

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

OFFICE OF ADMINISTRATIVE LAW JUDGES

-QC-

* * * * *

Investigation of:

THE AXEL SPIRIT'S ALLISION WITH
THE AMBROSE LIGHT AT THE
ENTRANCE OF NEW YORK HARBOR
NOVEMBER 3, 2007

*
*
*
*
*
*
*

Docket No.: DCA08FM002

* * * * *

Interview of: JACEK NIEWEGLOWSKI (second interview)
(November 6, 2007)

On board M/T AXEL SPIRIT
PERTH AMBOY, NEW JERSEY

The above-captioned matter convened, pursuant to Notice.

BEFORE: LARRY BOWLING
National Transportation Safety Board

APPEARANCES:

LARRY BOWLING
National Transportation Safety Board

BILL WOODY
National Transportation Safety Board

PETTY OFFICER BREMMER
U.S. Coast Guard

DON MURNANE
Freehill, Hogan and Mahar
Attorney for Vessel

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of Jacek Nieweglowski, Second Officer, Axel Spirit	
By Mr. Bowling	4
By Mr. Bremmer	16
By Mr. Woody	18
By Mr. Murnane	19
By Mr. Bowling	19
By Mr. Woody	20
By Mr. Murnane	22
By Mr. Bowling	22

1 you don't know the answer to the question, don't be afraid to say
2 I don't know. It's not an issue at this point. I've got a bunch
3 of documents laid out on the table. These are all printouts from
4 the Company's safety management system. Have you seen -- how
5 familiar are you with the Company's safety management system?

6 A. How?

7 Q. How comfortable or familiar are you --

8 A. I'm four months on board.

9 Q. Four months on board.

10 A. I'm (indiscernible) --

11 Q. Okay.

12 A. -- from the last four months, my first time with this
13 position. It is different than companies before.

14 Q. They change company to company. What, what does the
15 safety management system mean to you as the Second Officer? What
16 do you do with the tools in this system? How does it help you do
17 your job?

18 A. (Indiscernible) implementation of the safety and
19 (indiscernible) for -- I don't know how to explain.

20 Q. Yeah. It basically helps you function to do your job
21 successfully. Would you agree?

22 A. Yes.

23 Q. If you have a -- I don't speak any Polish and I know
24 you're English is very good, but if there are communication
25 difficulties, you just slow down and tell me that you don't

1 understand, okay. I want to talk to you about this passage plan.

2 Do you recognize that document?

3 A. Yes.

4 Q. The passage plan I'm talking about is a passage plan
5 that was prepared on the 26th of October, correct?

6 A. Yes, that's correct.

7 Q. Okay. And this was the passage plan from where to
8 where?

9 A. This was from Cayo Arcas, Mexico to Perth Amboy.

10 Q. Okay. Did you prepare this plan by yourself?

11 A. Yes. Yes, sir.

12 Q. Is that date correct when you prepared the plan?

13 A. Yes, this is (indiscernible).

14 Q. How do you get approval on this plan? Once you put it
15 together -- once you put the plan together, what do you do with
16 it?

17 A. (Indiscernible)?

18 Q. Yeah, once it's complete, what's the next step? What do
19 you do with it? Once you put the plan together.

20 A. (Indiscernible). If I need help from the Master and ask
21 him about the voyage and (indiscernible) time of arrival and time
22 of departure and also I'm asking the Chief Mate for the draft on
23 arrival and draft on departure. I (indiscernible) all the time
24 from the chart room on the bridge.

25 Q. Okay.

1 A. Also the charts, all charts and all passage plan, all
2 routes from the charts.

3 Q. Okay. On this passage plan, just a couple of specific
4 questions. I'm going to turn it over to a page right here. This
5 is an under keel clearance calculation form, part of the same plan
6 we're talking about. It's required by a separate procedure. It's
7 basically you can refer to a couple of other procedures, procedure
8 SP0413 and the squat effect on draft which is SP0118. Now do you
9 complete this form for --

10 A. Yes, I complete this form. This is a, this is a
11 (indiscernible) part of the passage plan.

12 Q. Okay. So it's your responsibility as the Second Officer
13 to complete the form?

14 A. Yes.

15 Q. Okay. On this particular portion of the voyage, this is
16 the 2nd of November, so this particular under keel clearance
17 calculation form was completed at --

18 A. This is the time of arrival --

19 Q. To the buoy.

20 A. To the pilot station.

21 Q. To the pilot station.

22 A. Yeah.

23 Q. Okay.

24 A. Doing the voyage, we calculate ETA every day from
25 departure from Cayo Arcas.

1 Q. Okay. Well, with that said, was there a reason -- I'm
2 looking, I'm referring over to block number three and it says
3 transit speed calculations. I notice that there's an effect of
4 tide and effect of current. Is that something you normally don't
5 examine or is that something you normally examine and just didn't?
6 Were those two -- did you -- I notice there were tide tables. You
7 attached a tide table and I think a current table.

8 A. (indiscernible).

9 Q. A tide and a current table. So how would those two come
10 into play in a situation with your arrival at the pilot station?

11 A. From the information from the agent (indiscernible)
12 depends on the high water because (indiscernible) high water will
13 be --

14 Q. Okay.

15 A. -- (indiscernible) but this calculation is situation
16 when the high water will be, when tide will be 1.5 meters before
17 3:00.

18 Q. Okay. High water roughly 15 minutes to 3:00. Okay. Is
19 this something on this voyage plan or passage plan, was it
20 something that you would normally take from the pilot station to
21 the facility as well in the normal course of business? Or do you
22 normally not do -- you do a passage plan from the ship to the sea
23 buoy or pilot station?

24 A. The passage plan is from berth to berth.

25 Q. Berth to berth.

1 A. Under the name of the port arrival and departure.

2 Q. Okay.

3 A. The passage plan is from berth to berth.

4 A. Berth to berth.

5 Q. Is there a segment of this passage plan that would get
6 me from the pilot station to the Chevron facility?

7 A. Yes.

8 Q. Can you show that to me?

9 A. This is the pilot station.

10 Q. Okay. We're referring to, in the same passage plan, and
11 I'll note for the record, we're referring to a waypoint checklist.
12 All right. Show me where the pilot station is and then where we
13 come into the Chevron facility.

14 A. The pilot station is number 19.

15 Q. All right. Let me mark that. Will you mark that for
16 me? Put your initials by it, number 19. Okay. We'll make sure
17 we get copies of this for everyone. Okay. Pilot station and the
18 Chevron -- okay. That's arrival. This is the restricted transit
19 up to the --

20 A. This is the channel number approaching (indiscernible).

21 Q. Okay. So -- and when it's talking about courses, these
22 are the courses that this vessel should be steering to these
23 various latitudes and longitudes. So here I am at the pilot
24 station and if I were to come in from the pilot station on this
25 form, I would steer 332.7 degrees. Walk me through this. I don't

1 understand it. I want you to navigate me from the pilot station
2 to right here. So tell me how to get there.

3 A. From the pilot station, the best, the best course from
4 testimony pilot station to (indiscernible) is 265.

5 Q. Okay. So I would go 265 for 3.8 nautical miles. Okay.
6 And then I've got an additional 19.6 nautical miles to go.

7 A. Yeah.

8 Q. Okay. All right. So once -- then once I get to that
9 latitude which will be my second waypoint, right, then I come on
10 over and I steer --

11 A. 306.9 for 2.0 nautical miles--

12 Q. -- 306.9 for 2.0 nautical miles. Okay. So basically
13 you've established a series of waypoints for me to navigate the
14 vessel up to the berth.

15 A. Yes, from --

16 Q. And you've calculated it down. Now this was prepared on
17 the 26th --

18 A. Yes.

19 Q. -- of --

20 A. Voyage plans must be prepared before --

21 Q. Okay.

22 A. -- before departure.

23 Q. All right.

24 A. But sometimes (indiscernible) --

25 Q. Right.

1 A. -- but sometimes it's a lot of -- more than --

2 Q. The interruptions --

3 A. -- (indiscernible) next voyage (indiscernible) during
4 the voyage.

5 Q. Sure. But this was done on the 10th or the 26th of
6 October.

7 A. (Indiscernible) before.

8 Q. So which -- this latitude and longitude is the Chevron
9 facility, waypoint 15 or is there more? There's more. Okay.

10 A. And the last one.

11 Q. Okay. So this -- that position number 18 or location
12 referenced in 18 is Chevron.

13 A. That's from the --

14 Q. At the berth.

15 A. At the berth, yeah.

16 Q. Okay. So let me put a berth -- will you put berth right
17 here for me if you don't mind. Okay. So I understand that.

18 Now --

19 A. (Indiscernible) at the berth but (indiscernible)
20 information from the agent (indiscernible) Chevron --

21 Q. Okay. And as a navigator, this is a general track line.
22 Your -- you'll be checking -- you'll be doing checks of this as
23 you're hitting these waypoints, correct, and relaying them to the
24 Captain?

25 A. Yes.

1 Q. Okay. With this -- just on this passage plan, just
2 referring to the waypoint, from the pilot station, waypoints 1
3 through waypoint 18, at anytime did you and the Master -- did you
4 step down and discuss any of this with him before you pulled
5 anchor on the 2nd?

6 A. Yes, (indiscernible) water and shallow water and narrow
7 channels yes we discuss but not (indiscernible) --

8 Q. Were you discussing --

9 A. Yeah, we discussed about how to do it but with the
10 weather, what we have to do and the time we take the pilot for
11 example, (indiscernible).

12 Q. When was the last time you recall talking to the Captain
13 about this particular part of the passage plan?

14 A. We discussed it -- we discussed about the passage plan
15 before arrival from Mexico (indiscernible) but not, not the last
16 night, you know.

17 Q. Okay. So when you -- the last night before the
18 incident, it wasn't discussed further?

19 A. No, it was not discussed. There was no time to discuss.

20 Q. Okay. When the vessel -- when you took the watch, you
21 took the 12:00 to 4:00 watch that night, before the vessel allided
22 with the lighthouse from the aid of navigation, did you look at
23 this plan at all and review the waypoints and courses and the
24 distance to travel for the ship? Do you recall if you looked at
25 this at all that night?

1 A. The plan of passage, looked at the passage plan on the
2 way but (indiscernible).

3 Q. Okay. So you basically redid this on the chart.

4 A. Yeah, during the, during the (indiscernible) the pilot,
5 (indiscernible) and like I say, this (indiscernible).

6 Q. Okay.

7 A. I told him --

8 Q. And were they in alignment? Did they match? Did these
9 numbers match on the chart --

10 A. Yes, the number of the references with the courses on
11 the (indiscernible) chart.

12 Q. Now on this transit from the light to the Chevron
13 facility, once you get these distances, well, for example here,
14 waypoints 2 and 3, coming over, there's a travel of 2.0 nautical
15 miles, okay. Are you telling the Captain, that Captain, we meet
16 out -- we met our waypoint and recommended a course change to him?

17 A. No, the Pilot, the Pilot always does.

18 Q. The Pilot --

19 A. -- (indiscernible). They use their computer on the --

20 Q. All right.

21 A. -- the Pilot (indiscernible).

22 Q. I follow you. Okay. The final question on this, when I
23 see signatures at the bottom of these passage plans, that's your
24 signature?

25 A. This is my signature.

1 Q. Okay. And then this signature here is whose? The
2 Captain.

3 A. That's mine. It's mine.

4 Q. That's yours. This is --

5 A. Captain.

6 Q. -- the Captain's. So what's that telling me that you
7 and him had talked about his passage plan when you both sign it?

8 A. Yes, if we find problems or something like that, we talk
9 about it. If his signature there --

10 Q. So that means you both are in agreement with the plan,
11 that you signed it?

12 A. Yes, if we signed it, that means we approved it and --

13 Q. Okay. Okay. There's one I think final question from my
14 standpoint. I'd please ask you to take a look at a document here.
15 Four months is the -- you've only used this safety management
16 system for four months is what I understood about?

17 A. For this company.

18 Q. For this company. They're different company to company
19 but generally speaking the concepts are the same. Right here.
20 Have you see that -- the one I'm referring to is the Organization
21 of Roles Document Number OR0019 and it talks about the Second
22 Officer Duties and responsibilities. I just want to see -- have
23 you seen this document before?

24 A. Yes.

25 Q. Have you read through it?

1 A. Yeah.

2 Q. Well, in the section that labels main duties and
3 responsibilities, were there any -- are you in agreement with that
4 section or do you feel like it was too much, too little or is that
5 about what your duties on the ship entailed?

6 A. These are normal, normal duties and normal
7 responsibilities of the Second mate.

8 Q. When did you first see what the organization expected of
9 you as a Second Officer? When did you first read this? When did
10 you first get this presented to you?

11 A. I read this (indiscernible) documents.

12 Q. Okay. So you came aboard, you went through training and
13 familiarization.

14 A. Yeah, I was -- I always (indiscernible).

15 Q. Okay.

16 A. This company, everything is (indiscernible) but my
17 contract is different part of the duties and responsibilities.

18 Q. Okay.

19 A. Some things are like -- it's for everyone, the same.

20 Q. Right.

21 A. Everything comes up (indiscernible) password
22 (indiscernible) duties and everything (indiscernible) in beginning
23 of my contract with (indiscernible) from this company versus
24 (indiscernible) and other companies and this company and documents
25 and (indiscernible).

1 Q. Okay. This is an open question. There's no right
2 answer or wrong answer to this. This system and your
3 responsibilities are laid out here and all these procedures tell
4 you how to perform functions as a Second Officer. Is it a useful
5 tool for you?

6 A. Yes, I think this is good system because that is very
7 easy to find documents (indiscernible) for me, you know, for
8 second mate. If I want to find something, I can do it very easily.

9 Q. Okay. So you -- and this system here that we're talking
10 about, how often do you use it? Daily? Every watch?

11 A. Not every watch. It's not every watch.

12 Q. Depending on what's going on, right?

13 A. I am using depending on the situation.

14 Q. Right.

15 A. I want to refresh my memory or I need forms, I use this.
16 I not use every day because I don't know, it's not necessary.

17 Q. When you're at sea sometimes, yeah, I understand.

18 MR. BOWLING: I don't have any further questions,
19 gentlemen. Coast Guard.

20 PETTY OFFICER BREMMER: Petty Officer Bremmer of the
21 Coast Guard.

22 BY PETTY OFFICER BREMMER:

23 Q. A quick question for you. On a normal transit, not the
24 day of the incident, but on a normal basis since you've been on a
25 ship, when the Captain's on the bridge, do you let the Captain

1 know when you're coming to the end of a track line and you've got
2 to make a turn? Is that something you would tell the Captain and
3 he would give an order? How does that work?

4 A. During the passage, during the sea passage, the
5 Captain's on the bridge, commanding from the bridge. When all
6 follow the passage plan and (indiscernible) normal procedure,
7 normal, normal process, sea process.

8 Q. All right. So, for instance, if you and the Captain are
9 on the bridge for a watch, and you need to make a turn on your
10 passage plan, does he monitor the track line or is that something
11 where you would inform him that we're going to need to come to
12 port or starboard. Do you understand the question?

13 A. Yes. During the sea passage when master is on bridge, I
14 inform him what I have to do, but it is a different situation when
15 we have the Pilots and the Master is on the bridge during the
16 passage from anchorage. This is different (indiscernible).

17 Q. Okay. The last question I have, how do you calculate
18 your tides and currents? Do you use a program for that or do you
19 use a tide table, do you have a tide table?

20 A. We have a program total tides. This a form from this
21 program.

22 Q. Okay. And you basically go in and you select a tide
23 station and the time?

24 A. Yeah, (indiscernible).

25 Q. Okay. Excellent. Thank you.

1 PETTY OFFICER BREMMER: Nothing further from me.

2 MR. WOODY: Yes.

3 BY MR. WOODY:

4 Q. On the tides and currents, what was the tide and current
5 doing at the time you went by the Ambrose Light? What was the
6 tide and current doing at the time you went past Ambrose Light?

7 A. Well --

8 Q. (Indiscernible).

9 A. -- (indiscernible) around 2:00.

10 Q. I'm sorry. Say that again please.

11 A. We reach around 2:00.

12 Q. Around 2:00.

13 A. Around 1400.

14 Q. Around 2:00.

15 A. 1400.

16 Q. 1400. Okay.

17 A. Leave the port.

18 Q. Okay. Leave the port. But at the time you went by
19 Ambrose Light, what was the tide and current doing then?

20 A. It was around -- high water, high tide was 3:30 a.m.

21 Q. 3:00.

22 A. 3:30 a.m.

23 Q. 3:30 a.m.

24 A. Yeah.

25 Q. The tide, high tide.

1 A. Yeah, high tide.

2 Q. It was 1.3 meters and did you have any information about
3 the current, what the current was doing?

4 A. No, we have no information from this program on the
5 currents (indiscernible).

6 Q. Okay. Did you ascertain -- did you find out what the
7 tide was doing at that time, what the current was doing at the
8 time you raised the anchor? Do you know what the current was
9 doing at the time you raised the anchor about 0045?

10 A. It was, it was 3:30 was high water.

11 Q. It was high water. What was the current doing?

12 A. (Indiscernible).

13 Q. Okay.

14 A. We proceed with the turn (indiscernible).

15 MR. BOWLING: I don't think he -- you understand the
16 tide height. Bill is not concerned with the tide height. He's
17 trying to get you to explain the flow of the water at that point,
18 the current.

19 Mr. Murnane: You have tide and depth, okay. You have
20 current, two components, speed and direction. Do you understand?

21 THE WITNESS: Yes, I understand

22 BY MR. BOWLING:

23 Q. That's what we're asking. So around 0140 the current in
24 and around the proximity of the light, when the vessel and the
25 light were closest, probably around 0140 in the morning, what was

1 the current in that general area, the direction and the speed?

2 A. (Indiscernible) lighthouse, but this is almost
3 (indiscernible) --

4 Q. Ship.

5 A. -- this is the nearest place of the (indiscernible)
6 program but this is the (indiscernible).

7 Q. So what would the tide speed and direction? Indicate or
8 initial beside which one would be the closest to the Master to ask
9 you to tell him what the speed and direction of the current was,
10 what would you report to him at that time at 0140 on the 3rd, that
11 morning?

12 A. The speed is about 1.1 knots and the direction of the
13 current was 020.

14 Q. So you would be referring right here, right? 1:00 a.m.

15 A. Between 1:00 and 2:00.

16 Q. Okay.

17 A. This is the tide.

18 Q. All right.

19 BY MR. WOODY:

20 Q. That's correct.

21 A. This is berth.

22 Q. This is at the berth. All right. Thank you very much.

23 MR. WOODY: That's all I have.

24 MR. BOWLING: Do you want to initial because I didn't -

25 - I put a line in for you. Just put an initial right here so I

1 know that that was your mark, not mine. I put that in there but
2 that's what you're referring to between 1:00 a.m. and 2:00 a.m.

3 THE WITNESS: This (indiscernible).

4 MR. BOWLING: Yeah, give or take seconds there. Coast
5 -- I'm sorry. Vessel representative.

6 BY MR. MURNANE:

7 Q. What was the wind speed at the time you passed Ambrose
8 Tower?

9 A. The wind speed was approximately six knots.

10 Q. Say that again?

11 A. About six knots.

12 Q. From what direction if you remember?

13 A. Not (indiscernible).

14 Q. Okay. One other question. At sea, if you have a
15 (indiscernible) to make a great circle for us, do you have to call
16 the Master to the bridge to adjust the sea course or are you
17 permitted to alter the course without calling the Master?

18 A. Do you want to repeat --

19 Q. Sure. At sea, when you're following a course to the
20 next destination, say you're standing your 12:00 to 4:00, are you
21 authorized as the Mate on the bridge to alter the vessel's course
22 or do you have to call the Captain up?

23 A. You mean the revision of the passage plan?

24 Q. Uh-huh.

25 A. You mean revision of the passage path? No, I cannot do

1 it. I have to call the Master.

2 Q. If you are on a track say between Mexico and New York
3 and you're in the open Atlantic Ocean --

4 A. Yeah.

5 Q. -- in the middle of the night, and you have to adjust
6 your course say 2 degrees to stay on the track --

7 A. If I mean have I ever done something like that, I have
8 to alter the route and do it.

9 Q. Okay.

10 A. I can do it. But (indiscernible) information call the
11 Master every time I want to ask (indiscernible). If not, if
12 (indiscernible) I not call the Master.

13 Q. Okay. I understand. I just don't think that was clear.
14 When you're maneuvering, coming into a port, then the Master --

15 A. The Master always.

16 Q. Okay.

17 A. I never (indiscernible).

18 Q. Okay. That's all I have.

19 BY MR. BOWLING:

20 Q. I just want to -- a good point, and I want to look at
21 this. This is the -- I'm referring back to this Organization
22 Roles Document, one of the main -- this is your duties, right? It
23 says the Second Officer duties and responsibilities, Document
24 Number OR0019, main duties and responsibilities, reporting any
25 unsafe acts or failure to comply with regulations and/or company

1 procedures to the Master. When you deny the incident, with this
2 in mind, when bearing on the light wasn't appreciably changing or
3 was staying constant, did you feel that was unsafe or --

4 A. (Indiscernible) - The course was different. We did not
5 keep the same course from anchorage to the pilot station

6 Q. Uh-huh.

7 A. -- (indiscernible) and then the Master he noticed
8 (indiscernible) change the course very often.

9 Q. Okay.

10 A. He don't give the same course, you know.

11 Q. Okay. So you didn't -- I mean that's why that
12 particular bearing as --

13 A. No, it's not the same course. The course is different,
14 not (indiscernible).

15 Q. Okay.

16 MR. BOWLING: Gentlemen, any final questions?

17 (No response.)

18 MR. BOWLING: Well, thank you very much. We appreciate
19 your help. Before we leave, the team, we've got direction now, I
20 can't explain why, and it's not the incident but the office
21 (indiscernible) all of our investigators, we just found out about
22 this when we got back to (indiscernible) yesterday, when we do
23 notes, we ask the interviewees to at least just initial, and maybe
24 it's chicken scratch, I don't know what you've got down there --
25 we'll close the meeting now here.

1 (Whereupon, the interview in the above-entitled matter
2 was concluded.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: The Axel Spirit's Allision with the
 Ambrose Light at the Entrance of
 New York Harbor
 Interview of Jacek Nieweglowski

DOCKET NUMBER: DCA-08-FM-002

PLACE: New York, New York

DATE:

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.

Kathryn A. Mirfin
Transcriber