

8IFOMC Poster Presentation

Timeline and Lingering Questions Regarding the Disappearance of a Transshipment Observer

Poster Presentation at the 8th International Fisheries Observer Conference (IFOMC)¹
August 30, 2016

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Almost a year ago to the day, the observer community and observer program managers were shocked and heartbroken by the September 10, 2015 news of the disappearance of our dear friend and colleague, Keith Davis, a transshipment observer on assignment aboard an Inter-American Tropical Tuna Commission (IATTC) transshipment vessel². Keith chaired the Observer Professionalism Working Group (OPWG³) for many years and was a former board member of the Association for Professional Observers (APO⁴). He helped draft the International Observer Bill of Rights (IOBR) and Codes of Conduct for Responsible Observer Programmes - Health and Safety (CCROP-HS) and Stakeholder Responsibilities (CCROP-SR), which was presented at the 7th International Fisheries Observer and Monitoring Conference (IFOMC) in Chile, 2013⁵.

Keith Davis had an unwavering commitment with seemingly limitless energy toward improving the profession of observers and was in fact actively attempting to improve the IATTC Transshipment Observer Program up until hours before his disappearance. He was instrumental in elevating the level of observer participation at the IFOMC.

In absence of any official statement regarding the investigation, this timeline is an attempt to piece together available information for Keith's many friends, family and colleagues. Panamanian authorities conducted an investigation into his disappearance

¹ See: <http://www.ifomc.com> for information on the 8th IFOMC and previous proceedings of this conference series.

² See: <http://www.ofdc.org.tw/components/Editor/IATTC/files/C-12-07.pdf> Amendment to resolution C-11-09 on establishing a program for transshipments by Large-Scale Fishing Vessels. Resolution C-12-07. Presented at the IATTC 83rd meeting.

³ See: <http://www.apo-observers.org/opwg> Observer Professionalism Working Group documents.

⁴ See: <http://www.apo-observers.org>

⁵ See: <http://www.apo-observers.org/billofrights>

but arrived at no conclusion regarding his fate. Both US and Panamanian authorities continue the investigation, with some of Keith's belongings still in their possession.

Keith's disappearance sent rippling trepidations throughout the observer community and many remain without closure. In the days following this shocking announcement there was some confusion relating to his disappearance. We have been kept mostly in the dark regarding the investigation and many questions remain since the days and months after his disappearance. This timeline is based on documents received by the Association for Professional Observers (APO) August 22-24, 2016; MRAG updates provided in September and October 2016; An interview with the FBI on October 2; and previous knowledge of Keith Davis.

2009

- **Keith began working as a transshipment observer for MRAG Americas⁶**, which is one of two companies worldwide that provide observers for transshipment vessels in Regional Fisheries Management Organization (RFMO) transshipment observer programs.
- **At the 6th IFOMC in Portland, Maine, USA, in July 2009⁷**, Keith was active in bringing awareness and improvements to the newly formed IATTC Transshipment Observer Program and helped organize a meeting of stakeholders. At this meeting he showed a video that highlights potential human trafficking conditions - a vessel with the capacity of 25 with 65 crewmembers on board, sleeping in the halls and on the decks. He also raised the issue of observers not being able to adequately monitor the fishery (i.e. inability to count and identify fish to species, without access to the fish being offloaded).

2011

- **When returning from a WCPFC Transshipment trip**, Keith had experienced harassment on board a Japanese vessel, and suggested that he may need APO's advocacy some day. He was encouraged by APO to report the harassment, which he apparently did.

2012

⁶ See: <https://www.mragamericas.com>

⁷ See: <http://spo.nmfs.noaa.gov/tm/TM107.pdf>

- **June 11:** Keith was at sea on board a tuna transshipment vessel and composed and posted this song on his Facebook page: *“For all of those who have gone and go 'Down to the Sea'. "Up with the Sun": composed and performed by Keith Davis.”*⁸

2013

- **At the 7th IFOMC in Viña del Mar in 2013,** Keith commented after the panel presentation, *“What are the Future Trends of Transshipment Observer Programs”*. Keith was a prolific writer and was well prepared with written notes of comments he wished to make in response to panel presentations. However the conference was not recorded and Keith’s notes regarding the exact comments he had prepared cannot be located. However many witnesses agree that he confronted RFMO officials during the discussion period of one of the panels and accused them of not doing enough to protect fisheries observers and that he “reported things” and they did nothing. The following morning, Keith told his family and colleagues at the conference that he had been approached and told to “back off” and that he “didn’t know what he was getting into”. He appeared visibly shaken and declared that he would retire from the transshipment observer program.

2014

- **August 19:** This was a posting in response to the video of crewmen being shot at sea: *“Violence and slavery on the high seas seems to be increasing as the race for fish heats up, and I would like to note that fisheries observers are on the front lines of fisheries management; who interact, via at-sea transshipments (and sometimes board and conduct work on) vessels such as what are depicted in this video. On the international high seas, there is very little to no enforcement; and, there are many things (e.g. as is evident in this example) that cannot be proven, even by a brave observer, when back ashore. Though I have never come across such an awful happening myself; many of us who have served many observer sea-days have out there witnessed gun activity, knife fights, examples of slavery, been targeted in unprovable ways, death, suicide, and other awful occurrences - much of which in the end we have to swallow as "part of the job." Most observer programs I have worked in don't currently have any capacity for dealing with post-trauma from things that happen on the job or have real mental health support.”*
- **September and October** - Keith had decided to return to transshipment observing, this time for the IATTC: *“Try identifying and counting this load of frozen fish.”* Additional comments include: *“I could name 13-14 species off hand in there, and that is because of my extensive experience seeing them caught live on tuna longliners (like the delivering vessels); though I regularly conservatively group many of them under OTF (other fish, unclassified).*

⁸ See: <https://www.facebook.com/photo.php?v=10151012598476113&set=vb.722951112&type=3&theater>

Though we are asked to be as precise as we can on our shark identification (in accordance with 2013 conservation rulings); our main focus in counting product that is transferred from fishing vessels to the cargo ships- which later bring it to Asian and sometimes South American markets for sale - is, in general, to have some independent verification against at-sea product declarations. This is by no means an exact science, but is a step in accountability of living marine resource take, especially on the "wild west" high seas. Other programs, unfortunately, do not at-all visually verify transferred product. I meant to say, "Unfortunately, not all programs do currently visually (from an independent, no-industry source) verify transferred product" (this includes many at-sea and land "ports")."



- October 15 - Posting on Facebook about marine pollution violations he is witnessing: *"Awful. We need better accounting of plastic distributors... on down the food chain. When a plastic distributor has un-checked (governments enabled) capacity to trash the world (with temporary products...) in areas that have little to no realistic capacity for disposing of plastics properly, we can't (just) blame the consumers (e.g. many Pacific Island communities). Still today - I know fist-hand - many vessels on the high seas throw all of their trash overboard, and all of their used oil!!! That is an education thing, aside from the utter lack of accounting for the return of distributed pollutants into the world."*
- December 13 - Keith posted on Facebook the following comment, regarding an anonymous vessel he worked aboard:

"On another note: Sadly, used dirty oil is generally dumped at sea by many fishing vessels on the (international) high seas. When you change the oil in your car, your dirty oil is deposited at the station. It seems that Shell advertises (with hats on fishers on the Pacific High Seas), that they are (at

least in part) responsible for oil disbursed to fishers not being accounted for ever returning from the sea.”



- December 13: Keith travelled many different places with his father, Mr. John Davis, and posted this photo:



2015

- **Keith had decided to return to the Transshipment Observer Program**, this time for the IATTC, and also was alternating this with trips in the Alaska crab fishery.
- **August 5 - Keith's last Facebook posting:** "I depart for the sea today. Therefore I will be away from FB from the following ~ 2 months. It's a beautiful day in Panama for a sail..."
- **August 5 - Keith boarded the M/V Victoria 168**, a Chinese operated, Panama-flagged transshipment vessel. They deliver to Rocmar Seafood, <http://www.rocmarseafood.com> located in Panama. Rocmar Seafood's "company fish come from a fleet of longliner vessels provided by Gilontas Ocean S.A.". Their products "include: Blue shark, black tip shark, mako shark, yellowfin tuna, skipjack tuna and mahi mahi." Gilontas Ocean Panama S.A. is located in

Taiwan and is a subsidiary of the company, Gilontas Ocean Group, also located in Taiwan, Republic of China. Victoria No. 168 and Rocmar also accept fish from other Gilontas Ocean Group subsidiaries, such as Gilontas Ocean Vanuatu, Inc., also located in Taiwan.

- **August 5, 18, 19, 20, 21, 22, 24-28, 30, September 2-4, 2015, Photo and Video documentation of transshipments during Keith's last assignment:** From Keith's IATTC Photo Log, he took at least 167 photos on these days, the last being of the Chung Kuo No. 31 on September 4. The subject of the photos included: Call signs on vessels (both Victoria No. 168 and various longliners during transshipment); other identifying characteristics of vessels, including previous names that were painted over; company insignias on smoke stacks; vessel registration numbers, and port names; 50 photos of fish needing identification confirmation or further discussion (mostly sharks and billfish, but some tuna); and camera and video documentation of several violations, mostly MARPOL, by both the Victoria No. 168 and various longline vessels.
 - The last vessel photographed by Keith was of the Chung Kuo 31 on September 4, 2015. This photo log possibly ended on this date because Keith transmitted his weekly data the following day, September 5. Keith photographed 15 transshipment operations. Where are the photos between September 5 and the date of his disappearance (i.e. those of the Chung Kuo 818)?
 - Many of Keith's photographs were made to require further confirmation of his fish identification. Keith had raised the issue at the 6th IFOMC that identifying fish in this program was a challenge. How can we effectively manage Conservation Measures relating to a particular species when observers are not able to identify the fish to species or accurately count them?
 - Keith photo-documented potential violations on the Victoria No. 168 (4 separate potential violations), as well as multiple violations each on 7 of the 15 vessels he observed transship fish.
 - What is the protocol for reporting, processing, investigation and enforcement of violations, including reports of fishery violations and violations against observers - assault, harassment, interference, and bribery attempts. What are the protocols for reporting injury, death and missing observers?
- **August 20, 21, 22, 24, 25, 27, 28, 31:** Keith sent a series of e-mails to NOAA fish identification experts to suggest additional work was needed to create improved fish identification materials for transshipment observers. He wrote that he believed a conservation measure was necessary to require that tuna not be gilled or finned so that identification of fish would be possible and that this was necessary to prevent tuna laundering.

- **August 30:** Notations about death of crew. Chung Kuo No. 858 “had cancelled due to death of Indo crew.”
- **September 2:** Keith reported more crewmember injuries: “Chung Kuo No. 818 also cancelled..back to port...sick crew member.”
- **September 5 or 6:** Keith transmitted data to MRAG on schedule. (MRAG reported Sep. 5, but Keith’s made a notation that he sent his data report September 6.
- **September 7:** MRAG exchanged e-mails with Keith on September 7 about travel plans once the vessel went to port. .
- **September 10:** Keith’s last known notation - presumed noon positions:

Handwritten notations on a piece of paper, likely a log or report, showing presumed noon positions for four dates in September 1965. The entries are as follows:

Date	Time/Code	Coordinates
09/07/65	1025	15°30.75 S / 152.20 W 7.8 km / 65°
09/08/65		17°31.51 S / 152°29.33 W 7.8 km / 68°
09/09/65		15°16.95 S / 152°42.75 W 7.5 km / 67°
09/10/65		12°27.14 S / 152°55.53 W 7.5 km

- September 10: Keith's last string of fish - he died while doing his job:

Chung Kuo No. 878

FORM 14: TRANSHIPMENT DETAIL 5 FORM

T4 (B) Transshipment Observation Record

Observer(s) (IC #) _____
 Period Start (month/day/year) (IC #) _____
 Period End (month/day/year) (IC #) _____
 Transshipment Team Lead (IC #) _____
 Number of Injunct Group _____
 Total Area (km²) (IC #) _____

Time Range	No. of Fish	No. of Dead Fish	Survival		Mortality		Survival		Mortality		Total No. of Fish	Survival Rate (%)
			No.	Prod. Code	No.	Prod. Code	No.	Prod. Code	No.	Prod. Code		
08:00-09:00	10	0	10		0		10		0		10	100
09:00-10:00	10	0	10		0		10		0		10	100
10:00-11:00	10	0	10		0		10		0		10	100
11:00-12:00	10	0	10		0		10		0		10	100
12:00-13:00	10	0	10		0		10		0		10	100
13:00-14:00	10	0	10		0		10		0		10	100
14:00-15:00	10	0	10		0		10		0		10	100
15:00-16:00	10	0	10		0		10		0		10	100
16:00-17:00	10	0	10		0		10		0		10	100
17:00-18:00	10	0	10		0		10		0		10	100
18:00-19:00	10	0	10		0		10		0		10	100
19:00-20:00	10	0	10		0		10		0		10	100
20:00-21:00	10	0	10		0		10		0		10	100
21:00-22:00	10	0	10		0		10		0		10	100
22:00-23:00	10	0	10		0		10		0		10	100
23:00-00:00	10	0	10		0		10		0		10	100

Observer(s) _____
 Transshipment Team Lead (IC #) _____

2008-09-10-0930



- September 11: Original Message from the Victoria No. 168, reporting to Gilontas Ocean Group in Taiwan:

On Fri, Sep 11, 2015 at 4:44 PM, [REDACTED] <[REDACTED]@cwpanama.net> wrote:

From: VICTORIA168 <VICTORIA168@amosconnect.com>
 Date: 2015-09-11 11:58 GMT+08:00
 Subject: Shipboard Observer Men Missing
 To: "Miss. [REDACTED] 土雅坤" <[REDACTED]@gilontas.com>

To: Gilontas Ocean Co., Ltd
 Attn: Miss [REDACTED]
 Miss [REDACTED]
 Vsl 10/Sep 0810 F/V Ck-818 Along Side

0835 Commenced Transfer work
 1130 Lunch Time Was with Capt together Have Lunch
 1450 2nd mate Have been see him from # 3 hatch ship side
 go back accommodation
 1605 Transshipment Finished C/O need he Signature Found Can't
 found him.
 1615 F/V Ck-818 Cast off
 1620 Vsl Every body do all vsl Search again and again could not
 found for.
 Fr 1626-2225 we are already do 3time all vsl's space cheked also not
 found is confirmed which men is not on vsl already.and then master
 Execution Expanding square sea searching Till 2236 also not found
 which men.and continue Exculte Expanding square sea searching for.
 2230 Contact Peru coast Callao MRCC radio Telephone no body answer.

- **September 10, 17:25 PDT** MRAG Americas reported to United States Coast Guard (USCG), PACAREA that Keith was missing:

“ At 1725 PDT, 11 SEP 15, PACAREA [Pacific Area] Command Center received a call from a Mr. █████ (MRAG Americas) reporting a possible man-overboard (MOB) involving an Inter-American Tropical Tuna Commission (IATTC) participating vessel, the Panamanian-flagged fish processor VICTORIA 168. The possible MOB was █████ (Keith Davis) reported to be an American citizen. Mr. █████ (MRAG Americas) is an agent representing observers required by all IATTC participating vessel. Mr. █████ (MRAG Americas) was contacted by VICTORIA 168 after they were unable to locate him onboard the vessel.” The actual timeline is uncertain because no entity has reported it. What we can gather from various documents (US Coast Guard and e-mails obtained from MRAG) is that:

- **September 10, 12:50 - 14:05 PDT:** Keith disappeared and was presumed overboard.
- **September 10, 20:50 PDT:** Victoria No. 168 notified Gilontas Group in Taiwan - a full 8 hours after Keith went missing.
- It's unknown how long it took Gilontas to notify Rocmar Seafoods, the vessel agent for the Victoria No. 168.
- **September 11, 00:19 PDT:** Rocmar notified MRAG Americas. At this point Keith was 12 hours in the water.
- **September 11, 11:53 PDT:** MRAG Americas knew of Keith's disappearance at this time when they acknowledged the e-mail.
- **September 11, 17:25 PDT:** MRAG notified the USCG September 11, 17:25 PDT. By this time Keith was expected to have been in the water for 29 hours.

Several questions arise from this timeline:

- Why did Victoria No. 168 first inform Gilontas Ocean headquarters in Taiwan instead of their company in Panama or Rocmar Seafoods, their agent? Why did they not notify their flag state (Panama), instead attempting a call to Peru and Ecuador (who didn't respond).
- Most importantly, why did the Victoria No. 168 wait 6 hours before notifying anyone and why was Keith's employer not notified first?
- Why did it take 12 hours to let Keith's employer know and then another 5+ hours for MRAG Americas to notify the US Coast Guard?

This clearly illustrates that protocols for reporting missing, injured or ill observers need to be enacted at every level immediately.

- **September 11:** A forward deployed HC-130J (A/S Barber's Point) was available out of El Salvador, however due to weekly flight hour limitations, transit distance, and usable overhead searching time, PACAREA declined to utilize the asset. Probability of survival was initially calculated to be 45 hours (functional time). On scene weather reporting by VICTORIA 168 produced functional survivability time of 29.9 hours after observed parameters were calculated.
- **September 12, 03:15 Z:** US Coast Guard then briefed several US Government authorities. Coast Guard Investigative Service (CGSI) stated that "since no evidence exists yet regarding a crime had taken place, there was nothing CGIS could do at this time."
- **September 12, 03:39Z:** Since the vessel location was 500 miles off of Peru, USCG contacted Peru's Search and Rescue and Recovery (SRR) but the Regional coast guard informed that they could not launch past 200nm.
- **September 12, 05:10Z:** USCG sought help from US Embassy in Peru and Ecuador, Ecuador attaché but no assistance was available.
- **September 12, 0617Z:** Joint Interagency Task Force was briefed as well as JIATF - Counter Drug Officer. C130 approved for launching Search and Rescue, who could have been on the scene in 2 hours. They received clearance from US authorities but the plane was grounded in Peru (for unknown reasons).
- **September 12, 12:26Z:** Victoria No. 168 confirmed to the USCG that Keith was last seen "wearing black jeans, a black coat, and his life jacket was found in his room. Vessel position was 12.63S 085.13W.
- **September 12, 14:50Z:** The USCG contacted MRAG ("reporting source") and "verified contact information for the subject vessel. Also requested reporting source to send data on other vessel involved in the product transfer. **Reporting**

Source (MRAG Americas) had concern about possible People on board from Longliner that could be catching a ride back to shore (these people are not part of the standard crew).” This is important because potential suspects could have left the scene and the Chung Kuo No. 818 was never called into port or otherwise investigated.

- **September 12, 1500Z:** Victoria No. 168 received SAP but conducted their own search and details of that search are unknown.
- **September 13, 0144Z:** USCG “Called Mr. xxxx (MRAG) to relay information regarding a Ms. Xxxx (APO) who had been calling to get information. The Command Center (USCG) has request from Mr. xxxx (MRAG) that we will direct all non-news reporters to him.” This was in response to APO’s list of lingering questions that we expected to be answered by the investigative team, which we provided to the USCG on September 13. It’s unclear how MRAG Americas, a private company, could have jurisdiction over the control of information in the middle of an investigation.
- **September 13:** The Victoria No. 168 ended it’s 72 hour search for Keith with 16 vessels participating the first 24 hours (according to the Victoria No. 168), after which they made way for Manta, Ecuador for a scheduled port stop to offload their fish on September 15.
- **September 13, 1319Z:** The Victoria No. 168 informed the USCG that the captain decided to go to Panama (the vessel’s flag state) instead, which lead to an additional 4 days delay in investigating the Victoria No. 168.

An important omission from the investigation was not calling in the Chung Kuo No. 818 to be investigated. Officers on the Chung Kuo No. 818 were the last known witnesses to Keith being alive.

- **September 14:** MRAG informed us that Victoria No. 168 was not going to Ecuador but had decided to go into Panama instead and US authorities would have lead in investigation. but the day before the Victoria No. 168 arrived, we were informed by MRAG that Panama took over the investigation, seizing all of Keith’s belongings. There were conflicting reports regarding who first had access to Keith’s computers, camera and other belongings. Below is the direct USCG report:

“132018 SEP 15

Received email from CAPT Hester regarding conf call at 1600PDT. PACAREA CC briefed SMC and discussed way forward with coordinating whether or not there should be an investigation. SMC stated that the CC will not be tasked with reaching out to PN CGLO as requested by Legal. Conf call with PACAREA Leadership, CG-MLE, DCO and NCC will discuss who should be resp. for reaching out to the FBI who would have the lead in the event that and investigation should occur. PACAREA CC released email with call number and

passcode. “

At this point, the USCG weren't even sure an investigation would ensue and if so, were trying to decide who would be the responsible party within the USCG to coordinate with the FBI, which was considered to be the lead in the investigation.

“132020Z SEP 15

Briefed PN CGLO, LCDR (@state.gov' / LCDR) of the vessels intention to call on Vacamenta, PN and that a conf call with CG players will occur at 1600 PDT. LCDR stated that he would call in for the call.”

Here they briefed the Coast Guard in Panama that the vessel switched port call to Panama.

132300Z SEP 15

Held conf call with NCC, MLE, PN CGLO and CG State Department Liaison. State Department will coordinate with DOJ and ensure that CGLO PN and PN FBI team is briefed.

Here they are briefing State Department, Department of Justice, Panama Coast Guard Law Officer, and Panama FBI team.

132356Z SEP 15

ACTSUS granted by CAPT Timmons. (Active search suspended)

- **September 14, 1655Z:** MRAG Americas informed the USCG that Keith's bunkroom was inspected and that Keith's EPIRB was found in his emersion suit. ETA was not until the next Sunday September.
- **September 14, 12:02Z:** MRAG provided USCG with Chung Kuo No. 818's phone number and informed them that the captain and crew speak Chinese.

Once notified, the USCG had gotten approval for but later cancelled a rescue C-130 Coast Guard plane. It's unclear why a replacement crew and flight wasn't launched. In the end it was noted that it would cost \$20,000, “with minimal gain”, given the likelihood that he would not have survived by the time they could arrive.

Around September 19: MRAG informed family, friends and colleagues that Panamanian authorities would be leading the investigation, not US authorities. There was conflicting information - MRAG was claiming the Panamanian authorities were cooperative but a family version said: *“The boat was boarded by the Panamanian authorities. They then let an American Tech investigator onto the boat, not sure how thorough they were allowed to be. The American authorities were allowed to download “some” of Keith's laptop but not all before the Panamanians seized all of his belongings (including his mandolin). The American authorities have a person of “interest” but have at this time NOT been allowed to interview. Doesn't sound like the Panamanians are being as cooperative as we were hoping. It would be irresponsible of me to call this a “coverup” of sorts however I am at a loss to call it otherwise. This is where perhaps media coverage could help put pressure on them to cooperate more fully. BTW the boat is being cleared to leave soon with less than a satisfactory investigation in my opinion. Keith deserves better, his family deserves better and his colleagues in the field risking their lives everyday deserve better.”*

- **September 21:** The Victoria No. 168 arrived in Panama during the early morning hours, and was left unattended until the investigation began at 0900 (about 7 hours).
- **September 21:** The Chung Kuo No. 818 was finally contacted by US authorities, 10 days after they received knowledge of Keith's disappearance.
- **September 27:** The investigation was finished and the vessel left for Ecuador to offload the fish in its hold that it was originally scheduled to offload on September 15. The FBI were not allowed to inspect the hold in Panama, so they met the vessel in Ecuador and inspected it when they arrived on October 2.
- **November 29:** Despite an ongoing investigation by both Panama and the United States into Keith's disappearance, another observer was placed on board the Victoria No. 168 and business resumed as normal.