr. Maharaj SC:** Yes. Further, at paragraph 313 on page
17 1397 he stated that the method of air blowing from berth 5 to 6
18 would have resulted in the removal of the way in excess of the
19 optimum quantity of oil from the line, thus creating a
20 significant continuous gaseous void between berth 5 and 6.

21 His evidence given in cross-examination on the 10th of January
22 also established that, one, the method of removal of line content
23 would have given the impression that a target of a 30-foot
24 ullage was attained in the riser when a dip measurement was
25 taken but this would not detect a gaseous void in the horizontal
26 part of the line. He also stated that the pipeline sloped at point
27 2 degrees. Berth 6 is 4 feet lower than berth 5 end and berth 6

1 is deeper than berth 5. The line is sloped and the initial stages
2 of blowing would have resulted in a lot more liquid flowing out
3 from the line than if it was level.

4 He stated that the riser at berth 5 would be emptied first
5 as pumping was done from berth 5. He also stated that during
6 Phase I air blowing—during Phase I air blowing that a point
7 would have been reached when more air fuel—

8 **Mr. Chairman:** More air than fuel.

9 **Mr. Maharaj SC:**—sorry, more air than fuel would have been
10 seen coming from the control valves at berth 6 and onshore
11 where the flow was being monitored and measured. This would
12 have been an indication that a lot of the line content had been
13 removed.

14 He explained that when the compressor was shut down at berth
15 5 at the end of Phase I, air will be locked in and that pressurized
16 air would have supported a column of liquid in berth 6.
17 Therefore, whoever took the dip measurement at berth 6 would
18 have wrongly thought there was still liquid to be taken out to
19 achieve a 30-foot ullage.

20 In Phase II, the pipe was pressurized internally and a dip
21 hose used to remove the line contents at berth 6. However,
22 even when the ullage was achieved, it was a false ullage giving
23 the belief that the line was still flooded because nobody looked
24 in berth 5 to see what was happening.

25 **Mr. Chairman:** Well that would have been a simple test,
26 wouldn't it? Just have look what's happening at 5.

27 **Mr. Maharaj SC:** At berth 5.

1 **Mr. Chairman:** So if you're looking for a dip test at 6 of that
2 30-foot ullage you only had to be at the other end to see what
3 the ullage there, if it had completely drained the pipe there as it
4 would have done from the diagram that I drew on the board,
5 they would have appreciated that something was wrong.

6 **Mr. Maharaj SC:** Yes, Mr. Chairman. Then he talked about
7 the CARBER test. When the CARBER test at berth 5 was done
8 on the 25th of February, the pressure was released and it
9 created a vacuum on berth 6 under the plug and it accelerated
10 and made the system more dangerous. That was a dangerous
11 vacuum which could have dislodged the plug if it was not
12 holding.

13 **Mr. Chairman:** As I understood that evidence, the lid is on at
14 5 and they're taking fluid out of 6.

15 **Mr. Maharaj SC:** Yes.

16 **Mr. Chairman:** If you open the lid at 5, they then do their
17 CARBER test, but when they open that lid, any pressure that
18 existed in the process of drawing fluid from 6 would have been
19 released?

20 **Mr. Maharaj SC:** Yes.

21 **Mr. Chairman:** The consequences are the fluid then does this
22 again [*Demonstrating using hands*] but by now we've got the
23 plug in at 6, so when the fluid does that till it finds it balance, it
24 has created a vacuum underneath the plug—

25 **Mr. Maharaj SC:** The plug.

26 **Mr. Chairman:**—at 6.

27 **Mr. Maharaj SC:** Six.

1 **Mr. Chairman:** Lid put back on, preserving the position. As
2 soon as you take the plug out, the vacuum that would have been
3 drawing down on it is activated—

4 **Mr. Maharaj SC:** Yes.

5 **Mr. Chairman:**—because it's now loosened it and so the
6 whole thing not only have you got the downward pressure—

7 **Mr. Maharaj SC:** Yes.

8 **Mr. Chairman:**—from the habitat chamber pressure, gravity,
9 you also now have a vacuum. Treble whammy.

10 **Mr. Maharaj SC:** So it's more aggressive.

11 **Mr. Chairman:** Yes. Thank you.

12 **Mr. Maharaj SC:** I think that was the word I asked him and
13 he said—

14 **Mr. Chairman:** Yes.

15 **Mr. Maharaj SC:**—yes.

16 **Mr. Chairman:** That's exactly what he said, more aggressive.

17 **Mr. Maharaj SC:** And then he concluded that if the line was
18 filled on both sides to the elbow, the incident would not have
19 occurred and he demonstrated that on the screen.

20 **Mr. Maharaj SC:** Yes.

21 **Mr. Chairman:** And there would have been no conditions to
22 establish a flow for a vortex to form. He also stated that
23 whether it was 300 barrels removed or over 1,052 barrels
24 removed, there would have still been a latent Delta P hazard.
25 When he did he report he did not know the extent of the
26 contents removed from the line. He went by the method
27 statement supplied by LMCS which states 300 barrels would be

1 removed.

2 If 300 barrels were removed, there would have been a gap of 7
3 or 8 inches of air space along the top of the line. If more was
4 removed, the gaseous void became larger. He stated that 300
5 barrels was way too much to be removed. He referred to
6 LMCS' original plan which was to drain the topside piping,
7 take off the elbow and to remove fluid from berth 6 by way of
8 an air pump at berth 6. However, he doesn't know why there
9 was a change. This would have been a safer method of
10 removal.

11 The experts' conclusions therefore were that had only enough
12 line content been removed to create a 35 ullage, then a Delta P
13 event would not have occurred sucking the men into the pipe.
14 Further, he concluded that the method utilized of air blowing
15 resulted in more than the target quantity of line content being
16 removed which gave a false impression when a dip
17 measurement was taken at berth 6 that the line was full of
18 content.

19 If Paria and LMCS had identified, well, a possible Delta
20 P hazard in the documents submitted by LMCS to Paria for
21 review, this Delta P event would not have occurred because
22 measures would have been taken to mitigate the risk of a Delta
23 P event. This highlights the importance of having professional
24 engineers to monitor, well, to assess the risk in these kinds of
25 jobs and also to monitor properly trained people, persons, to
26 monitor this inherently dangerous works.

27 **Mr. Chairman:** I mean, the long and the short of it is that if

1 Mr. Khan had been given the facts prior to the work being
2 carried out, that is after the line draining, but prior to the work
3 being carried out, he would have at least identified the potential
4 for a Delta P hazard existing?

5 **Mr. Maharaj SC:** Yes, Mr. Chairman. And you would have
6 seen Mr. Khan's evidence and Paria, LMCS they did not
7 disperse his expertise and therefore anyone in this category
8 would have been able to give that advice. That is why it seems
9 that jobs like these really need a client, an expert client
10 representative, to safeguard the interest of whoever it is whether
11 it's the contractor—

12 **Mr. Chairman:** Well, somebody completely independent from
13 the contractual process in a way, isn't it?

14 **Mr. Maharaj SC:** Yes. Yes.

15 **Mr. Chairman:** Thank you.

16 **Mr. Maharaj SC:** I now go to the post-incident responses by
17 both Paria and LMCS. In examining the evidence of the rescue
18 efforts made by Paria and LMCS after the accident occurred,
19 when these men were sucked into the pipeline, it's important to
20 consider that evidence in the context of the following facts.

21 LMCS' documents, the emergency response plan, the risk
22 assessment, job hazard analysis, were reviewed and accepted by
23 Paria because Paria considered them satisfactory and that they
24 captured and properly identified all credible scenarios, potential
25 risks and hazards. Paria took the position that LMCS
26 adequately specified mitigating control and emergency
27 response measures, and I've put the references to Mr. Michael

1 Wei's evidence and Mr. Randy Archbold's evidence of Paria.

2 It is also not in dispute that both Paria and LMCS did not
3 identify in those documents the risk of a Delta P event.

4 **Mr. Chairman:** Yes, pausing there for a minute, I mean, as
5 part of recommendations that we're considering, the
6 documentation that exists both at Paria and any potential
7 contractor must, on its face, raise at least the prospect of Delta
8 P when dealing with anything to do with pipework. I mean,
9 one has only got to look at the sheer volume of pipes that run
10 around the system that is at Paria and valves that are being
11 opened and closed, volumes of fuel being moved from one
12 place to another, and, when you see that, the idea that anyone
13 could be working on a pipe and not at least give consideration
14 to the existence of differential pressure seems extraordinary.

15 **Mr. Maharaj SC:** I agree with—I agree with the Chairman. I
16 agree with you, Chairman.

17 **Mr. Chairman:** So some—whatever works are being carried
18 out or pipework in the future, there needs to be—someone
19 needs to say, what about Delta P and then you either rule it out,
20 you mitigate it, whatever it is, but at least you've raised it as an
21 issue that needs addressing.

22 **Mr. Maharaj SC:** For example, if that was followed in these
23 documents, and you had someone who could have identified
24 that an expert or an engineer or like the previous contract
25 probably, they would have probably said, "Listen, if you're
26 going to drain that amount of oil, let us check it and see
27 whether, by draining that amount of oil with the process, 300

1 barrels is permissible to be drained.”

2 **Mr. Chairman:** Well, I mean, the fact of the matter is there
3 are easy ways of testing whether it worked. I mean, one of the
4 most obvious was to open the flange at the other end and put
5 your dipstick down there.

6 **Mr. Maharaj SC:** Yes.

7 **Mr. Chairman:** Because if the ullage on that side was, was—
8 there should have been more than 4 feet difference, bearing in
9 mind one end is lower than the other. The maximum difference
10 between the two would have been 4 feet. So if you were
11 looking for 36 on one side you'd have had 32 or whatever it is
12 on the other, you know, and that would have told you
13 straightaway that you've got a full line. Yeah, all right, thank
14 you.

15 **Mr. Maharaj SC:** It is also not in dispute that both Paria and
16 LMCS did not identify in those documents the risk of a Delta P
17 hazard.

18 Now, Mr. Khan in the In-Corr-Tech report at paragraph
19 2.4, stated that LMCS' job safety analysis, method statement,
20 risk assessments, toolbox meetings, Paria's PTW 9320 and its
21 bid evaluation of LMCS' proposal all failed to identify this
22 potential differential pressure hazard. So the failure therefore
23 of both Paria and LMCS to identify a Delta P hazard in our
24 view from the evidence caused the accident in which these five
25 divers were sucked into the pipeline. Paria and LMCS were
26 therefore jointly responsible for the accident and were therefore
27 jointly responsible to make efforts to rescue the divers.

1 **Mr. Chairman:** What do you say to Paria's position that the—
2 starting with, if you like the toolbox meeting at least—there is
3 no reference to the removal of the plug? And there was a need
4 to obtain a work permit to remove the plug, the existing work
5 permits were—never said anything about removing the plugs
6 and had they—had LMCS workers adhered to that, this would
7 not have happened even though a Delta P had not necessarily
8 been identified, the mere fact that they had no authority to
9 remove those plugs, meant that they acted on their own and
10 without authority?

11 **Mr. Maharaj SC:** If that was the position, then I would not
12 have expected the method statement to accompany the work
13 permit. The method statement stated the plug to be removed
14 and if it is was Paria's—if, if Paria intended to take the position
15 that you needed another work permit for that matter, I mean,
16 there should be positive evidence that in matters like this before
17 another, a work permit was issued.

18 **Mr. Chairman:** Yeah.

19 **Mr. Maharaj SC:** It, it—but we have no evidence adduced,
20 but what we do have, a permit for the work to be done, signed
21 by the agent of Paria, we have a toolbox meeting in which you
22 had a method statement to remove the plug attached to the work
23 permit.

24 **Mr. Chairman:** Yes. But that method statement covered the
25 entirety of the works. It isn't said, is it, I mean, in fairness to
26 Paria, the mere fact that they've attached a method statement
27 which starts from, you know, the—moving the barge, if you

1 like right from the very beginning right to the very end when
2 the job is finally complete and the last bolt is tightened up and
3 you're taking the barge back again, it's not envisaged, is it, that
4 that method statement covers only the period that the work
5 permit was covering and the work permit sets out in those,
6 albeit, just three lines, but it does set out what the jobs are and
7 their case is, "Well look, the removal of those plugs is a serious
8 and significant part of the job, and if they were to be removed
9 that should have been spelled out in the work permit. It wasn't
10 and therefore you shouldn't have done it."

11 **Mr. Maharaj SC:** Well, that's the point, is that, um, there was
12 no—you had the method statement. So if it was the intention of
13 Paria that you had to have a separate work permit or it was not
14 to be part of the job, on that work permit, just as it was
15 "Migration barrier to be used", they could have stated exactly
16 what it means. But to leave it in the ambiguous position and
17 Paria taking the position of enclosing the method statement and
18 that is why now you have two sets of evidence, one saying that
19 the job was to be done, Paria saying it should not have been
20 done, but this has to be clear and unambiguous if that was
21 Paria's position. These are dangerous—

22 **Mr. Chairman:** But look, their position is, "Look, if you start
23 with the work that's being done on the day, you look to the
24 toolbox meeting. The toolbox meeting says nothing about any
25 of the works actually, but it certainly doesn't say anything
26 about removal of any of the barriers." So that's the starting
27 point on that day.

1 I appreciate that we've had evidence from Mr. Boodram
2 to the contrary, but, on the face of the documents, that is the
3 position. If you look at the work permit it says the, er, barrier
4 to be used, not to not be used or to be taken out but to be used,
5 and there is nothing on that document which suggests that
6 you're allowed to remove the barrier. And so, again, just
7 dealing with the documents, leaving aside the oral evidence that
8 we've heard, they say that that of itself is powerful evidence to
9 demonstrate that there was never an intention at that stage to
10 remove the barrier.

11 If we were to find that that is the position, then of course
12 LMCS removed it contrary to what appears to be the position
13 on the face of the documents now, appreciate we're going to
14 look at the oral evidence as well, but just on the face of the
15 documents there's nothing to suggest, is there, that they should
16 be removed. Appreciate that we've attached the method
17 statement, but that is a document which covers the entirety of
18 the operation, not just what was to be done on that day.

19 **Mr. Maharaj SC:** Mr. Chairman, I take the position that if
20 these are inherently dangerous works and Paria has a control of
21 works process and a system of works, it would seem that it is
22 only reasonable that if you are having a very hazardous area of
23 the job and you're saying that a migration barrier is to be used,
24 it should specify specifically, and bearing in mind in this matter
25 we do not have any minutes of what happened at the toolbox
26 meeting, Paria—

27 **Mr. Chairman:** Well we have a note. We do have a note of

1 what happened at the toolbox meeting.

2 **Mr. Maharaj SC:** But we do have—

3 **Mr. Chairman:** It just says nothing about it.

4 **Mr. Maharaj SC:** Nothing about it. So if—we don't have a
5 system or Paria did not introduce a system to monitor these
6 works, so we have a contemporaneous note—

7 **Mr. Chairman:** I'm sorry, is that entirely fair, though? I
8 mean, they had a system. It may be flawed and it may be open
9 to some criticism but a toolbox meeting is there designed to
10 provide a system of safe working immediately before the work
11 is carried out. So whatever might have gone before, "This is
12 what we're doing today, boys." All right? Or and girls, if
13 they're involved. "This is what we're doing today. That's the
14 job that needs doing. Here are some of the risks associated with
15 the job today." All right? "You guys, off you go. This is the
16 job." All right? That, it seems, on its face is not an
17 unreasonable approach to take. They are entitled, are they not,
18 to look at the document, which is after all in LMCS' hands, and
19 say, all right, all they did on that day on the face of it, now that
20 we look at it, is to describe COVID regulations, what if the
21 weather changes, don't slip over and hurt your finger or
22 something like that, that's basically dealing with that kind of
23 safety issue. It says nothing about the work at all.

24 Why are they not entitled to say, with all due deference
25 to whatever other evidence there may be, that on its face is a
26 virtually contemporaneous document that makes it clear
27 nothing was to be said about that? And adding to that, not

1 unreasonably they say, the work permit doesn't have to say,
2 "Do not remove the work barrier, that the, um, the, the, the line
3 barrier, don't—it doesn't—it's not meant—it doesn't have to
4 indicate do not take this out of the pipe. It simply has to
5 indicate what jobs they are entitled to do. That's their—I hope
6 I don't misrepresent it, I dare say if I do you'll jump up.

7 **Mr. Maharaj SC:** That toolbox meeting has to be taken in the
8 context, Mr. Chairman, that it was a process to ensure that what
9 works had to be done were known to LMCS for the works to be
10 done and that is why the control system provides for Paria's
11 representative to be there and ensure that what was discussed at
12 that meeting was for the works to be done.

13 In this case, that process was flawed. The gentleman
14 wasn't there. So, so, in effect, one has to look at the process for
15 the safe conduct of the works and the rules provide, the rules
16 provide for that toolbox meeting for the, the work-plan to be
17 discussed at the meeting and if the work-plan has to be
18 discussed at the meeting, Paria's representative had to be there
19 in order to monitor and ensure that it was doing its duty.

20 **Mr. Chairman:** Well I, I, I agree with that. I mean, I've made
21 the observation already that there was nobody on that berth first
22 thing in the morning when that, um, from Paria when that
23 toolbox meeting was being conducted. I accept that and that's
24 not in dispute. But, they are entitled, aren't they, to say, "Well,
25 look, look at the document. The document says nothing about
26 any other work."

27 **Mr. Maharaj SC:** Oh yes, they're entitled to say that, but, in

1 assessing the evidence, we have to look at the whole process
2 before the works were completed. And when you look at the
3 whole process, even if, even if that is in favour of Paria, one has
4 to see what were the safety measures by the rules to prevent this
5 thing from happening. And one of the safety measures is on the
6 morning of the work when the toolbox meeting was being
7 discussed, Paria's representatives had to be there in discussing
8 the work plan and Paria's representatives had to make sure that
9 the work-plan was in accordance with what was permitted to be
10 done that day.

11 **Mr. Chairman:** Yeah, I mean their position is that, "All right,
12 we didn't have any notion that this was a Delta P potential
13 hazard. What we were concerned with was that the gases
14 wouldn't go into the chamber and cause a problem for the
15 people working there", which was a legitimate concern. It
16 seems as though we don't want anything to fall into our
17 pipeline—

18 **Mr. Maharaj SC:** Fair enough.

19 **Mr. Chairman:**—and which we would have to then fish out.
20 So, in that sense, they had a genuine concern to preserve the
21 welfare on the one hand of the people working there, which no
22 doubt was their duty so to do, and, secondly, to ensure that the
23 integrity of their plant wasn't compromised by things falling
24 inside it.

25 **Mr. Maharaj SC:** So the—that's very important evidence
26 because, as far as Paria was concerned, it was not an accident in
27 which you will have a Delta P and the men could be sucked into

1 the pipe.

2 **Mr. Chairman:** No.

3 **Mr. Maharaj SC:** The plug, as far as they were concerned,
4 should not be moved because of something falling into the pipe.

5 **Mr. Chairman:** Yeah, and gasses coming out.

6 **Mr. Maharaj SC:** Right?

7 **Mr. Chairman:** Yeah.

8 **Mr. Maharaj SC:** And that brings to the question the
9 importance of having the process followed, otherwise a failure
10 of one of the process can have a ripple effect and, I mean, on
11 the evidence, Mr. Chairman, on the evidence, the failure of the
12 Delta P had a ripple effect—

13 **Mr. Chairman:** Yes, I follow that.

14 **Mr. Maharaj SC:**—right from the process

15 **Mr. Chairman:** But what—if Mr. Wilson and I were to
16 conclude that on balance, as I regard it is our duty so to do
17 rather than any other test, that if on balance we were to
18 conclude that there was no discussion about the removal of that
19 plug on that day at the toolbox meeting, what impact does that
20 have on the overall decision?

21 **Mr. Maharaj SC:** Well, it means that, it means that for that
22 meeting Paria did not discharge its duty to ensure that the work
23 plan was discussed in accordance with the rules.

24 **Mr. Chairman:** You mean the failure by LMCS to discuss the
25 actual work to be done that day because it wasn't being
26 monitored by anybody from Paria, um, both bear some
27 responsibility?

1 **Mr. Maharaj SC:** Yeah, it's a joint responsibility. LMCS—

2 **Mr. Chairman:** Now if somebody from Paria was there, he
3 would be saying, "Well, I think you really need to tell them
4 what they're supposed to be doing."

5 **Mr. Maharaj SC:** Correct. And that is why it was important
6 for Mr. Marjadsingh to be there and there's no excuse to say he
7 had something else to do.

8 **Mr. Chairman:** Yeah, all right. Yes, thank you for that. I
9 think Mr. Wilson did you want to ask something about the—
10 [*Crosstalk*] Lovely. Thank you very much for that.

11 **Mr. Maharaj SC:** And my—Ms. Maharaj has pointed out to
12 me that in 5.1, it was—it is stated at the end of page—

13 **Mr. Chairman:** Is this the method statement?

14 **Mr. Maharaj SC:** No, this is the permit to work rules.

15 **Mr. Chairman:** The permit to work procedure?

16 **Mr. Maharaj SC:** Yes, at page 21—at page 28, the duty of the
17 applicant, Mr. Marjadsingh, at the end of the page, to ensure
18 that pre-start meetings are conducted with the work crew to
19 discuss the job.

20 **Mr. Chairman:** That's paragraph?

21 **Mr. Maharaj SC:** Five point one.

22 **Mr. Chairman:** Five point one.

23 **Mr. Maharaj SC:** And the last bullet point on page 28. And
24 as the site authority at 5.3, page 30, Paria was directly
25 responsible for the site and it had a duty also to ensure that the
26 job was done in accordance with the approval.

27 **Mr. Chairman:** Yes, thank you very much.

1 **Mr. Maharaj SC:** Now, in dealing with the rescue in the
2 context that I am saying that both Paria and LMCS was
3 responsible for not having an emergency response plan on that
4 day, I then referred to the In-Corr-Tech report which stated that
5 the best time for the rescue was immediately following
6 Boodram's emergence from the pipeline at about 5.30 p.m. and
7 maintained that a rescue was possible. He explained that the
8 risk of a secondary Delta P event was minimal because the
9 system had stabilized and something would have had to trigger
10 a Delta P. And I put the—I wouldn't read what is stated there
11 because we have heard that in the evidence.

12 Mr. Zaid Khan in his evidence maintained that position
13 in cross-examination and explained why the rescue was
14 possible immediately after Boodram's emergence from the
15 pipeline and why a secondary Delta P event would not be
16 triggered by rescue divers. His expert evidence on that was not
17 challenged. In fact, Mr. Piper and the IMT's evidence is that
18 after the accident occurred at 2.45 p.m., conditions in the
19 pipeline were static. At paragraph 120 of his witness statement
20 Mr. Piper stated that the conditions on either side of the
21 inflatable plug appeared to have stabilized after the occurrence
22 of the event.

23 **Mr. Chairman:** And Mr. Piper says that, does he?

24 **Mr. Maharaj SC:** Yes.

25 **Mr. Chairman:** Thank you.

26 **Mr. Maharaj SC:** The evidence disclosed that LMCS devised
27 three rescue plans but none were implemented by Paria because

1 Paria, from 6.25 p.m. on Friday the 25th of February, 2022,
2 prohibited diving into the pipeline for the LMCS divers to
3 attempt a rescue. The evidence has disclosed that Paria did not
4 have any consultation with the LMCS divers to review and
5 assess their plans to rescue the divers from the pipeline. Paria
6 admitted that it did not have the requisite expertise to review
7 the emergency response plan submitted by LMCS at the bid
8 stage of the project.

9 Michael Wei in cross-examination said that Paria did not
10 have the competent diving personnel to assist it with planning
11 and executing the job. Paria did not retain an expert client
12 representative to advise it at that stage in assessing the
13 emergency response plan. The three rescue plans which LMCS
14 had, one, the first was just after the accident and it involved
15 Andrew Farah entering the pipeline with scuba. And I'll put
16 the references where that would be found. He could not do it
17 because Paria did not approve it.

18 The second plan was when Conan Beddoe arrived at
19 berth 6 at about 5.45 p.m. The plan was the first for Conan to
20 enter the habitat, to make an assessment using a rope, while
21 Farah and another person would be tending that rope from the
22 barge. If Conan assessed that it could do a rescue, he would
23 then go back into the habitat with Michael Kurban and Ronald
24 Ramoutar. He, Conan, would then enter the pipeline using a
25 rope and Michael Kurban and Ronald Ramoutar would be
26 tending him into the pipeline. Conan would go with scuba
27 equipment feet first and share his air with any of the men he

1 encountered and bring them out of the pipeline, and I've put the
2 reference in the proceedings.

3 The third plan was the second plan which was revised
4 when Conan's brother, Conrad Beddoe, arrived with
5 commercial equipment at 6.30 p.m. Conan supported by other
6 experienced divers could enter the pipeline with commercial
7 diving equipment. The plan was for Conan to go in feet first
8 and someone would tend the hose. The umbilical was 300 feet
9 long. His intention was to go as far as the umbilical would
10 allow. If Conan came into contact with one of the men, the
11 plan was that he would bring him out via additional half inch
12 hose connected to the umbilical. The men would use the
13 connection to breathe and Conan would hold them and bring
14 them back up and the others in the habitat would assist to take
15 him out.

16 The diver who Conan rescued would be down by his feet
17 so he would come out first and then the diver would then be
18 pulled out. The plan was that if Conan encountered any
19 obstructions, he would take them out one at a time. He would
20 do this as many times as he could.

21 Catherine Balkissoon was informed by the LMCS divers
22 that they wanted to execute the rescue plans on more than one
23 occasion and she was also informed that there was commercial
24 air equipment available. The evidence disclosed that Piper, Mr.
25 Piper first heard of the accident at 3.10 p.m. and Paria
26 commenced sea searches at 3.10 p.m. The divers were reported
27 missing at about 2.45 p.m.

1 Mr. Piper admitted that as the incident commander it was
2 his responsibility to respond urgently to the emergency. Mr.
3 Piper admitted when probed in cross-examination that at 5.36
4 p.m. he heard that Mr. Boodram emerged from the pipeline and
5 I put the quote there. When he found out that Mr. Boodram
6 emerged from the pipeline, that it was very important for him
7 and the IMT to take urgent steps to see whether he could have
8 saved human lives.

9 Mr. Piper also said at paragraph 47 of his witness
10 statement that in his mind this was an urgent and critical
11 situation. Catherine Balkissoon agreed that time was of the
12 essence. Michael Wei in cross-examination considered that the
13 men might be alive some 13 to 14 hours after Boodram
14 emerged and in his personal time frame, not the IMT, there was
15 no real prospect of the men still being alive after 7.00 a.m. on
16 Saturday.

17 Mr. Piper, on being questioned, suggested that the
18 timeline for a rescue was three to five hours after Mr. Boodram
19 emerged. He said that the IMT understood that we had to work
20 quickly but that no attempts were made to calculate the outer
21 limits of the breathable air available to the divers. He said that
22 the ICT had limited information at that time. Later, Mr. Piper
23 said that he was working with an outer limit of five hours which
24 may be midnight at the outside and agreed with the Chairman
25 that a timeline informed you about how to approach any
26 potential rescue.

27 Similarly, Mr. Mushtaq Mohammed said that Paria/the

1 IMT did not establish a specific timeline for rescue but were
2 thinking within six to 12 hours for available rescue. Mr. Piper's
3 midnight timeline must be contrasted with Mr. Michael Wei's
4 7.00 a.m. on Saturday, Mr. Mushtaq Mohammed's six to 12
5 hours, Mr. Randy Archbald 24 hours or 2.30 p.m. on Saturday,
6 and Ms. Balkissoon's "time was of the essence".

7 All of Paria's witnesses agreed, however, that there were
8 diminishing returns so the longer the delay the greater the
9 likelihood that the divers will not be alive. It follows, therefore,
10 that notwithstanding Paria's evidence, that it recognized the
11 urgency of a rescue and for the IMT to take urgent steps to see
12 whether lives could have been saved. The evidence discloses
13 that Paria's IMT failed to act urgently and decisively in that—
14 the following.

15 **Mr. Chairman:** Just pausing, pausing there for a minute, is it a
16 fair criticism?

17 **Mr. Maharaj SC:** Well I'll—

18 **Mr. Chairman:** Of, of—yeah, sorry—is it a fair criticism of
19 the—me and others, that there was no timeline established in
20 the IMT at the outset and that the first we discover of any kind
21 of reckoning in relation to the time that they considered
22 anybody might still be alive, varies widely between the various
23 people at the IMT?

24 **Mr. Maharaj SC:** Yeah. And I've itemized here, it continued
25 to search the open waters until 5.30 p.m. on Friday, even
26 though Mr. Piper admitted that he considered the possibility of
27 the men being in the pipeline since 3.20 p.m. when Kazim Ali

1 Sr. told him that the plug was being removed and I've put the
2 reference, Paria knew since between 3.20 p.m. and 3.30 p.m.
3 that LMCS divers were prepared to go into the pipeline to do a
4 rescue.

5 Paria did not take steps to urgently speak to Boodram
6 about the conditions of the pipeline, even though Boodram was
7 conscious and alert when he emerged at 5.30 p.m. Piper agreed
8 that Boodram was not overly injured, and I've but the
9 reference. Piper, in questioning, said that Shane Ramkissoon
10 visited Boodram in the hospital and admitted that he did not
11 know what Ramkissoon had asked Boodram, in particular,
12 whether he had asked Boodram about the conditions in the pipe.
13 I've put the reference.

14 The IMT notes also do not show that the IMT, through
15 Ramkissoon, asked Boodram about the conditions in the
16 pipeline. I've also put the reference. The IMT notes at page
17 51573 records that at 8.35 p.m. Ramkissoon was dispatched to
18 the hospital by Piper, by Mr. Piper and at 8.53 p.m., records
19 that Boodram was in a stable condition but is silent as to the
20 conditions of the pipeline.

21 Boodram, in his evidence when he was rescued, said that
22 everybody was a set of headless chickens and made it clear that
23 he was prepared to tell Paria or LMCS, soon as he was rescued,
24 about the condition of the pipeline. Questions to Mr. Boodram
25 when he was cross-examined, when he was questioned.

26 "Q. Okay, Mr. Boodram, I want to ask you a very
27 important question. If when you were rescued,

1 either by Paria or LMCS wanted to find out from
2 you the condition in the pipe in order to effect a
3 rescue, would—were you in a position to tell them
4 what the condition of the pipeline was?

5 A. When I now come out the pipe my mind and
6 everything was focused and tuned to everything to
7 save them fellas. If they had debriefed me there
8 and then, they would a get everything that they
9 could get from me.

10 Q. Including the condition of the pipe?

11 A. Yes man.” And his answer was—

12 A. Everything I could tell them.”

13 So after Boodram emerged from the pipeline and stated, “Fyzie
14 is just behind me”, Michael Kurban shortly thereafter dived into
15 the pipeline in order to rescue his father. He dived down the
16 vertical and then dived about 10 feet down into the horizontal
17 section of the pipeline. He had to return because he wanted a
18 longer umbilical and he was prevented thereafter from going
19 back into the pipeline.

20 Piper, Mr. Piper knew since about 7.15 p.m. on Friday
21 that there were competent LMCS divers who were willing to go
22 into the pipeline to do a rescue but stopped diving at 6.25 p.m.
23 and notified the coast guard to stop diving at about 7.00 p.m.
24 and refused to change those instructions. Paria did not act
25 urgently to obtain information from the diving companies when
26 they arrived and instead they were told to await further
27 instruction, and I would itemize that later.

1 Paria continued to await a rescue from the coast guard up
2 until 1.00 a.m. on Saturday, even though the IMT knew since
3 around 8.00 p.m. that the coast guard was not equipped nor did
4 they have the training and competence to dive into the pipeline.
5 Mr. Piper's explanation for stopping the diving into the pipeline
6 at 6.25 p.m. was that he had to assess the conditions in the pipe.
7 He said that he did not want to act instinctively or emotionally.
8 I've put the reference.

9 The IMT had a duty to explore all possible ways to
10 rescue the men in upholding its first principle of the ICS, which
11 was to safeguard human lives and it had to act to uphold that
12 principle of Paria's safety first system. Mr. Wei's description
13 of the performance of the IMT after much consideration was
14 excellent. The question arises, is this opinion supported by the
15 evidence? If—

16 **Mr. Chairman:** Pausing, pausing there for a moment, you say
17 that the IMT had a duty to explore all possible ways to rescue
18 the men in upholding the first principle of the ICS, which is to
19 safeguard human lives. Do you mean by that a legal duty or a
20 moral one?

21 **Mr. Maharaj SC:** Well, I respectfully submit that it was a
22 legal duty and I say this—I say that for this reason. From my
23 submission this morning, I have shown that there was a duty of
24 care to be exercised by Paria having regard to the inherently
25 dangerous work, quite apart from the permit to work. I have
26 shown this morning in my submission that both Paria and
27 LMCS ought to have detected the Delta P hazard from all the

1 documents before the works were done. That caused no
2 emergency response plan to have been—well, with the Delta P
3 hazard being approved. So Paria shared that responsibility. It's
4 a joint—that failure was a joint failure.

5 **Mr. Chairman:** I get the duty at that stage.

6 **Mr. Maharaj SC:** Right.

7 **Mr. Chairman:** Yes.

8 **Mr. Maharaj SC:** So if as a result of that failure an accident
9 occurred which occurred because of the failure to identify that
10 hazard, and there was no emergency response plan in place, my
11 submission is that in law there's a continuing duty in the
12 circumstances for Paria to take whatever steps that is
13 reasonably necessary to rescue the men.

14 **Mr. Chairman:** So in terms of a legal duty, we would have to
15 find that there was a duty of care at the outset and you say there
16 then that duty of care continues up until and including attempt,
17 at least, at a rescue?

18 **Mr. Maharaj SC:** Attempt.

19 **Mr. Chairman:** Right.

20 **Mr. Maharaj SC:** I think that is the word I should use,
21 attempt—

22 **Mr. Chairman:** Right.

23 **Mr. Maharaj SC:**—to rescue.

24 **Mr. Chairman:** So if we were not to find that there was a
25 duty—that Paria had a duty of care at the outset, that that was
26 all LMCS, there's no—there's therefore there's no continuing
27 duty?

1 **Mr. Maharaj SC:** Well I would submit that based on the
2 permit to work rules, quite apart from the common law duty—

3 **Mr. Chairman:** Right.

4 **Mr. Maharaj SC:**—based on the permit to work rules, there
5 were joint breaches by LMCS of that duty when the emergency
6 response plan did not identify a Delta P hazard.

7 **Mr. Chairman:** Yes, but in legal—I just trying to understand
8 what your submission is in legal terms. You're suggesting that
9 Paria had a duty of care to, um—at the outset, right? And it
10 follows from that that you're saying there was a continuing
11 duty of care that extended to the point of attempting a rescue,
12 and I understand what you're submitting is that they failed in
13 both of those, and I understand what you're saying, but, what
14 I'm asking you, I suppose, is that if we were to find that there
15 was no duty of care breach on the part of Paria to start with,
16 would there be a duty of care, continuing duty and there's
17 nothing to continue from, is there, the duty of care?

18 **Mr. Maharaj SC:** Yeah well if, if, if the Tribunal finds that as
19 a matter of law there was no duty of care from the beginning—

20 **Mr. Chairman:** Or no breach of it?

21 **Mr. Maharaj SC:** Yeah.

22 **Mr. Chairman:** At least.

23 **Mr. Maharaj SC:**—then I, I mean, I would think that, um, if
24 Paria is the site authority and you have a situation where men
25 are sucked into a pipeline and as the site authority where there's
26 a risk of men dying that the—and this is in the compound of
27 Paria, this is not outside there in the open.

1 **Mr. Chairman:** Not from it's on their land, no, I appreciate.

2 **Mr. Maharaj SC:** It's on their land and LMCS could not have
3 acted on their own to do this rescue, this is not a case where
4 LMC is saying that you should send somebody in to do this
5 rescue. LMCS was saying, this is not sending anyone to do this
6 rescue. This was people offering to risk their lives to do this
7 rescue, and it would seem to me, Mr. Chairman, and
8 Commissioner Wilson, it would seem to me that the law would
9 be impotent if, in a situation like this, there would not be a duty
10 of care in those circumstances to say that Paria had a duty,
11 because in this case on the facts of—in the facts of this matter,
12 what had happened is that Paria took the responsibility that that
13 is LMCS' responsibility.

14 They had to come up with a plan. They had to do it but
15 Paria took the position we—and the facts are, they didn't even
16 consult them. They didn't even talk to them to find out what is
17 the plan. They didn't get an expert to assess this plan to see
18 whether it could be done, and this is not a case where oil was
19 escaping. This is a case where men were in a pipeline and, and,
20 and it is in that context I say that even if it is not a continuing
21 duty or even if it is found that there was no duty of care from
22 the beginning, at the time when the incident occurred and it's
23 on Paria's property, in the circumstances of this contract, there
24 was an implied duty of care.

25 **Mr. Chairman:** But a continuing one? Not a separate duty of
26 care that arises only to rescue?

27 **Mr. Maharaj SC:** Well, if it is, if it is that there is not an

1 initial duty of care and the Tribunal find that as a matter of law
2 it cannot find that, notwithstanding that, I am submitting as a
3 matter of legal principles to the Commission—

4 **Mr. Chairman:** Right.

5 **Mr. Maharaj SC:**—that where, according to this contract,
6 Paria is the site authority, Paria was responsible, jointly
7 responsible, to LMCS for this incident to occur, this accident to
8 occur, so, in effect, they had joint responsibility for the men
9 being in the pipeline. They were responsible for the crisis just
10 as LMCS was.

11 **Mr. Chairman:** Yes, I follow that, but that all comes back to
12 the question, doesn't it, as to whether or not there's a duty of
13 care at the outset. But my concern, and let me illustrate that, I
14 mean, there's—we're not concerned here with the morality of
15 it—

16 **Mr. Maharaj SC:** No, no.

17 **Mr. Chairman:**—neither should we be. We all understand as
18 human beings what our moral obligations are—

19 **Mr. Maharaj SC:** Yes, yes.

20 **Mr. Chairman:**—where they lie, but—so I want to, for the
21 moment, just to set that to one side and concern myself with the
22 legal principles. There is no obligation in law in this country
23 and in many countries, in fact the majority of countries, to
24 rescue anybody, is there? If a person is drowning in a pool and
25 all you have to do is to reach out and pull them out of the pool,
26 there is no obligation on you to do so and a failure to do so is
27 not an offence—

1 **Mr. Maharaj SC:** I agree with that.

2 **Mr. Chairman:**—in crime neither is it a civil wrong.

3 **Mr. Maharaj SC:** I agree with that.

4 **Mr. Chairman:** It's neither of those things.

5 **Mr. Maharaj SC:** I agree with that, Mr. Chairman.

6 **Mr. Chairman:** So a small child is drowning at my feet in a
7 swimming pool and I—all I have to do is reach out and pull that
8 child out and I save their life. I choose not to do that. There
9 may be considerable moral opprobrium attached to that but I
10 am not legally liable, am I?

11 **Mr. Maharaj SC:** No, you're not liable.

12 **Mr. Chairman:** And there are countries which make that a
13 liability—

14 **Mr. Maharaj SC:** Yes.

15 **Mr. Chairman:**—but not in this jurisdiction—

16 **Mr. Maharaj SC:** Yes, by statute.

17 **Mr. Chairman:**—or in a vast majority of common law
18 jurisdictions.

19 **Mr. Maharaj SC:** Yes.

20 **Mr. Chairman:** So, if that is the position that there is no legal
21 obligation to effect a rescue, why does that not apply to Paria's
22 efforts, such as they were, to rescue?

23 **Mr. Maharaj SC:** Well I—with respect as it's—my duty is to
24 advise the Commission as best I can.

25 **Mr. Chairman:** Yes.

26 **Mr. Maharaj SC:** It is my submission that this is not a case
27 where someone is drowning in a public place and you have a

1 pedestrian walking and he did not attempt a rescue. This is a
2 case where there's a—

3 **Mr. Chairman:** What even if it's my swimming pool, I own it,
4 it's on my land, the child who came round to visit was my
5 friends.

6 **Mr. Maharaj SC:** Well, Mr. Chairman, this is a case in which
7 there's a contract.

8 **Mr. Chairman:** All right.

9 **Mr. Maharaj SC:** There's a contract and there's a contract for
10 Paria to—part of the contract, to ensure an emergency response
11 plan was put in place. That plan, that duty, was not performed
12 by both LMCS and Paria.

13 **Mr. Chairman:** So is it a breach of contract then that they
14 failed to effect a rescue?

15 **Mr. Maharaj SC:** Well it's because of the breach of the
16 contract and what happened, the accident occurred, the duty has
17 arisen as to whether they have a duty of care to do anything.

18 **Mr. Chairman:** All right.

19 **Mr. Maharaj SC:** So one can have an expressed contractual
20 duty or an implied contractual duty and therefore the question
21 is, this is a case in which you have Paria in charge of the
22 compound, Paria could prevent persons trying to save the lives
23 of these people. Paria exercised that right and therefore if it is
24 shown that it was grossly reckless or negligent for Paria to do
25 that, then in my respectful submission they had a duty, because
26 this is saving lives. This is not any other thing.

27 **Mr. Chairman:** Do you have any authority for that

1 proposition?

2 **Mr. Maharaj SC:** Well I don't have it with me but I can, I can
3 supply it to the Tribunal to make an argument.

4 **Mr. Chairman:** I would certainly like to see such an authority
5 because, it's something which, you know, has obviously
6 exercised me past a legal principles what obligation there was
7 on Paria. We all know there's a moral one—

8 **Mr. Maharaj SC:** Yes, yes, yes.

9 **Mr. Chairman:**—and, er, but I have to obviously consider—

10 **Mr. Maharaj SC:** No, no I agree.

11 **Mr. Chairman:**—beyond that morality.

12 **Mr. Maharaj SC:** I agree with you, Chairman. I agree with
13 you that one has to look and see what are the principles of
14 law—

15 **Mr. Chairman:** Yes.

16 **Mr. Maharaj SC:**—if they can apply and I will certainly assist
17 the Commission as best I can.

18 **Mr. Chairman:** Well I'd be grateful for any assistance and I
19 welcome anybody else making any submission, potentially,
20 hopefully in writing than anything else with any authority that
21 deals with it and I look in particular to Mr. Peterson and Mr.
22 Mootoo about that, if there are submissions in that respect, I
23 would like to see what law there is to support such a
24 proposition. Because I'm troubled by it.

25 **Mr. Maharaj SC:** Much obliged, Chairman.

26 **Mr. Chairman:** Thank you very much.

27 **Mr. Maharaj SC:** So it is in that context I submitted that if

1 Paria wanted to get information about the conditions in the
2 pipeline to decide whether to authorize a rescue from within the
3 pipeline, Paria could have gotten that information from
4 Boodram and from Michael Kurban.

5 Further, the IMT, IMT's handwritten note contained an
6 entry at 2.02 a.m. on Saturday 26th of February stating no signs
7 of oil. Further, all of the commercial equipment needed for the
8 rescue dive were available to LMCS divers by 7.14 p.m. on
9 Friday.

10 Seetaram's evidence to the Commission is that LMCS
11 had all the necessary equipment for the rescue when the vessel
12 Waterworld arrived at 7.14 p.m. Catherine Balkissoon at
13 paragraph 16 of her witness statement said that between 6.00
14 p.m. and 6.30 p.m. Andrew Farah, LMCS dive supervisor, told
15 her that LMCS divers and their diving equipment, scuba tanks,
16 were coming from Carenage and they wanted an escort. This
17 means that a dive plan was being formulated. Balkissoon also
18 said that she communicated LMCS diving plans to the IMT.
19 Balkissoon agreed that she was not merely a conduit for the
20 IMT and at paragraph nine of her witness statement she said she
21 had to provide onsite logistical and technical assistance and
22 support the search and rescue efforts.

23 Balkissoon was asked whether Andrew Farah had spoken
24 to her about a rescue plan that LMCS had devised to go into the
25 pipeline and Balkissoon responded saying that Farah told her
26 that LMCS had divers and commercial equipment and were
27 willing to do a dive and rescue. Balkissoon said that she spoke

1 to Collin Piper about it and Piper's response was to stand down,
2 and I'll put the reference.

3 **Mr. Chairman:** Thank you.

4 **Mr. Maharaj SC:** Balkissoon, in questioning, said that Farah
5 asked her more than once about a rescue and that her response
6 was the same. Both Catherine Balkissoon and Mushtaq
7 Mohammed stated in their cross-examination that it was not
8 possible to have an emergency plan to rescue someone after a
9 Delta P event. I submit that this cannot be correct.

10 **Mr. Chairman:** Yes.

11 **Mr. Maharaj SC:** Balkissoon said that the IMT did not have a
12 written plan to deal with the Delta P so that when the IMT met
13 on the 25th of February, it was now devising a plan. Mushtaq
14 and Balkissoon's views are important because it means,
15 particularly with Balkissoon, that they were unlikely to be
16 convinced about effecting or attempting a rescue of the divers
17 from within the pipeline. Balkissoon admitted in cross-
18 examination that she saw people diving and she considered that
19 it was her role to assist the IMT to try and see whether there
20 would be willing divers to effect a rescue. She said she passed
21 that information to Mr. Piper around 7.00 p.m.

22 **Mr. Chairman:** Thank you. I see there's a little bit to go. Is it
23 worth taking a 5-minute break now?

24 **Mr. Maharaj SC:** Yes, there is.

25 **Mr. Chairman:** Just to stretch our legs?

26 **Mr. Maharaj SC:** Much obliged.

27 **Mr. Chairman:** Could we do that?

1 **Mr. Maharaj SC:** Much obliged.

2 **Mr. Chairman:** Thank you very much. Five minutes, please?

3 **Mr. Maharaj SC:** Yes.

4 **12.05 p.m.:** *Enquiry suspended.*

5 **12.10 p.m.:** *Enquiry resumed.*

6 **Mr. Chairman:** Can I just, returning to my concern about the
7 duty of care point, assume, as I say for the purposes of this
8 argument, that we are—we don't find that there was a breach or
9 any duty of care at the outset on the part of Paria, right, but they
10 set up an IMT, and just step away from this case for a moment,
11 supposing there is an incident somewhere and an IMT is
12 created and that IMT makes a complete mess of it, as a
13 consequence people die, would they be taking on a liability by
14 creating the IMT and then messing it up? That they are, by
15 virtue of the creation of this IMT, taking on a responsibility to
16 act in accordance with its rules and a failure to do so which
17 results in loss or injury or death creates a separate liability?

18 **Mr. Maharaj SC:** Well the incident management system was
19 set up in order to prepare for an effective response in case of an
20 emergency.

21 **Mr. Chairman:** Right.

22 **Mr. Maharaj SC:** And if it is that they failed in that duty—

23 **Mr. Chairman:** Is it a duty?

24 **Mr. Maharaj SC:** Well, I would think that it's a duty because
25 one has to also appreciate there is something—occupier's
26 liability.

27 **Mr. Chairman:** Yes.

1 **Mr. Maharaj SC:** So therefore I think it's a recognition of the
2 duty of being in the position of an occupier at common law.

3 **Mr. Chairman:** So let us say—let's say they're not the
4 occupiers. There's an IMT set up after a terrible tragedy takes
5 place. An IMT is created bringing together a number of
6 specialists, or whatever it is it's created, and that IMT makes a
7 complete mess of it, and, as a result people are injured and/or
8 die. Are they taking on a liability by virtue of the creation of
9 this IMT? Quite separate from any—what caused the accident
10 or the incident in the first place to give rise to the IMT, it might
11 be a natural thing, a disaster naturally occurring or a ship, as
12 I've described before, crashing into a berth, nobody's fault,
13 [*Inaudible*] broken and it just crashed into a berth, so the IMT is
14 created and the people in charge of that mess it up, are they
15 liable?

16 **Mr. Maharaj SC:** Well, if it is not an accident on the site, I
17 think they're different considerations. But if it's an accident on
18 the site, it brings in the common law principles of the duty
19 under the occupier liability principle and it—and I could, I
20 could see that there could be an argument that—there could be
21 an argument and I would also include that aspect in the note I
22 would send to the Commission.

23 **Mr. Chairman:** All right.

24 **Mr. Maharaj SC:** But it is, it is, um—I, I recognize that this is
25 not an easy area of the law.

26 **Mr. Chairman:** Oh no. I can say that—

27 **Mr. Maharaj SC:** And I could understand that if I am a judge

1 and I had to decide the point, I would express the same
2 concerns or even more concerns that you, Chairman, had been
3 asking. But, when one looks—and that is how law is developed
4 as the Chairman knows. One takes principles which have
5 already been decided and try to fit them in and that is how the
6 law has been developed. So in my mind when I was looking at
7 these facts, I knew that these are the—some of the arguments
8 that may be used against it.

9 But, I have always tried to use the principles of law to be
10 able to fit a case, if I can, and even if it means breaking new
11 grounds. And I remember as a young lawyer when I was in
12 prison were contempt of court because I told a judge he was
13 acting unjudicially and most of the lawyers told me, you cannot
14 sue the State, they even told me the conviction would be
15 affirmed, I said no, and it was set aside and then I sued the State
16 to get damages and the law, was the common law is that you
17 can't sue a judge, but I sued the State.

18 So we told the courts, the upper courts, that I'm not going
19 against the judge, I'm going against the State, the judicial arm
20 of the State. And now that case is authority in the
21 Commonwealth. So, I know the principles of law probably are
22 not yet moulded but I would like to take a shot at it because I
23 believe that for the future if you have a con—an employer
24 having works done on its premises and men are in a life-
25 threatening situation, the employer must have a duty of care if it
26 knows that if it does not act the men can die, and this—

27 **Mr. Chairman:** No, no, I think that—I don't think there's a

1 difficulty about that. I think it's the extension of that as to
2 whether there is a duty to rescue, that is what I think is
3 troubling me more than anything else. I mean, a duty of care,
4 yes, a duty of care that might continue into a rescue, yes—

5 **Mr. Maharaj SC:** Well—

6 **Mr. Chairman:**—arguably, but of its own bat as it were, that
7 there is a duty to rescue?

8 **Mr. Maharaj SC:** Well, if it is—if there is a duty to take
9 reasonable steps to safeguard health, there could be—there's a
10 greater duty to take reasonable steps—

11 **Mr. Chairman:** All right.

12 **Mr. Maharaj SC:**—to prevent death.

13 **Mr. Chairman:** All right. Well let's not—let's look at the
14 finer details of the law perhaps separately from, er—

15 **Mr. Maharaj SC:** Much obliged.

16 **Mr. Chairman:**—your submissions generally but I mention it
17 now because you raised it during the course of your
18 submissions and I am anxious to give everybody an opportunity
19 to be able to make any submissions that they wish to on that
20 issue—

21 **Mr. Maharaj SC:** Much obliged.

22 **Mr. Chairman:**—particularly Paria obviously.

23 **Mr. Maharaj SC:** Yes.

24 **Mr. Chairman:** So I'll make a ruling about it afterwards—

25 **Mr. Maharaj SC:** Much obliged.

26 **Mr. Chairman:**—but, um, let's hear your submissions.

27 **Mr. Maharaj SC:** So I go to the—that Mr. Piper knew since

1 about 7.15 p.m. that there were competent LMCS divers willing
2 to go into the pipeline and that there was commercial
3 equipment available for rescue. Mr. Piper said that at some
4 time during Friday evening he knew that LMCS had equipment,
5 commercial air supply equipment, experienced divers and had
6 divers willing to go into the pipeline and yet took the position
7 that it was not safe for them to go into the pipeline.

8 In Paria's timeline it is recorded at 6.55 p.m. that divers'
9 diving equipment arrived at site. Mr. Piper said that even
10 earlier at 6.25 p.m. that it was not safe were divers to go into
11 the pipeline after Visham Harrichan told him that LMCS divers
12 were diving into the pipeline.

13 Alvin Seeterram, in his evidence, confirmed that Subsea Global
14 Solutions Limited had on board the Waterworld all the
15 commercial diving equipment and lighting that was necessary
16 for a rescue and that the coast guard had inspected his
17 equipment. He said that Waterworld had super lights, band
18 masks, that is helmets, diving umbilicals, have high pressure,
19 low pressure backup air supply, umbilical lengths of 375 feet
20 and 200 feet.

21 Seeterram also confirmed to the Chairman that while
22 SGS divers were not available to dive because they'd used up
23 their maximum dive time in previous dives, that all the
24 equipment was available for the divers to use for the rescue.
25 Seeterram said that he was told that Ronald Ramoutar had
26 available divers who could have used the equipment to dive
27 into the pipeline and this was from about 7.15 p.m. on Friday

1 evening.

2 He also said that the coast guard was impressed with
3 SGS equipment and confirmed to the Chairman that there was
4 nothing more than Paria could have wanted or desired in order
5 to effect the rescue over and above what already—what he
6 already had. Paria's instructions that no one was to be allowed
7 to dive in the pipeline continued.

8 I want to point out to the Tribunal what Paria did in
9 asking diving companies and when those diving companies
10 were asked. Mitchell's: Mitchell was contacted on Friday at
11 5.05 p.m. by Rolph Seales and at 5.23 p.m. received
12 confirmation that Mitchell's would be able to provide its
13 services and I'll put the reference. The Mitchell's team arrived
14 at around 8.40 p.m. with surface air supply equipment and were
15 told to remain on standby and I'll put the reference in the
16 evidence.

17 After 1.00 a.m. on Saturday, Rolph Seales asked
18 Mitchell's to view the video footage of an underwater camera
19 and Fitzroy King said Mitchell divers were too big to fit in that
20 pipeline and Mitchell were told to stand by at about 2.45 a.m.
21 on Saturday. Mitchell divers were told to stand down and they
22 returned to Mitchell compound at about 3.10 a.m.

23 **Mr. Chairman:** So they were just not really used?

24 **Mr. Maharaj SC:** No. Eastern Divers. Eastern Divers was
25 contacted at 11.40 p.m. on Friday and at 12.30 a.m. some of its
26 members arrived at berth 6 with the full team being assembled
27 at the compound by 1.25 a.m. on Saturday and was briefed by

1 the incident commander. Andy Johnson said that the incident
2 commander told him that due to the variables around the
3 incident, Eastern should prepare itself for retrieval of—retrieval
4 and not rescue due to the possibility that the divers may have
5 expired.

6 After its assessment on the site, Andy Johnson told the
7 incident commander that his team would not be able to make an
8 entry to perform the rescue operations as approximately 120
9 feet of the twelve hundred feet pipeline was filled with water
10 based on what was seen on the video footage. Eastern
11 remained on standby offsite for the next 12 hours from 5.00
12 a.m.

13 Hull Support. Hull was contacted at about 4.30 p.m. but
14 was unable to mobilize a crew. Gyasi Woodley who is Hull's
15 Operation Manager said that he had several discussions with
16 Rolph Seales and Hull advised against cutting the horizontal
17 section of the pipe as being too risky.

18 OTSL. OTSL was contacted on Friday afternoon and its
19 dive vessel arrived at Paria at about 8.30 p.m. and remained on
20 standby until 5.30 a.m. on Saturday and was not called upon by
21 Paria.

22 HHSL and the cameras. HHSL was only contacted at
23 about 10.50 p.m. on Friday by Michael Wei. A push rod
24 camera with operating crew arrived from Atlantic LNG at 9.00
25 p.m. but that camera was not inserted until midnight. Collin
26 Piper said that the push rod camera actually came at 11.00 p.m.

27 Then I submitted that Paria did not get advice from

1 Rolph Seales and Fuentes, persons they contacted, in order to
2 consider LMCS' rescue plans. Paria had available to it Rolph
3 Seales and Krishna Fuentes, who are experts in diving, to
4 request either or both of them to have discussions with LMCS
5 divers to consider their rescue plans so that Paria and the IMT
6 could have made a decision on whether to reconsider its
7 decision to prevent LMCS divers from diving into the pipeline.

8 Also, Paria could have attempted to contact the expert,
9 Mr. Zaid Khan in In-Corr-Tech to give them advice as to
10 whether there was a risk of another Delta P event after the
11 pressure in the pipeline was stabilized. Such an expert could
12 have also advised them about the risk of sending divers in the
13 pipeline to rescue divers from the pipeline and the Chairman
14 would recall that in questions to him, asked by you, Mr.
15 Chairman, that if he had the information which Paria had,
16 would he have given an evidence—would he have given an
17 opinion and would that evidence be to effect the rescue—to
18 attempt the rescue.

19 Paria used the diving companies on the evidence to
20 support its unreasonable insistence on receiving conclusive
21 video evidence of the inside of the pipeline. The evidence
22 disclosed that Paria became preoccupied and distracted by the
23 cameras and video and ignored the information of Boodram and
24 Michael Kurban. In any event, the video when it was
25 eventually received confirmed that the line contained clear
26 water, not oil, or not so much oil, so much so that the model
27 number on the tank pushed by the crawler was clearly visible.

1 Summarily the evidence discloses that the IMT on Friday
2 evening, we say as early as 7.15 p.m. when SGS came outside
3 offshore, there was commercial equipment for a rescue. In
4 fairness to Mr. Piper, he did say in his evidence that during
5 Friday evening he knew that LMCS had equipment,
6 commercial air supply equipment, experienced divers and had
7 divers willing to go into the pipeline.

8 Paria says that LMCS as a contractor was regarded as the
9 first responder, a point repeated by Mr. Archbald in his
10 evidence and underscored in Paria's opening statement. It is
11 submitted that Paria had a joint responsibility with LMCS to
12 take steps to first discuss the rescue plans, to determine whether
13 an attempt to rescue can be made. LMCS also had a duty to
14 attempt a rescue, and, from the evidence they did attempt that
15 but was prevented from doing so.

16 The next part, and I'm coming to the end, Mr. Chairman,
17 the next part is that the fact that Paria failed to identify a Delta
18 P as a potential risk meant that no emergency plans was
19 developed and I want to put that in the context of the rules. At
20 paragraph four of Paria's HSE requirements for the contractor,
21 all Paria contractors must conduct suitable and sufficient risk
22 assessment or job hazard analyses or job safety analyses for all
23 activities and for all work permits.

24 At paragraph seven zero of the same document, Paria
25 requires all contractors to have emergency response plan for
26 fire, gaseous emissions, spills and any other credible scenarios.
27 Moreover, at lines two to four of seven, this ERP will be

1 reviewed by Paria's HSSE personnel for—as they proceed prior
2 to the commencement of any work. So one sees from Paria's
3 rules, Mr. Wei's confirmation at paragraph 76 of his witness
4 statement, that Paria's maintenance department reviewed and
5 accepted LMC documents included its risk assessment means
6 that the risks identified by LMCS which did not include a Delta
7 P hazard were accepted by Paria. This means that Paria
8 wrongly did not regard Delta P as a credible risk. It also means
9 that since Paria did not regard Delta P as a potential risk, Paria
10 did not have any emergency plan to deal with the situation.

11 Accordingly, when the situation occurred, neither Paria
12 nor LMC recognized the root cause of Delta P and because
13 neither identified Delta P as a potential risk, neither has an
14 emergency response plan to rescue the divers. Certainly, Mr.
15 Khan's view is that Delta P was a credible risk and it is said
16 that since both Paria and LMC failed to identify as a risk, no
17 steps were taken to eliminate this hazard or even prevent it.

18 OSHA agreed with the Commission—OSHA agreed with
19 Mr. Khan's opinion and at paragraphs 5.3 and 5.4 of OSHA's
20 preliminary report it said that neither Paria nor LMCS'
21 emergency plan captured the emergency scenarios and in
22 relation to LMCS this was a scenario specific to the job and for
23 Paria scenarios based on a risk assessment. It follows therefore,
24 contrary to Mr. Wei's evidence, Delta P was both a credible
25 scenario required to be documented in an emergency rescue
26 plan approved by Paria and should have been included by
27 LMCS in its emergency plan following a suitable and sufficient

1 risk assessment.

2 Paria's failure to insist on this inclusion of a Delta P as a
3 credible scenario, which should have been part of LMCS'
4 emergency response plan, meant that Paria's HSSE personal did
5 not carry out a proper or adequate review of LMCS documents.
6 And then I come to the treatment of the families.

7 The families of Rishi Nagassar, Yusuf Henry and Faizal
8 Kurban were in the car park outside Paria's compound from
9 Friday, 25th February to Sunday, 27th February seeking
10 information on the rescue efforts. Both the families of Rishi
11 and Faizal indicated that they were informed of the decision to
12 transition from transition to recovery on the news on the
13 evening of Sunday the 27th of February, 2022. The evidence of
14 LMCS is that they had difficulty in contacting Rishi and
15 Yusuf's families but they gave the contact details which they
16 had to Paria.

17 Paria's evidence is that the families were updated
18 throughout—through a meeting at the staff club on Saturday the
19 26th of February, 2022 and thereafter by way of WhatsApp.
20 Mushtaq Mohammed's evidence is that the families were
21 informed of the decision to move to recovery on the evening of
22 the 26th of February by him via WhatsApp. In cross-
23 examination, Mr. Mushtaq Mohammed stated that
24 arrangements were made to accommodate the families on
25 Saturday afternoon, that is 24 hours after the incident.

26 The first time that Paria met with the families was on
27 Saturday the 26th of February at the Pointe-a-Pierre staff club.

1 Before this meeting, Mr. Mohammed says that he did not know
2 that the families were in the car park since Friday afternoon
3 trying to get information. Mr. Mohammed said that he
4 wouldn't argue the point and conceded that this was not an
5 acceptable position.

6 **Mr. Chairman:** Yes, well, I've made my position clear, I
7 hope—

8 **Mr. Maharaj SC:** Yes.

9 **Mr. Chairman:**—that whatever else might have happened, this
10 was woefully inadequate and frankly uncivilized. Nobody
11 should have to sit in a car park waiting for information for 24
12 hours when their loved ones are in an incident like this, and I'm
13 afraid I hold everybody responsible for that. It's not just Paria.
14 It is an unacceptable position to be in. I just simply do not
15 understand the humanity of that. I just don't.

16 **Mr. Maharaj SC:** Mr. Chairman, before I pass to
17 recommendations, I just want to say—I just want to submit that
18 the inevitable conclusion from the evidence about the rescue
19 which has been produced in these proceedings is that the hours
20 between the time of the incident—the hours of the time
21 between the incident when it occurred and the early hours of
22 Saturday morning from the evidence were, in effect,
23 squandered by Paria to attempt a rescue. This is the time period
24 in which the men were most likely to be alive, and, as each hour
25 passed, the possibility that they remaining alive became less
26 and less likely. So I will go to recommendations.

27 **Mr. Chairman:** Thank you.

1 **Mr. Maharaj SC:** I know one of the Terms of Reference is for
2 the Commissioner to make recommendations and we have a
3 few that we want to submit. Companies like Paria, which
4 undertake inherently dangerous works, ought to employ a client
5 representative or engineering expert to assist in the preparation
6 of the scope of works to review and accept the contractor's
7 documents and to oversee the execution of the project by the
8 contractor in accordance with the permit to work procedure.

9 **Mr. Chairman:** Should that be—should that always be an
10 independent person or could they have employed someone
11 themselves within the firm?

12 **Mr. Maharaj SC:** They can employ someone but provided the
13 person is suitably qualified.

14 **Mr. Chairman:** Right. So it doesn't have to be independent?

15 **Mr. Maharaj SC:** No, no, no. Next one, persons performing
16 the roles and responsibilities set out in the permit to work
17 procedure ought to have dedicated training and qualifications to
18 enable them to perform the functions in those roles in
19 accordance with the permit to work procedure.

20 Now, we have seen in the evidence in this Enquiry that
21 has not been the position. The client representative or
22 engineering expert should be empowered to coordinate the
23 various aspects of the project under supervision of the general
24 manager to ensure that the company's objectives to create a
25 safe system of work is achieved. The permit to work form
26 ought to be clear and unambiguous and the responses ought to
27 be clear and unambiguous. It ought to be redone and fit for the

1 purpose to be of—

2 **Mr. Chairman:** I mean, your position is that it's not fit for
3 purpose at the moment? The way in which it's set out on a
4 single page as it is, it needs—

5 **Mr. Maharaj SC:** It' inadequate, insufficient.

6 **Mr. Chairman:** Yes, it needs to be fuller?

7 **Mr. Maharaj SC:** Fuller.

8 **Mr. Chairman:** With a little more space to put the necessary
9 areas?

10 **Mr. Maharaj SC:** In order to put in the—

11 **Mr. Chairman:** Yes.

12 **Mr. Maharaj SC:** The permit to work form ought to be clear
13 in prioritizing the task including sequence of the task and it
14 ought to be contractually underpinned. Work instructions
15 should be clear and unambiguous and required to be co-signed
16 by the applicant and the contractor. Consideration ought to be
17 given to amending the permit to work procedure so that a
18 permit to work would be issued for specific tasks which are
19 inherently so dangerous that they should be given special
20 treatment.

21 This permit to work would only be issued after the issuer
22 is satisfied that the toolbox meeting was convened in relation to
23 the staff and the risks were discussed and the control measures
24 understood and agreed. There should be clearer guidelines in
25 the permit to work as to the meanings of “periodically” and
26 “continually”.

27 **Mr. Chairman:** Yes.

1 **Mr. Maharaj SC:** In this case it was the duty of the applicant
2 to continually monitor, however he did not arrive on the site
3 until 2.00 p.m. on the 25th of February, therefore there was no
4 monitoring by him at all prior to that time. Every risk
5 assessment or job hazard analysis with respect to any project
6 dealing with subsea works ought to address what we regard as
7 an obvious risk of Delta P.

8 **Mr. Chairman:** When you say subsea works, you mean, do
9 you, by that in relation to pipes?

10 **Mr. Maharaj SC:** Pipes, yes.

11 **Mr. Chairman:** I mean, you could be subsea work, um,
12 where—

13 **Mr. Maharaj SC:** Yes, we should specify, it should be pipes,
14 pipes. There should be a section in every risk assessment under
15 which the hazard is considered and a specific control measure
16 identified—measures identified.

17 The incident command system should be reconfigured to
18 address operational emergencies which may be regarded as
19 exceptional. This would assist with the development of an
20 action plan specifically identifying the control measures of
21 what resources are necessary—and what resources are
22 necessary to conduct any rescue. I couldn't understand that in a
23 company like Paria you didn't have an emergency response
24 plan in order to respond to a Delta P event and with so many
25 pipe works being done? So I think if you have a—

26 **Mr. Chairman:** You mean if even outside of this specific
27 job—

1 **Mr. Peterson SC:** Yes.

2 **Mr. Chairman:**—that there should be in existence a separate
3 emergency response—

4 **Mr. Maharaj SC:** Yes.

5 **Mr. Chairman:**—where Delta P has arisen as an incident?

6 **Mr. Maharaj SC:** Yes. Yes, Mr. Chairman. Under the
7 incident command system there should be more regular training
8 and drilling and the ICS respectively audited—and should be
9 periodically audited.

10 **Mr. Chairman:** Yes.

11 **Mr. Maharaj SC:** It should be periodically audited.
12 Consideration should be given to the establishment of a rotating
13 incident commander so that, depending on the nature of the
14 emergency, the most suitably trained, qualified and experienced
15 incident commander would be automatically appointed.

16 **Mr. Chairman:** Yes.

17 **Mr. Maharaj SC:** High-risk activities should be scheduled
18 only on those dates and times when the key members of the
19 incident command team are on site. On this day in question for
20 some reason from the evidence, all the important persons
21 seemed to be away from the site. I don't know what was
22 happening there.

23 **Mr. Chairman:** I think it was pointed out to me by Mr.
24 Peterson this was carnival time.

25 **Mr. Maharaj SC:** Oh, it's carnival, sorry. But there was no
26 carnival on that—

27 **Mr. Peterson SC:** Yes, there was a taste of carnival.

1 **Mr. Maharaj SC:** There was a—

2 **Mr. Peterson SC:** Yes there was an event, and those of us who
3 party, a taste is as good as the whole meal.

4 **Mr. Chairman:** I'm going to take Mr. Peterson's word about
5 that.

6 **Mr. Maharaj SC:** I would also take his word for that, Mr.
7 Chairman. He's the authority.

8 **Mr. Chairman:** But, I mean, it's a fair point to make, though,
9 isn't it?

10 **Mr. Maharaj SC:** Yes.

11 **Mr. Chairman:** That really should you be carrying out works
12 of this kind when people are away, for whatever reason?

13 **Mr. Maharaj SC:** Then the next one, the protocols for the
14 establishment, training and drilling of the ICT should be
15 accessible to regulators and periodically updated and tested. It
16 should be supported by an active communication team which
17 would ensure, without the need for direction by the incident
18 commander, that victims' families can be accommodated,
19 supported and communicated with on a timely basis.

20 Consideration should be given to having OSHA regulate
21 the operations of the incident command system and this
22 includes OSHA regulating the composition, training, procedure
23 and drilling of the incident command system and requiring
24 these to be certified annually as fit for the purpose.

25 There are no compulsory diving standards in Trinidad
26 and Tobago. There are however voluntary standards which
27 have been issued by the Trinidad and Tobago Bureau of

1 Standards. However, those standards have not been made
2 compulsory duty a lack of consensus among the stakeholders.
3 Also, because they're voluntary they are not enforced, so
4 consideration should be given to be looking at this.
5 Accordingly—

6 **Mr. Chairman:** Were they even used in this case?

7 **Mr. Maharaj SC:** Yes.

8 **Mr. Chairman:** Were they even used here? The voluntary
9 standards, it seems to me, were not even adhered to here.

10 **Mr. Maharaj SC:** No, they were not used. Accordingly, it is
11 recommended that Paria and similar companies adopt and
12 maintain international best practice in relation to commercial
13 diving in relation to its subsea repair and maintenance jobs on
14 pipelines.

15 **Mr. Chairman:** I mean, they could have done that anyway.
16 They didn't need to have statutory regulation. They could have
17 voluntarily had such a requirement for anybody bidding.
18 We've seen the voluminous documents that they've created, but
19 they could have required, couldn't they, that the company
20 should have at least the voluntary standards imposed by the
21 Trinidad and Tobago Bureau of Standards, but they didn't?

22 **Mr. Maharaj SC:** They didn't. And then the Trinidad and
23 Tobago Bureau be invited to repair, implement following
24 stakeholder consultation, a compulsory standard regulating the
25 commercial diving industry in Trinidad and Tobago. OSHA
26 implement regulations so that international best practice can be
27 implemented in relation to the health and safety on the subsea

1 worksite.

2 **Mr. Chairman:** I mean, OSHA could do that at the wave of a
3 wand, couldn't they?

4 **Mr. Maharaj SC:** Could, yes.

5 **Mr. Chairman:** They had the power—

6 **Mr. Maharaj SC:** They had the power.

7 **Mr. Chairman:**—under the Act to be able to introduce
8 regulation for any particular field of endeavour in this country
9 where they think that such regulation will be for the benefit of
10 those engaged in it. They've been in existence for 18 years,
11 have they not—

12 **Mr. Maharaj SC:** Yes.

13 **Mr. Chairman:**—the agency and the authority under the Act,
14 and still no regulation for something as fundamental perhaps in
15 country which—

16 **Mr. Maharaj SC:** Oil industry.

17 **Mr. Chairman:**—has an oil and gas industry?

18 **Mr. Maharaj SC:** Yes.

19 **Mr. Chairman:** And I might in passing also observe that
20 whilst Paria didn't impose the standards that were said to be
21 voluntary by the Trinidad and Tobago Bureau of Standards,
22 neither did LMCS adhere to such standards.

23 **Mr. Maharaj SC:** No. Correct, correct, Mr. Chairman. That
24 is correct. In pipeline less than 48 inches in diameter, that
25 consideration be given to augment existing pipelines and for all
26 new pipelines to be configured to permit, particularly at the
27 elbows, an additional installation or design to permit divers to

1 be able to turn around.

2 **Mr. Chairman:** Right.

3 **Mr. Maharaj SC:** The Accreditation Council of Trinidad and
4 Tobago be appointed an accreditation agency for commercial
5 diving in Trinidad and Tobago for amending the Accreditation
6 Council of Trinidad and Tobago Act, Chap. 39:06.

7 **Mr. Chairman:** This is creating a sort of teaching
8 environment—

9 **Mr. Maharaj SC:** Teaching environment.

10 **Mr. Chairman:**—for commercial diving in Trinidad and
11 Tobago and that there should be some accreditation, more
12 formalized accreditation?

13 **Mr. Maharaj SC:** Formalized, yes.

14 **Mr. Chairman:** All right.

15 **Mr. Maharaj SC:** And then I come to OSHA's powers to
16 prosecute under the OSHA Act.

17 **Mr. Chairman:** All right.

18 **Mr. Maharaj SC:** Having regard to OSHA's preliminary
19 report which suggested both Paria and LMCS may be guilty of
20 various offences under the OSH Act, the Commissioners may
21 consider, based on the evidence to recommend proceedings by
22 OSHA. Section 91(2) of the OSH Act permits OSHA
23 following an accident in an industrial establishment and where
24 it appears from the Commission's report that the OSH Act was
25 not complied with, to bring summary proceedings against a
26 person liable to be proceeded against in respect of such non-
27 compliance, and those proceedings are required to be

1 commenced within six months after the making of the report.

2 The OSH Act imposes duties on employers, occupiers,
3 employees, manufacturers and suppliers of goods. Some of
4 these duties are owed not only to persons working at the
5 industrial establishment but also to visitors and persons who
6 might be affected by the activities carried out at the industrial
7 establishment.

8 **Mr. Chairman:** Can I just, just pausing there for a minute, the
9 Act itself requires the agency created under OSHA to act if they
10 see it appropriate to bring a prosecution within the six-month
11 period?

12 **Mr. Maharaj SC:** Yes.

13 **Mr. Chairman:** In the Magistrates' Court?

14 **Mr. Maharaj SC:** Yes.

15 **Mr. Chairman:** And that applies to individuals, does it, as
16 opposed to companies or both?

17 **Mr. Maharaj SC:** Yeah, it, it, it applies to employers which
18 could be a company or an individual.

19 **Mr. Chairman:** Well it says to bring summary proceedings
20 against the person liable. Do you mean by that the company?

21 **Mr. Maharaj SC:** The company.

22 **Mr. Chairman:** And/or the individual if it's—

23 **Mr. Maharaj SC:** Yeah.

24 **Mr. Chairman:**—if I have employed someone and it's caused
25 a—

26 **Mr. Maharaj SC:** It must be the employer.

27 **Mr. Chairman:** Right. So when you say the person you mean

1 the employer?

2 **Mr. Maharaj SC:** Yes.

3 **Mr. Chairman:** Right. Thank you. I'll change that. Just a
4 moment. And in that case it will, certainly in Magistrates'
5 Court proceedings, are to be brought within six months but my
6 understanding of the Act allows this Commission to, if we
7 choose to do so, to recommend prosecution and the timeline
8 starts from then rather than the original Act?

9 **Mr. Maharaj SC:** Yes.

10 **Mr. Chairman:** So, this happened on the 25th of February,
11 ordinarily that would have expired in, if my maths is right,
12 August, but because a Commission of Enquiry has been
13 established, we have the power to, as it were, if we were to
14 make such a recommendation, for the six months to run from
15 the date of that recommendation?

16 **Mr. Maharaj SC:** Correct.

17 **Mr. Chairman:** Crucial in that of course is that once we hand
18 in our report, assuming it is at the end of this April, the time
19 runs from then and the government need to be aware that timely
20 disclosure of the report so that OSHA could act on it if they
21 chose to do so, will run from that date?

22 **Mr. Maharaj SC:** Yes.

23 **Mr. Chairman:** And any delay, any delay in disclosing the
24 report generally and in particular to OSHA may result in—

25 **Mr. Maharaj SC:** Timely.

26 **Mr. Chairman:**—the time being time barred?

27 **Mr. Maharaj SC:** Yes.

1 **Mr. Chairman:** Yes, thank you very much. You've dealt with
2 section 86.

3 **Mr. Maharaj SC:** Yes.

4 **Mr. Chairman:** Or you're just coming to that? Yes. Just
5 coming to section 86 of the Act?

6 **Mr. Maharaj SC:** Yes, section 86(1) of the OSH Act—

7 **Mr. Chairman:** Yes.

8 **Mr. Maharaj SC:**—states as follows:

9 “Subject to subsection (2) where a person dies, is
10 critically injured or develops an occupational disease in
11 consequence of an employer, occupier or owner having
12 contravened this Act, the employer, occupier or owner
13 shall without prejudice to any other liability or right of
14 action arising out of the death or critical injury or disease,
15 be liable to a fine of \$100,000 or an amount equivalent to
16 three years' pay of that person, whichever is greater, and
17 the whole or part of the fine may be applied for the
18 benefit of the victim or his estate or otherwise as the
19 court may determine.”

20 **Mr. Chairman:** It's not very much.

21 **Mr. Maharaj SC:** No. So, I think we should, um—we have
22 recommended that that should be looked at because the
23 evidence here discloses breaches of the OSHA Act as employer
24 of deceased or injured divers and by Paria as occupier of berth
25 6.

26 **Mr. Chairman:** Of course you all appreciate that it is no part
27 of our remit to recommend prosecution as such?

1 **Mr. Maharaj SC:** No.

2 **Mr. Chairman:** All we can do is to identify the facts—

3 **Mr. Maharaj SC:** And for you to consider.

4 **Mr. Chairman:**—and recommend, for example, either the DPP
5 before OSHA consider whether or not an offence has been
6 disclosed.

7 **Mr. Maharaj SC:** Yes.

8 **Mr. Chairman:** It is not part of our responsibility to say, oh,
9 um, LMCS are guilty of some crime or Paria are guilty of some
10 breach of the Act. This doesn't lie in our mouths—

11 **Mr. Maharaj SC:** No.

12 **Mr. Chairman:**—to say that. It is our responsibility to simply
13 report the facts as we see them—

14 **Mr. Maharaj SC:** Yes.

15 **Mr. Chairman:**—and then to invite any of those agencies to
16 consider whether or not they wish to prosecute.

17 **Mr. Maharaj SC:** Because we do not have the power to
18 recommend prosecution.

19 **Mr. Chairman:** No, no, no.

20 **Mr. Maharaj SC:** That is a function of the DPP.

21 **Mr. Chairman:** Some—there, there are other persons
22 responsible for that.

23 **Mr. Maharaj SC:** At the most that I think a Commission can
24 do is to recommend that you're sending the papers, depending
25 if the report is accepted, you're sending the papers to the police
26 or the DPP for investigation—

27 **Mr. Chairman:** Yes.

1 **Mr. Maharaj SC:**—further investigation.

2 **Mr. Chairman:** Or OSHA who are a separate—

3 **Mr. Maharaj SC:** Yes.

4 **Mr. Chairman:**—prosecuting authority?

5 **Mr. Maharaj SC:** Yes.

6 **Mr. Chairman:** Yes.

7 **Mr. Maharaj SC:** I think since this is a public matter I have a
8 duty to deal with Mr. Ramadhar's submissions so I just want to
9 say Mr. Ramadhar, on behalf of the—some the relatives of the
10 divers, raised the issue of the Commissioners making
11 recommendations for criminal Prosecution from the evidence
12 which is before the Commission. That issue has been engaging
13 the attention of the legal team but we are not prepared at this
14 time, because we have not completed are research on that. We
15 would have the research completed within the next seven days.

16 The law in this area has been developing. There's a
17 decision in Trinidad and Tobago in the case of Inquest No. 10
18 of 2008 in the inquest into the death of Mayo Oliver [*Phonetic*]
19 but I want to make it quite clear, any opinion I give to the
20 Commission is in law private and confidential and it would not
21 be made public and it would not be put up on the Commission's
22 website.

23 **Mr. Chairman:** Quite so.

24 **Mr. Maharaj SC:** That would be a private and confidential
25 document in my duty to assist the Commissioners in
26 considering the matter.

27 **Mr. Chairman:** Well I think advice that you're giving us is

1 something that ought to remain, in the first instance, certainly
2 confidential. Whether or not I would permit other parties to the
3 proceedings to know what your submissions were seems to me
4 something I will have to keep an open mind to. I think there is
5 a distinction between specific advice to us as Commissioners
6 and a submission as to a course that we should adopt.

7 **Mr. Maharaj SC:** I agree with that.

8 **Mr. Chairman:** And one needs to draw a careful distinction
9 between the two. If it's, if it's a submission then I do think that
10 the parties ought to be able to see what it is that you're
11 submitting.

12 **Mr. Maharaj SC:** It's purely a legal opinion.

13 **Mr. Chairman:** Yes. If, if it is a pure legal opinion, well, as I
14 say, I understand that that's what you're intending to do and I
15 will deal with a couple of these matters in a moment when you
16 conclude, but what I'm not going to do obviously is disclose
17 what is simple advice between Counsel to the Commission and
18 the Commission as opposed to a submission as to what we
19 ought to do or ought to consider doing and if it is that, if it's the
20 latter then I will certainly make sure that it's available to other
21 counsel in the hearing.

22 **Mr. Maharaj SC:** I'm in total agreement.

23 **Mr. Chairman:** Thank you very much all right.

24 **Mr. Maharaj SC:** Mr. Chairman and Commissioner Wilson,
25 if there's anything else I can assist, those are my—

26 **Mr. Chairman:** No, thank you very much indeed. I'm very
27 much obliged to you.

1 **Mr. Peterson SC:** Mr. Chairman, if I could just add by way of
2 the last point as to the law—

3 **Mr. Chairman:** Yes.

4 **Mr. Peterson SC:**—I think if my learned friend assists the
5 Commission on the law in a particular area that touch and
6 concern and applies to the evidence in the case, I think we are
7 entitled to see it and—because we may agree with my friend
8 and the law but, with respect, I know that we are not entitled to,
9 if my friend were to advise you that as a Chairman of a
10 Commission you can impose your own procedural rules, for
11 example, we're not privy to that kind—we're not entitled to
12 disclosure of that kind of thing but if it's, for example, the law
13 on a particular point with respect to the evidence, the duty of
14 care, all of those things, the law on that—

15 **Mr. Chairman:** Right.

16 **Mr. Peterson SC:**—I think we ought to know what a Tribunal
17 is being, um—

18 **Mr. Chairman:** Well you've heard what I had to say about it,
19 Mr. Peterson. I am not going to shut anybody out from what
20 might be a submission, and certainly I would regard any
21 submission made in writing by any party as being disclosable to
22 others. I think it's quite a different matter if, on a more
23 complicated area of law, we are to receive some advice from
24 our Counsel to this Commission, that would not ordinarily be
25 disclosable, but I would take it under advisement.

26 You have understood from the outset of this Enquiry I
27 have been as open and as public about every aspect of it that I

1 can be. As has already been pointed out there is not a—I don't
2 think there's a single document that has not been disclosed
3 other than those which are obviously sensitive and redactions of
4 people's addresses and telephone numbers, otherwise, every
5 single piece of paper that we've considered you can consider,
6 and indeed the public can consider. This is a public Enquiry.
7 Why shouldn't they? And, you know, aside from personal
8 matters, embarrassment or features of that kind, as far as I'm
9 concerned, have nothing to do with it. So the public have
10 complete access to all of the material that we have.

11 All right, can I deal first of all with the two matters that
12 have arisen during the course of my learned friend's—
13 Counsel's submissions? Reference was made to a response by
14 Mr. Mushtaq Mohammed in an email, in a letter, sorry, to
15 OSHA dated the 20th of July of last year. I think it right and
16 appropriate to give him an opportunity to respond to that letter
17 and the criticisms made of it that it seems, on its face, to be
18 inconsistent with other evidence that we've heard in the course
19 of this Enquiry. What I propose to do is to make a ruling that
20 he be given until the 20th of January of this year to respond in
21 writing to Ms. Sinanan who sits behind me so that we can
22 consider it.

23 It will, I will have it over that weekend. I will then cause
24 it to be published on the website for the 23rd of January of this
25 year and invite anybody who wants to respond to anything
26 contained in it or make any submission at all in relation to it,
27 including counsel for Paria, to do so by the 30th of January. All

1 right? So that that gives us a window of a couple weeks or so
2 from now for Mr. Mushtaq Mohammed, if he chooses, I don't
3 order him to do so. If he chooses to respond to it he can and
4 any counsel will, from the 23rd of January, be able to access it
5 on the website and be able to respond to it, all right? So—

6 **Mr. Peterson SC:** Just by way of clarification, Sir, I think Mr.
7 Maharaj dealt with a particular paragraph to that letter.

8 **Mr. Chairman:** Yes. It's a letter dated the—

9 **Mr. Peterson SC:** No I got the date already, Sir. That's the—

10 **Mr. Chairman:** Right.

11 **Mr. Peterson SC:**—20th of July.

12 **Mr. Chairman:** In which there are a series of questions being
13 posed by OSHA, 11 in all, and responses being given by Mr.
14 Mushtaq Mohammed on behalf of Paria Fuel.

15 **Mr. Peterson SC:** But the contention was with respect to a
16 particular question—

17 **Mr. Chairman:** The contention was with—what's been
18 identified is paragraphs four and five in particular.

19 **Mr. Peterson SC:** Four and five, right.

20 **Mr. Chairman:** But, as I say, since none of this was formally
21 Chad of Mr. Mohammed, and given the criticism that's being
22 observed by it, he has liberty within the course of the next
23 seven days to respond to that criticism.

24 **Mr. Peterson SC:** Thank you, Sir.

25 **Mr. Chairman:** As I say, I don't order that he should, merely
26 that he has the opportunity to do so and it will be taken into
27 account, all right? Now that's the position with that.

1 As to any submissions I raised during the course of this
2 arguments proffered by Mr. Maharaj, on duty to rescue, again, I
3 do not order anyone to provide anything in relation to that at all,
4 but, if anybody does wish to make a submission about any duty
5 to rescue that might arise either from an IMT or on the part of
6 LMCS' responsibilities in having a rescue plan, any duty that
7 might or might not arise, I will hear any or not hear, I will
8 receive any submissions on that by the 30th of this month. All
9 right? So by the 30th of January, please, if anybody wants to, I
10 don't order anyone to do so, merely that if they wish to do so,
11 they can. So that's the cut-off, the 30th of January, please?

12 **Mr. Peterson SC:** Just by way of clarification on that, Sir—

13 **Mr. Chairman:** Yes.

14 **Mr. Peterson SC:**—the 30th we we'll, um, we reserved
15 because of the point I made yesterday at the opening of my
16 closing. If the Commission gets to the stage where they wish to
17 issue letters to us then we—I think it would be prudent for us
18 to—

19 **Mr. Chairman:** Of course.

20 **Mr. Peterson SC:**—respond at that time.

21 **Mr. Chairman:** Well, it's a matter entirely for you. If you
22 want us to consider any of those issues in advance, we will.

23 **Mr. Peterson SC:** Yes.

24 **Mr. Chairman:** You'll need to make that submission by the
25 30th of January.

26 **Mr. Peterson SC:** Sure.

27 **Mr. Chairman:** If you wish to hold your powder dry, should it

1 be necessary to do so, if I issue Salmon letters, then of course,
2 the purpose of issuing them is for you to be able to respond to
3 it.

4 **Mr. Peterson SC:** I will—

5 **Mr. Chairman:** And if there is contained in such a letter any
6 duty which we raise as a prospect for you to consider, then of
7 course you'll be able to deal with it then.

8 **Mr. Peterson SC:** I'll check my powder stock if I have enough
9 to fire twice, Sir, I may do it.

10 **Mr. Chairman:** All right, all right, thank you very much. So
11 that deals with those matters. I'll make sure those rulings are
12 put up on the website.

13 Can I just say, as we draw to a close, Mr. Maharaj, a few
14 comments, please, both from me and Mr. Wilson. Certainly for
15 me on the 6th of July I was asked by the President to chair this
16 Enquiry, Mr. Wilson, some months before that. But today, just
17 six months after being so instructed, we have concluded all the
18 speeches. We have concluded all of the evidence. That would
19 simply not have been possible without the considerable
20 cooperation of everyone.

21 My team, headed by Mr. Ramesh Maharaj, has been
22 exemplary working, I can tell you, tirelessly on the evidence to
23 have it ready for these hearings. The backroom staff too, some
24 of whom sit here but working in the back, have played a
25 significant role in ensuring the smooth running of this Enquiry.

26 Above all, Sarah Sinanan, and I don't spare her blushes,
27 has been significant, frankly magnificent in putting together this

1 Enquiry for us all. It simply would not have happened without
2 her. I have to say she had no administrative skills that I know
3 of prior to joining us as a team. She's demonstrated an
4 extraordinary ability to be able to find ways around all of the
5 obstacles, some of which I've expressed previously, that have
6 been placed in our path. I wish I could take her with me.
7 [Laughter] She's been fantastic.

8 But neither would it have been possible without all of
9 your cooperation, sitting here very late some days, much to the
10 consternation and chuntering of some, but we've been able to
11 achieve the timetable that we set which was an ambitious one
12 but we have been able to do it and it simply wouldn't have been
13 possible without all of your cooperation. So I want to thank
14 you all and indeed thank you for your courtesy and assistance in
15 us being able to reach the stage that we have now.

16 I should like to say also something about the public.
17 Thank you, all of you, for making me feel personally welcomed
18 in this country and valued. All too often I've been stopped in
19 the street, people have come to me and say, "Can I have your
20 photograph?" It's been slightly embarrassing from time to time
21 but it has been rewarding to think that the efforts that we, Mr.
22 Wilson and I, have put in are appreciated by the population at
23 large. So I thank you all for that. It is good and gratifying to
24 know that the people of Trinidad and Tobago have so readily
25 taken to me, this foreigner, who has come to exercise my best
26 abilities in this Enquiry.

27 What I will say to you all is that we will continue to work

1 hard to ensure and produce a report of which everyone can be
2 proud by April of this year. It will of course be a matter for
3 government to determine when it is made available to the
4 public, but I know that Minister Stuart Young is anxious to
5 make this as available as soon as is possible and I shall be doing
6 all in my power to apply such pressure as I might be able to
7 bring to bear, if that be necessary, to ensure that the public have
8 a copy of this report as soon as it is impossible to do. Whatever
9 our ultimate findings, it will not be the person driven by
10 rumour, superstition or emotion. It will have been driven by the
11 evidence that we have heard and read.

12 We will not lose sight of the fact that Kazim Ali Jr., Rishi
13 Nagassar, Yusof Henry and Faizal Kurban lost their lives, that
14 Christopher Boodram continues to and remains scarred by the
15 events that took place on the 25th of February of last year. The
16 family, friends and those who are the loved ones of those who
17 died remain scarred by the events of the 25th of February, last
18 year. You will have a report. It will be ready by April.

19 Thank you all very much indeed and I ask counsel to join me
20 briefly in the witness room at the back of this courtroom, so
21 thank you all very much indeed. That is it, thank you.

22 **1.06 p.m.:** *Enquiry adjourned.*

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