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UNITED STATES OF AMERICA

VS.

IONIA MANAGEMENT S.A.

FIFTH SPECIAL MASTER'S HEARING

JANUARY 12, 2011

10:00 A.M.

HELD AT THE OMNI HOTEL

155 TEMPLE STREET

NEW HAVEN, CONNECTICUT

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26 **FOR IONIA MANAGEMENT, S.A.:**

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1 SPECIAL MASTER BUNDY: For the record,
2 it's January 12th, in the middle of a
3 snowstorm, in New Haven, Connecticut. People
4 took heroic efforts to show up here for the
5 fifth Special Master's hearing in the United
6 States versus Ionia Management.

7 Present for Ionia Management, please
8 state your name and identify yourself for the
9 record.

10 MR. KARAGIORGIS: George Karagiorgis.

11 MR. CHALOS: Michael Chalos.

12 SPECIAL MASTER BUNDY: And for the
13 Government?

14 MR. O'CONNELL: David O'Connell with the
15 Environmental and Natural Resources Division.

16 MR. BURGESS: Chaning Burgess, U.S.
17 Coast Guard designated representative.

18 MR. KAPLAN: Anthony Kaplan from the
19 U.S. Attorney's Office, District of
20 Connecticut.

21 SPECIAL MASTER BUNDY: I'm Robert Bundy,
22 Special Master.

23 And on the telephone and video link for
24 Ionia is Miss Krystyna Tsochlas. Right,
25 Tsochlas?

1 MS. TSOCHLAS: Yes.

2 SPECIAL MASTER BUNDY: To begin with,
3 let's swear in the two witnesses for Ionia
4 and then we could begin with Ionia's
5 presentation.

6 So, Mr. Karagiorgis, if you'd be sworn
7 in.

8 (Whereupon, George Karagiorgis
9 was duly sworn by the Court
10 Reporter.)

11 COURT REPORTER: Would you please state
12 your name and address for the record?

13 MR. KARAGIORGIS: Georgios Karagiorgis,
14 4 Parnasson, Nikoa, Greece.

15 SPECIAL MASTER BUNDY: And we'll write
16 down Miss Tsochlas' address as well.

17 (Whereupon, Krystyna Tsochlas,
18 was duly sworn by the Court
19 Reporter.)

20 SPECIAL MASTER BUNDY: Thank you.

21 As usual, you provided us with a
22 detailed Powerpoint presentation, which I
23 assume we're going to be going through.

24 Just a couple of observations at the
25 beginning. I don't think that there's any

1 necessity to read in detail every slide.

2 I think Patrick Norton, U.S. Probation
3 Officer, just joined us.

4 MR. NORTON: Yes. Hello, everyone.

5 SPECIAL MASTER BUNDY: Also present are
6 James Sanborn and Captain Wigger, the
7 independent environmental consultants
8 appointed in this case who also arrived with
9 great heroic efforts.

10 So, before we begin, there are two
11 particular areas that we hope that we can
12 spend some time and concentrate on. The
13 first one, of course, is the SWOMS and the
14 issues about the recalibrations of the
15 various SWOMS and the difficulty in obtaining
16 the hourly or SWOMS data taken
17 contemporaneously with manual soundings, and
18 then the second issue would be training,
19 particularly on the issues that came to light
20 in the recent audit, underway audit of the
21 Estia.

22 So, with that in mind -- and I think
23 that the way we'll do it, perhaps, is similar
24 to the way we've done it in the past. There
25 are several issues that were identified and

1 were identified in the Powerpoint
2 presentation. We can go through those issues
3 one at a time.

4 Miss Tsochlas, if you -- on some of
5 these issues, you've written quite a bit in
6 the slides and they're pretty
7 self-explanatory, but if there are anything
8 that you think needs greater explanation or
9 expounded on, please do that, and Mr.
10 Karagiorgis can also chime in when necessary.

11 Probably what we'll do then with each
12 topic, Captain Wigger, Mr. Sanborn, and/or
13 the Government will be able to pose questions
14 and, of course, follow it up by Ionia's
15 counsel as well as necessary, but I think
16 that we can get through some of these issues
17 fairly quickly, but I think that the bigger
18 issues on the SWOMS and the training are ones
19 that we're going to want to take -- and some
20 of the issues that came up in the Estia audit
21 are some of the things that we want to
22 examine fairly closely.

23 So, with that and with the agreement of
24 Ionia's counsel, or if the Government has
25 anything that they want to say before we

1 start, we can begin.

2 Mr. O'Connell?

3 MR. O'CONNELL: The Government has
4 nothing to start with.

5 SPECIAL MASTER BUNDY: Mr. Chalos,
6 should we begin?

7 MR. CHALOS: Please, by all means.

8 I think you guys have probably worked
9 that all out.

10 SPECIAL MASTER BUNDY: Please go ahead.

11 MR. CHALOS: Shall we go through the
12 first item on the agenda?

13 SPECIAL MASTER BUNDY: I don't think we
14 need to do that. Why don't we just start
15 with the agenda itself.

16 MS. TSOCHLAS: The first item on slide
17 12.

18 SPECIAL MASTER BUNDY: The Court
19 Reporter is here taking everything down, it's
20 difficult for her to hear you very well, so
21 if you would speak slowly, we would very much
22 appreciate it.

23 MR. KARAGIORGIS: And loudly.

24 MS. TSOCHLAS: The systems on both of
25 the vessels are functioning properly without

1 any problems and they've been transmitting
2 the SWOMS data on a daily basis without any
3 issues.

4 On the Ploutos and the Estia, the SWOMS
5 unit was installed in April of 2010 on the
6 Ploutos without the appropriate communication
7 system, which was then installed in September
8 of 2010.

9 In October of 2010, Ashland, our
10 technicians who calibrated the system,
11 ordered the vessel in Antwerp and since now
12 have been properly calibrated. Since then
13 we've had no problems with the Ploutos. The
14 SWOMS was installed and commissioned onboard
15 the Estia in November of 2010, data was being
16 transmitted electronically from the first day
17 of commissioning and Ashland technicians
18 boarded and descended to calibrate. However,
19 unfortunately, as we had advised on the 7th
20 of January to all parties, there has been a
21 problem with the transmission of data since
22 the 29th of December. There's been some
23 anomalies in the transmission of data.

24 SPECIAL MASTER BUNDY: Have the Ashland
25 Marine, revisional marine people arranged to

1 go aboard the Estia?

2 MS. TSOCHLAS: Yes, the Estia will be
3 calling in Singapore around the 22nd of
4 January. Ashland has confirmed that they
5 will be going onboard to repair the unit.
6 We've been in contact with both Vigilant
7 Marine and Ashland, Vigilant Marine have
8 identified the problem to do with the
9 hardware of the unit and they have prepared
10 electronic board, spare part, that needs to
11 be sent to Singapore to be replaced onboard
12 the Estia. So, when the vessel arrives at
13 Singapore, the Ashland technician will board
14 with the spare and replace it, and we're
15 expecting it to be fully functional. The
16 SWOMS is continuing to record data and
17 generating reports that have been printed out
18 and we have requested that the vessel sends
19 by e-mail those reports on a daily basis to
20 us.

21 SPECIAL MASTER BUNDY: Are you satisfied
22 with the service that you're getting from
23 Ashland and Vigilant Marine, has that been a
24 problem for your company?

25 MS. TSOCHLAS: Ashland -- the service

1 from Ashland has been very good, they respond
2 immediately and they do their best to get on
3 the vessels when necessary.

4 With Vigilant Marine, it's been quite
5 difficult. They seem to have a very large
6 workload and they aren't in a position to
7 respond to us as quickly as we need them to
8 respond. And there are times when we have
9 sent e-mails and we haven't been getting
10 replies for weeks on end from Vigilant
11 Marine.

12 SPECIAL MASTER BUNDY: Have you
13 considered switching to an alternate
14 supplier?

15 MS. TSOCHLAS: We haven't because we
16 would prefer to have the same unit onboard
17 all our vessels. Switching at this point
18 would cause quite a bit of confusion because
19 this is a unit that's customized by Vigilant
20 Marine.

21 SPECIAL MASTER BUNDY: I noticed in the
22 correspondence between Ionia and Vigilant
23 about the attempt to revise the hardware or
24 software such that the hourly recordings or
25 soundings could be transmitted, that there

1 didn't seem to be any communication at all
2 between May and December of 2010, based on
3 that e-mails that you have submitted, I think
4 it was Exhibit 5 to a Powerpoint. Can you
5 comment on that and explain why it took so
6 long, why there was such a gap?

7 MS. TSOCHLAS: As I said, there have
8 been large periods where we didn't get a
9 reply from Vigilant Marine. We didn't put
10 all our reminders that we sent to Vigilant
11 Marine into the correspondence to minimize
12 the amount of documentation we submitted, but
13 we had a large period of time where we were
14 not getting responses at all, and especially
15 in the case of the Estia, when we were trying
16 to prepare the unit for installation on the
17 Estia.

18 With the Estia we had a number of
19 problems from the beginning. The unit, when
20 it was sent onboard the Estia, a number of
21 the parts that were necessary for its
22 installation were not sent with the unit to
23 the vessel. This is why although we had
24 begun the process for the Estia from the
25 beginning of the year, we finally managed to

1 get the unit onboard and fully commissioned
2 in November of 2010, because between the
3 vessels training schedule and the fact that
4 incorrect parts were being sent from Vigilant
5 Marine to the vessel resulted in a number of
6 delays.

7 MR. CHALOS: Mr. Bundy, this may be a
8 good time to bring up an issue that I wanted
9 to discuss today.

10 There's been an attempt to try and get
11 hourly readings to be sent electronically to
12 Ionia's office, and right now the memory in
13 the unit is too small to accommodate that,
14 but the real question in my mind is do you
15 really need hourly readings to be transmitted
16 to the office from whatever number of tanks
17 it is? To me, it seems like that would be
18 information overload for anybody to deal
19 with. Now, the readings are being taken
20 continuously so they comply with the Court's
21 order that readings be done at least once an
22 hour; those readings are being taken. What
23 we're talking about is not that, but the
24 actual transmission of those readings to the
25 Ionia office. I think it's just going to

1 create so much paperwork for the people in
2 Ionia's office to handle, that the benefits
3 are, you know, or, rather, the workload
4 that's created far outweigh any benefits of
5 hourly transmissions to the Ionia office. I
6 wonder if maybe Mr. Wigger or Mr. Sanford --

7 SPECIAL MASTER BUNDY: Sanborn.

8 MR. CHALOS: -- have any thoughts about
9 that. It may be you wind up getting lots of
10 information that may be meaningless at the
11 end of the day. It just creates information
12 overload that's not helping anyone move
13 forward.

14 SPECIAL MASTER BUNDY: Let me make a
15 couple of observations and then, perhaps,
16 Captain Wigger could speak to his experience
17 with this, and what he believes is accurate,
18 and maybe we'll hear from the Government, or
19 Commander Chaning, but it seems to me that
20 one of the -- that one of the purposes of
21 having it taken every hour is so that it
22 could be compared directly and
23 contemporaneously as possible with the manual
24 soundings so that -- because the SWOMS data
25 is transmitted, as I understand it, at 00GMT

1 every day, which means -- manual vessels on
2 the vessel are taken at different times
3 because of the work schedule of the crew, so
4 what that means is sometimes I assume as much
5 as 12, 15 hours goes by, or more, there could
6 only be a 12 hour difference between the time
7 that the SWOMS data is transmitted, which
8 would be what the tanks look like, as I
9 understand it, and I might be wrong, correct
10 me if I'm wrong, as I understand the data
11 that is transmitted at 00GMT is the status of
12 the tanks at that time.

13 MR. CHALOS: No, I think you get in the
14 transmission -- in the transmission you get a
15 high and low. It gives you the difference
16 between -- you know, it tells you what the
17 highest sounding was in that tank.

18 SPECIAL MASTER BUNDY: In that 24 hour
19 period?

20 MR. CHALOS: Yeah, in the 24 hour
21 period. So, you can see if there's been any
22 difference. In other words, if nothing
23 happened that day, you'll get two readings
24 the same. If for some reason something
25 happened, then you might get a difference in

1 the two readings because it's showing both a
2 high and a low. Okay?

3 SPECIAL MASTER BUNDY: Is that correct,
4 Mr. Karagiorgis?

5 MR. KARAGIORGIS: Yes.

6 MS. TSOCHLAS: You get a maximum and
7 minimum of a 24 hour period and the reading
8 at the time that it's transmitted. So, when
9 we're doing the cross checking we can check
10 if our manual sounding doesn't match up with
11 the reading that's being transmitted, it must
12 be within the limits of the maximum and
13 minimum.

14 SPECIAL MASTER BUNDY: Captain Wigger,
15 do you have -- what's your view of this?

16 MR. WIGGER: Okay. What you just said
17 now, okay, you got the maximum and the
18 minimum and then you have the actual sounding
19 at the time it is transmitted?

20 MS. TSOCHLAS: Yes.

21 MR. WIGGER: But soundings are taken
22 continuously and they're stored in a memory?

23 MR. CHALOS: Correct.

24 MR. WIGGER: And you can access that?

25 MR. CHALOS: All we're talking about is

1 the actual transmission, not the actual
2 sounding tape, they're being taken
3 continuously, which complies with the Judge's
4 order, what we're now talking about is having
5 to send those sounding readings every hour to
6 the office, that's the overload that I'm
7 talking about, and if the memory, the current
8 memory of this unit can accommodate
9 presently.

10 SPECIAL MASTER BUNDY: If the -- so,
11 let's say every hour on the vessel, the SWOMS
12 is taking a reading that's transmitted from
13 the transmission device to the unit on the
14 vessel, the SWOMS unit on the vessel?

15 MS. TSOCHLAS: The unit is continuously
16 monitoring the timed levels. So, if you go
17 to the unit and press the button for a report
18 to be generated then, it will print out the
19 timed levels at the time you press the button
20 for the printout.

21 MR. WIGGER: So, the continuous
22 monitoring occurs, but there is no recording,
23 except one time of day right now?

24 MR. CHALOS: I think that's right.

25 MS. TSOCHLAS: The recording is at the

1 time of the transmission and the maximum and
2 the minimum. So, you do know the range of
3 the time throughout the 24 hours.

4 MR. WIGGER: And the Judge's order
5 requires that it be hourly transmissions.

6 MR. CHALOS: No, hourly reading.

7 SPECIAL MASTER BUNDY: What page on the
8 order?

9 MR. CHALOS: The data shall be
10 electronically recorded by the SWOMS at least
11 hourly.

12 MR. WIGGER: Recorded hourly. But
13 that's not being done now.

14 MR. CHALOS: It is. It's being done
15 continuously.

16 MR. WIGGER: It's not being recorded
17 continuously.

18 MR. CHALOS: It's not being transmitted.

19 MR. WIGGER: Let's go back to Krystyna.
20 You can query that system at any time and get
21 a reading of the tanks, but unless you query
22 the system, it just monitors things quietly
23 and it doesn't record, you're not getting --
24 when you say continuously, you're not getting
25 a sounding every minute or a sounding every

1 hour, but if you say, okay, I want to know
2 what the sounding is, you have the ability to
3 query, you can get a sounding.

4 So, the 80's order requires recording at
5 least hourly, and that's some of the issues
6 we've had during the audits is that there's
7 no record of the hourly SWOMS data.

8 Krystyna, maybe you can -- is that
9 correct?

10 MS. TSOCHLAS: Well, it's monitoring the
11 levels in order for it to be able to
12 calculate what is the maximum level and the
13 minimum level, but we're not getting reports
14 of that, of the levels on an hourly basis.

15 SPECIAL MASTER BUNDY: So, in other
16 words, at 00GMT on any given day it has
17 stored the information from that 24 hour
18 period in order for it to provide the
19 information about what was the maximum and
20 what was the minimum, but that's not
21 accessible, the actual readings in between
22 the maximum and the minimum at any given time
23 are not accessible?

24 MS. TSOCHLAS: Not at the end of the 24
25 hours, no.

1 SPECIAL MASTER BUNDY: And then at the
2 end of 24 hours it transmits the 00GMT
3 reading, plus the maximum and minimum, and
4 that's the way that the software was set up
5 and the hardware -- the memory capability of
6 the system, does it not allow for any other
7 gathering of information.

8 And the issue that you've raised,
9 Mr. Chalos, about whether all of that
10 information serves any useful purpose is
11 separate, but what I'm trying to get to right
12 now whether or not the machine, as it is
13 installed, can -- whether there is some way,
14 first of all, to -- whether it complies with
15 the order and, if not, then what we're going
16 to do about that.

17 Second, if it technically does comply
18 with the order, is there some way that we can
19 use the system that's been installed to
20 achieve the idea that there can be a real
21 correlation between the SWOMS reading and the
22 manual sounding.

23 Now, I understand what you're saying
24 that as long as you have a minimum and a
25 maximum every 24 hours, the manual

1 sounding -- if the manual soundings do not
2 fall within the minimum and maximum, then
3 you've got an obvious problem.

4 MS. TSOCHLAS: Yes, exactly.

5 SPECIAL MASTER BUNDY: But I'm not sure,
6 and I guess I haven't thought this through
7 well enough, is that enough to insure that no
8 midnight engineer is trying to get around the
9 system by doing something that he's not
10 supposed to, and I'd like to hear from any of
11 the parties, or Captain Wigger, on that
12 issue.

13 MR. WIGGER: Like you point out, there
14 are really three issues, I guess, one is the
15 letter of the judgment, or the order,
16 requiring hourly recordings. The other issue
17 is the practicality or the need for that,
18 and, really, that relates back to the
19 government's thoughts as to why they
20 requested hourly recording.

21 If you look at, you know, a normal
22 sounding log, you normally have a once per
23 day or twice per day sounding of the tanks,
24 but you wouldn't have hourly soundings.

25 So, from a practical point of view,

1 trying to understand the need for the hourly
2 soundings, but, beyond that, the way the
3 order stands right now, it requires it, so
4 that's what we have to deal with as well.

5 MR. CHALOS: I wonder if I could ask a
6 question of Miss Tsochlas and Mr.
7 Karagiorgis.

8 Krystyna, is it possible at this point
9 to have the system record hourly, but not
10 transmit hourly, in other words, you do a 24
11 hour recording but you only transmit on the
12 24th hour, whatever it is, that they're doing
13 now? This way the information is kept in the
14 system, but not necessarily sent to and then
15 create this overload that I'm talking about.

16 MS. TSOCHLAS: This is what we're trying
17 to do -- well, Vigilant Marine has made
18 modifications to the software in order to
19 allow for the recording on an hourly basis
20 and then all of that data to be transmitted
21 once in the 24 hours. So, once for every 24
22 hours we'll get the hourly tank soundings
23 throughout that 24 hour period. The problem
24 is that the memory doesn't allow for it to be
25 stored for more than one day.

1 SPECIAL MASTER BUNDY: But if it's
2 transmitted --

3 MS. TSOCHLAS: And this is a problem for
4 us because we, in the beginning, the memory
5 only stored for 24 hours. Once the data was
6 transmitted to us, it would be written over
7 by the next 24 hour period of data. However,
8 sometimes there is a gap in the satellite and
9 the vessel is not able to transmit right on
10 the 24 hours and it has to transmit a little
11 bit later when it has communications with the
12 satellite again. If we don't have that
13 memory -- if that's stored on the memory,
14 we'll lose that data, so we had requested
15 from Vigilant to modify the unit, the
16 software, in order to maintain the data for
17 multiple days so we wouldn't lose any data.
18 Now that we have requested him to increase
19 the amount of data to be stored on the
20 memory, the memory is not adequate to store
21 that data for multiple days. So, if we
22 decide that we have the hourly data, we'll
23 lose the ability to store that data for
24 multiple days, which may mean in the future
25 if we have gaps in satellite communication,

1 which is something that happens on ships,
2 we'll lose data. On the other hand, if we
3 decide to make this modification, there is a
4 chance that we'll be losing data overall.

5 As of yet, Vigilant Marine hasn't yet
6 managed to find a solution to upgrading the
7 memory capacity of the unit.

8 MR. CHALOS: I wonder, Mr. Bundy, if
9 there's some way that the data can be
10 downloaded everyday and kept on the vessel,
11 so when you go onboard and you need to check
12 a particular hourly reading for a particular
13 day, you'll be right there, and this way the
14 items are stored, they're not over-written,
15 there's a record of it on the vessel, and if
16 there's a need to refer to a particular hour,
17 we could always go back and access it. Do
18 you see what I'm saying?

19 Is that possible, Krystyna, that is for
20 the vessel to everyday download the hourly
21 readings and keep them onboard?

22 MS. TSOCHLAS: We'd have to get back to
23 Vigilant Marine about that.

24 MR. CHALOS: Yes.

25 MS. TSOCHLAS: We could ask them to

1 generate a report, but not on an hourly basis
2 because --

3 MR. CHALOS: No, no, at the end of the
4 day.

5 MS. TSOCHLAS: -- it's not available at
6 the end of 24 hours to generate a report
7 every hour.

8 MR. CHALOS: No, what we're talking
9 about is the system to record hourly and at
10 the end of the day, for all those readings to
11 be downloaded into a disk or hard copies and
12 kept on the vessel for future reference.

13 MS. TSOCHLAS: We'd have to ask Vigilant
14 Marine if they could do that. We haven't
15 looked into that solution yet.

16 MR. WIGGER: That seems like a very
17 practical solution and I will say that we're
18 dealing with another case that you're
19 involved in as well that they actually do
20 that, where they do download from a -- if you
21 want to call it their SWOMS to a computer in
22 the engine control room, all the data on a
23 daily basis and it actually makes it easier
24 to access that data when we're doing our
25 audits, we could just go to the computer and

1 it will have the data readily available. And
2 then, of course, with the computer, you have
3 pretty much unlimited memory, so taking it
4 off the SWOMS party.

5 MR. O'CONNELL: Mr. Bundy, if I may?

6 I'm a little late to the game, but I
7 just want to make sure I understand this, it
8 seems to me that what was represented to
9 Judge Arterton was that, you know, these
10 vessels would be capable of transmitting real
11 time data to shore so it could be monitored,
12 and if that's not happening on an hourly
13 basis, which I think is the intent of the
14 Special Master's scope of work document, then
15 I think that's problematic especially that
16 we're almost three years into this procedure
17 at this point.

18 So, what I think the intent of the
19 Special Master's document was, was to have
20 that data recorded and sent hourly, and I
21 think that's the governments position, we
22 need to seek clarification of that, if we
23 can.

24 SPECIAL MASTER BUNDY: Yeah, I
25 understand that, and the question that

1 Captain Wigger posed, and that I would pose
2 to the Government, is if the information can
3 be preserved, the hourly readings of the
4 SWOMS, this cannot be tampered with by the
5 vessel crew, and it can transmit it at least
6 once a day such that the manual soundings
7 that are entered in the sounding logs or the
8 record back, if necessary, can be compared
9 with the SWOMS data that cannot be
10 manipulated by the crew, that's what we
11 really want, I think, and how does the hourly
12 transmission add to that goal as opposed to
13 the daily transmission that is occurring now,
14 perhaps, with the addition of a way to store
15 the hourly -- because as I read the order
16 itself, it requires that the SWOMS have the
17 ability to record and the data to be
18 electronically sent to Ionia's shoreside
19 offices and it wants it done at least hourly.

20 Now, what we have now, as I understand,
21 is continuous monitoring, it's just that at
22 the end of 24 hours they don't have the
23 capability of storing that continuously
24 monitored data and, instead, at 00GMT, it
25 gets transmitted to the shoreside office with

1 the 00GMT sounding and the maximum and
2 minimum of that day, and all of the
3 continuous monitoring, as things are now, are
4 lost.

5 MR. O'CONNELL: Right.

6 SPECIAL MASTER BUNDY: And because of
7 the inability to store that information in
8 the SWOMS hardware.

9 And, secondly -- the second problem that
10 appears to occur is that even if -- and the
11 way Vigilant has the system set up now, if
12 for some reason the vessel cannot maintain
13 communication at 00GMT, then the whole 24
14 hour -- previous 24 hour data is lost, am I
15 correct about that?

16 MS. TSOCHLAS: At the moment they can't
17 communicate at 00GMT, it continues trying, it
18 stores the memory, the data in its memory and
19 it continues trying to communicate till it
20 can send the report.

21 SPECIAL MASTER BUNDY: So, it's not --
22 then some report is sent as soon as
23 communication is reestablished?

24 MR. CHALOS: Yes. You don't lose the
25 data, you just don't just don't get it at the

1 same time.

2 MS. TSOCHLAS: If we make modifications
3 for the hourly data, we'll lose the
4 capability of storing the data in the event
5 that we don't get communication at 00GMT.

6 MR. WIGGER: Because it will continue to
7 record the data and because of the memory
8 limitation, it will replace what's already in
9 memory with the new data. So, you would lose
10 it, and if you don't transmit before you lose
11 it, you lose it, right?

12 MR. CHALOS: Well, if you go to the
13 hourly recording as well.

14 MR. WIGGER: If you go to the hourly
15 recording to meet the requirements of the
16 Court.

17 MR. CHALOS: So, I think the issue is
18 expanding the memory so that doesn't happen,
19 number one, and, number two, having the
20 ability to download the information onto a
21 disk or another computer so that it's
22 available for future reference, and then --
23 you know, I don't read the order quite the
24 way the Government reads it, I think you have
25 to record hourly, but it doesn't necessarily

1 say that you have to send those hourly
2 transmissions, it does say about transmitting
3 data, but I don't read it -- I don't read the
4 two together that it has to be transmitted
5 hourly because then it brings us to the other
6 problem that I brought up, the information
7 overload. In other words, somebody has to
8 manage that information, review that
9 information on a daily basis; it's just a lot
10 of work. You've got, I don't know how many
11 tanks, 24, 25 tanks.

12 MS. TSOCHLAS: It's approximately five
13 tanks on each vessel, so if we get hourly
14 data, we'll get 24 readings for five tanks,
15 which is about 120 readings per day.

16 MR. KARAGIORGIS: Per day, yeah.

17 MR. O'CONNELL: I think that was the
18 point of the order, that this would be
19 monitored.

20 SPECIAL MASTER BUNDY: Yeah, I
21 understand that. Okay. I just want to make
22 sure that I understand what the Government's
23 position is.

24 MR. WIGGER: Just as a practical matter,
25 if it is transmitted hourly, would that mean

1 that someone would have to be there to
2 receive it hourly or would it go into their
3 system?

4 MR. O'CONNELL: I think it would go into
5 their system.

6 MR. WIGGER: Otherwise, what would be
7 the difference of transmitting it once a day?
8 In other words, if you transmit it hourly and
9 no one was there to receive it, it would just
10 kind of go, versus just transmit it once a
11 day, it depends on where the data is, so to
12 speak.

13 SPECIAL MASTER BUNDY: But as we speak,
14 there is no capability to take the continuous
15 readings that are being done by the SWOMS
16 machine and transmit that to Ionia so that
17 they could say, okay, we did our manual
18 sounding -- and the whole purpose of this is,
19 number one, to look for any unusual changes,
20 but, as I understand it, the real purpose is
21 that then when you get the actual manual
22 sounding logs and the oil record book
23 entries, which are only transmitted once a
24 month, that the technical managers can
25 compare the two, or the auditors, as the case

1 may be, can compare the two and see if the
2 changes in the tank levels are reflected
3 accurately in the oil record book, which is
4 the whole purpose of the exercise is to make
5 sure that the oil record book is accurate, or
6 I did miss something?

7 MR. O'CONNELL: Well, I think that's
8 part of it. I think what you're missing is
9 if the data is transmitted, you know, hourly,
10 at least theoretically, Ionia could look at
11 that and say if they have a tank and there's
12 an enormous discharge of 130 cubes, they
13 could call out to the vessel and say, hey,
14 what's going on?

15 SPECIAL MASTER BUNDY: I'm just
16 exploring this, please excuse me, but right
17 now they get a maximum and a minimum in a 24
18 hour period. Now, presumably, no matter how
19 conscientious a technical manager is, he or
20 she will probably not look at the 24 hours of
21 data, except for once a day, to compare it,
22 and if they have a sounding and then a
23 maximum and a minimum, they'll be able to see
24 if there's been any sort of increase or
25 decrease in a tank level within that 24 hours

1 that would, you know -- if, you know, if the
2 maximum is 12 cubic meters and the minimum is
3 six cubic meters they'll go, oh, my gosh, we
4 had a major transfer, what happened here?
5 And this allows the technical managers to
6 stay on top of what's going on in the vessel
7 and the auditors --

8 MS. TSOCHLAS: If I could pipe in here.
9 We've had now over two and a half years of
10 experience now of cross-checking all the data
11 that's sent to us on a monthly basis and I
12 think that we have a very effective process
13 at the moment in place to cross-check all of
14 that data, and I think -- because I know
15 Captain Wigger is also processing that data
16 on a monthly basis and comparing it, I think
17 he probably would be able to agree as well
18 that it is quite effective what we have in
19 place right now in monitoring the data.

20 MR. O'CONNELL: I mean, I don't want to
21 be unreasonable with the Government and get a
22 position on that, my understanding is that
23 the intent of the monitoring is to be as
24 close to real time as possible.

25 MR. WIGGER: And that's the key, I

1 think, even from the auditor's perspective is
2 to understand the requirements of the Judge's
3 order and, specifically, what the intent of
4 the Government was when that was placed in
5 that order, you know, that's -- so, as an
6 order, we look at it, we just apply what we
7 read, and so if there's more insight behind
8 that, I mean, that's helpful to us, but in
9 going back to what Krystyna has just
10 mentioned, we do review, because we get the
11 data on a monthly basis on a disk and we do
12 go through it and, you know, we'll find some
13 minor issues related to, you know, maybe the
14 oil record book or something, but nothing,
15 you know, nothing significant. And that is a
16 long process even, in and of itself, to
17 review that data, and that's the thing, from
18 a practical point of view, too, how much data
19 can you really look at and analyze and, you
20 know, to make it, you know, worthwhile.

21 But, again, you know, we can read what
22 the order says, but to understand fully what
23 was the intent of that is another issue.

24 SPECIAL MASTER BUNDY: Well, one of the
25 questions is, is there's any ambiguity in the

1 order, what we want to do is give effect to
2 what the Judge was really trying to do here
3 and that's one of the things that we're going
4 at, because as was pointed out, we've had two
5 and a half years into this and we've had some
6 struggles, but what I am really curious about
7 is from the point of view of the outside
8 coming in, do you think that the way the
9 SWOMS is set up gives you the ability to be
10 able to tell if there's been some
11 shipboard -- untoward shipboard activity that
12 you could catch with the SWOMS like this if
13 you had hourly readings being transmitted to
14 you, would it give you a greater ability to
15 catch on the basis of that data any problems
16 onboard the vessel that should be dealt with
17 right away, or, from your point of view,
18 would the technical managers have a better
19 ability to recognize a problem on the vessel
20 and take action to head off any potential
21 Marpol violation.

22 MS. TSOCHLAS: You have to --

23 MR. CHALOS: Hold on, Krystyna.

24 SPECIAL MASTER BUNDY: Just a minute,
25 please.

1 MR. WIGGER: And that's one of the
2 things that we -- when we go aboard -- look
3 for is ways that the vessel can circumvent
4 the system, so to speak, to illegally
5 discharge, and I can tell you that it's
6 possible on any ship, and even with the
7 SWOMS, the monitoring, because there's some
8 areas that are not monitored. For instance,
9 the bilge well, there is no monitoring of the
10 bilge well, and so theoretically you could be
11 pumping bilge wells overboard, but what these
12 SWOMS tells you is that the tanks that have
13 the sensors in them, that they're, you know,
14 if there's any drastic change, you look for a
15 corresponding, well, where did it go, was it
16 transferred to another tank, was there OWS
17 operation, was their incineration operation
18 for sludge? And that's what we look at when
19 we compare the data. So, from that
20 perspective, I think the system is fully
21 functional, but it doesn't address, you know,
22 some of the other areas outside what's
23 contained within the SWOMS.

24 SPECIAL MASTER BUNDY: So, basically,
25 what's monitored by the SWOMS is what is