

MCIB

Marine Casualty Investigation Board
Bord Imscrúdú Taisní Muirí



**REPORT OF THE INVESTIGATION
INTO THE FATAL INCIDENT
INVOLVING
'MV CARA ROSE'
BROADHAVEN BAY,
CO. MAYO
ON
11th SEPTEMBER 2015**

**REPORT NO. MCIB/248
(No.5 OF 2016)**

The Marine Casualty Investigation Board (MCIB) examines and investigates all types of marine casualties to, or on board, Irish registered vessels worldwide and other vessels in Irish territorial waters and inland waterways.

The MCIB objective in investigating a marine casualty is to determine its circumstances and its causes with a view to making recommendations for the avoidance of similar marine casualties in the future, thereby improving the safety of life at sea.

The MCIB is a non-prosecutorial body. We do not enforce laws or carry out prosecutions. It is not the purpose of an investigation carried out by the MCIB to apportion blame or fault.

The legislative framework for the operation of the MCIB, the reporting and investigating of marine casualties and the powers of MCIB investigators is set out in The Merchant Shipping (Investigation of Marine Casualties) Act, 2000.

In carrying out its functions the MCIB complies with the provisions of the International Maritime Organisation's Casualty Investigation Code and EU Directive 2009/18/EC governing the investigation of accidents in the maritime transport sector.



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The Marine Casualty Investigation Board was established on the 25th March, 2003 under the Merchant Shipping (Investigation of Marine Casualties) Act, 2000.

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Terms Used:

LOA Length Over All

PFD Personal Floatation Device

VHF Very High Frequency radio

UTC Universal Coordinated Time (Greenwich Mean Time)

CG Coast Guard

LB Offshore Lifeboat

MRCC Marine Rescue Coordination Centre

EPIRB Emergency Position Indicating Radio Beacon

PLB Personal Locator Beacon

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1. SUMMARY

On the morning of the 11th September 2015 a vessel, '*MV Cara Rose*', departed from the pier at Rinroe Point, Co. Mayo with one person on-board. At 17.00 hrs there had been no contact from the vessel and a family member raised the alarm. The badly damaged vessel was observed by the Ballyglass Lifeboat at 19.04 hrs on the shore under cliffs with no one on-board. The following day the vessel had been broken up by the seas and an extensive search continued for a further 14 days when a body was recovered from the sea. This was later identified as the missing owner.

All times have been standardised to UTC.

2. FACTUAL INFORMATION

2.1. The vessel

Name:	<i>'MV Cara Rose'</i> .
Type:	Half decked wooden vessel.
Fishing No:	Not registered.
LOA:	26 feet (ft) 7.93 metres (m) approximately.
Breadth:	2.5 m approximately.
Depth:	0.9 m approximately.
Height of gunwale:	600 millimetres (mm) above deck (measured from wreckage).
Year:	Not known.
Construction:	Carvel wood, pine planks on oak frames.
Engine:	Inboard diesel - make & hp unknown.

2.2 Description of the Vessel (See Appendix 7.1 Photograph No. 1)

The hull of the vessel was of wooden carvel construction with a raked stem and transom stern. The frames were of oak and hull planking pine. The fore part was decked with plywood and there was a small plywood wheelhouse/cuddy forward. The vessel had a hydraulic pot hauler on the starboard side just outside the wheelhouse door. The hydraulic power was supplied by a pump driven from the main engine. The deck planking aft was not watertight and there were no freeing ports at deck level. There were steel side rails bolted to the top of the gunwales, except along the starboard side.

2.3 Safety Equipment

Two 150N automatic inflatable Personal Flotation Devices (PFD), one orally inflated PFD, one buoyancy aid type PFD (four PFDs in total).

Two hand held red flares, expiry dates 12/2011.

Two hand held orange smoke flares, expiry dates 12/2011.

2.4 Other Equipment

VHF Radio.

GPS navigator.

2.5 Registration

The 'MV Cara Rose' was not registered and did not have a valid Ships Radio Licence or other vessel certification.

2.6 Voyage Particulars

An inshore fishing (potting) voyage from Rinroe Pier as far as Portacloy and back to Rinroe Pier. Normally back at 17.00 hrs, approximately a 22 nautical mile round trip (See Appendix 7.2 Chartlet of fishing area of 'MV Cara Rose').

2.7 Marine Incident Information

Type:	Fatality - very serious.
Date:	11th September 2015.
Time:	Between 08.00 hrs and 16.00 hrs UTC.
Position:	Lat 54° 206'N - Long 009° 48'W.
Weather:	06.00 hrs to 12.00 hrs SE 2-4, poor to moderate. 12.00 hrs to 18.00 hrs NW 2-4, moderate to good (See Appendix 7.3 Met Éireann Weather report).
Sea state:	Slight to smooth with slight WSW swell.
Tide Information:	High Water: Ballyglass 04.42 hrs and 16.54 hrs. Range: Spring tides.
Sea Temperature:	14.1°C at Ballyglass.
Sunrise:	Approximately 07.00 hrs UTC.
Sunset:	Approximately 20.00 hrs UTC.
Place on-board:	Man lost overboard.
Human factors:	(1) Person alone in vessel. (2) Person not wearing PFD.

Equipment Factor: Structural failure of vessel.

Consequences: Fatality & loss of vessel.

Cause of death: The Autopsy report stated the cause of death as unknown.

3. NARRATIVE

- 3.1 During the early months of 2014 the owner purchased a 26 ft vessel the 'MV Cara Rose' which had an enclosed foredeck and cuddy and was fitted with an inboard engine. The new owner fitted a hydraulic pot hauler to the starboard side of this vessel. The vessel was used regularly for fishing and potting in the area between Rinroe Point and Portacloy (See Appendix 7.2 Chartlet of Fishing area of 'MV Cara Rose'). The owner usually fished alone leaving in the morning and returning around 17.00 hrs. A relative was in the habit of keeping in contact by mobile phone when the boat was out. This contact was not constant because of the high cliffs, which prevented both phone and VHF coverage over much of the fishing area.
- 3.2 At approximately 08.00 hrs on the 11th September 2015 the 'MV Cara Rose' departed from Rinroe Pier Co. Mayo with only the owner on-board. The vessel was expected to return at 16.00 hrs.
- 3.3 There had been heavy rain but this was clearing. Although there were four PFDs on-board it is not known if the owner was wearing one. The purpose of the voyage was to lift & bait lobster pots along the coast and around the offshore rocks north of Rinroe (see Appendix 7.2 Chartlet of fishing area of 'MV Cara Rose').
- 3.4 At approximately 16.00 hrs (17.00 hrs local time) the family member failed to make contact by mobile phone. Further attempts were made over the next hour whilst this person was driving back towards Rinroe from work. On arrival at Rinroe Pier the family member saw that the 'MV Cara Rose' had not returned and called the Coast Guard with a 999 emergency call. This call was timed by MRCC Malin Head at 18.23 hrs. A full search and rescue operation was initiated (See Appendix 7.4 Shore Authority involvement and emergency response).
- 3.5 At 19.04 hrs Ballyglass Lifeboat sighted a vessel on the shore under the cliffs at approximate position 54°20.6'N 009°48.5'W. The vessel was bow on to a shingle beach under the cliffs at Benwee Head (See Appendix 7.1 photograph No. 2). The lifeboat sent an inflatable boat to the vessel and two crew boarded the vessel. They did not find anyone on-board. The navigation lights were on and VHF radio and navigating equipment were powered up. They identified the vessel as the 'MV Cara Rose'. The lifeboat crew reported the vessel was damaged with some of the planking and gunwale on the starboard side missing. The water was surging inside the vessel. Due to freshening wind and sea the inflatable boat had to withdraw.
- 3.6 On the 12th September the Ballyglass Lifeboat returned to the site of the wreck. The vessel had broken up during the night and slipped further out to sea. One of the local fishing boats identified a line of pots belonging to the 'MV Cara Rose'. These were hauled and found to be freshly baited.

- 3.7 During the following 14 days an extensive search by land, sea and air continued. This was co-ordinated on land by the Gardaí at Belmullet and at sea by the Coast Guard along with the RNLI Staff at Ballyglass Lifeboat station. It involved the deployment of civilian and Garda divers, local fishing boats, Coast Guard shore parties and the Ballyglass Lifeboat. The Naval Service divers were involved in the latter days. During the search parts of the vessel were recovered, some were found off Downpatrick Head some 20 miles to the east of the original stranding. The divers recovered the GPS Navigator and a mobile phone. Both items were examined but no information could be retrieved from them. The engine controls were examined underwater and photographed. They indicate the engine was ahead and in gear. The four PFDs were recovered. One PFD along with a waterproof jacket was found secured to the side railings on the underwater wreckage of the boat. The remains of the pot hauler secured to the starboard side of the vessel were not sighted during diving around the wreckage. No lifebuoys or EPIRB were recovered during the search.
- 3.8 On the 25th September at 15.57 hrs, searching vessels found the casualty at position 54° 23.09'N 009° 15.63'W (about eight nautical miles NE of Downpatrick Head). The body was brought ashore by the Ballyglass Lifeboat and subsequently identified as the missing man.
- 3.9 Significant items of wreckage were recovered and were stored under cover at Belmullet Garda station. The stainless steel hydraulic reservoir, one PFD, the VHF radio and GPS Navigator were recovered by divers close to the wreck. Items containing woodwork were recovered floating on the surface, some as far as 20 miles east from the wreck site. These items were dry when examined (See Appendix 7.5 Chartlet of search and recovery area).
- 3.10 The divers located the engine propeller and shaft all in the wreckage. Notably they did not find the steel pot-hauler with its heavy hydraulic motor. An extensive search of the wreck area along with hydrographic survey of the seabed from under the cliffs to some distance offshore did not locate this item.
- 3.11 Examination of the woodwork recovered shows that there was no rot or decay in the woodwork. However there was evidence that some of the oak frames were cracked prior to the breakup of the vessel on the 11th September. Frames that were broken by wave action showed a clean light coloured break (See Appendix 7.1 photograph No. 3) of a port side frame close to the deck. There is some staining from metal fittings but the break is recent and clean. By comparison the breaks on the frames under the starboard bulwark are dark and stained, (See Appendix 7.1 photographs Nos. 4 & 5). All the eight frames under the starboard bulwark (which had the aluminium capping) exhibit evidence of being cracked for some time before the 11th September.

- 3.12 The starboard bulwark was recovered from the water. It was in two sections (See Appendix 7.1 Photograph No. 6). The forward section had the upper fitting which supported the pot-hauler. The bulwark was capped with an aluminium alloy channel bar which was in three sections welded together. The wood parts of the bulwark were broken at the forward welded joint. Inspection of the weld showed that it had failed before the 11th September as the edges of the aluminium were dull and rounded (See Appendix 7.1 Photograph No. 7). Close inspection of the wooden side planking show that it had been broken with some force in an outboard direction (See Appendix 7.1 Photograph No. 8). Examination of the other pieces of side and bottom planking did not show impact damage from the outside indicating that the vessel may have come in contact with rocks before becoming stranded on the beach.
- 3.13 Sections of deck beams were recovered and the lower fitting for the pot hauler was attached to one of these. Examination shows that there was no hole for a retaining pin or securing arrangement (See Appendix 7.1 Photograph No. 9).
- 3.14 The stainless steel reservoir for the hydraulic winch hauler was recovered by divers close to the main wreck. This was a 430 x 300 x 300 mm tank welded in 3mm thick stainless steel. There were no hydraulic hoses attached to the tank and its securing points were bent and distorted. The filter casing on the tank had been pulled sideways so the tank had fractured and torn (See Appendix 7.1 Photograph No.10).
- 3.15 The two automatic inflatable PFD's were examined. Both were discharged and the bladders were in good condition. The one found underwater secured to the side rail had a tear in the bladder. The gas cylinders appeared to be in good condition. The Buoyancy aid type PFD was also in good condition.

4. ANALYSIS

4.1 Condition of vessel

4.1.1 There was clear evidence of severe structural failure of the vessel in way of the starboard bulwark and the pot-hauler and subsequent loss of the pot-hauler before the vessel came ashore as follows:

- The two Lifeboat crew reported damage to starboard bulwarks when they boarded the vessel on the evening of the 11th September (Ref. 3.5)
- The outward splintering of the woodwork on the bulwark (Ref. 3.12)
- The severe damage to the stainless steel reservoir tank and the absence of hydraulic hoses that attached it to the hauler. Great force would be required to tear the steel off the tank as it was designed to operate under hydraulic pressure (Ref. 3.14)
- The fact that the pot-hauler has not been sighted by the divers or detected by hydrographic survey of the seabed in the wide vicinity of the wreck (Ref. 3.10).

4.1.2 The cause of the failure can be attributed to the fitting of the pot-hauler. From photographs of the vessel it can be seen that the top of the hauler gantry is about 800mm above the gunwale with all the strain being borne by the top of the gunwale. This 800mm acts as a lever magnifying the load applied. At some point the weld in the aluminium channel bar aft of the hauler failed. The strain was now borne by the wooden structure underneath which would move when put under strain and transfer this to the oak frames at the base of the structure leading to the cracking observed in the oak frames (Ref. 3.11). The stress on this structure was not only that imposed by the power of the hauler alone, but also the shock loads imposed as the vessel moved in a seaway under the influence of sea, wind and tides. Over time the structure had weakened until it failed. Once the arm of the hauler was not vertical the base was pulled from the socket in the deck and the hauler was pulled upside, tearing the reservoir tank loose and ripping the hoses off.

4.2 Communications

4.2.1 The use of mobile phones for safety monitoring is not recommended as one or both phones may be out of coverage. The use of VHF radio is recommended as it is a broadcast system which covers the whole coast and is monitored by the Coast Guard. Even in shadow areas there is the possibility of signals being picked up by vessels off shore.

4.2.2 The vessel was fitted with a VHF radio but did not have the required vessel licence and call sign. There is no record of the owner complying with the regulations to have a radio operators licence.

4.3 Commercial and Non-Commercial Potting

4.3.1 Vessels engaged in commercial sea fishing including potting are required to hold a Sea Fishing Boat licence from the Sea Fish Licensing Authority of the Department of Agriculture, Fisheries and the Marine, DAFM. One requirement for such a licence is that the vessel must comply with required safety requirements which for vessels under 15m length includes compliance with the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15m length overall. Vessels which are engaged in recreational sea fishing including non-commercial potting do not need to hold a sea fishing licence and the vessels are categorised as recreational craft and they should comply with the Code of Practice for the Safety of Recreational Craft. In order to clarify the distinction between commercial and non-commercial potting the Department of Agriculture Fisheries and the Marine, following a public consultation, introduced new regulations on Non-commercial Pot Fishing (Lobster and Crab) Regulations, 2016, Statutory Instrument S.I. No. 31 of 2016. These new regulations were introduced in January 2016 and they define the limits of non-commercial potting (see Appendix 7.6 S.I. No. 31 of 2016).

4.3.2 These new regulations clarify when vessels are engaged in commercial fishing and thus needing a Sea Fishing Boat Licence and resultant compliance with the Fishing Vessel Code of Practice. Vessels which are non-commercial within the meaning of the new regulations should comply with the Recreational Craft Code of Practice. The current recreational craft Code of Practice was last revised in 2008 and it does not fully address these new regulations categorising non-commercial potting.

4.4 Emergency response to the incident (See Appendix 7.4 Shore Authority involvement and emergency response)

4.4.1 Following the 999 call the emergency response was rapid with the deployment of two lifeboats, a helicopter and shore search parties. The search continued for 14 days until the casualty was recovered.

4.5 Persons proceeding to sea alone

4.5.1 Irrespective of the type of vessel there is a greater risk for a lone operator. Once the operator enters the water and becomes detached from the vessel the safety and communication equipment is of little use as it cannot be activated.

4.5.2 Survival of a person in the water is dependent on the speed of recovery. A Personal Locator Beacon would raise the alarm very quickly.

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5. CONCLUSIONS

- 5.1 The loss of this vessel and crewmember was due to structural failure of the vessel whilst hauling pots.
- 5.2 The vessel did not hold any safety certification nor did it comply with the Recreational Craft Code of Practice. The addition of the pot hauler significantly weakened the vessels structure to the point of failure.
- 5.3 As the vessel did not hold certification as a commercial fishing vessel then it should have complied with the requirements of a recreational craft.
- 5.4 The Recreational Craft Code of Practice was last revised in 2008 and it does not address all of the issues relevant to non-commercial potting.
- 5.5 The sea and weather conditions at the time were not directly instrumental in the loss of the fisherman.
- 5.6 Had the person being wearing a PFD it is likely that they would have remained on the surface and been visible to the search teams which would have led to an early recovery.
- 5.7 The wearing of a Personal Locator Beacon would have raised the alarm earlier.
- 5.8 The use of mobile phones as the sole communication is inadequate for safety monitoring.

6. SAFETY RECOMMENDATIONS

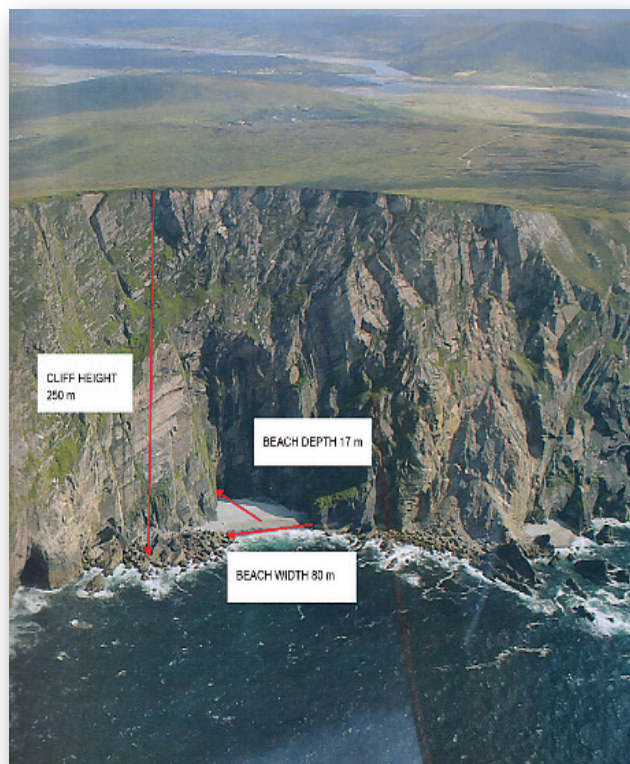
- 6.1 The Minister of Transport, Tourism and Sport should issue a Marine Notice confirming that craft engaged in non-commercial potting should comply with the Code of Practice for the Safe Operation of Recreational Craft and that craft engaged in commercial potting should comply with the Code of Practice for the Design, Construction, Equipment and Operation of Small Fishing Vessels of less than 15m Length overall.
- 6.2 The Minister for Transport, Tourism and Sport should revise the Code of Practice for the Safe Operation of Recreational Craft to include the new regulations, S.I. 31 of 2016 Non-Commercial Pot Fishing (Lobster and Crab) Regulations 2016 in relation to non-commercial sea pot fishing.

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Appendix 7.1 Photographs.



Photograph No. 1: 'MV Cara Rose'.



Photograph No. 2: Cliffs at Benwee head - showing beach where 'MV Cara Rose' came ashore.

Appendix 7.1 Photographs.



Photograph No. 3: Frame from port side, showing fresh break.



Photograph No. 4: Frame from Starboard side, showing old break.

Appendix 7.1 Photographs.



Photograph No. 5: Another frame from Starboard side, showing old break.



Photograph No. 6: Remains of Starboard Bulwark (inboard side) showing fracture point (upper arrow) - upper socket for pot hauler (lower arrow).

Appendix 7.1 Photographs.



Photograph No. 7: Close up of fracture - note dull appearance of aluminium weld fracture.



Photograph No. 8: Fractured bulwark wood - Splinters in outward direction.

APPENDIX 7.1

Appendix 7.1 Photographs.

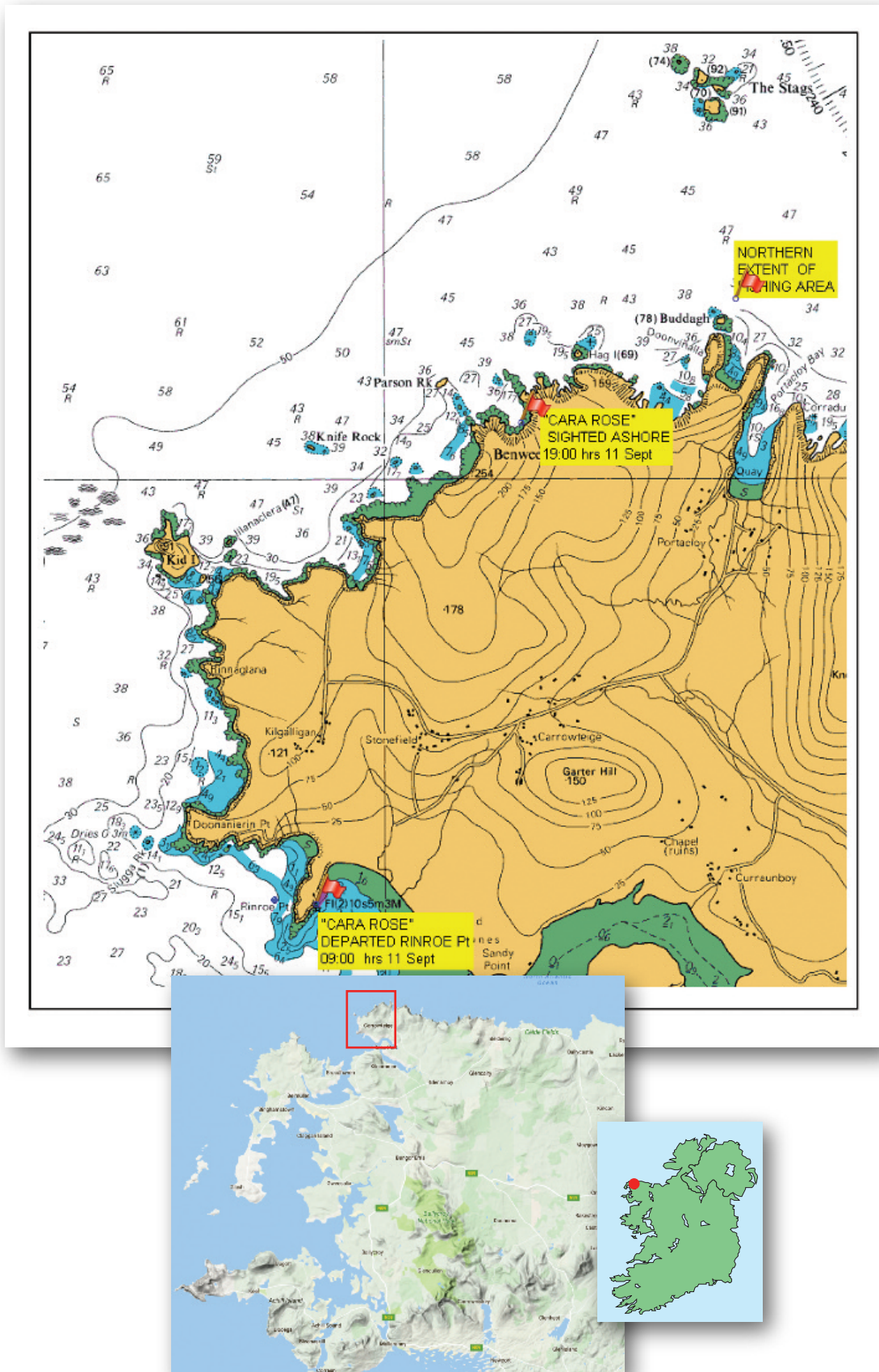


Photograph No. 9: Lower Socket for pot hauler secured to deck beam.



Photograph No. 10: Hydraulic oil reservoir for pot hauler - pipes torn off and steel torn by force.

Appendix 7.2 Chartlet of Fishing Area of 'MV Cara Rose'.



Appendix 7.3 Met Éireann weather report.



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11/9/2015

Our Ref. WS3018/2_16006
Your Ref. MCIB/12/248

Estimate of weather conditions in the sea area off Erris Head and the Broadhaven Bay sea area, on the 11th September 2015, between 6 and 18 hours

General Situation: A slack area of Low atmospheric pressure remained close to the west coast of Ireland throughout. Winds were stronger from a south-easterly direction on the Irish side and from a northerly direction on the Atlantic side. Therefore there was a considerable difference in the wind speeds and the wave height over short distances, in this area during this time.

Details:

6 to 12 hours

Winds: Variable mainly from the south-east Force 2 to 4 in the Erris Head sea area [the nearest buoy M4 recorded south-easterly winds Force 5 during this period while the nearby Belmullet station recorded winds between west and north Force 1 to 2].

Weather: Continuous and occasionally heavy rain throughout

Visibility: mostly poor, moderate at times

Seastate: Slight to Moderate, from a south-westerly direction, mainly Swell

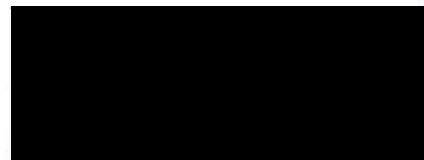
12 to 18 hours

Winds: variable mainly from the north-west Force 2 to 4 in the Erris Head sea area, [but the offshore buoy M4 continued to record south-east winds Force 3 to 4 and the nearby Belmullet station recorded north-north-west Force 3]

Weather: Continuous and occasionally heavy rain throughout

Visibility: mostly moderate, good for short periods

Seastate: Slight to Moderate, with a westerly Swell and a north-westerly Sea,



Research & Applications Division
Met Éireann

Appendix 7.4 Shore Authority involvement and emergency response.

Extracts from situation reports from Malin Head MRCC from 11th to 15th September. 2015

11th September

- 18.23 hrs 999 call to Coast Guard that there was a fisherman overdue from Rinroe Pier Co. Mayo.
- 18.26 hrs Ballyglass lifeboat and helicopter R115 (from Shannon) tasked to search.
- 18.30 hrs Malin Head CG broadcast the Urgency Signal PAN PAN on Ch16 VHF.
- 18.33 hrs Ballyglass LB launched.
- 18.52 hrs Achill LB launched ETA 2.5 hrs.
- 18.54 hrs Ballyglass Coast Guard Unit commenced shoreline search.
- 19.04 hrs Ballyglass LB sighted a vessel on shore at approximate position 54°20.6'N 009°48.5'W.
Closer investigation identifies the vessel as the 'MV CARA ROSE' with no person on-board and boat is badly broken.
- 19.42 hrs Helicopter R115 on scene.

12th September

- 00.23 hrs All units stood down till daylight.

12th September – 25th September

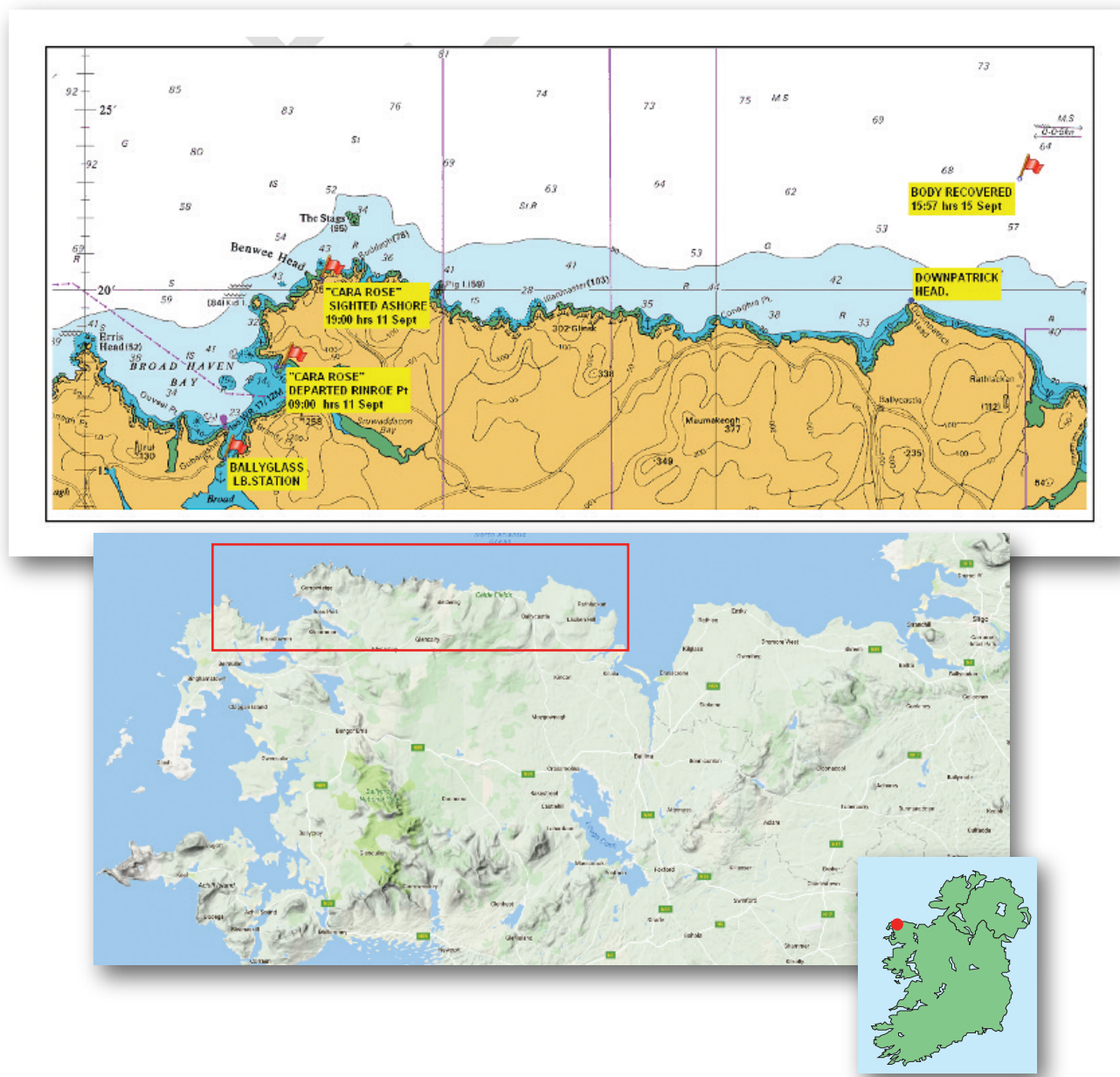
Sea and shore searches including Garda, civilian & naval diving operations were carried out on a daily basis.

25th September

- 15.57 hrs Searching vessels found the casualty at position 54°23.09'N 009°15.63'W. Incident closed.
The body was subsequently identified as the missing owner

APPENDIX 7.5

Appendix 7.5 Chartlet of search and recovery area.



Appendix 7.6 S.I. 31 of 2016 Non - Commercial Pot Fishing (Lobster and Crab) Regulations 2016.

S.I. No. 31 of 2016

NON-COMMERCIAL POT FISHING (LOBSTER AND CRAB)
REGULATIONS 2016

I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, exercise of the powers conferred on me by sections 3 and 15 of the Sea-Fisher and Maritime Jurisdiction Act 2006 (No 8 of 2006) and of the Sea-Fisher Foreshore and Dumping at Sea (Transfer of Departmental Administration a Ministerial Functions) Order 2007 (S.I. No. 707 of 2007) (as adapted by t Agriculture, Fisheries and Food (Alteration of Name of Department and Ti of Minister) Order 2011 (S.I. No. 455 of 2011)), hereby make the followi regulations:

1. (1) These Regulations may be cited as the Non-Commercial Pot Fishi (Lobster and Crab) Regulations 2016.

(2) These Regulations come into operation on 1 February 2016.

2. For the purposes of these Regulations—

“banded claw” means a claw of a crab or lobster that is restrained or prevent from opening by a rubber band or similar restraint placed on the claw;

“closed season” means the months of October, November, December, Janua February, March and April;

“crab” means *Cancer pagurus*, *Maja squinado* or *Necora puber*;

“flap” means any part of the five flaps of the tail fan of a lobster including t telson with anus and left and right uropod each uropod containing two flaps;

“licensed fishing boat” means an Irish sea-fishing boat or a Union fishing vess

“lobster” means *Homarus gammarus*;

“mutilated lobster” means a lobster which has been mutilated in such a man which could hide or obliterate a V notch;

“nicked claw” means a claw of a crab or lobster where tendons or ligaments the claw have been cut or severed;

“pot” means any pot, receptacle or container with one or more openings entrances and which is capable of being left at sea to catch crabs or lobster;

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribi for reward;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 29th January, 2016.*

Appendix 7.6 S.I. 31 of 2016 Non - Commercial Pot Fishing (Lobster and Crab) Regulations 2016.

“Union fishing vessel” means a fishing vessel flying the flag of an EU Member State and registered in the Union;

“V notch” means a marking in the shape of the letter “V” cut for the purposes of identification of particular lobsters into one or more of the five flaps of the tail fan of any lobster, with the apex of the V positioned inwards from the edge of the flap;

“V-notched lobster” means a lobster bearing a V notch.

3. A person on board a fishing boat shall not, during the closed season-

(a) place pots in the sea from the boat, or

(b) land, transport, store or retain on board the boat a lobster or crab.

4. A person on board a fishing boat shall ensure that, in any period of twenty-four hours, no more than-

(a) one lobster, and

(b) five crab

are landed from or retained on board the boat.

5. (1) A person on board a fishing boat shall not land, transport, store or retain on board the boat a V-notched lobster or mutilated lobster.

(2) A person on board a fishing boat shall cause a V-notched lobster or mutilated lobster taken by the boat to be carefully handled and returned alive to the sea without delay.

6. A person on board a fishing boat shall ensure that he or she, whether individually or in combination with other persons on board the boat, has no more than a total of six pots on board the boat or in the sea at any one time.

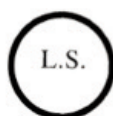
7. A person shall not store in the sea a crab or lobster that has a nicked claw or banded claw.

8. A person shall not buy, handle, tranship, transport, land, process, store or sell a crab or lobster taken by a fishing boat in contravention of these Regulations.

Appendix 7.6 S.I. 31 of 2016 Non - Commercial Pot Fishing (Lobster and Crab) Regulations 2016.

9. These Regulations shall not apply to—

- (a) a fishing boat fishing outside the internal waters or territorial seas of the State, or
- (b) a licensed fishing boat.



GIVEN under my Official Seal,
20 January 2016.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

NATURAL JUSTICE - CORRESPONDENCE RECEIVED

Section 36 of the Merchant Shipping (Investigation of Marine Casualties) Act, 2000 requires that:

- “36 (1) Before publishing a report, the Board shall send a draft of the report or sections of the draft report to any person who, in its opinion, is likely to be adversely affected by the publishing of the report or sections or, if that person be deceased, then such person as appears to the Board best to represent that person’s interest.
- (2) A person to whom the Board sends a draft in accordance with subsection (1) may, within a period of 28 days commencing on the date on which the draft is sent to the person, or such further period not exceeding 28 days, as the Board in its absolute discretion thinks fit, submit to the Board in writing his or her observations on the draft.
- (3) A person to whom a draft has been sent in accordance with subsection (1) may apply to the Board for an extension, in accordance with subsection (2), of the period in which to submit his or her observations on the draft.
- (4) Observations submitted to the Board in accordance with subsection (2) shall be included in an appendix to the published report, unless the person submitting the observations requests in writing that the observations be not published.
- (5) Where observations are submitted to the Board in accordance with subsection (2), the Board may, at its discretion -
- (a) alter the draft before publication or decide not to do so, or
 - (b) include in the published report such comments on the observations as it thinks fit.”

The Board reviews and considers all observations received whether published or not published in the final report. When the Board considers an observation requires amendments to the report that is stated beside the relevant observation. When the Board is satisfied that the report has adequately addressed the issue in the observation, then the observation is ‘Noted’ without comment or amendment. The Board may make further amendments or observations in light of the responses from the Natural Justice process.

‘Noted’ does not mean that the Board either agrees or disagrees with the observation.

8. NATURAL JUSTICE - CORRESPONDENCE RECEIVED

PAGE


8.1 Correspondence from RNLI and MCIB response. 30

8.2 Correspondence from Next of Kin and MCIB response. 31

Note: The names and contact details of the individual respondents have been removed for privacy reasons.

CORRESPONDENCE 8.1

Correspondence 8.1 RNLI and MCIB response.


Lifeboats

Royal National Lifeboat Institution
Chairman: Charles Hunter-Peace
Chief Executive: Paul Boldler
RNLI (Trading) Ltd 01073877 RNLI (Sales) Ltd 2202240 and RNLI (Enterprise) Ltd 1764500 are all companies registered at West Quay Road, Poole, Dorset, BH15 9JZ

Regional Base Ireland and Isle of Man
Airside, Swords, Co. Dublin, Ireland
Tel (01) 890 0460
Fax (01) 890 0458

16th May, 2016

MCIB
Leeson lane
Dublin 2.



Ref: Draft Report of the Investigation into the Fatal Incident Involving the "MC Cara Rose" on 11th September, 2015

Dear [REDACTED]

With reference to your letter regarding the above investigation, I would like to thank you for including the RNLI and wish to state that I have no comments or observations to add.

Yours sincerely
[REDACTED]

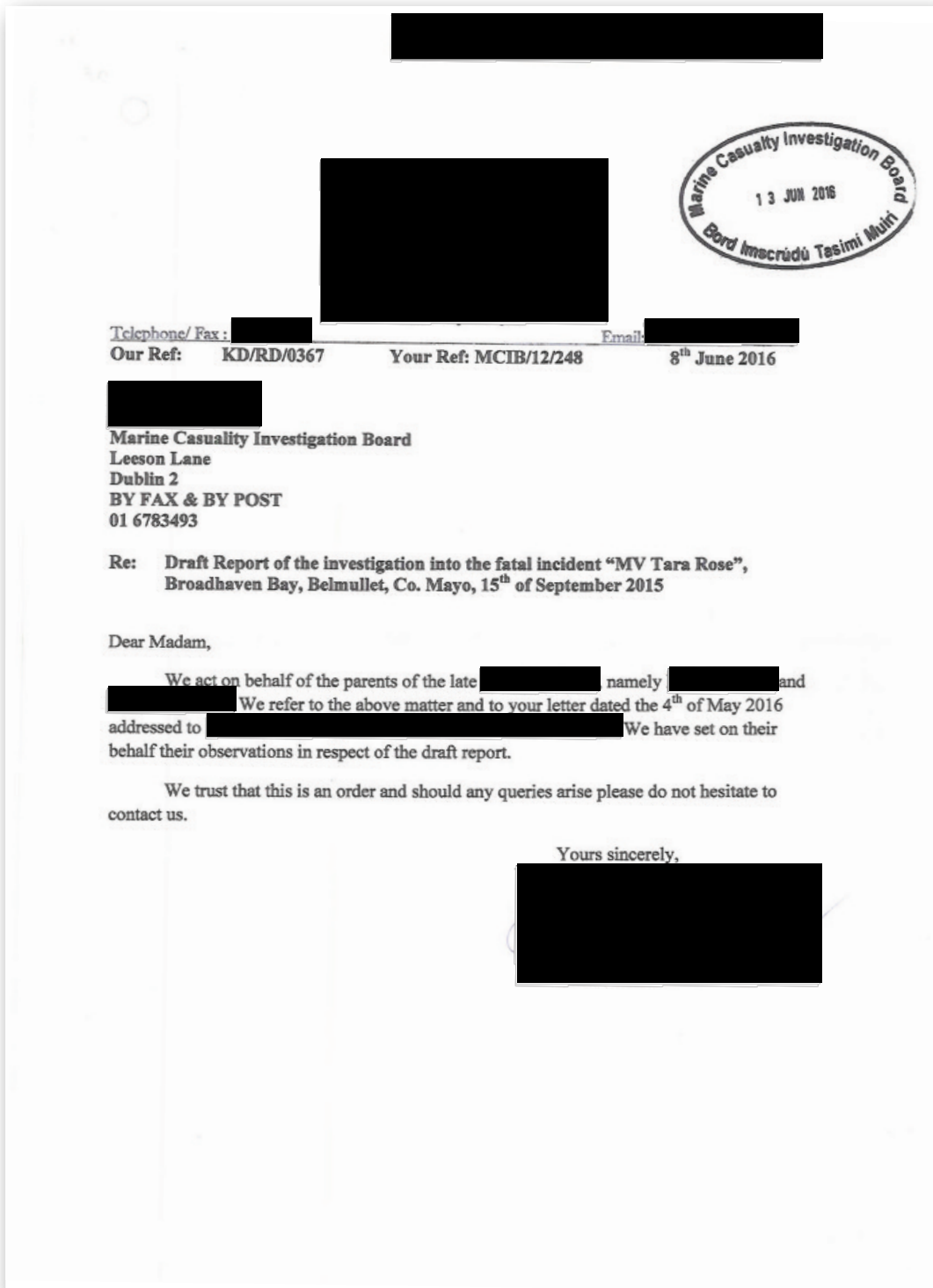
[REDACTED]

LDM Ireland and IOM

The RNLI is the charity that saves lives at sea
Charity number CHY 2676 in the Republic of Ireland and registered in England and Wales (209609) and Scotland (SC037736)

MCIB RESPONSE:
The MCIB notes the contents of this correspondence.

Correspondence 8.2 Next of Kin and MCIB response (Page 1).



Correspondence 8.2 Next of Kin and MCIB response (Page 2).

**Draft report of the investigation into the fatal incident
“MV Tara Rose”, Broadhaven Bay, Belmullet, Co. Mayo
11th of September 2015**

Observations are made per the numbering of the report.

The correct name of the vessel is “MV Tara Rose”, throughout the draft report the vessel is referred to as “MV Cara Rose” and we confirm that the vessel is in fact called “MV Tara Rose” and the report should be amended accordingly.

1. Summary

The draft report states that an extensive search continued for a further 15 days, this should read 14 days the body having been recovered on the 25th of September.

2. Factual Information

The engine type was an inboard diesel 4107 Perkins 48HP

2.3 Safety equipment

The flares and safety equipment were found at various locations in the search area. It is felt that it should be noted where each item was found, either on the wreckage of the vessel or during the search.

2.6 Voyage Particulars

The nautical round trip is in the opinion of the family 7 nautical miles. It is unclear whether a measurement has been made of the coastline or whether a nautical mile measure of the actual voyage has been made, in any event the fact that the nautical miles are named as 22 nautical miles would seem to be incorrect.

2.7 Marine Incident Information

The family believe that the voyage commenced at 9am.

The weather reports all state that heavy rain had commenced and continued in the evening and that visibility was poor.

The family do not concur with the observation that a structural failure of the vessel should be noted as the reason for the fatality. If this is believed by the MCIB then the family would seek that it is noted that the reason could potentially be a structural failure. The family have seen no evidence that would make certain that a structural failure was the cause of the fatality. The family rely strongly on the fact that the engine would appear to have been in gear. This suggests to the family that the boat was travelling from tow to tow of pots. It was the practice of the lost fisherman to travel to his furthest tow of pots and start working his way back to his starting point. The fishermen checked the pots on the 13th of September in

MCIB RESPONSE:
The initial SITREP named the vessel as Cara Rose. During interview with next of kin the two vessels were discussed. The Tara Rose was an open Curragh type vessel which had a fishing licence. The Cara Rose was a half deck vessel with no licence. No correction was made to names of vessels during the interview. The distinction is important as the Tara Rose was a registered fishing vessel.

MCIB RESPONSE:
The MCIB notes this comment and has amended the report.

MCIB RESPONSE: As the engine was not recovered it was not possible to determine its make or horse power. When family members were questioned they could not provide the information.

MCIB RESPONSE: At the time the emphasis was on the recovery of the missing fisherman. Items of wreckage were recovered by many boats and dive parties over the 14 days and not tagged or logged as they came ashore.

Correspondence 8.2 Next of Kin and MCIB response (Page 2, continued).

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MCIB RESPONSE:
There was no evidence of the length of the trip, however, working from a chart it would appear to be between 14 and 22 nautical miles depending on the proximity to the coast and whether the voyage is inside or outside offshore rocks or islands.

MCIB RESPONSE:
The report clearly states all times were UTC. Summertime was in operation so 8 am UTC would be 9 am local time. Likewise at 3.2 time of 999 call was logged at 18.23 hrs UTC which would be 19.23 hrs local time.

MCIB RESPONSE:
Weather has been amended to include the weather for the whole duration of the 11th September per the Met Éireann weather report in the Appendices.

MCIB RESPONSE:
Please see response at 3.1.1. below.

Correspondence 8.2 Next of Kin and MCIB response (Page 3).

the same way from the furthest point at which pots were set back towards the point of departure and found that a number of tows had been lifted emptied and re-baited. The baiting of the pots ceased at the point 54 degrees (20/20) North and 9 degrees (49/95) West. The fishermen observed that the pots after this pot had not been lifted and emptied and rebaited and it is their belief that something occurred at that point or an issue arose that caused the fisherman to stop lifting the pots or that he started a journey home from there. It is believed that if there were such significant tension on the hauler and notwithstanding any weakness in the boat the rope, 12mm rope worn to a large extent would have broken in the first instance.

3.2 Narrative

It is unclear whether or not the times used are the times as the family would have observed them on land. Therefore the family submit that 3.2 should read at approximately 9.00 hours on the 11th of September 2015 and the return at 17.00 hours. There is also an issue surrounding the time the alarm was raised. The person who raised the alarm knows that he was in a town some 30/35 miles away at 6 o'clock. It is believed by the family that the alarm was raised after 7 o'clock and it is accepted that this may be an issue with the way the times are stated in the draft report.

3.8

The body was taken from the water by the Ballyglass lifeboat and later transferred to a smaller vessel as the tide was too low at Rinroe Pier for the lifeboat to access the pier. The body was then transferred to a curragh because of the height of the pier wall and access was becoming more difficult with the tide and brought to shore via the slipway at Rinroe.

3.11

The family question whether the clean break could have been caused when the vessel was stranded overnight. The family question whether the frames under the capping show evidence of some cracking or whether there is conclusive evidence that they were cracked prior to the vessel being stranded.

3.13

The vessel was fitted with a swivel to which the hauler was attached.

3.15

The items found during the search were found at various locations and the wood, timber was left for a number of weeks on the pier at Ballyglass, notably the aluminium capped section was left for up to three weeks until it was collected by An Garda Siochana.

4.2.2

The lost fisherman made use of the VHF radio to keep in contact with local fishing vessels, there are some four other vessels operating the same route all of whom would have had regular contact with the lost fisherman by VHF.

MCIB RESPONSE:
Please see response at 2.7 above.

MCIB RESPONSE: This extra information is not relevant to the safety investigation.

MCIB RESPONSE:
Section 4.1.1 of the report clearly states the evidence for structural failure and break up before the vessel drifted onto the beach. The possibility that the damage observed was caused by contact with rocks as it drifted onto the beach or during the night was considered but the damage was not consistent with impacts from rocks. Photograph No 2 shows the position of the vessel when two members of the RNLI crew boarded the vessel. This area has 80m clear of rocks.

MCIB RESPONSE: There was no retaining or restraining bolt to prevent the pot hauler lifting or falling out except for its weight and the hydraulic hoses.

Correspondence 8.2 Next of Kin and MCIB response (Page 3, continued).

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MCIB RESPONSE: All items were in the water and would have changed to some degree. This has been taken into account. If the aluminium weld had broken during the incident the edge would have been sharp and rough, as it was worn smooth it is more likely that it was due to the two sections rubbing together.

MCIB RESPONSE: During the interview with the family members it was stated that the VHF coverage was poor due to the cliffs. It was suggested that a relay station was required for the area to give better coverage. On the day in question there is no report to the Gardaí or the investigator of contact made by VHF with other fishermen. The family member who raised the alarm stated that he kept in regular contact with the fisherman by mobile phone, whilst at sea and ashore.

Correspondence 8.2 Next of Kin and MCIB response (Page 4).

4.4.

The navy were engaged in the search following a family plea.

5.2

A code of practice in line with 2008 guidelines was held by the lost fisherman in respect of another vessel.

The vessel had been fitted with a hauler previously.

5.5

The weather conditions did have an impact on early and immediate search efforts, the wreckage having to be left overnight and having been badly broken up by the following morning.

Finally the family submit that the damage done to the hydrolic oil reservoir could have been caused when it was lying in wreckage.

MCIB RESPONSE:
The Navy response is referenced at 3.7.

MCIB RESPONSE:
This particular vessel had not been surveyed.

MCIB RESPONSE: If there was a pot hauler previously fitted it could well have contributed to the cracking of the frames. Witness evidence given by a family member states that he assisted the fisherman fit the pot hauler shown in the photographs of the vessel. The witness identified the stainless steel reservoir for the hauler and described where it was located and secured.

MCIB RESPONSE:
The MCIB notes this point and has amended the report at 5.5.

MCIB RESPONSE:
The MCIB notes this comment.



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