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ALASKA OIL SPILL COMMISSION

August 4, 1989

OIL SPILL COMMISSION MEMBERS

Walter B. Parker, Chairman

Esther C. Wunnicke, Vice-Chairman

Margaret J. Hayes

Michael J. Herz

John Sund

Timothy Wallis

Edward Wenk, Jr.

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WITNESSES

Mr. Erv Martin Page 69
Director
Alaska Division of Emergency Services

Dr. LaPorte Page 103
Political Scientist
University of California, Berkely

Patrick S. Dixon Page 168
Peronsal
United Cook Inlet Drift Association

Charles McKee Page 188

Rawls Williams Page 189
Supply and Equipment Dispatcher
National Park Service Oil Spill Operation

Marcia Hodson Page 200
Oil Reform Alliance

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Motion to give authority to the Chairman to
hire provisional counsel.

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Motion to go into Executive Session

Moved, seconded, and approved Page 69

Motion to give the Chairman authority to hire
on the basis of a telephone poll, not neces-
sarily a telephone conference.

Moved and seconded Page 157

Approved Page 158

Motion to adopt, as an interim work plan,
three documents already in hand: one-page
memorandum that Commissioner Sund pre-
pared; second is a staff document of goals;
third is the July 19th letter from Commis-
sioner Wenk.

Moved Page 158

Seconded and approved Page 159

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Motion to empower subcommittees to develop their own criteria for selection and that copies of their short list, plus recommendation for award be circulated to all the Commissioners and that a vote be taken by telephone poll rather than teleconference.

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Motion to amend by giving the Chairman authority to sign the contract.

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Motion to authorize Chairman to sign contracts (repeat)

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SUBMITTALS INDEX

By Mr. Patrick Dixon

Poem entitled: "Middle Rip, Cook Inlet"

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1 (Tape Number 89-08-04/1A)

2 MR. PARKER: Alaska Oil Spill Commission will come to
3 order. A quorum is present. For the benefit of the audience,
4 this morning's session will be spent as a working session. It
5 will be public meeting, but what we're going to be discussing,
6 in essence, are our future meeting schedules, a discussion of
7 contracts and staffing, how they relate to our work program.
8 We have several ads in the newspaper on contracts that we
9 propose to let out just seeking respondents to those. Then we'll
10 be discussing agenda items for future meetings and then we'll
11 be discussing our subcommittee's scope of work. Finally, the
12 format for the final report and a discussion on Executive
13 Director, at which time we'll go into an Executive Session. I
14 think, for the benefit of all of you, we should block out to the
15 extent we can our meeting schedule through September and
16 October at least, if not for the rest of our time. We have our
17 schedule now. After this series of meetings, for those of us
18 who can make it: Cordova the 10th, Kodiak the 11th. There's
19 going to be a helicopter aircraft -- where's Marilyn? She's left.
20 I believe it's a helicopter available at Kodiak on the 12th to
21 take us out to those villages we couldn't get in in one day,
22 which I would visualize at the most two and so those -- we
23 need to know who wants to do that. That's a helicopter, right
23 Marilyn, on the 12th at Kodiak?

25 MARILYN: Yes, We're going to try to set up to fly out to

1 those native villages.

2 MR. PARKER: So, how many are going to be able to go to
3 Cordova on the 10th? That's three of us. We'll check with Tim
4 later. And Kodiak on the 11th? You want to go to Kodiak, son.
5 You've never been to Kodiak.

6 MR. SYKER: I was there once.

7 MR. PARKER: You were there once. Okay.

8 MR. SYKER: I'd like to go, sir.

9 MR. PARKER: Yeah, I know.

10 MR. SYKER: That is life.

11 MR. PARKER: So, how about the 12th. Who wants to go
12 to the villages on the 12th.

13 MS. HAYES: I'd like to, but I'm not sure I can.

14 MR. PARKER: Okay, alright. You got that Marilyn?

15 MARILYN: I didn't see who wanted to go on the 12th.

16 MR. PARKER: Just Esther and me and Meg is tentative.

17 MR. Havelock: Will that be a hearing, Mr. Chairman?

18 MR. PARKER: No. The 11th will be. Okay, the next
19 meeting we have scheduled after that is the 30th, 31st, and 1st
20 of September. I would like to spend one day in Kenai in the
21 period in between the 12th and the 30th and get the -- I can't
22 make the 18th or 19th. I have a conference on the 18th and
23 19th so any days except those are satisfactory to me. I was
23 thinking possibly if we could go to Kenai on Wednesday the
25 16th or Wednesday the 23rd. When are all of your Australians

1 and so forth.....

2 MS. WUNNICKE: They're going to be back in town that
3 week. That's okay, Walt, we can work around -- how about
4 later than the 23rd? How about the 25th? Is that too late?

5 MR. PARKER: It's not too late, no.

6 MARILYN: Can I say something. I'm going to be gone
7 from the Oil Spill Commission from the 21st through the 25th
8 (indiscernible).

9 MS. WUNNICKE: Just for general information, on the
10 17th and 18th, and John Havelock may be aware of it, there's a
11 toxic tort seminar at the Clarion. Are you aware of that John?

12 MR. HAVELOCK: Yes.

13 MR. PARKER: What's a toxic tort?

14 MS. WUNNICKE: A toxic tart would be like an oil spill.

15 MARILYN: Tort.

16 MS. WUNNICKE: A tort, not a tart.

17 MR. HAVELOCK: It's not a toxic tart?

18 MR. PARKER: I know about those.

19 MR. WUNNICKE: That's the kind you make all the time.

20 MR. PARKER: Uh, hum. Well, do we want to go to Kenai
21 on the 25th? That's three of us.

22 MS. WUNNICKE: I could hook up with you.

23 MR. SUND: 25th of what?

23 MR. PARKER: August. You don't have any fish left by
25 then. You'll have caught them all

1 MR. SYKER: Are we having a meeting? I thought it was
2 the end of the month.

3 MR. PARKER: You have a meeting on the 30th, 31st and
4 1st, but we've told Kenai we would get to them eventually. The
5 main reason for going to Kenai besides as one of the spill
6 affected communities is to collect testimony on the aftermath
7 of Glacier Bay plus the effects of the present spill which have
8 been somewhat intensive in creating a great deal of tension
9 between the setnetters who got to fish and the drift netters
10 who did not.

11 MR. SUND: I guess something like this, if you guys don't
12 mind me flying through Seattle, I will attempt it.

13 MR. PARKER: Okay.

14 MR. SUND: But it costs me too much time to end up here.

15 MR. PARKER: I don't have any problem.

16 MR. SUND: There's no night flight to Juneau any more.
17 So instead of leaving tonight and getting home at seven in the
18 morning, I've got to stay here and leave here at eight. I get
19 home at noon or one o'clock. I'd just as soon leave here tonight,
20 go to Seattle and then come home on the morning flight.

21 MR. PARKER: Yeah, that's fine. I've always accepted that
22 the way you catch a carrier is through Seattle. So, Kenai on the
23 25th.

23 MR. SYKER: Is that a hearing?

25 MR. PARKER: That will be a hearing, yes.

1 MS. WUNNICKE: Marilyn.....

2 MR. PARKER: You don't want to get out of the

3 insufferable California heat for any of those days?

4 MR. _____: (indiscernible) Orcas Island.

5 MR. PARKER: Orcas Island does not suffer from

6 intolerable heat.

7 MR. _____: That's right.

8 MS. HAYES: No oil.

9 MR. _____: That's been clean since before

10 Captain Hazelwood put the Valdez on the rocks.

11 MR. PARKER: Once I rolled my sailboat off Orcas Island,

12 here came the orcas right down the channel. It's an impressive

13 sight when you're swimming around trying to get your boat

14 upright again.

15 MS. WUNNICKE: We're still on the 30th, 31st and 1st?

16 MR. PARKER: 30th, 31st and 1st of September.

17 MS. WUNNICKE: Would you explain the teleconference

18 on the 17th again

19 MR. PARKER: The teleconference on the 17th. Thank

20 you for reminding me. On the 17th, we plan to teleconference

21 with the affected communities. All who want to come in. The

22 teleconference will be broadcast over public radios. So far

23 Valdez, Cordova, Homer and Kodiak have agreed to broadcast it.

23 MS. WUNNICKE: For how long a time? As long as it

25 goes?

1 MR. PARKER: I think we should probably visualize about
2 three hours from 7:30 to 10:30 unless the public radio wants to
3 cut it off earlier. We'll teleconference out of the LIO and they
4 would pick it up and they would -- we haven't worked out the
5 logistics of whether we take the incoming calls through the LIO
6 net or whether they would be relayed through the public radio
7 stations to us.

8 MS. WUNNICKE: Is it a question and answer kind or just
9 testimonies.

10 MR. PARKER: I think testimonies from the communities
11 and encourage a question and answer format so as to get the
12 maximum information in the time without getting into too
13 lengthy a testimony from the communities. I don't know how
14 verbose the younger generation is out there at public hearings,
15 but their fathers and mothers could tend to carry on at quite
16 some length.

17 MS. WUNNICKE: So all the -- I mean the public contact
18 would be through the radio stations. There wouldn't be any
19 need for staff to alert people in those communities.

20 MR. PARKER: Yeah, that's the way I'd plan it that they
21 would do the outreach on this and make sure the potential
22 audience was advised.

23 MS. WUNNICKE: Thank you.

23 MR. PARKER: We may wish to notice this in order to go
25 through our regular formalities, but count on them to round up

1 the audience. Ed, did you.....?

2 MR. WENK: Question, Mr. Chairman. My recollection is
3 that we've got close to 40 hours of tapes from these hearings so
4 far and with the ones planned we'll have another 40 hours.
5 What are the plans for extracting information from this record,
6 because it seems to me the whole purpose of this is information
7 gathering from the point of view of analysis by the Commission
8 toward its goals. Unless this material is distilled in mind, it
9 seems to me it will have the affect of indicating the sincere
10 concern on the part of the Commission for these communities.
11 I'm asking about what are we going to do with this information.

12 MS. HAYES: From the standpoint of the Response
13 Subcommittee, Ed, we have taken notes and generally what
14 days and what times people have brought certain issues up to
15 the Commission. I would imagine that some of the work that
16 they were doing for the contract about the responses of various
17 communities would be actually information that would be
18 extracted from the tapes and that we would be using our own
19 individual, my notes as an example, of places to start listening
20 to particular people and items that had been brought up to the
21 Commission. From our perspective, I wouldn't need to have a
22 transcription of it. I think simply a note and some kind of
23 synopsis of what people had testified and what they had said
23 would be sufficient for our purposes.

25 MR. WENK: I think so too. I think that would be very

1 valuable. Could you give us copies of your notes?

2 MS. HAYES: Well, I'd be glad to share them. Would
3 somebody like to put them in a more formal way xerox copies
4 of my notebooks.

5 MR. WENK: I mean, could you have someone type them
6 and make copies available. 'Cause that's exactly what --
7 certainly a synopsis would do. No question about that.

8 MARILYN: I'm sorry. Meetings you've already had or
9 meetings you're going to have?

10 MS. HAYES: Both.

11 MR. PARKER: Anyone else wish to add to what Meg has
12 said. For my part, I've just been translating my notes into
13 action documents such as they exist. But primarily what we
14 heard in the hearings was the basis for the proposed budget
15 increase. I think that, as Meg has done, those highlights such
16 as what we heard from the Seward MAC and the Homer MAC
17 Committee certainly as we get into organizational problems, our
18 investigators or whoever is going to be doing the writing on
19 this may certainly want to take and use those tapes to refresh
20 themselves on what was actually said at those critical meetings.
21 Same way at Homer, what was said on the Fish and Wildlife
22 operations I think would be a crucial area to go back to when it
23 was necessary to pick up. I think that probably the minutes
23 are as good a log as we have of what was basically -- what the
25 basic input from the minutes. They'll serve as a guide to go

1 back to the tapes.

2 MR. WENK: Mr. Chairman, I would like to make a specific
3 request though that we go beyond that. Let me give you an
4 example. There were some key statements made yesterday by
5 Admiral Robbins. Just a few here and there that are absolutely
6 seminal in terms of dealing with policy. I'm assuming that this
7 Commission really wants to operate at the policy level. I think
8 we've got to have the verbatim information, especially if we
9 are going to have other witnesses at a higher level from the
10 Coast Guard subsequently. The same thing is true with his
11 testimony on two earlier occasions, and testimony from
12 Admiral Kine. I have a feeling that the Commission would be
13 in a better position to really make use of those future hearings
14 if we have verbatim transcript of those particular items of
15 testimony. I just know in our informal discussion among
16 ourselves that we do have between us the whole thing. But I
17 think it's bits and pieces. For certain -- I'm not saying for all
18 the witness, but for certain particular ones where we'll be
19 following up with questions aimed at policy decision making, I
20 can see some real virtue of our knowing precisely what was
21 said.

22 MS. WUNNICKE: Mr. Chairman, I think that Mr. Wenk
23 has made a good point, but as I see it, we through our notes
23 will direct investigators to particular parts of the hearings to be
25 transcribed rather than put the burden on staff or on our

1 budget for that matter, to have complete transcripts of
2 everything before us.

3 MR. HAVELOCK: Could I make an observation. Mr.
4 Harrison has probably, this morning, a complete verbatim of
5 the entire proceeding the other day. I'm a little apprehensive
6 about us not being in a position -- I'm not saying we have to
7 have it the way he has it this morning, but I'm apprehensive
8 about us being in a position of making quotations or whatever
9 when we do not have a transcript. So, certainly you may pick
10 and choose among what hearings you are going to transcribe
11 verbatim, if you think some are more impressionistic. But for
12 those ones that have substantial legal implications like
13 yesterday's hearing, you need a transcript. You need to have
14 your own, the official transcript. Otherwise, Mr. Harrison's
15 transcript will be the official transcript.

16 MR. PARKER: Thank. The overnight transcript service is
17 available for any future meeting and we probably should have
18 arranged for it for yesterday afternoon's. I saw the court
19 report -- Mr. Harrison's recorder over there busy typing away
20 the same thought crossed my mind.

21 MR. HERZ: That was his steno?

22 MR. PARKER: Yeah. Who did you think she belonged to?

23 MR. HERZ: I made the presumptuous presumption that it
23 was for us.

25 MR. PARKER: You're a public commission. You may have

1 one counsel here one of these days. Mr. Harrison showed up
2 with three that I knew plus those that I didn't know, and his
3 court reporter. So. you just got to work for the right outfit
4 Mike.

5 MR. SUND: His chart flipper over there's a lawyer.

6 MS. WUNNICKE: Mr. Chairman, I think we need to come
7 back to what kind of a commission we are. We're not a judicial
8 body and we're not a body to assign liability or assess damages.
9 I though we had agreed on that. I agree with counsel that you
10 need a complete transcript for something like yesterday's
11 panel. I guess my only point is I think it would be a terrible
12 burden on the Commission to have a complete transcript of
13 every bit of our proceedings.

14 MR. PARKER: The Chair thinks it would be a great joy to
15 have a transcript of the work sessions, but that's just the
16 Chair's perception. Marilyn?

17 MARILYN: Two things on that, one is that I have a
18 question and if we do transcribe something, do we then also
19 want summaries of that meeting. And secondly, at any time
20 we can take a tape that Jim has taped and bring it to a
21 transcribing service, which we do have bids on through
22 procurement, and get them to transcribe anything. So anything
23 we've done up to now that we want transcribed is available. So
23 it's not something that's happened and it's over. It can be done
25 anytime.

1 MR. PARKER: I wouldn't see the overnight transcripts as
2 taking the place of the summary, particularly if -- unless
3 there's some disagreement on that.

4 MR. SUND: I would suggest that we continue with the
5 taping, we continue with the summaries and that, at some point
6 in our investigation, if they want to get more detailed, exactly
7 what was said rather than a general summary, we can go dig it
8 out of the tape. And when it comes down to pounding out the
9 final document, if it becomes critical to have the exact
10 quotation or the exact language that somebody had used in a
11 hearing, that we are going to "grab and put inside of a report"
12 at that time I think you go get that portion of it transcribed so
13 you know exactly what happened. But, I think, from what
14 John's perspective is, that we do have all of the tapes and they
15 can be transcribed. I don't see a real need to have to thumb
16 through a transcript until we get to Ed's point of getting ready
17 for some hearings that there's some particular items that you
18 know were stated and you want to have those items prepared.
19 We could go do it on a piece by piece basis. I agree with
20 Esther. We're a little more on a policy level. Unless you're
21 going to print something by the Commission that's going to
22 quote somebody -- and I quote Admiral Kine all the time on his
23 comments on that if they had a double bottom it would have
23 cut 25% or 50% of the free oil from going away. And lo and
25 behold, it's now printed in the paper and it seems to be a

1 public statement. In those cases, I think you've got to go get
2 them transcribed if you want to use them in the final
3 documents.

4 MR. PARKER: Speaking of double bottoms, Brocke Adams
5 didn't make it on his amendment yesterday to the Senate
6 omnious bill. It failed narrowly, but still failed.

7 MR. HERZ: Related to that, I saw part of an interview
8 with Admiral Robbins which was during one of our breaks
9 yesterday in which he said that he thought double bottoms
10 should be tried. He'd like to see the result of having them
11 tried. I thought it was surprising coming from Coast Guard.

12 MR. SUND: Coming from an Admiral that's going to retire
13 in a year and a half?

14 MR. HERZ: Thank you for that clarification.

15 MR. SUND: He has been very, very open and candid and
16 I appreciate those comments.

17 MR. PARKER: Okay. Anything else on -- Jim?

18 MR. STRYKER: Mr. Chairman, it's just a suggestion, but I
19 believe the Department of Law, and this lady sitting here might
20 be able to actually answer the questions, but they may need
21 transcripts for their legal maneuvers and I don't know why
22 they couldn't automatically share any transcripts with the
23 Commission since they're also a State agency. You might have
23 to pay them for them, but you wouldn't have to pay for the
25 transcribing and it could be an official.

1 MS. JONES: McFarmer only requested a portion of the
2 meeting transcribed, but I could check to see if they could be
3 made available to you if you are interested.

4 MR. PARKER: John?

5 MR. HAVELOCK: I'd just like make another pitch that
6 you transcribe your hearings -- not necessarily overnight, but
7 that you do arrange to have them transcribed for the benefit of
8 the writers of your report. 'Cause it just isn't the same thing
9 that goes in the minutes and then you say, well we've gotta
10 look it up on the tape, so you gotta go find the tape. Then you
11 gotta go through and see this. So if you want the hearings to be
12 really reflected in the report, you're better off with transcripts
13 'cause you can pick up a transcript and thumb through it and
14 there it is. I just don't think it's going to cost you that much to
15 -- on a non-pressure, non-overnight basis -- to transcribe the
16 hearing process. I'm not talking about your internal
17 deliberations and work sessions and so on, but the hearings.
18 The congressional committees are doing it. Why is your work
19 less important than the congressional committees?

20 MR. SUND: It's not less important, we just have less
21 money.

22 MS. WUNNICKE: I think that's a good clarification.

23 MR. WENK: Well, Mr. Chairman, I was the one who
23 raised the issue initially and at the risk of being stubborn I
25 would like to come back to the point that the -- quick apart

1 from the legal importance, I think the effectiveness of our own
2 operations is at stake here now. I don't know whether you
3 plan a post mortem of yesterday's session or not. I hope so, so
4 we can find out really what the nuggets were that were mined
5 there, but also to re-evaluate our own processes. It strikes me
6 that, from watching this process dozens of times in other
7 situations that the preparation by a commission in advance
8 really pays off very well. I think some of that preparation is
9 going to have to be based on evaluating what some of the prior
10 witnesses said exactly. That's why, as you know, I dropped
11 you a note earlier asking you for some transcripts. So, I'm just
12 going to put in a plea again not to transcribe the whole thing. I
13 agree with Esther. But I think there are some key witnesses,
14 whose testimony, and that includes all of the witnesses
15 yesterday afternoon. But I think there's some that we've had
16 before where what was said, especially with some of the
17 witnesses down at Valdez, I think is very, very important to
18 our operation.

19 MR. PARKER: You want a transcript of yesterday
20 afternoon's meeting?

21 MS. WUNNICKE: I think that would be good.

22 MR. PARKER: Okay, we'll arrange that. Dennis?

23 MR. DOULERY: I'd like to follow up a little bit on what
23 John was saying and Commissioner Sund. You're going to pay
25 these consultants and if you're giving them notes to go look in

1 these tapes for specific areas to amplify on and research.
2 You're paying for it. It's a helluva lot cheaper for to him to leaf
3 through a written transcript than it is to search for those pages
4 to find out what just it is you're suggesting to come off the
5 tapes.

6 MR. WENK: Touche'

7 MR. PARKER: Okay.

8 MARILYN: Does that mean we want to transcribe all the
9 meetings up 'til now.

10 MR. PARKER: No.

11 MS. WUNNICKE: No. I think there's agreement we'll.....

12 MR. PARKER: Also get a transcript of yesterday
13 afternoon.

14 MR. HERZ: How about, Mr. Chairman, if we do yesterday
15 afternoon and then maybe some of us sit back and think back
16 to the last meetings and go through our notes and maybe come
17 up with a short list of maybe some of the other testimony that
18 we'd also like to see transcribed.

19 MR. HERZ: Talking about Valdez being transcribed?

20 MR. HERZ: I'd like to go through my notes and see who
21 was there.

22 MS. WUNNICKE: I would too Mr. Chairman, but from the
23 standpoint of what we've identified as the major parties, I
23 would think that any statements before this body from
25 Alyeska or Exxon or Department of Environmental Conservation

1 or the Coast Guard should certainly be on our list for
2 transcription.

3 MR. PARKER: Agreed. Regarding the post mortem, it was
4 in my mind to do a post mortem, but the question of time
5 always intrudes on these things and that was the reason for
6 meeting, schedule and timeline today. If we are going to do
7 these things, Commissioners must make time available in one
8 way or another and I think if we hurry through this business
9 we can certainly do -- begin a post mortem on yesterday's
10 session this morning. With that, like I say....

11 MS. WUNNICKE: September meeting, Mr. Chairman.

12 MR. PARKER: September meeting. We have not
13 scheduled anything past September 1st. In the meeting on
14 August 30th, slipping a little bit to agenda items for future
15 meetings, because the two have to be tied together. Why, at
16 the August meeting the plan is to hear substantially -- the end
17 of August meeting, the 30th, 31st, and 1st, the plan is to hear
18 substantially from Exxon and I would visualize that as
19 primarily focusing on Exxon Shipping and on the events
20 immediately after the immediate spill response. I think we got
21 a pretty good look at the long term spill response yesterday,
22 which doesn't mean we wouldn't come back to it, but the -- it is
23 definitely time at that meeting to begin the dialogue as I see it,
23 with Exxon Shipping, meaning Mr. Iorocy. I think by that time
25 we should be prepared for that.

1 MS. WUNNICKE: We've got Alyeska, Mr. Chairman.

2 MR. PARKER: Alyeska's contingency plan, which seems
3 to be getting off to a somewhat creaky start, would also be a
4 major subject for that meeting. I'm not sure we had time to go
5 beyond.....

6 MR. WENK: (Indiscernible) statement, a creaky start.

7 MR. PARKER: Oh, when they lost their gyro the escort
8 vessel couldn't find the points on the tanker to push on so the
9 pilot and the escort vessel skipper evidently had a heated
10 debate about whether the tanker was going to be pushed or
11 not. That's the way it was reported.

12 MS. WUNNICKE: Not just the contingency plan from
13 Alyeska, but also Alyeska's participation in the immediate
14 response. I'm not leading you, but isn't that what you want to
15 cover?

16 MR. PARKER: Yeah, I think that would be a part of it, but
17 we're going to have to start lining that up right now and getting
18 our request to Exxon in to Mr. Clous (ph) to who we want and
19 what we want to hear from them on. And also our request into
20 Mary Nordale on what we want from Alyeska and who we
21 want to hear from. If we do -- excepting Alyeska immediate
22 response and also discussing their present contingency plan
23 with them; Exxon, discussing whatever elements of Exxon
23 Shipping operations we want to discuss. I would say that as
25 long as we have the right people there we should get into that

1 as exhaustively as we have the capabilities to do at that time.

2 MS. WUNNICKE: Mr. Chairman, at that time, over those
3 dates, would it also be beneficial to hear from State response
4 agencies? I know today we're hearing in general terms from
5 the office of Emergency Services, but would we also want to
6 hear from the Department of Environmental Conservation and
7 Office of Emergency Services and some representative from the
8 Governor's Office in terms of the State's response, immediately
9 response?

10 MR. PARKER: Well, we could consider doing a complete
11 response package at that meeting. Do you think you want to do
12 it at that meeting? Get into complete response package. Are
13 you ready to go on that?

14 MS. HAYES: We should have contractors hired by then.
15 Or not? By the 30th?

16 MR. PARKER: 30th, 31st and 1st.

17 MS. HAYES: We have contractors hired by that, that
18 would be -- if we postpone it too much we only go with three
19 week blocks. It's.....

20 MR. PARKER: Okay, I think probably then hearing from,
21 as both federal and state response units as necessary to fill in
22 whatever gaps have -- are left over from what we've already
23 heard from them would be indicated. That's a pretty
23 exhaustive package right there. In effect, we're going to be
25 going through what the NTSB took a week to do, in three days.

1 But we do have the benefit of their operation on who we wish
2 to call. I think from our perspective -- and this is very much a
3 policy call by Commissioners. How far down in the Exxon
4 organization do we want to go? Do we want to hear from
5 Captain Hazelwood and the crew as NTSB did? Ed?

6 MR. WENK: Could I ask a question at this point? I guess
7 the question is as simple as what are our objectives? We don't
8 have a work plan yet and I wonder whether we shouldn't be
9 clear about where we're going before we decide on more data
10 collections. If we don't have clear objectives for these hearings,
11 I am thinking that we're only going to have two more shots,
12 given our time frame. I'm just a little concerned as to whether
13 or not we know what target we're shooting at and whether we
14 can move at the same pace our targets are moving. We saw
15 some motion yesterday, evasive motion. I think we better be
16 prepared for that. What do we want to get from these
17 hearings?

18 MR. PARKER: I think what I want to get from them is a
19 hearing above and beyond -- is to get the record established
20 above and beyond what NTSB has already established. That's
21 why I asked the question to get from Captain -- from, I guess
22 he's still Captain, Iorocy, the basic decision -- the elements that
23 led to the decisions on one, why the Exxon Valdez was
23 constructed the way she was and why she was operated the
25 way she was. Which NTSB has picked up at the beginning and

1 none of the -- neither NTSB nor any of its participants have
2 addressed any of the real lead ins on why -- using Exxon
3 Valdez as an example of all tankers operating out of Alyeska,
4 what are the conditions that were established in tanker
5 operations out of Alyeska that led to Exxon Valdez?

6 MS. WUNNICKE: Mr. Chairman, that's quite different
7 from the immediate spill response.

8 MR. PARKER: I'm talking about the Exxon Shipping part
9 of the hearing now. Immediate spill response comes next. I'm
10 expressing what I hope to get out of this. We have such a -- I
11 didn't get -- yesterday I didn't get as much dialogue as I hoped
12 out of our three respondents. It approached being somewhat
13 of a love feast at times there until Commissioner Sund
14 intervened and opened things up a bit. I think that if we're
15 going to dig into this record, why we have to start -- we have
16 to hear from Exxon Shipping. Which brings up the point, do we
17 want to invite any other tanker operators out of Valdez to
18 participate in this at the same time?

19 MR. SUND: I think, Mr. Chairman, if I could maybe follow
20 at what Ed's getting at. We've kind of nailed down the time
21 and the general players, but maybe if we worked our way
22 through the work plan a little bit that the goals of what has to
23 be asked and what doesn't have to be asked may emerge out of
23 that. We have decided on the dates. We have kind of decided
25 on the players. Now, the next question I guess is what do you

1 want specific? I think the focusing of yesterday around those
2 12 questions helped control the issue a little bit. Maybe after
3 we drudge through a work plan here -- we now know how
4 much money we have, I assume, and generally when
5 somebody's laid out a fairly general budget that we can get
6 through that the questions will fall out of that. So I think we're
7 trying to do two things at once here. We're trying to write the
8 work plan by deciding who to ask to come to the hearing,
9 before we've done the work plan. So maybe if we kind of
10 outline -- I think, if I understood, the agenda is to kind of
11 outline the dates that Commissioners were available to have
12 meetings and then go to the work plan and see what we want
13 to accomplish and I think it'll fall out.

14 MR. PARKER: Okay, let's continue.

15 MR. SUND: You've got this one fairly well nailed down.
16 You've got four parties coming in three days. That's a lot of
17 work to do.

18 MR. PARKER: Which might require four days.

19 MR. WENK: Just very briefly, Mr. Chairman, in
20 responding to your point. I asked the question about
21 objectives and you helped me with some very clear targets.
22 Namely, as I see it, focusing on what happened and essentially,
23 why it happened, not in terms of the response. Now, -- and
23 NTSB was asking exactly that question. I gather your feeling is
25 that that record is incomplete. That we will develop more

1 information than had been done at that hearing. I can
2 understand why that, now with a second look at the situation,
3 would be fruitful. You may recall I sent to you a series of
4 questions that are anonymous at the moment, that were
5 provided me by a highly professional mariner in terms of key
6 questions that were not asked at the NTSB hearings. If that
7 would be the focus, I can see some real justification for this. I
8 would support that notion.

9 MR. PARKER: Okay. Thank you. I think that, you know,
10 there were a great many things that were not asked and I
11 think this is the time where we start probing into some of the
12 areas of concern that you've returned to throughout this in
13 getting into the corporate mentality that directs decisions.

14 MS. WUNNICKE: Mr. Chairman, I might just observe that
15 we keep our focus, again, on the future and what can be
16 affected rather than on where liability lies or where blame lies,
17 or approximate cause of an accident.

18 MR. PARKER: That's why I suggested that we probably
19 should think about asking the other Alyeska operators and
20 start steering the focus away exclusively from Exxon. Which
21 the beach cleaning meeting -- I've been trying to do that, the
22 beach cleaning meeting now has put us right back in focusing
23 on Exxon as the sole cause of concern. And I think I agree with
23 you wholeheartedly. We need to approach the industry as a
25 whole on this and avoid getting into that role at all costs. I

1 think.....

2 MR. SUND: I think, if you remember Mr. Chairman, this
3 was kind of a slight diversion of our plan to have this kind of
4 hearing coming on because of the immediacy of the issue that
5 was brought up by Mr. Harrison's memo and the congressional
6 hearings. That we wanted to give people in Alaska a chance to
7 be exposed to that issue. So I think we need to take a little 40
8 degree turn here and get back on course, which does involved
9 all of the shippers of Exxon oil.

10 MR. WALKER: 40 degree turn? That's an emergency
11 turn. Holy mackeral.

12 MR. SUND: Well, it's not 90.

13 MR. WALKER: Alright.

14 MR. SUND: The hill to my house is 30, so it's not that
15 steep.

16 MR. WALKER: I can see that by the time we finish the
17 conversation is going to be very salty around this table.
18 Alright, when do we want to meet again in September. The
19 week of the 18th would follow three weeks after that and Ed,
20 your classes start the 29th.

21 MR. WENK: I could make -- I'm open the 19th, 20th,
22 21st, 22nd and 23rd. So I'm free, not the Monday, but I'm free
23 the whole, essentially that week.

23 MR. PARKER: We also have conflict on the week of the
25 18th.

1 (Tape Changed)

2 (Tape Number 89-08-04-1A)

3

4 MS. WUNNICKE: I do the first of the week. Monday and
5 Tuesday I'm not available. I'd be back on the 20th.

6 MR. PARKER: How about 20, 21, 22, agreeable to
7 everyone.

8 MS. WUNNICKE: Looks good.

9 MR. HERZ: I have a conflict on one of those. The night of
10 the 20th, something that I might be able to change. Otherwise
11 I'm fine for that, so let's go for that.

12 MR. PARKER: Okay.

13 MS. WUNNICKE: 20, 21, and 22?

14 MR. PARKER: Uh, hum. Now we get into our
15 October/November period. That same three week schedule
16 here. The second week in October would be where your
17 meeting dates fell this month. Anybody have any conflict with
18 October 11 -- 10, 11, 12. Ed, the 13th is a problem for you isn't
19 it.

20 MR. WENK: Yeah, the 13th. But unfortunately, I'm going
21 to have to beg off on Thursday's as well as Fridays.

22 MR. HERZ: I've got a potential conflict on the 10th and
23 11th that I can probably find out with a phone call today
23 whether I change.

25 MR. WENK: I can make the 9th, 10th, and 11th.

1 MR. PARKER: Any one else have any conflicts that week?
2 MS. WUNNICKE: No.
3 MR. WENK: My pocket calendar tells me that Monday,
4 the 9th, is Columbus Day and also Yom Kippur.
5 MR. SUND: That only affects federal and state
6 employees.
7 MR. WENK: It's also Thanksgiving day in Canada.
8 MS. WUNNICKE: Oh, well, now that's a problem for me.
9 No, I'm kidding.
10 MR. WENK: Let's observe any that we can.
11 MR. PARKER: Okay, tentatively we'll go 10, 11, 12 and.....
12 MR. WENK: I just may have to beg off.
13 MR. HERZ: I may too. I have to make a phone call to find
14 out about a meeting that covers those same days.
15 MS. WUNNICKE: It's sure nice to know what your life's
16 going to be like, isn't it.
17 MR. PARKER: As we move into that first week, that
18 second week in November, I think we need to think about
19 trying to block out a substantial amount of time -- if we're
20 going to do any of the workshops we planned and
21 Commissioners wish to participate we need to -- workshops be-
22 ing our peer review of what will be approaching to be a draft
23 of our final product by that time. I think if we'd block out four
23 days in there somewhere it would probably be very helpful. I
25 think it's or at least.....

1 MR. HAVELOCK: Well, now you're getting serious. You're
2 getting into hunting season here.

3 MR. PARKER: Is your life just one constant round of
4 pleasure. You move from fishing to hunting.

5 MR. HAVELOCK: There are some serious things in life
6 and you're interfering with the annual deer hunt trip here in
7 November.

8 MARILYN: I wanted to find out on the timeline and that
9 is to get staff. When you get -- Phyllis and I talked about
10 where (indiscernible) deadline for consultants and that was
11 November 1st in reality. And that -- I said that (indiscernible)
12 could have a draft of the Oil Spill Commission Report on
13 November 13, which of course is cutting it fairly tight. We
14 might be able to get some of the work done before November
15 1st and it would be available. Then public review is November
16 13-27th. It's just a date. The 27th is Thanksgiving, I think, or
17 near around.

18 MR. HAVELOCK: The 23rd is Thanksgiving

19 MARILYN: Oh, the 23rd. So after Thanksgiving.

20 MR. SUND: How about the week of the 13th through the
21 18th.

22 MS. WUNNICKE: That whole week?

23 MR. SUND: Well, somewhere in that week. If your
23 deadline cutoff is the first, everybody slips. That gives you two
25 weeks of slippage and it also gives you a few days to pull your

1 stuff together. Then we get a block of time to look at it before
2 Thanksgiving. Then you've got some time for pulling it
3 together after Thanksgiving. Besides I can go get my deer
4 before then..

5 MS. WUNNICKE: Mr. Chairman. Just looking at the
6 timeline that staff has given us -- and I really appreciate
7 having that. Is there any merit in our public review coming in
8 early December?

9 MR. SUND: I had always assumed that our draft wouldn't
10 be available until the end of November. I think that's the
11 timeline we've always drawn out and that we'd circulate it
12 through December. And then come back the first part of
13 January to clean up the draft and incorporate all the comments
14 and get a final document published and get it off to the
15 Legislature somewhere around the middle of January.

16 MR. HERZ: What's the January 8th date, though, that
17 we've had on here for a long time?

18 MS. WUNNICKE: That's the Legislature.

19 MR. PARKER: That's the date they must have it.

20 MR. SUND: Oh, that's the date the Legislature starts, but
21 nobody reads anything until the 15th anyway.

22 MARILYN: Although in the legislation it does say that's
23 when the report going to be in. That's why the date's there,
23 but you're -- Commissioner Sund is absolutely right.

25 MR. SUND: There only hammer is to fire you. So, when

1 they get the report, they get the report.

2 MS. WUNNICKE: Between then and the 15th of February
3 when we go out of business anyway.

4 MR. SUND: Yeah, right.

5 MR. PARKER: John will make the report to the
6 Legislature on January 15th, while the rest of us convene in a
7 post-Commission seminar on Maui.

8 MS. WUNNICKE: Or Kauai.

9 MR. PARKER: While he explains in Juneau why we're a
10 week late to hard line elements of the Legislature.

11 MS. WUNNICKE: I could live with that.

12 MR. SUND: I'm looking forward to making this report to
13 the Legislature, Mr. Chairman.

14 MS. WUNNICKE: Mr. Chairman. I would agree with Mr.
15 Sund that we could block out that week of the 13th of
16 November. That would be a very good time.

17 MR. PARKER: Okay. Accepting that some people will
18 have some days of that that they can't make, is that
19 acceptable?

20 MR. WENK: I can make the first three Mr. Chairman.

21 MR. HERZ: So, you're saying that whole week for
22 convening here?

23 MR. PARKER: Yeah.

23 MR. SUND: It's either starting on a Monday -- I don't
25 care about Sundays or Saturdays. Ed is gone on Thursday/

1 Friday so he's going to have to start on Saturday and go
2 through the weekend and get done early or you've got to start
3 on a Sunday/Monday so you're done by Thursday.

4 MR. PARKER: You want to start on that, start on the 11th
5 and move through to the 15th?

6 MR. HAVELOCK: What is the week that it consists. What
7 are we going to be performing during that week that we need
8 five days to accomplish?

9 MR. HERZ: We don't need five, I think we're shooting for
10 three.

11 MS. WUNNICKE: Three, probably Monday, Tuesday,
12 Wednesday.

13 MR. PARKER: Alright. Let's do Monday, Tuesday,
14 Wednesday.

15 MR. HERZ: Monday, Tuesday, Wednesday.

16 MR. SUND: The 13th, 14th, 15th.

17 MS. WUNNICKE: 13th, 14th, 15th.

18 MR. SUND: I was just laying out the week -- that far out
19 I was just trying to lay out a block of which everybody could
20 work around now.

21 MR. PARKER: Okay, 13th, 14th, 15th. Now, in
22 December.....

23 MS. WUNNICKE: I think you'll have some slippage as
23 John says.

25 MR. SUND: Well, to be positive, you might even have

1 some quick advancement. Somebody might even get done
2 early.

3 MR. PARKER: In December, in getting public review of
4 the draft, how do you wish to approach that? If we have the
5 money do you wish to have some quick public hearings on it or
6 do you want to request your comments on the draft in writing
7 only. Obviously, we'll request comments in writing on the
8 draft. If you want to have just written comments or do you
9 want to have public hearings on the draft.

10 MS. HAYES: I would be in favor of public hearings
11 simply because the whole purpose of -- the long term
12 implementation of whatever recommendations we have is
13 predicated upon having the support from the communities that
14 have been affected. Therefore I think that we need to have a
15 high visibility in the communities that we've not only have
16 gone out to listen to them about what their concerns are, but
17 that we've responded to them. So I would argue that we need
18 to have some kind of public workshops in the communities
19 we've been to already.

20 MR. SUND: Mr. Chairman, again, it's a budgetary item,
21 but that's something I would advocate, that we take a
22 somewhat structured presentation of the report to the affected
23 communities. A lot of times I think it's done where you go in
23 in the morning. There's a presentation with some visuals or
25 graphs or whatever of what the report says and then there's a

1 fairly substantial amount of time for people to comment on it.
2 I've found where you just take reports in and ask for public
3 comment without really explaining what's in the report, you
4 find people raising lots of questions that are already answered
5 or lots of issues that are already covered. Again, it's just
6 working out a budget, but it would be nice to go back to Valdez
7 and Cordova and either Kenai/Homer or -- I don't know how
8 Kodiak runs around, but Anchorage. That's a fairly arduous
9 road show when you're talking about traveling in December.

10 MR. HERZ: It seems to me that under -- if you were
11 doing a long term effort which was like a one or two year
12 program culminating in a report that you would go through this
13 kind of procedure. But it seems to me with our foreshortened
14 life, that there must be a way that it can be done without
15 taking the whole Commission on the road. "Cause it just seems
16 to me that there isn't enough time to do an adequate job. I'm
17 wondering whether either we can bring representatives from
18 the major communities here to a Commission meeting and
19 make the presentation here after having circulated a draft copy
20 -- alternative ways of foreshortening the procedure and the
21 amount of time and effort from staff and the Commission that
22 it'll take to do a full road show.

23 MR. SUND: Could we just ask the staff for some
23 alternatives and some budget numbers next to it.

25 MR. PARKER: We can. Do you mean right now?

1 MR. SUND: No, that's December, it's a ways out there.
2 Some of us don't know what we're going to do next week.

3 MS. WUNNICKE: Mr. Chairman, I would just support
4 Meg's comment in terms of our responsibility to go back to the
5 communities. Whether we go back with full Commission
6 hearings I think is open to debate, particularly in light of
7 budget. But I do think we have an obligation. I think the point
8 that she makes, and one that we have to be conscious of as we
9 go through this is that when we go out of business, the people
10 who are going to make our recommendations happen are going
11 to be the citizens of the state and the members of the
12 Legislature and the members of Congress and those bodies to
13 whom we make those recommendations. I think we owe it to
14 those communities to give them an opportunity to see our draft
15 report before it's final.

16 MR. HERZ: I wasn't disagreeing with that. I was just
17 trying to think of a format that would be more expeditious.

18 MR. WENK: I think there are two issues that have been
19 raised here. The first is how to make the best use of limited
20 energy and time of Commissioners. We've got an important
21 product and I think we have to focus on turning out the very
22 best possible product we can. The first purpose, it seems to
23 me, of public exposure is to get the benefit of substantive
23 feedback. So I think we have to ask the question, what is the
25 most important step we can take in that direction within the

1 constraints that Commissioner Herz mentioned of time and
2 energy? But secondly, I think that we do need to recognize
3 that this product, if it is to have an impact is going to have to
4 be picked up by those with a keen interest in the outcome and
5 that certainly includes, in the first instance, the impacted
6 communities. But I think we also recognize that there's a
7 broader constituency that we hope to fire up. Including those
8 in other states, the Coastal States, and in Washington, D.C. I
9 would only put in a plea at this stage not to over commit
10 ourselves in any one direction until we think through the
11 entire strategy of publicizing this report. I think that its
12 exposure in some other coastal states would have enormous
13 payoff. I think its testing, in an informal way, in Washington,
14 D.C. with some key members of Congress would have a payoff.
15 I think we all realize that we're going to fold our tent the first
16 week in January and whatever's going to happen to that report
17 is going to depend on other people, who in a sense we have
18 already sensitized to the recommendations and in a sense,
19 hopefully, would have support. And I think we need to think
20 that through with a high degree of sophistication.

21 MR. PARKER: The Chairman's plan was to invite
22 congressional and legislative staff and their principals, if they
23 want to come, to the workshops in October and November,
23 some of which workshops may overlap Commission meetings
25 and some of which may not. Commissioners are obviously all

1 free to attend, their schedules permitting. I would also plan on
2 doing a Washington meeting designed to incorporate primarily
3 key staffers and the key elements of the administration in a
4 two or three day presentation of our recommendations,
5 sometime in December or after Congress re-convenes in
6 January, whichever is able to fit in. But it depends a lot on the
7 congressional schedule, when that would fit in. But I think that
8 is absolutely necessary to proceed on the basis that we are
9 going to do that.

10 MR. HERZ: Mr. Chairman, I'm confused. What are the
11 workshops you're talking about in October, 'cause we've.....

12 MR. PARKER: The ones we've been talking about since
13 we started where we said we were going to -- when our
14 consultants said their reports are finalized or near finalized.
15 And with our own work to have a series of workshops on key
16 elements of the reports, here in Anchorage, which would bring
17 those people together. And use that as our process of peer
18 review.

19 MR. WENK: Mr. Chairman, are we going to be ready to
20 have any such workshops. I don't know what the work -- we
21 don't have a work plan yet.

22 MR. HAVELOCK: You have ready with whatever you
23 have because that's the time you have allotted.

23 MR. HERZ: The reason I'm confused Mr. Chairman is I see
25 November 30th now being the report deadline for the

1 consultant's reports and I'm not clear on what the products -- I
2 guess I'm not clear on how these workshops would work and
3 I'd like to hear a little more 'cause I don't have a sense of what
4 they would be.

5 MR. SUND: Mr. Chairman, if I could offer my comments
6 here. What I see it as is it's almost like -- in late October, mid
7 to late October -- we've got a consultant report that's due in
8 first part of November. It does seem to make some sense to
9 me to get some kind of an interim report from the contractor of
10 where are they at in their status? What's going on? What did
11 they find out? If you're going to make any last minute changes
12 in the directions you want them to go, that's the time to do it.
13 And it also makes sense, maybe, if there is an opportunity to
14 bring some other people in to comment on that or just have a
15 workshop meeting of what's going on. They take that input,
16 whatever, and grind it into their final report that comes back.
17 So, I don't know -- conceptually, in my mind, it works. Maybe
18 I haven't pencilled it all out yet. Sometimes you've got to sit
19 down with these contractors and say, where are you guys at
20 and what are you doing.

21 MR. WENK: Mr. Chairman, I don't want to pursue this at
22 great length 'cause I see that this clock is running here this
23 morning. But I'm really concerned about our not having
23 discussed these workshops previously. The word's been
25 mentioned, but I haven't understood the content. I want to

1 come back to.....

2 MR. PARKER: Well, the Chairman hasn't developed an
3 agenda for them yet.

4 MR. WENK: But, these contracts are going to be awarded
5 until the first of September or thereabouts. There's a start up
6 time for all these contractors. They aren't just sitting around
7 waiting for that starting gun. I'm trying to put myself in their
8 position of the spot they'd be on if five or six weeks later
9 they're expected to have a draft report to expose publicly. I
10 think any responsible investigator is going to say, thanks very
11 much but no thanks. I don't think the kind of people we want
12 as contractors are going to be willing to climb out on a limb like
13 that. I think it's an embarrassment to ask them to do so. I'm
14 sorry to raise -- to seem to be negative.

15 MR. PARKER: What's your suggestion?

16 MR. WENK: Well, I guess I'm not clear about what the
17 purpose of the workshop is. If it is to get a critique of
18 contractor reports, then I think we ought to wait until a little
19 later date in order to get those critiques.

20 MR. PARKER: I think critique is the wrong word. It's not
21 a critique of reports, it's a workshop to bring the contractors
22 and key elements together in a peer review process to do
23 essentially that. To bounce the ideas off each other. I've done
23 this with contractors throughout this process in previous
25 elements. It's not my -- the way I use consultants is not to sit

1 back and hire somebody to go off and discover the world and
2 then come to dump a product before me and say here it is and
3 take it or leave it. If they want to work on this, they're going
4 to have to accept the fact that there's going to be a good deal of
5 give and take in the process. It has to be because of the
6 timeline we're on. We can't afford to take a chance on turning
7 any contractor loose for an extended period to return to us
8 with their particular view of the world.

9 MR. WENK: Mr. Chairman. I never heard anyone
10 propose that.

11 MR. WALLIS: Is this something we can put off until we
12 get an agenda developed?

13 MR. PARKER: Well, I think we have to discuss it at some
14 length, Tim, 'cause it -- you know, the agenda is not developing.
15 We keep coming back to work program, because the results of
16 all the individual efforts on work program don't seem to be
17 developing into a work program that is regarded as meeting
18 that definition. At this stage of the game I'm a little unclear as
19 to what exactly individual Commissioners mean by work
20 program.

21 MS. HAYES: Mr. Chairman, we could -- if you don't mind,
22 could we at least set the dates for December and then we could
23 continue with our discussion. But, we want to set a few
23 tentative dates for December for three days for our meeting
25 and I would appreciate just having that part of it thrown away.

1 MR. PARKER: You'll probably want to do it early in
2 December on the basis that they can be changed.
3 MR. WENK: 4, 5, and 6.
4 MR. PARKER: Sure.
5 MS. WUNNICKE: Wait, whoa.
6 MR. PARKER: Whoa. You're going to be in Sidney.
7 MS. WUNNICKE: I wish. It's a good time to be there. 4,
8 5, and 6?
9 MR. PARKER: Uh, hum.
10 MS. WUNNICKE: It's just I have a commitment, but it's
11 later in the day on the 5th. I can make it.
12 MR. SUND: If it makes any difference, the 6th is the last
13 day of December I'm in this country.
14 MS. WUNNICKE: Let's keep John here.
15 MR. PARKER: Where're you headed?
16 MR. SUND: New Zealand.
17 MR. PARKER: You hadn't heard. Kee lays an embargo to
18 all American visitations because of our nuclear stand.
19 MS. HAYES: Does that mean you're not available on the
20 sixth or that is the last day you're available on the sixth?
21 MS. WUNNICKE: He leaves through Anchorage.
22 MR. SUND: No, the sixth is probably the last day.
23 MS. HAYES: You can be here?
23 MR. SUND: I'm not sure.
25 MS. WUNNICKE: When will you be back.

1 MR. SUND: In January.

2 MS. WUNNICKE: I guess we'd better have the 4th, 5th,
3 and 6th.

4 MR. SUND: Well you don't have -- I'm.....

5 MS. WUNNICKE: We need you.

6 MR. SUND: I don't know, what day is the 6th, anyway. It
7 must be a Wednesday.

8 MS. WUNNICKE: Wednesday's the 6th.

9 MR. PARKER: Okay, that takes us up through December
10 and we will not plan, at this time, to meet again until after
11 Christmas.

12 MR. WALLIS: We're not going to spend New Year's Eve
13 together?

14 MR. WENK: My calendar ends there. I have a 1990
15 calendar over here.

16 MR. PARKER: Sure, January 1st, 2nd, and 3rd. We can all
17 get together for New Year's Eve in New Zealand. Incorporate
18 Commissioner Sund. No, I -- if we're going to make a report to
19 the Legislature on the 8th, why we either have to sign off at
20 the December meeting or get together for at least one day by
21 one means or another that first week in January.

22 MR. SUND: Mr. Chairman, I would think that some time
23 you would have to get together in January. We have to
23 incorporate any public comment that's going to come in
25 through December and to sign off and.....

1 MR. PARKER: Yeah, that's why we've got to get together
2 before the 8th.

3 MR. SUND:get the thing printed and then it takes
4 about a week to get the thing printed some place.

5 MR. PARKER: Shall we plan the 3rd, 4th, and 5th and
6 hope that.

7 MR. WALLIS: Can I ask a question? Doesn't the
8 Legislature start on the 3rd Monday.

9 MR. HAVELOCK: No, it's the second Monday.

10 MARILYN: They start on the 8th, January 8th is what
11 day they start this year.

12 MR. HAVELOCK: It's the third Monday when it's after an
13 election.

14 MR. WALLIS: I thought it was the second Monday after
15 an election and the third Monday in an off year.

16 MR. HAVELOCK: No, it's the other way around.

17 MR. PARKER: They established the January 8th date. I --
18 for instance in our enabling legislation, I don't particularly
19 regard it as a negotiating date.

20 MR. WALLIS: I wasn't looking to negotiate. I was just
21 wondering if there was going to be a Legislature there to report
22 to.

23 MR. PARKER: No, I don't -- I was just planning on
23 presenting the report to the Speaker and the President and the
25 Governor, not particularly in person, just getting it to them to

1 make the January 8th deadline. Obviously scheduling
2 something after they would get together and were organized to
3 the follow up.

4 MR. WENK: Mr. Chairman. I think Tim's quite right in
5 wanting to get on with some agenda items here, but just to
6 complete this colloquy that took place earlier. I want to
7 support your point completely about not turning a contractor
8 loose and ignoring what goes on until the products dumped in
9 their hands. My impression was that the whole concept of
10 process with subcommittees was that these contractors -- that
11 the key recommendations, first of all, to place a contract would
12 come from the different subcommittees. Second, that they
13 would play some monitoring role, on a continuous basis, with
14 some intimate interaction with them and review of the product
15 at different intervals. So, I just wanted to make it clear that
16 I'm completely in agreement. You don't just issue a contract
17 and walk away from it.

18 MR. PARKER: Yeah. Okay and I think some of these
19 contractors may have all the subcommittees to deal with at
20 some time in their process, depending on what route their
21 investigations take. Okay, are we ready to proceed to the
22 discussion of contracts and staffing? Just a general discussion,
23 no individuals please.

23 MR. SUND: Mr. Chairman could somebody -- there was
25 the one memo that was sent out with the, kind of an outline of

1 a budget. It's the request for statement qualifications.
2 MR. PARKER: This one.
3 MR. SUND: Yeah. Could somebody maybe just briefly go
4 through that and.....
5 MR. PARKER: Yeah. I was going to use that as our
6 discussion document. Please do. The Chairman needs a cup of
7 coffee too. Anybody else want one. Want me to bring you
8 back one?
9 MR. SUND: Okay, Ed, here's where we cut the mustard.
10 This is it?
11 MR. WENK: I'm not sure.
12 MR. SUND: Divide of money here?
13 MR. WENK: Okay, I see.
14 MS. WUNNICKE: I want the record to show that
15 democratic quality of this body. He serves coffee.
16 MR. HAVELOCK: Serves coffee to the female members.
17 MS. WUNNICKE: John, you just don't want to get up.
18 MR. PARKER: I've never been accused of that before.
19 Okay.
20 MR. WENK: Mr. Chairman, do you want any status report
21 on contracts.
22 MR. PARKER: Hmm?
23 MR. WENK: I wasn't sure where we were on the agenda.
23 Do you want any kind of a status report on the contracts that
25 have been approved?

1 MR. PARKER: Yeah. That would be helpful at this time.

2 MR. WENK: Very briefly, Mr. Chairman, since I had been
3 the one to recruit proposals from three individuals on which
4 positive action was taken, it was necessary as a matter of
5 record, as I recall, because of the process, to confirm that there
6 had been a consultation with other potential contractors. There
7 had been -- there's a record of that. I provided Marilyn with a
8 written record of those individuals. In each case with whom
9 that contact had been made. So I think all the background is
10 there to go ahead with the contract papers. Meanwhile, two of
11 the three, with informal notification and recognizing this
12 intense timeline of the Commission, have started work,
13 realizing they don't have a written contract yet. One of them is
14 Professor Lindstone who is up here now taking advantage of
15 observations yesterday that bear very significantly on his
16 study. The other, Professor Foote, has submitted a work plan
17 of her work, which just arrived by fax today and I passed it on
18 to Commissioner Herz because he's also been in touch with her.
19 She -- in both cases, they realize there is value in having
20 something in the hand of the Commission before that August
21 30th meeting because you're going to beginning to talk to some
22 of the higher level, policy level individuals for which the kind
23 of studies they're undertaking would be enormously valuable.
23 And that's the reason that they have started their work. These,
25 of course, are pretty small contracts. They're all under \$5,000.

1 I have not been in touch with Ms. Ram, she's out of town, but I
2 dropped her a brief note indicating some of the discussion that
3 took place here. My feeling is that these are going to be
4 productive of the kind of information that the investigators
5 propose to collect and provide to us.

6 MR. PARKER: Okay. Thank you Ed. Other comments on
7 the.....

8 MS. WUNNICKE: Mr. Chairman, with respect to contracts.
9 You were given authority by the full commission to advertise
10 for counsel. I would like to move that, incorporated in that
11 authority, was the authority to hire provisional counsel until
12 the process could be completed.

13 MR. WENK: I'll second that motion, if that would help
14 facilitate the process.

15 MR. PARKER: You've heard the motion. Any
16 disagreement. Anyone opposed. (No audible response.) Okay.
17 Thank you. The state requests for statements of qualifications
18 that was developed by our contract staff, who is really on loan
19 since the reimbursable services agreement for his services is
20 still being processed in the Department of Administration, but
21 nevertheless he was good enough to go out on somewhat of a
22 limb and work out the request for statements of qualifications,
23 working with the staff and myself to block out these areas
23 which were then faxed to you for your input. Hopefully, the
25 final copy before you reflects that input. The amounts

1 contained in these are merely an indication to respondents of
2 what might be possible and there is no guarantee on anyone's
3 part, including to Commissioners and subcommittee chairmen,
4 that this much money will be available to be spent until we
5 finalize our process of getting a supplemental appropriation. I
6 think I -- I'm not sure if I've spoken to all of you about this.
7 The last phone call I had from the Governor's office authorized
8 us to proceed in seeking a supplemental appropriation and to
9 work with Mr. Mar at the Department of Administration on
10 preparing to get that supplemental appropriation from the
11 Legislature. The amount approved tentatively in the
12 Governor's Office was \$765,000. Our number two budget, after
13 consulting with some of you, our feeling is that probably we
14 should ask the Governor's people again, or the Governor
15 himself, if he wouldn't feel more confident in us going for the
16 "C" budget, which includes those public hearings in December,
17 which are highly desired at least by certain elements of the
18 Administration and highly desired by several Commissioners.
19 So, that's where we stand on budget. Meanwhile, we have
20 authorization for limited competition for a total of \$300,000:
21 \$100,000 in administrative support services, and \$200,000 in
22 professional services. So that is the limit of our spending
23 authority right now. And we cannot exceed that until we have
23 a supplemental and also approval to go to limited competition.
25 That's our spending limits until we go through -- get our

1 supplemental budget and authorization for limited competition
2 again. Everybody clear on that. Okay. The -- you've already
3 done some prioritizing on professional services in legal counsel.
4 Motions have been made in the past for legal counsel and
5 writer. Do we also have a motion for hiring at least one
6 investigator?

7 MS. WUNNICKE: We did.

8 MR. PARKER: We did, so we have those.....

9 MS. WUNNICKE: Two investigators.

10 MR. PARKER: Two investigators, right. So we have
11 general authorization to go that far. The way in which hiring
12 will be done is that August 11th is the deadline for submitting
13 qualifications to the office here. After they're done we will do
14 an initial prioritization by a method not yet determined. Then
15 interview up to five finalists in each category, which is what
16 we advertised that we would do.

17 MR. HERZ: By what date will those interviews occur?

18 MR. PARKER: Beats me. As fast as we can do them.

19 MR. HERZ: That doesn't have to be published?

20 MR. PARKER: No. Dennis?

21 MR. DOOLEY: Correction. We -- on the advertisement we
22 did not set a limit for the numbers of interviews nor anything
23 else. You could refine your list of submitters to five. You can
23 keep the list to a greater number than that if you wanted those
25 resources available on an on-call basis. In the advertisement

1 itself, it does not speak to how it's going to -- the list will be
2 refined. So you're not bound by some magic number that you
3 have to pull down to five. You may get 10 very well qualified
4 individuals, the way it's written and three of those may come
5 from one firm. So you may, in your deliberations, view that as
6 a single group, actually be three in a team. But this was
7 written specifically for individuals to respond. You may have
8 some areas that you may want a longer list than five.

9 MR. PARKER: Why does Jerry Hammel keeping harping
10 on five to me?

11 MR. DOOLEY: He's offering -- because they think in some
12 areas here you may get a whole list. You may end up with 40
13 or 50 people responding in specific area and it was to reduce
14 that number.

15 MR. PARKER: Okay.

16 MR. WENK: Mr. Chairman?

17 MR. PARKER: Ed.

18 MR. WENK: Question. Would it be correct to assume that
19 the dollars in the announcement are maximum? That you
20 might negotiate a much smaller contract. Is it also correct that
21 within each of those categories -- not where you're talking
22 about -- alright let's say within each category that there may
23 be two or three smaller contracts, the total not to exceed the
23 amount in the announcements.

25 MR. PARKER: I think that's accurate, yeah. The amount

1 could be exceeded. The advertising at this amount is merely an
2 indication. It doesn't indicate that we couldn't spend more in
3 each of those particular areas if we had it and it was necessary.
4 But this is just a general structuring of what our best guess at
5 the moment is of what we need to do.

6 MR. HERZ: But you said something -- what was the total
7 figure that you mentioned?

8 MS. WUNNICKE: \$300,000.

9 MR. HERZ: Because the total that I see here.....

10 MR. PARKER: This total has nothing to do with that
11 amount. This total, on the advice of our contracts officer, was
12 that we should advertise this way now so that we don't have to
13 go off and advertise again if we get more money, if we get our
14 supplemental appropriation, which undoubtedly we will get.
15 Don't say that Parker, you know better than that. I take that
16 back.

17 MR. DOOLEY: This specific language that describes your
18 amounts in the advertisement is in the last sentence of the
19 very first paragraph. "The amount shown for each category is
20 estimated and may be greater or substantially less depending
21 on development of specific scopes of work and the availability
22 of funding." So that gives you your latitude in all directions.

23 MR. PARKER: So, we've got those four positions. Now,
23 beginning with the Prevention Subcommittee because
25 prevention is our first priority as we announced at our first

1 meeting on June 6th. Mr. Subcommittee Prevention Chairman,
2 do you have any comments you want to make on any of these
3 contracts?

4 MR. SUND: How much money do I have to spend?

5 (Tape Changed)

6 (Tape Number 89-08-04-2A)

7 MR. PARKER: Well, I'd say spend -- report on what you
8 contemplate you -- contemplate spending and we'll adjust to
9 that. All of these until we get a supplemental budget will be
10 cut back.

11 MR. SUND: Mr. Chairman. Maybe I could start out like
12 this. That's a very excellent response by the Chairman. It's not
13 a response response to back to me. I kind of look at it as I
14 think I need one full time person in Anchorage and I don't
15 know whether its staff or contract, to relate between myself to
16 the committee and whomever else we're going to have working
17 on specific projects. It is not possible for me to deal with the
18 contractors individually on a day to day basis. I don't know if
19 we've talked about how to staff this from a perspective here.
20 But if we're going to do it from a prevention, response,
21 institutions point, I think there needs to be at least three
22 people in this office, one of each has that as their primary
23 objective to deal in those three areas. They may have
23 secondary duties to perform, but that would be the primary
25 and I would think a fairly qualified person that could also do

1 some of the work that's necessary. It seems that a lot of what's
2 happening out there -- there's a lot of stuff going on and a lot
3 of this position I think is literature search and just activity
4 search and just tracking what a lot of people are doing. I'll give
5 an instance I learned last night. I assume that's public. Can I
6 tell them -- did you get that report from Mike or....

7 MARILYN: Yeah.

8 MR. SUND: There's a House Research Agency report on
9 the age and history of the tankers in the Valdez tanker trade.
10 It's something we've been talking about having done. It's
11 already been done by one of our state research agencies and
12 we'll get access to that. I think Ed's brought up numerous
13 other issues and it seems like a lot of these things are being
14 performed. So I think it takes a person here to be able to track
15 that and also any specific contract that we let, to deal with that
16 contractor. I don't know how the rest of the Commission feels
17 about setting this office up that way.

18 MR. PARKER: I would be interested in hearing other
19 Commissioners' perceptions of that.

20 MR. SUND: The other comment I had is on your budget
21 proposal. If we're under Option II, the significant differences
22 between II and III have to do with the amount of money that's
23 allocated for the three various committees. It's virtually 50%
23 so I assume we're operating under III.

25 MR. PARKER: I think the allocation was more by task

1 than committee and if the task fits within the committee, it
2 goes within that particular committee. But, there are some of
3 these with -- that would have a general application in all
4 committees.

5 MR. SUND: Okay. My third comment is that I do not
6 have any specific degree of experience in this area and
7 therefore I bring no contractor to this table to make proposals
8 that they be hired. So I'm probably a little bit behind the ball
9 on what some of the other Commissioners bring to the table in
10 terms of experience and access to the great world out there,
11 people who know about these things. So, I do not have a
12 specific number and I do not have any specific contractors in
13 mind.

14 MR. PARKER: Okay. Meg.

15 MS. HAYES: I feel similar to John. I feel that I have --
16 that the subcommittee have a full time employee or a contract
17 employee with regard to response that would be available in
18 the office to work on, not only a specific project, but also be
19 working for the subcommittee as a whole in keeping the
20 contracts rolling. And keeping an eye out for, not only work
21 that has already been published, but new work that is being
22 done that would be of assistance to us. I have found several
23 contractors that are interested and have encouraged them to
23 submit letters and respond to the advertisement. In fact,
25 Marilyn has talked to some of them already. That's generally

1 where we are.

2 MR. PARKER: Is the primary focus, as you see it, of the
3 help you need on contingency planning, on community impact,
4 or both?

5 MS. HAYES: I think the community impact is the project
6 that would most easily lend itself towards having an employee
7 in the office the majority of the time. But, having spoken to
8 several people that are interested in responding to all three of
9 the contracts, I think that the responsive committee has
10 proposed. I think that I'd deFer -- wait until we had
11 interviewed the particular contractors to see which one was the
12 most easily worked into a contract position, employment
13 position. Mike, did you have anything you wanted to add?

14 MR. HERZ: No, except I have this concern that's
15 consistent with what Ed mentioned earlier about the the task
16 orientation. I feel as if we have described or outlined pieces of
17 research that we are going to contract to have done. But, my
18 sense of frustration is I feel as if we need a road map and a
19 destination. Maybe the destination is the first thing that we
20 need to define and then work back to create the road map. I
21 don't have a sense in my mind of what the product -- what our
22 report is going to look like and I would like to start getting a
23 sense of what that report is going to be, and a table of contents.
23 Because that, it seems to me, is going to help us thread together
25 all these discord pieces that, in my mind now, are just that.

1 They're separate, unconnected pieces and I don't yet see the
2 fabric that they are going to weave. I would like to be able to
3 leave here today with some sense of what that fabric is going
4 to look like.

5 MR. PARKER: There is a field of analysis which says that
6 the worst thing you can do is to write table of contents before
7 hand, thereby pre-judging the final report.

8 MR. SUND: I think Tim published a table of contents.
9 Was it last meeting?

10 MR. WALLIS: I didn't pre-judge it.

11 MR. WENK: Mr. Chairman, just to underscore what
12 Commissioner Herz has said. I think in talking to our potential
13 contractors we have already had questions asked of us, what is
14 the Commission up to. It's rather awkward to produce a letter
15 that only one Commissioner has written because that doesn't
16 represent a Commission point of view. But that July 19th letter
17 is the only thing that we've been able to -- Mike and I have
18 been able to provide people in terms of explaining what indeed
19 we are up to. I think if we're going to go ahead with these
20 contracts, which I think all of us want to do expeditiously, that
21 we should anticipate every single one of them wanting this
22 road map that Commissioner Herz mentioned and I would urge
23 us to try to make sure our time today permits us to address
23 this. We may reject any and all possibilities, but I think from
25 the point of view of the importance of what we're doing while

1 we're in a plunnery session, this, I would suggest, is a priority
2 item.

3 MS. WUNNICKE: Mr. Chairman. I'd like for us to respond
4 in terms of the working group on organizations. As its
5 statement of purpose is now stated, it encompasses what
6 Commissioner Wenk has spoken of as a fourth subcommittee.
7 But leaving that aside for the moment, as it encompasses all
8 aspects of organizations and as we anticipated the budget when
9 that working group first reported, under the "B" budget, I
10 believe that a good product could be obtained and the work
11 done if we could have, again as the other subcommittee
12 chairmen have spoken, a person within the office devoted full
13 time to this activity. To that extent, the governmental
14 coordinator has been functioning in that role. And the use of
15 one or two investigators. Like Commissioner Sund and
16 Commissioner Hayes, I have no candidates to offer, but would
17 certainly want to participate in the choice of investigators
18 when that part of our request for proposals is responded to.
19 Now, if I may, Mr. Chairman, I'd like to speak to what
20 Commissioner Herz is saying and Commissioner Wenk is saying
21 with respect to the road map and the work plan. I do believe,
22 although it's not in a single document, that we do have such a
23 road map before us and we do have a work plan. Admittedly,
23 it does not have every "t" crossed and every "i" dotted, but this
25 is a movable feast, I think. As we learn more, we have to

1 continually refine our goals and our objectives. I think
2 Commissioner Sund's memorandum of July 18th with respect to
3 the goals of the Commission is an excellent statement of the
4 goals of the Commission. I think Commissioner Wenk's
5 memorandum, with respect to work plan outline, of June 29th
6 is an excellent of a work program. Those two documents, taken
7 together with the reports of the three working groups and the
8 staff's collection of these in a document called "Goals of the
9 Commission" with the key questions listed under it. I think all
10 those documents, taken together, really constitute, as we know
11 it today, the work plan of this Commission. So I think we're not
12 flying blind and I don't think that we are without the kind of
13 guidance that you're seeking. But I think you have to see all of
14 this together and maybe it doesn't all come from a single
15 source or a single Commissioner or have been subjected to a
16 majority vote. But I do think we have the makings, if you will,
17 of our work plan.

18 MR. PARKER: Any further comment on that?
19 Commissioner Wunnicke has carefully defined the Chairman's
20 problem with work program. We have had many floating
21 around, but every time the staff has submitted one it has been
22 rejected as not being a work program. So, I would leave it at
23 that and if any Commissioners want to take action on work
23 program at this time, the Chair is receptive.

25 MR. SUND: Mr. Chairman, I have two things. One, the

1 five basic goals of the Commission as I see them: to record
2 what happened; to inform people of the degree of risk that
3 they're exposed to; to recommend strategies to prevent an
4 accident from occurring; to recommend strategies for
5 improving the response; and to recommend ways and means to
6 reduce exposure to risk. That might be a little of a redundant
7 factor. I see that as a major goal. Now within -- to record what
8 happened and possibly why. That doesn't fall within any of the
9 three subcommittees that we have performed. And I think
10 that may be what Ed's talking about the problem of function
11 and form here. That the form that we may decide to go
12 through with these subcommittees doesn't produce what we
13 need in the end result. And I'm not that concerned about it. I
14 think the end product will, as we go through this, will lead to
15 however the report is developed in the future and arguing
16 about the table of contents at this point -- I don't know that
17 that is a good thing to do. It's good to know where you're
18 going, but how we write the information or how the writers or
19 consultants come up with a way -- how best to present it, I
20 think, is left for the future. In the sense of taking if from the
21 how do you prevent this thing -- recommended strategies to
22 prevent an accident from occurring again. You have to go
23 through several steps to get there. One, you've got to know
23 what's going on now. I presented an outline of tanker -- how I
25 would propose it. I mean, you've got the physical equipment.

1 We need to look at what that is, and however we get to that.
2 You've got to know how their manning -- what the manning
3 practices are, not only of Exxon, but of all the shippers. What
4 their training programs are. We need to know what the charts
5 and graphs and the oceanographic currents -- whatever the
6 vessel traffic systems. And as we learned yesterday, weather
7 seems to be a major factor, major concern to these shippers, of
8 what the Alaska weather is. And the other half of preventing
9 that is how, in a common property ownership world, do we do
10 it. We do it through a regulatory body, so there's also an
11 investigation of what happened to the regulatory agencies and
12 what is their role that is played and how do they play. And
13 that's the question the Chairman and Ed asked from Amy Carl
14 yesterday, a history of DEC's budget and what's happened to it
15 over the last 10 or 12 years and how much impact do they
16 have on regulating and overseeing tanker safety. They're
17 proposing in their language they're now in the preventative
18 world. I don't know that they've ever been there before and
19 I'm not sure anybody in the state, other than whoever
20 regulates those pilots, is there. You've got the Coast Guard's
21 ongoing issue of where their budget's gone and Admiral
22 Robbins has been very, very forthright and very candid about
23 the fact that he feels the role of the Coast Guard has been
23 drastically changed in the last 10 years. And that the role that
25 they've played in tanker safety, tanker inspections, and

1 manning and crewing has been diverted drastically into drug
2 interdiction. It's a hot political potato on the East Coast, but I
3 think we felt the brunt of it. And so I think there's a role to go
4 there. And then there's the how did the -- what's the reaction
5 of the industry in terms of how they've treated the
6 preventative think. What've they done with their budgets. We
7 know what Alyeska did with their response budget. They
8 eliminated it. But the whole thing that the Chairman's brought
9 up time and again on manning and crewing and issues Ed
10 brought up of the interaction of technology to human factors on
11 the bridge. Does more equipment lead to safer practices or not
12 safer practices? So I feel -- I've outlined a work program. I've
13 outlined an agenda to get there. Now, I don't know who those
14 contractors are. I do know that physically for me to relate with
15 this, I need a full time person that I can talk to and who can
16 carry out and I can interact to. I do know that it's going to take
17 some contractors -- I haven't specified down to a goal
18 statement of what contractor there is. I need to work on that
19 with somebody, but I can't do it myself. So I think, if you want
20 a work plan from the preventative -- how to approach
21 preventative side, that's where I'm going. I guess when we sit
22 down to outline what areas we do this, if you tell me I've got
23 \$100,000 I'll come out with one set of proposals for contract. If
23 you tell me I've got \$50,000 I'll come out with a different set of
25 proposals for contract and we'll try to narrow that down and

1 use what is in existing literature at this time. I hope to get that
2 done in the next -- I guess we've got a deadline, August 11th
3 or something we need to have this nailed out. Now, how you
4 get to the other two factors that I think are very important --
5 what degree of risk are we exposed to and how do we reduce
6 those degrees of risk is not in this work plan? This is a part of
7 it. How do you prevent accidents is how you reduce your risks.
8 But it's not titled that. I've harped through the meetings, as I
9 did yesterday, if you can't clean up oil in the middle of the
10 winter time, maybe you ought to have smaller tankers so we
11 don't have such a high degree of risk to be exposed to. May not
12 get to that goal, but maybe we can prevent 500,000 dead
13 weight ton tankers from arriving in Valdez in the future. That
14 would be a reduction of future risk exposure. So I haven't
15 figure exactly how to relate all this data into these goals, but
16 mentally I think there's a way to do it. So I'll charge down this
17 track and you've asked me a very honest question. How much
18 money do I need to get this done? I don't have an answer to
19 that and I say, what's my sideboard? Right?

20 MR. WALKER: Yep. I think you have defined the
21 prevention work program as I have understood it and as we've
22 used it in developing the proposed limited competition
23 requests and the -- we'll go as far as we can with the resources
23 we have available and in those areas that -- as the areas grow
25 somewhat more esoteric and less able to define I don't see how

1 we can cross those particular bridges until we come to them.

2 MR. SUND: I guess, proceeding under some tentative
3 agreement we've made, Mr. Chairman, as a prior commission to
4 allow all Commissioners to make a comment upon where we're
5 all going so it somewhat fits. So I'm prepared to take those
6 comments at this time and try to refine this plan, if we want to
7 just stick with one aspect of the discussion here. I'm also open
8 to re-defining what a work plan is. If it needs to be written in a
9 different manner, I'm more than adaptable to doing that.

10 MR. WENK: Mr. Chairman, just to advance this
11 discussion, I want to make sure what agenda item we're on.
12 We're still talking about the contracts? Because I do want to
13 try to get us to another agenda item that keeps coming up and
14 it has to do with the work plan, but I do not want to do it out of
15 order. With regard to contracts, the only item that I would
16 like to make sure I understand correctly is that once the
17 proposals are in that they -- and are reviewed and I assume by
18 some process we haven't defined yet, but I don't think we need
19 to on the spot. That all of the proposals and the
20 recommendations for awards will be made known, for all of the
21 contracts, will be made known to all of the Commissioners in
22 advance.

23 MS. WUNNICKE: Mr. Chairman, I think we do need to
23 discuss our procedures as to selection of the contractors. I
25 think what Commissioner Wenk is proposing might be almost

1 impossible to accomplish, but let's talk about that.

2 MR. SUND: Mr. Chairman, it's very simple. It's a
3 teleconference item. In the timeline that's laid out, we're not
4 going to be back in another meeting before the end of August.
5 These decisions are going to be made before then. It's, to me, a
6 fairly simple item that when you get them nailed down and the
7 Chairman has enough proposed contracts on the table they're
8 be DHLed out to all of us and you schedule a teleconference and
9 we sit down and go over them.

10 MR. HERZ: It seems to me this breaks down that the way
11 the tasks, or the descriptions we've published, evolved was
12 that they came from each of the task groups. Therefore, it
13 seems to me that what we should do is give the responsibility
14 to each task group. But that should be understood by the
15 members of that task group what the procedure is. My
16 suggestion would be that some screening get done here by
17 staff, but that the finalist, I don't know whether it's three or
18 five, their qualifications get sent out. The thing that I'm not
19 quite clear on in terms of procedures is that what we're
20 publishing and what we had talked about are descriptions of
21 qualifications. In some cases we have pre-defined a product
22 and others we don't really have that product. So we're going to
23 be hiring some apples and some cocker spaniels and the
23 procedures need to be clarified for these two different
25 categories is all I'm suggesting.

1 MS. WUNNICKE: Mr. Chairman, my only comment would
2 be, and if I'm hearing Ed correctly, would be that I would not
3 be a very good judge of experts with respect to tanker safety
4 or VTS systems. So, I don't know that all Commissioners need
5 to sign off on all contractors, I guess is my point.

6 MR. WENK: That was not.....

7 MS. WUNNICKE: Okay, maybe I misunderstood you.

8 MR. WENK: First of all, I agree with Commissioner Herz
9 that the subcommittees really make the first cut. All I was
10 suggesting was two steps. Number one that copies of all the
11 proposals, whatever form they're in, be made available to all
12 Commissioners and secondly that the recommendations for
13 adoption by, presumably, these subcommittees be made to all
14 Commissioners. Now I've anticipated a third step, based on this
15 printed schedule that was provided us earlier, that on August
16 30th, the contractors would be chosen. In other words, I had
17 not anticipated that teleconference so much as the assumption
18 that, with all the materials in hand, that at the August 30th
19 meeting, indeed as stated here and I assume Mr. Chairman that
20 this was with your approval, that the final awards would be
21 made.

22 MR. PARKER: I wasn't planning on waiting that long. No.

23 MR. WENK: Well, what is the significance of this item.

23 MR. PARKER: Which item?

25 MR. SUND: Oh, it's just printed on the timeline. I think

1 that's kind of the.....

2 MS. HAYES: Does it say that they all would be?

3 MR. SUND: It's there, I guess if you want to say August
4 30th.

5 MR. PARKER: That's quite a timeline, but it was not my
6 intention to wait any longer than necessary to put contractors
7 to work. I see nothing to be gained by waiting till the next
8 Commission meeting. And regarding sending out all proposals,
9 when we advertised for one job we got 250 responses and now
10 we are advertising for -- one, two, three, eight, about 15, so
11 you know, we may well get a thousand proposals back.

12 MR. WENK: Let me amend that then. That would be a
13 burden for everybody, even DHL would wonder about the
14 volume. Let me amend that to say simply the short list -- I'm
15 sure there will be some short list for each of these. And that
16 the copies of the short list be provided all Commissioners,
17 together with the recommendations for award, presumably
18 with some rationale for that selection.

19 MR. HERZ: Mr. Chairman, I'm still unclear because I still
20 see these two different categories of tasks. For example, on the
21 one hand we have sort of been trolling for some reports that
22 are going to be valuable to us without really being clear on
23 what they're going to be. We're identifying people who have
23 already some expertise, such as Ed has done and having them
25 prepare something. On the other hand, I'm thinking from the

1 perspective of the response group, that we have a couple of
2 specific tasks -- at least two that I can think of off the top of
3 my head. One is the risk assessment task and the second one is
4 the contingency planning task.

5 MR. PARKER: Would you define the risk assessment task
6 please.

7 MR. HERZ: Risk assessment task is very similar to what I
8 sent out and I think distributed before the last meeting. But as
9 I envision it, it is a report that takes a number of different
10 scenarios which we -- either we can choose or we can choose in
11 concert with the person who's going to carry out the study,
12 which will be two tankers colliding, a tanker grounding, a
13 terminal accident including a tanker accident and a terminal
14 accident, whatever we decide. The probability of those
15 occurring, number one, number two, potential environmental
16 impacts and social impacts, if we want to include them, each of
17 those scenarios occurring. And then, on of the more important
18 parts in my mind, is a set of -- having those risks defined and
19 what the impact would be and then coming up with a set of
20 improvements and looking at the degree to which those
21 improvements would mitigate the impacts of.....

22 MR. WENK: Reduce risk.

23 MR. HERZ:Reduce risk, yeah.

23 MR. PARKER: Okay, now in your risk assessment, the
25 way in which, at least in the last 15 years, such risk

1 assessments have been accomplished in the marine
2 environments as I see them, is by the use of the simulators,
3 either by the Coast Guard's, Master Mates and Pilots, and so
4 forth. Are you looking at a simulated environment to do this
5 risk assessment at or just kind of going.....

6 MR. HERZ: I'm using as a model the report I think that
7 you've reviewed that I sent that was done for Santa Barbara
8 County in California, where the risk analyst had a number of
9 people who were familiar with the area involved and familiar
10 with the currents and winds and weather conditions, estimate
11 what the impacts would be from these various scenarios. And
12 then subsequently estimate the degree to which there would
13 be a reduction in risk produced by these various add ons.

14 MR. PARKER: Yeah, well, Ed.

15 MR. WENK; Mr. Chairman, could I just add a footnote.
16 The Commissioner has a -- each Commissioner and I think on
17 file here too is a copy of a study that was done on risk
18 production in maritime transportation in Puget Sound. It is not
19 necessarily the model to be followed here, but it, coupled with
20 the study of Santa Barbara, I think, suggests the kind of
21 analysis that could be performed. Let me be specific. One of
22 the key questions in terms of what is the state of safety of the
23 system at the present time, depends on collecting data on past
23 casualties or close encounters. That was done with U.S. Coast
25 Guard records for Puget Sound and also Canadian Coast Guard

1 records for five years. The same thing can be done on the
2 whole safety record of ships coming in and out of Valdez.
3 That's a beginning. How unsafe is the system? How close to
4 hazard is it? We know there've been some incidents, Prince
5 William Sound being loose out there for quite a few hours and
6 darn close to a record. We just had another one, you
7 mentioned yourself, Mr. Chairman. That's the kind of thing, I
8 believe, that would go into a risk assessment

9 MR. PARKER: Okay.

10 MR. HERZ: But, my point was we've got these two
11 specific tasks.

12 MR. PARKER: What's the other one?

13 MR. HERZ: The other one -- an example of another is the
14 contingency plan evaluation which we -- I don't think we have
15 a scope that's narrowed down and well defined, but
16 nonetheless it's a task that we're pretty clear we need to have
17 done. On the other hand, there are the advantages.....

18 MR. PARKER: When you say the contingency plan
19 evaluation, you're thinking in terms of overall analysis of --
20 I'm just trying to relate for the benefit as we get into this in
21 the future, how you see this contingency plan analysis relating
22 to what we're going to get out of the GAO report and what DOT
23 will hopefully be able to furnish us as their contingency plan
23 analysis goes forward. 'Cause you know -- I agree with you. It
25 needs to be done. It's just a matter of how?

1 MR. HERZ: It seems to me that that's the discretion of
2 this response task group to define what that work in going to
3 be. We will be going through the kind of thing that you're
4 talking about and looking at what available information there
5 is out there. We just go the new Alyeska terminal contingency
6 plan, which nobody's looked at in any detail so somebody's
7 going to have to look at that. But, my point is that on the one
8 hand we've got specific tasks and on the other hand we've got
9 people and we want to know whether they have the analytic
10 capability to do the kind of work that we need to get done. I
11 was not clear on whether we were going to have two separate
12 kinds of procedures for those two different things or how we
13 were going to move forward to make these hires or let these
14 contracts.

15 MR. PARKER: OKAY.

16 MR. WALLIS: Mr. Chairman, we're getting kind of short.
17 Could we go into a brief Executive Session.

18 MR. PARKER: Yeah, if we're going to make any decisions
19 this morning on the rest of this, we're going to have to do it
20 now. The.....

21 MR. SUND: Do you want to do that Mr. Chairman?

22 MR. PARKER: Well, we've covered everything except the
23 format of the final report and recommendations. I think we
23 got some sense of that from the previous discussion. I thought
25 we were going to cover item number six.

1 MR. WALLIS: Some of the things I wanted to discuss in
2 Executive Session in dealing with personalities might have a
3 bearing on what our decision is also.

4 MR. PARKER: Okay. Is there any objection to that.

5 MR. SUND: Just formally, I just move that we go into
6 Executive Session to discuss individual people and
7 personalities.

8 MS. WUNNICKE: Second the motion.

9 MR. PARKER: Moved and seconded that we go into
10 Executive Session. Any opposition to that? (No audible
11 response.) Hearing none, we are going into Executive Session.
12 What's the rule on taping Executive Sessions?

13 MR. WENK: You don't.

14 (Off the Record)

15 (Executive Session)

16 (On the Record)

17 MS. WUNNICKE: The Alaska Oil Spill Commission will
18 come to order. The Chairman may be delayed, but we're going
19 to proceed. He will arrive later. First of all I'd like to thank
20 Mike Smith from the Oil Spill Response Team at Chugach Alaska
21 Corporation for giving us some maps that we had requested.
22 This afternoon, the first thing on the agenda is Mr. Erv Martin,
23 who is the Director of the Alaska Division of Emergency
23 Services. So, Erv, if you'd like to join us at the table. I believe
25 you know all the members of the Commission.

1 MR. MARTIN: No, I don't think I do.

2 MS. WUNNICKE: Oh. Mr. Wenk, and Commissioner Sund,
3 Commissioner Hayes, then Commissioner Herz. Okay. And
4 we're missing Commissioner Wallis and the Chairman.

5 MR. DOOLEY: Commissioner Wunnicke. There's going to
6 be a third participant today from the BLM National Instant
7 Team. And because of problems outside, both of those
8 individuals -- the first person that is stand by have both been
9 on duty outside, so they won't be able to make it this
10 afternoon.

11 MS. WUNNICKE: Alright, Mr. LaPorte is in the audience,
12 so it may be that we can accelerate that part of the agenda,
13 which I know the chair would welcome additional time for, for
14 Commission discussion. So thank you Dennis. But let's do set
15 that down for a further agenda because we want to hear from
16 the Incident Response Team. Okay, Mr. Martin if you will, give
17 us your report on the participation of the Office of Emergency
18 Services and, if you will, its relationship to the Alaska National
19 Guard and their participation in the aftermath of the Exxon
20 Valdez Spill.

21 MR. MARTIN: Organizationally, I am a division under the
22 Department of Military and Veteran's Affairs and my
23 Commissioner is the Adjunct General for the National Guard.
23 For declared disaster emergencies, we are the lead coordinator,
25 both vertically from local, state and federal agencies, but also

1 horizontally across the spectrum because there's -- regardless,
2 the same (indiscernible) apply, whatever they may be, except
3 for oil spills. The statute reads that -- and I have copies of it if
4 you want to see it. But the statute reads that DEC shall perform
5 the duties of the Division of Emergency Services and that they
6 shall consult and coordinate with the Division of Emergency
7 Services. If I can draw a parallel, I am not an oil spill
8 responder, nor am I a wild land fire fighter. As you know with
9 the Division of Forestry and the Department of Natural
10 Resources and BLM, they fight fires. But if it threatens a
11 community, they notify us and then we come in and we
12 augment and support them by coordinating the evacuation, the
13 shelter, the feeding the law enforcement, search and rescue,
14 those types of functions, so as not to detract from the lead
15 agency's primary mission of fighting the fire. Except, under oil
16 spill, the legislation says that DEC not only is the technical
17 expert and the lead response agency, but they are also
18 supposed to coordinate the other functions. We became aware
19 of the oil spill on Friday morning, the 24th. We dispatched the
20 regional emergency management officer to.....

21 MR. HERZ: Can I ask you, when you found out and by
22 whom you were notified?

23 MR. MARTIN: My chief of operations heard it on the
23 radio driving to work and decided to send somebody to Valdez.

25 MR. HERZ: But, you're not part of the usual notification

1 procedure for -- in the first line of notification from Alyeska or
2 through any other notification system?

3 MR. MARTIN: Not to my knowledge.

4 MR. HERZ: Thank you.

5 MR. MARTIN: So, we sent the regional emergency
6 management officer to Valdez to get a feel of our potential
7 involvement on this thing and he drove down and said he was
8 going to need some help. Primarily, there was a lack of
9 communication throughout Prince William Sound and there was
10 extensive restriction on the number of telephones and land
11 lines within Valdez. So we sent down our emergency
12 management specialist for communications and he brought in
13 the Division of Telecommunications. And that was also on the
14 first day. As we got into it, by the second and the third day,
15 the Mayor of Valdez had declared a disaster and had petitioned
16 the Governor for relief. The Governor called our office and
17 asked us if there was any restrictions or prohibitions from us
18 doing a disaster declaration for the state. There was no
19 prohibition. It was in our best interest to support the local
20 community, so we drafted a declaration for the Governor's
21 signature and we petitioned the President for relief under the
22 Stafford Act for a federal coordinator. Eventually, the federal
23 government and the President denied us because it didn't fall
23 under the defined categories of disasters in oil spill. So, we
25 didn't get any direct funding from the federal government to

1 pass on to the local governments.

2 MS. WUNNICKE: Can you describe what the defined
3 category for disaster is. Why this kind of an oil spill didn't fall
4 within.....

5 MR. MARTIN; At the federal level, under the Federal
6 Emergency Management Agency, it's defined to civil defense or
7 war related or natural disasters like earthquakes, fires, things
8 like that. It doesn't go into the technological answers.

9 MR. WENK: Thank you. Are you going to -- I didn't
10 know whether you were going to continue to give us the
11 account, the saga of your involvement or were we going to
12 question? I was hoping you'd keep on telling us what
13 happened.

14 MS. HAYES: Mr. Martin, we'd like to hear the whole
15 story.

16 MR. WENK: Yeah. Right.

17 MR. MARTIN: Well, it became obvious that we needed to
18 augment the Department of Environmental Conservation
19 because of our experience on the disasters. We had just been
20 through the worst cold spell in ten years and we got into the oil
21 spill and we went into the flood season, which was the worst in
22 25 years. And so, my people are comfortable with
23 coordinating. We needed a conduit of representation in the
23 local communities and so we had to establish offices at the
25 levels not only to receive information, but also to receive their

1 requests for direct assistance. By that I mean the crisis
2 counselling, child care, and attempting to address the logistical
3 services that were being required, because the Coast Guard's
4 priorities were different than the state's perspectives. The
5 Coast Guard was trying to salvage a ship and keep it from
6 sinking and we were trying to protect the hatcheries and do
7 what we could for the acquisition and the transport of boom
8 material. On scene in Valdez, the commercial aviation assets
9 were bidden off by Exxon and were not available to us. And so,
10 I asked General Schaffer and he activated the National Guard
11 and we had the Air National guard for long haul transport of
12 boom material and we used commercial assets to transport
13 boom material not only within the state, but also from Boston
14 and Florida and Alabama and Texas.

15 (Tape Changed)

16 (Tape 89-08-04-2B)

17 MR. HERZ: As you go through this can you give us times
18 or days. In other words, when was the National Guard
19 activated? When did your activities result in getting boom
20 material up here. Just so we get a sense of what the timeline is
21 you're talking about as you go through.

22 MR. MARTIN: Well, the National Guard was activated on
23 -- we gave them heads up on Saturday, the 25th because when
23 the Governor inquired about drafting a disaster declaration,
25 then they become a resource for us to draw on. They were

1 formally activated on Sunday, the 26th. They started
2 establishing transportation between Anchorage and Valdez and
3 I think their first Air Guard flight was bringing down boom
4 material from Prudhoe Bay.

5 MR. PARKER: Is there anything in the federal disaster
6 legislation that would have got around the problem of the
7 preemption of commercial aviation facility, preemption of
8 communication facilities and so forth that was, occasion to
9 people just moving in and sewing them up? It's a real problem
10 that's occurred before in different situations where in an area
11 where communication facilities are always going to be sparse
12 because the population's too light to support an extensive one.
13 If you have a problem if a private entity moves in and leases
14 all the lines that are available, why then we've been left
15 hanging out to dry a few times before in a similar situation. I
16 was just wondering if the Congress had done anything to sew
17 that up so that life support facilities would not be preempted
18 by private leasing in a disaster.

19 MR. MARTIN: Under the Alaska Statute 2623, the
20 Disaster Act, we are authorized to acquire private assets, but
21 we must reimburse them. We respond before the feds ever
22 come in because they have to do an assessment to see if it's
23 justified and by then we're off and rolling. The Congressional
23 Federal Register which defines the regional response teams,
25 which is made up of fourteen federal agents and a single state

1 chair. I think in California the state chair is jointly and
2 cooperatively occupied by emergency services and their Fish
3 and Game for water resources. In Texas I think it's by -- it's
4 also jointly and cooperatively occupied. Here in Alaska, the DEC
5 occupies the state chair and we are not a formal member -- a
6 recommendation that I've made to the Governor is that we
7 either be designated the alternate official member or we
8 cooperatively and jointly occupy that chair. But a decision has
9 not been made -- I don't know what the resolution in that
10 regard would be, but the purpose of the RRT is to coordinate
11 the planning, the training and the facilitation of those services
12 and the on-scene command, if you read it, is interpreted to
13 have that authority to do that. We were not invited and so
14 therefore we didn't participate in what the RRT was negotiating
15 or discussing.

16 MR. PARKER: Why don't you keep on with your account.

17 MR. MARTIN: Anyway, the -- we felt that the human
18 welfare issues needed to be addressed because of the
19 uncertainty of the people, the fisherman, the private
20 entrepreneurs in Cordova. We brought in a psychologist who
21 was referred to us by John Hopkins University for catastrophic
22 events because we didn't have anything on the shelf that we
23 could employ and so we kind of hit the field running and
23 asking local governments what did they need right now, up
25 front, to address the psychological impacts to alleviate the fear

1 that some provision would be provided for to protect them so
2 that they wouldn't go bankrupt or they wouldn't fall through
3 the crack. I drafted a letter for the Governor's signature to the
4 Small Business Administration in Washington, D.C. and we
5 contracted with legal services to come in and provide some
6 technical legal advice as to the options that would be available
7 to the impacted public. That seemed to -- it worked pretty
8 well.

9 MR. PARKER: The contractor you sent in from John
10 Hopkins, what was his name?

11 MR. MARTIN: Guest. Richard Guest. I think he's out of
12 Kansas.

13 MR. PARKER: We had very favorable references to him
14 from the people at Cordova. They thought that that was about
15 the first really positive sign of help that they had seen that
16 they hadn't generated themselves. So it was -- it left a good
17 feeling in the community there. At least that was the
18 perception I got from our testimony.

19 MR. MARTIN: But we got raked over the coals in the
20 legislature for not local hire clinical psychologist from within
21 the state of Alaska. There was some concerns about using state
22 funding to pay for him, but eventually, you know, we billed it
23 to Exxon and they paid for it. But we were talking a
23 catastrophic event. This here's not a one-on-one where you sit
25 down at API and explore somebody's feelings. We were

1 dealing with massive numbers of people and we needed
2 somebody who'd been experienced in large scale catastrophes
3 like Lexington tank cars where people had been killed and the
4 devastation. You had to alleviate those psychological fears. We
5 had been talking about it for about a year and I had sent Mark
6 Johnson from Health and Social Services to the National
7 Emergency Training Center and we were moving in that
8 direction. So he had some previous association with Richard
9 Guest. But we needed something out in there and we were
10 behind the power curve because the oil was spilled and it was
11 moving. So, Richard Guest flew up and.....

12 MR. HERZ: When was that?

13 MR. MARTIN: I couldn't tell you.

14 MR. HERZ: I mean, a week, two weeks, couple of days,
15 just roughly.

16 MR. MARTIN: A week. It was within the first seven
17 days. So he went out and did much of his drafting of plans and
18 preparations either on the plane or when he was setting in an
19 office. Then we would implement them in cooperation with the
20 local government, holding town meetings, public meetings,
21 making recommendations to local government officials and also
22 to State officials, because -- the initial response, people were
23 committed to 20, 23 hours a day and we knew that they were
23 going to burn out. If you're going to go to 24 hour operation,
25 you must pace yourself so there's two 12 hour shifts. And then

1 every seven to ten days you need to relieve the people to get
2 them away so that they can come back and be effective. So, he
3 instituted some practices that we practiced in the State
4 emergency operation center. Because we knew that there was
5 going to be a long duration and a presence in Valdez, we
6 started leasing and contracting for every vacant building,
7 facility and piece of ground that we could find. Eventually,
8 when we withdrew, then we turned that over to DEC.

9 MS. WUNNICKE: When did you withdraw?

10 MR. MARTIN: Sometime in June.

11 MR. HERZ: Is the relationship with DEC specified in any
12 statute and are the activities that you described specified in
13 any document or statute or is this something that you have
14 evolved on a case-by-base basis? How did this come to pass
15 that you operate this way?

16 MR. MARTIN: Well, statutorially, DEC is to perform my
17 functions under Alaska Statute 2623 for the disaster act and,
18 except for oil spills, I coordinate the functions of the resources
19 of other state agencies. The statute for oil spills says that DEC
20 will perform my function.

21 MR. PARKER: Well -- Ed, did you care to ask a question?

22 MR. WENK: The fact that it's in a piece of legislation
23 doesn't mean that the organization so designated is equipped to
23 do it nor necessarily have had the benefit of the kinds of
25 rehearsal that would go with your response to other types of

1 emergencies. I can imagine a lot of experience you have with
2 non-oil spills being applicable here. What's your perception --
3 I hate to put you on the spot with this, but I'm going to ask it
4 anyway. What's your perception of the relative capacity to
5 respond to an oil spill in terms of your functions as between
6 your agency and DEC?

7 MR. MARTIN: Well, I think you have to go back several
8 years to understand that in my perception, DEC was not
9 adequately resourced and therefore they didn't have the
10 personnel available for the training and large scale
11 coordination to incorporate the network of augmentation. So it
12 was a new experience. We came to the realization rather
13 quickly, that it was going to be difficult for them to incorporate
14 and accommodate those other agencies. The law not
15 withstanding, we provided that support.

16 MR. PARKER: I think -- I've thought about this
17 substantially in the last six weeks and the problem, it seems to
18 me, is that an oil spill can be just an oil spill. An oil spill can
19 also be an emergency, by the difference being the oil spill
20 being something that has to go and get cleaned up, but one that
21 is not causing massive harm to the environment or to public
22 health or human life. Is there any place in the statutes that
23 defines that for guidance as to when an oil spill cross over that
23 line from becoming a minor annoyance and incrementally a
25 real threat to the environment, but still for the moment, not a

1 big threat?

2 MR. MARTIN: The discretion rests with the
3 Commissioner to petition the Governor for a disaster
4 declaration. Usually, the Division.....

5 MR. PARKER: Military Affairs.

6 MR. MARTIN: No, the Commission for DEC

7 MR. PARKER: Oil spills only. Otherwise it would go to
8 Military Affairs for anything else.

9 MR. MARTIN: That's correct. And we usually draft the
10 disaster declarations and fill in the pertinent information for
11 the Governor's signature.

12 MS. WUNNICKE: Mr. Chairman, may I follow up on that?
13 The Governor did declare a disaster two days after the spill,
14 based upon the request of the Department of Environmental
15 Conservation or based upon the request of the Division of
16 Military Affairs -- I mean Department of Military Affairs.

17 MR. MARTIN: The Division of Emergency Services.

18 MS. WUNNICKE: But that -- I think what the Chairman is
19 getting at, and I had the same problem, then that didn't cross
20 the line that took the operable responsibility out of the hands
21 of the Department of Environmental Conservation and put it in
22 the hands of the Office of Emergency Services by it being
23 declared a disaster?

23 MR. MARTIN: The disaster declaration read that the
25 Director of the Division of Emergency Services was authorized

1 to coordinate state resources.

2 MS. WUNNICKE: But that didn't happen?

3 MR. MARTIN: It did to a great deal of extent, but bean
4 counter paying bills -- they're restrictive interpretation of the
5 oil spill and hazardous substance response fund was of a
6 technical nature and therefore we petition for some money
7 from the disaster relief fund to address the human welfare
8 issues.

9 MR. PARKER: Whose bean counters?

10 MR. MARTIN: OMB and DEC.

11 MR. PARKER: Okay.

12 MS. HAYES: When was it that you, the DES, withdrew
13 from the spill?

14 MR. MARTIN: It was principally, I think around June
15 15th and I think by July 1 all of my personnel resources had
16 redeployed to the interior because of the floods that were going
17 on.

18 MS. HAYES: And on June 10th, five days before you
19 withdrew, what kind of activities were you providing? What
20 kind of services were you providing to the spill?

21 MR. MARTIN: Child care, we were coordinating with the
22 Public Health Service for additional medical technicians
23 because most of the part-time hires at the local government
23 level were opting out for jobs with VECO and Exxon 'cause it
25 paid more money. A day care center for children, local

1 government coordination and the acquisition of boom material
2 and providing a conduit for information back to Valdez so that
3 the Exxon Coast Guard, DEC, troika, if you will -- whosoever
4 making the decision -- we were bringing up the issues that the
5 local governments brought to us that they needed to be
6 satisfied.

7 MS. HAYES: So, who -- after you, after DES, you were
8 through, who was providing those kind of services then?

9 MR. MARTIN: The Oil Spill Recovery Office, under Bob
10 Laresche, actually picked up a number of the personnel that we
11 had in place, that we had hired under emergency basis and
12 placed them in those local communities. So, for continuity they
13 continued to function in that role.

14 MS. HAYES: One of the things that we have discussed
15 among the Commission members has been what kind of
16 response it would have been if Exxon hadn't been somebody
17 who had deep pocket, but had been a tanker that maybe didn't
18 -- one corporation was bankrupt. In that case, one of the
19 options would have been the State stepping in -- as I
20 understand it would have been for the State to step in or for
21 the Federal Government to federalize the response. Could you,
22 you know, based on your background in emergency services
23 and your knowledge of what actually happened there, what
23 kind of differences would you have seen if the state had opted
25 to do that and you had been in charge or your office had been

1 responsible for the spill response? What kind of problems
2 would you have had if you had been suddenly given that job?
3 What kind of response would you have expected?

4 MR. MARTIN: Well, you have to understand, it was a
5 catastrophic event. Once it occurred, there was no way it was
6 going to be contained and recovered. There were not enough
7 resources in the world to contain it and recover it. There was
8 no, and there is no, federal allowance for federal funding to
9 clean it up. I had calls from Rhode Island and Delaware and
10 unless they had state resources or the Legislature appropriated
11 money, they were stuck and they had to rely on the federal
12 government's good faith attempt to activate federal assets and
13 then to provide some sort of a funding mechanism for the
14 damage recover through civil litigation.

15 MS. HAYES: Well, for instance, does Emergency Services
16 have a way of suspending the State contracting rules, which is
17 something we've just had some experience with.

18 MR. MARTIN: By law, that provision is allowable. The
19 Governor has extraordinary authority to do so. He has the
20 ability to re-appropriate.

21 MS. HAYES: Can you commandeer materials from the
22 state or is the limitation within Alaska.

23 MR. MARTIN: Oh, certainly only within Alaska, the
23 Governor wouldn't have authority outside.

25 MS. HAYES: Okay.

1 MR. PARKER: Ed?

2 MR. WENK: Two types of questions, but first I want to
3 come back to the early days and ask if you could re-invent the
4 world, what difference would there have been in terms of the
5 relative responsibility for DES versus DEC?

6 MR. MARTIN: There wouldn't be any change in DEC's
7 primary lead role as a technical expert. I would formalize the
8 role of the division of Emergency Services as the coordinator of
9 emergency functions, because I think if they're trying to
10 perform two roles it distracts and detracts from their ability as
11 a prime responder. I am not a prime responder. I am not a
12 technical expert. I'm a coordinator. I don't fight wild land
13 fires, either. I support them because of our experience and the
14 number of disasters. Regardless of the incident, oil spill, toxic
15 chemical, earthquake, functions have to be performed and -- I
16 co-authored the State disaster plan so I know which functions
17 have to be performed and what agencies are available to
18 perform them. That comes through extensive training and
19 experience. That is not something that is adhoc that you can do
20 for one type of incident.

21 MR. WENK: Let me make my question more pointed. Do
22 you think that the present legislation which gives you
23 authority in these emergencies, except for oil spills, do you
23 think that should be modified?

25 MR. MARTIN: The existing legislation for all incidents,

1 except oil spills. is adequate.

2 MR. WENK: So the legislation itself would not need to be
3 amended in order -- the Chairman asked you a question earlier
4 about small spills versus large ones; fender benders versus
5 your auto's totalled. So there is a threshold there when it
6 really is a catastrophe and you don't feel the legislation then
7 should be amended in order to reflect that quality of a massive
8 oil spill?

9 MR. MARTIN: No, I think the discretionary authority
10 currently exists and I think it has been properly implemented
11 in the past. I don't think that it needs to be modified or
12 revised for declaring. And certainly, it doesn't rest with any
13 particular state agency to do that. There's a number of factors
14 which come into play and certainly one of the grayest is the
15 perception of the local government to petition the State
16 government for relief.

17 MS. WUNNICKE: I think, Mr. Chairman, if I may? Is the
18 problem that the authority that gives DEC the operable role in
19 oil spills is a separate piece of legislation from the legislation
20 that enables you? Is that right?

21 MR. MARTIN: No.

22 MS. WUNNICKE: It's an exception to your own
23 legislation?

23 MR. MARTIN: That's correct. It's an exception. DEC's
25 under catastrophic oil discharge is 4604080.

1 MR. WENK: Well, I'm handicapped by not knowing how
2 to ask the right question, put I'm going to ask it this way. Did
3 you have a problem performing the services that the
4 communities needed?

5 MR. MARTIN: Yes.

6 MR. WENK: Okay. Thank you. Now will you tell us what
7 it was?

8 MR. MARTIN: Well, we initiated the proper activities but
9 we couldn't consummate 'em.

10 MR. WENK: Why?

11 MR. MARTIN: We didn't have enough money.

12 MR. PARKER: Was this after the spill was privatized?
13 After Exxon took over the spill and it became a privatized
14 disaster, so to speak. Was that the period in which those funds
15 ran out?

16 MR. MARTIN: It was always privatized.

17 MS. HAYES: Give us some examples of the type of
18 problems that you had.

19 MR. PARKER: You know, in that period in which you
20 moved in initially and then you referred to the troika that slid
21 into place at Valdez, that was coordinating everything -- did
22 the troika in effect -- what was your role with the troika?

23 MR. MARTIN: I had none.

23 MR. PARKER: Okay.

25 MR. _____: Excuse me, Mr. Chairman. The

1 troika being?

2 MR. PARKER: Exxon, Coast Guard and DEC. I guess,
3 getting back to Commissioner Hayes question. I didn't mean to
4 butt in.

5 MS. HAYES: I just wanted some examples of the type of
6 problems that you had in providing services to local
7 communities, that you were prevented from doing 'cause of
8 lack of money.

9 MR. MARTIN: Health and Social Services had proposed
10 activities for child care and crisis counselling. Community and
11 Regional Affairs wanted to go in and assess cultural impacts on
12 native communities to initiate some corrective supportive
13 action. I drafted some RSA's (reimbursable service
14 agreements) to provide that funding from the Disaster Relief
15 Fund to allow them to go forward with it. Final approval
16 authority rests with OMB and they disapproved it. I became
17 aware that there was either a conscious or a subconscious
18 transition from the emergency response into the long term
19 recovery phase. I recommended that emergency services, if I
20 couldn't prove up my commitments to others agencies, that
21 perhaps we should re-deploy.

22 MS. WUNNICKE: Mr. Chairman. Not to divert you from
23 your recitation of what happened, but in terms of the Glacier
23 Bay spill in Cook Inlet two years ago, did Office of Emergency
25 Service have any role in terms of that response?

1 MR. MARTIN: No, DEC notified us and we went down to,
2 I think it was down to Kenai. But the functions and the roles
3 and the networking were adequately performed and so we
4 never activated the State emergency operation center or
5 brought in other agencies.

6 MS. WUNNICKE: Thank you.

7 MR. PARKER: Ed.

8 MR. WENK: If there's more you would like to volunteer,
9 I'll defer my question for a minute. I have a different
10 question. Is there more that you would like to add in this
11 recitation? Here's my question. Yesterday we had Mr. Otto
12 Harrison representing Exxon. A question was asked of him as
13 to whether or not he was satisfied with the management of the
14 clean up. His answer was enthusiastically or emphatically yes.
15 Question was any lesson learned such that he would do things
16 differently if indeed functions were resumed in the spring. Not
17 very much different. Now the question was not asked of him,
18 but I'll ask it of you. We have gotten a lot of indications from
19 other witnesses that there has been a heck of an impact on the
20 communities, partly because of the very high wages being paid
21 by Exxon that has understandable attracted people from their
22 normal jobs, attracted both members of the family so that
23 there's no one there with child care and so on. My impression
23 is that in his response yesterday, he was totally oblivious, Mr.
25 Harrison was totally oblivious of these impacts. In a sense he

1 was saying if it happened again he'd do the same thing again.
2 You want to comment on that?

3 MR. MARTIN: Not on the technical nature of the oil spill,
4 but catastrophic events and the psychological impacts on the
5 human welfare are long term. I think that those issues and the
6 corrective activities could have been initiated and recognized
7 much sooner to mitigate the long term and the deep effects. I
8 sat in here one day when I think an individual from Kenai
9 Peninsula Borough talked about the impacts on the
10 entrepreneurs. And certainly the same thing held true in
11 Valdez. The population exploded. The hygiene, the
12 unemployment, planning, law enforcement, the crime rate and
13 things that went up. And so, from the technical nature, I don't
14 think that the technical experts could have, or would have,
15 ever done anything different, because they're dealing with a
16 material substance. And we're not focusing on the ancillary
17 impacts.

18 MR. WENK: Well, it's very clear that was the case. What
19 strikes me as also clear that this privatization seems to be one
20 dimensional. Clean up oil and there are at least two or three
21 other dimensions to the process that you've been highly
22 sensitive to. So let me ask you the question and what would
23 you like to see done differently this coming spring if indeed
23 there is a resumption in order to protect if there is a
25 resumption in cleanup? And, in light of the ancillary impacts,

1 as you expressed it, that have occurred in the past and might
2 repeat themselves. And some of which, with a more sensitive
3 approach to the question might have been mitigated. What
4 would you propose being done differently if cleanup is deemed
5 to be necessary to be resumed?

6 MR. MARTIN: Well, that's a difficult, complex question.
7 And I'm not qualified to answer all of it. Because, as far as
8 what should be done in the future, in the spring -- or would
9 have been done differently of the technical nature.....

10 MR. WENK: I don't mean with regard to the mechanics of
11 cleanup. I mean within your bailiwick of responsibilities and
12 expertise.

13 MR. MARTIN: The human welfare issues?

14 MR. WENK: Exactly.

15 MR. MARTIN: Well, there's a number of state agencies
16 and also federal agencies regarding the employment security to
17 provide a safety net for the potential of the long term civil
18 litigation until in fact they establish the impact or the injury to
19 the private citizen. I would think that agencies like Commerce
20 and Economic Development or -- if the State has housing loans,
21 unemployment, medical health, child care, crisis counselling,
22 funding of legal services -- not that the Department of Law
23 would provide it because then it becomes a conflict of interest,
23 but at least contracting for some sort of technical legal advice,
25 because there's a lot of people out there who can't afford it. I

1 think that government has preeminent role for assessing those
2 duties and responsibilities and then providing it, rather than
3 having the individuals individually apply for specific relief
4 programs.

5 MR. WENK: Thank you Mr. Chair.

6 MR. PARKER: Thank you. Any other questions?

7 MS. WUNNICKE: Mr. Chairman, I have a hypothetical
8 one. I don't know quite how to phrase it. But, setting aside for
9 the moment, the authority that the Department of
10 Environmental Conservation has with respect to oil spill, how
11 does the Office of Emergency Services to something -- not too
12 long ago we had a tanker with chemical emissions from the
13 tanker at Moose Pass. Did the Office of Emergency Services
14 respond to that and if so, what authority did you have? How
15 did you respond? What was your relationship with DEC?
16 Answer yes or no.

17 MR. MARTIN: The -- I wasn't director then.

18 MS. WUNNICKE: Well, I just want to use that as
19 something that's not an oil spill so that we don't get into this
20 division of authority.

21 MR. MARTIN: I'm well aware of Moose Pass and Crown
22 Point. And statutorilly, hazardous substance would come
23 under the Adjunctant General and therefore the Division of
23 Emergency Services. Back at that time, which I think was 1986
25 or '5 or '86, but anyway, the railroad said they were in charge

1 because it was their railroad. The State Troopers said they
2 were in charge because they evacuated the community. The
3 Kenai Peninsula Borough said they were in charge because it
4 was their borough. The Division of Emergency Services at that
5 time said, we're not in charge because we're not in to the
6 environmental thing, that's DEC's. Eventually -- if took about
7 two months, but a state disaster declaration was signed and we
8 provided for the medical and the health and the housing, the
9 relocation of the evacuated community. DEC was the primary
10 lead agency for assessing the environmental impact on the
11 houses and the air and the ground and the water. Upon
12 conclusion of their assessment that it was okay to go back, then
13 we terminated the relief assistance for relocation. We
14 continued the payment for health and medical for another six
15 months and then we terminated that. In that past, the Division
16 of Emergency Services has avoided our involvement from the
17 technical hazards because it's a systematic problem at the
18 federal level. The Federal Emergency Management Agency has
19 responsibility for civil defense and war related things and they
20 have responsibility for natural disasters: floods, fires,
21 earthquakes. You get into the technological stuff and it's a little
22 bit of shake and bake. You get the Coast Guard for waterborn
23 and you get EPA for landside. And so, across the nation, states
23 have handled it differently. We paralleled the federal
25 perception at that time. But it's very clear that we have a

1 direct involvement for technological type things whether it be
2 hazardous substance -- we do have a primary role to play, by
3 law. And because of our experience in training in a
4 relationship with different disasters, we also have a support,
5 coordination type of function as regards to oil spill.

6 MS. WUNNICKE: If I may. Just to follow that line of
7 thought. What I'm trying to get at is whoever was in charge
8 did anybody -- let's assume the Moose Pass incident. That
9 there was an empty milk truck or an empty gasoline truck
10 nearby. Would anyone in charge have had the authority to
11 commandeer that empty truck to lighter off the chemicals that
12 were on the railroad car? One of the things that has puzzled
13 me, and you're not the person to ask in terms of the Exxon
14 Valdez, but one of the things that has puzzled me in terms of
15 lightering the Exxon Valdez was awaiting a ship that belonged
16 to Exxon Shipping and whether or not there was any authority
17 in any one's hands to commandeer some empty vessels that
18 belonged to other companies that were inbound to perform
19 that lightering function. So, getting back to my hypothetical
20 question of Moose Pass. Whoever was in charge, did anyone
21 have that kind of authority? And I realize it's a hypothetical
22 question.

23 MR. MARTIN: Well, on land, as regards Moose Pass,
23 yeah, the law exists that you can acquire or take possession of
25 property. Somewhere down the road, you'll have to end up

1 paying for it and allowances are made for that. I don't know of
2 the conflicts in maritime law, so I.....

3 MS. WUNNICKE: No, I'm not asking you.....

4 MR. MARTIN: Yeah, but the law exists -- in the
5 Fairbanks flood of '67, they acquired I think, a meat market
6 and bedding and stuff like that and that's reflected in the
7 existing state statutes to provide for the public's welfare. You
8 can do that and you'll have to pay for it later on.

9 MR. PARKER: You mentioned EPA. Is it -- are the
10 relationships between Coast Guard and EPA in regards to oil
11 spills or any hazardous waste problem, are they clear in your
12 mind. Do you feel that there's any area there that needs to be
13 addressed by the Congress more clearly defining the roles of
14 the two agencies?

15 MR. MARTIN: All I know is that EPA and Coast Guard co-
16 chair the regional response team. But I have not, you know,
17 had much association with them.

18 MR. PARKER: Okay. Yeah, I was just interested from
19 your perception as the State Director whether there was any
20 problem there that we needed to address ourselves to. Any
21 other questions?

22 MS. WUNNICKE: One more, Mr. Chairman. You do follow
23 the Incident Command System in terms of immediate
23 response?

25 MR. MARTIN: Well, it's rather complex. Yes, we do.

1 Under the Integrated Emergency Management System, we
2 bring everybody together under the Emergency Operation
3 Center. Then if we don't need somebody then we send them
4 home. Under the Emergency Operation Center, we utilize the
5 Incident Command System because there is a planning branch,
6 an operations branch, a logistic branch, and a finance branch.
7 And so, plans assess the damage and what the future is going
8 to mandate your activities. The operations actually perform
9 the functions. The logistics acquires and transports the
10 material. You tell them where and what and when and they
11 deliver it. And then the finance people collect all the
12 paperwork and pay all the bills. It assumes that there is one
13 umbrella organization in charge. That it is not fragmented and
14 different people are taking bites out of the pie.

15 MR. PARKER: Mike?

16 MR. HERZ: How big is your agency? How many people
17 and how big a budget?

18 MR. MARTIN: Full time state employees, I have 22. I
19 think at the height of Valdez, considering the emergency, non-
20 temporary and the National Guard that we had activated, I
21 think we had in excess of 80, probably in excess of 100 people.
22 And my normal operating budget is about \$1.6 million and two
23 thirds of that is provided by the federal government under the
23 Civil Defense Act and about a third is provided by the State.

25 MR. HERZ: When you first started, I interrupted you and

1 asked you when your agency found out about the spill. In
2 other states, the Office of Emergency Services is one of the key
3 communication centers for dissemination of information. What
4 I'm trying to get -- and I was surprised that you said you
5 found out about it on the radio. Obviously, in Alaska and I'm
6 not familiar with it, obviously, it's not structured that way.
7 What's the primary communication network for alerting for
8 incidents like this and others and where's the 24 hour
9 notification center that is supposed to notify other agencies and
10 how does that all work and so on.

11 MR. MARTIN; Well, for disasters, we are the primary
12 civil communications network. We initiate the emergency
13 broadcast system. The National Guard has all the military
14 gnats and I have all the civil gnats. We have -- it's almost a
15 continental communication system because we put out
16 warnings during the big cold back in January/February. It
17 would probably extend from Savannah, Georgia to Canadian
18 border to Albuquerque, New Mexico. That's how far we got to
19 cover. If there were going to be notices, alert and warning,
20 that is one of the functions that we provide. And we have
21 those networks. We have those communication networks. We
22 also have the ham radio operators which are the radio amateur
23 civil emergency system.

23 (Tape Changed)

25 (Tape Number 89-08-04-3A)

1 MR. HERZ: What I'm trying to get a sense of is for initial
2 alerting and response to an incident like this -- for example, I
3 was just looking through the new Alyeska contingency plan
4 and in most contingency plans that I've reviewed in the past,
5 the network includes who the spiller is supposed to contact and
6 what the communication network is to call out the various
7 primary responders. I don't find your office listed in there and
8 I don't have a sense of what the central communication system
9 is -- the 24 hour alerting system such that other agencies can
10 be instantaneously alerted in the event of -- I guess I shouldn't
11 call an oil spill a disaster 'cause it doesn't fit neatly into that
12 category, but I'm confused. Try and clarify for me why it
13 doesn't seem to pan that there is a central location for
14 disseminating information for first responders.

15 MR. MARTIN: I can't answer that cause I don't know.

16 MR. PARKER: But it does exist for other disaster though?

17 MR. MARTIN: Notification listing does exist because if I
18 activate the State EOC representation of other departments --
19 the people have already been identified by name and they're
20 on 24 hour call. I know its by their home phone numbers.
21 And depending on the agency and the role, we could activate
22 them and bring them in. I don't know about the informal
23 notification list in this instance because we didn't have any
23 input to it.

25 MR. HERZ: But, DEC -- there must be some -- who's the

1 primary agency for the state to respond to an oil spill?
2 MS. WUNNICKE: DEC.
3 MR. MARTIN: DEC.
4 MR. HERZ: Okay. But, you're part of DEC?
5 MR. MARTIN: No, I'm not.
6 MS. WUNNICKE: No. He's part of the Department of
7 Military Affairs. Cal Schaffer, whom you met briefly today is.....
8 MR. HERZ: I guess my confusion is that there doesn't
9 seem to be a clear communication system for oil spill response
10 in Alaska. And I'm wondering whether -- I mean it sounds
11 like something that we should be paying some attention to.
12 Does it make sense -- did it make sense to you that your
13 agency found out about this, an event of this magnitude, over
14 the radio as opposed to being one of the first agencies to be
15 alerted when something like this happens in your state?
16 MR. MARTIN: Well, looking forward to the future,
17 certainly that notification procedure should be developed.
18 MR. HERZ; Have there been discussions with any
19 agencies to develop the mechanisms for that?
20 MR. MARTINY Yes. DEC chairs the State Emergency
21 Response Commission on hazardous materials and I vice-chair
22 it. So we've been attempting to coordinate the cooperative
23 effort in the notification.
23 MR. PARKER: Is oil hazardous material in the state
25 definition?

1 MR. MARTIN: No. It's a petroleum-based product.

2 MR. PARKER: I think Commissioner Herz is opening up,
3 opened up a critical area of questioning here. 'Cause my
4 memory of the phone calls that were made at Valdez from the
5 logs I reviewed, they followed the contingency plan who's to be
6 notified in case of spill. So the Coast Guard called Alyeska and
7 so forth and they spread out. You were not called 'cause you
8 weren't in the contingency plan to be called. It gets back to,
9 you know, the whole long dialogue at the federal level that oil
10 isn't treated as a hazardous substance, 'cause it's not classified
11 as a hazardous substance and an oil spill is not an emergency
12 because it not classified formally as an emergency until that
13 stage that the Commissioner has to exercise his discretion.
14 Therefore, a contingency plan is incorrect to regard it as an
15 emergency response in the sense that we usually think of
16 emergency response. So, I think, you know -- I found this very
17 helpful. Somebody says under Title 46 a hazardous substance
18 is defined as oil.

19 MARILYN: That was me. It is. It's part of the definition.
20 There's a definition of what a hazardous substance is and the
21 Letter "B" or whatever, "C" or "D" is oil. So, oil is considered a
22 hazardous substance under our State statutes.

23 MR. PARKER: Okay. Any other questions. Ed?

23 MR. WENK: Mr. Chairman. Have you been requested by
25 anyone in the state -- anyone, anywhere in the State system to

1 draft a report summarizing your involvement, diagnosing any
2 disappointments, making any recommendations for change.

3 MR. MARTIN: No, sir.

4 MS. HAYES: Mr. Chairman?

5 MR. PARKER: Meg?

6 MS. HAYES: I'd just like to offer the observation that
7 when we started the Commission -- I'm not sure how long
8 you've been following us, if at all, but we were officially
9 supposed to start the first of July and we tried to anticipate a
10 meeting in June and getting rolling as quickly as we could. But
11 when we went to the local communities, the things that they
12 all, without exception, had complaints about was local
13 information, information, child care, concern about mental
14 health problems now and problems later in the fall and in the
15 winter when cabin fever sets in and people have left the
16 communities. It's interesting to me that the problems that your
17 office was working on are exactly the problems that we've
18 heard time and time again were not solved and that there was
19 a lack. That there were lots of people worrying about oiled
20 otters and lots of people worrying about the fish stocks and lots
21 of people worrying about oiled gear and those kinds of
22 commercial effects, but there weren't many people dealing
23 with the problems that the communities had identified for us
23 as being paramount in their agendas. I just want to make the
25 observation that it's unfortunate that you hadn't been able to

1 be more successful in dealing with those problems early on.

2 MR. PARKER: Any one else?

3 MS WUNNICKE: Mr. Chairman, I would like to ask if it's
4 possible for us to have a copy of the State Disaster Plan.

5 MR. MARTIN: Well certainly.

6 MS. WUNNICKE: Thank you.

7 MR. PARKER: Okay, thank you very much.....

8 MR. HERZ: Can I ask one more question? In the series of
9 questions that I asked whether you'd had subsequent
10 conversations with anybody about the experience here and you
11 said you had had some discussions with DEC. Relative to
12 Commissioner Hayes' question about the report, have you
13 formalized any recommendations and forwarded those in
14 writing to either the Governor's Office or DEC for improvements
15 that you would like to see. What I'm asking is if you've done
16 anything like that we would like to get copies of it along with
17 the Disaster Plan.

18 MR. MARTIN: Yes, I have and yes I'd make copies
19 available. It's a public document.

20 MS. HAYES: Thank you.

21 MR. PARKER: Thanks a lot Erv. It's been most helpful.
22 Let's take a short stretch. We'll return and hear from Dr.
23 LaPorte who is going to talk to us about system reliability and
23 other things. For the benefit of the audience, after Dr. LaPorte
25 is finished, we are going to go into another Executive Session

1 for a brief time and then we will return for public testimony at
2 five or before.

3 (Off the Record)

4 (On the Record)

5 MR. PARKER: Where are we? Sund's not here. Esther's
6 gone. We have a quorum. We'll proceed. The Alaska Oil Spill
7 Commission will reconvene. Dr. LaPorte is with us. Dr. LaPorte
8 is doing some very interesting work on system reliability,
9 working with air traffic controls and AVI aircraft carriers and
10 with Pacific Power and Light and other organizations that have
11 problems of system reliability or who have achieved it
12 successfully. I think since one of our goals is to build an
13 absolutely reliable system, I looking forward to what insights
14 he can give us on doing that. Go ahead Todd.

15 DR. LAPORTE: Thank you. Just a little bit about my
16 background because sometimes people wonder why a political
17 scientist -- that's my formal designation at the University of
18 California, Berkeley -- would be doing the kinds of things that
19 I'm going to be sharing with you today and hopefully it will be
20 useful to you in your deliberations. In political science there's
21 an area that's called public administration or public policy and
22 I'm in that part of my department and used to be, until
23 recently, the Associate Director of the Needs to Governmental
23 Studies at Berkeley. For a long time I've been interested in the
25 behavior of large scale organizations -- it's called organization

1 theory technically, often of the sociological variety. My
2 particular interests have been the effects of technology on
3 large technical systems on organizational and political
4 experience. And the kinds of questions that I have risen from,
5 for us, have been really the kinds of demands or challenges the
6 technology, certain technologies, deliver on organizations when
7 they become their operators. About four or five years, actually
8 a little bit longer than that, have been interested in
9 organizations that operate technologies that are complicated,
10 are beneficial, costly and hazardous so that their benefits are
11 importantly dependent on, you might say, failure free
12 operations. Or at least -- not error free, but failure free. Major
13 kinds of things that we wish to avoid. There are a number of
14 examples of these kinds of systems and I wanted to -- that we
15 have both been studying and you can think of and what I'd like
16 to do today is to give you an overview of some of the things
17 we've learned along the way. I'll be trying to comment on
18 what you've allowed me to participate in the last couple of
19 days and some background reading with the challenge that you
20 all have taken up. I'll try to then, toward the end, reflect on
21 these challenges. In terms of oil spill prevention and
22 emergency response. My emphasis or my perspective will be
23 especially in the long term, not the shorter term, that we all are
23 worried about now. I think properly. Rather, I'll -- four to ten
25 years from now you'll see why I've taken that perspective a

1 little bit later. In the -- in a number of areas in our advanced
2 industrial societies, we are beginning to ask rather
3 substantially a very demanding activity or a very demanding
4 result in organizations. That is to operate in ways which avoid
5 certain kinds of failures altogether. Certainly the operation of
6 nuclear plants has that qualification. We worry about genetic
7 engineering as well. The industrialization of that. We're quite
8 nervous about air traffic control. We all fly, particularly in the
9 far north. We are alarmed about the safety and performance
10 of bridges, infra structure, physical infrastructure and on and
11 on. You can name your own and recently now we have the
12 transport of crude oil in very large increments. We're insisting
13 increasingly that organizations operating such systems do not
14 make serious errors. But their work's too important, the effects
15 of failure is so disastrous that we press them never to fail. If
16 you think about this for a minute, it's probably -- perhaps for
17 the first time in history, the consequences and costs associated
18 with major failures are greater than the value of the lessons we
19 learn from those failures. Let me say that again, the costs of
20 failures are greater than the value of the liaisons we learn from
21 those failure. Usually we espouse a trial and error learning --
22 that's what we're talking about here. You learn more from the
23 error than the cost of making it and so sustained improvement
23 by trial and error learning is what we do. We do it in our own
25 lives. We certainly do it in organizational terms. What I just

1 described to you is -- that is the reversal of the costs and
2 values here. A trial and error is an altogether remarkable,
3 unexpected conditions. In organizational terms, it is quite
4 unprecedented. You suggest that, in these systems, the ones
5 we've been talking about, and depending on what we
6 understand to be the problems in organizations around us,
7 means that we don't want, in a systematic way, depend on trial
8 and error learning as the major mode of improvement. We'll
9 certainly learn from making mistakes, but we don't want to
10 leave it at that. The more important the benefit, the more
11 likely operations, in these organizations, the more likely the
12 organization will be pressed to sustain failure free organization
13 performance. In a sense, to operate in trials without error.
14 The insistence on failure free performance is, as I suggested, a
15 quite extraordinary matter. What also is extraordinary is we
16 have some organizations that have taken this on as a goal and
17 nearly almost always achieve. That's extraordinary because in
18 -- you might say in the world of Murphy, Murphy's Law there's
19 a -- all of us say it's underlying validity to such an impression.
20 Things do break. They break at the most inauspicious times.
21 Yet we have organization that -- and somehow have chosen to
22 take on this goal, have organized themselves in ways to almost
23 always achieve it. And what we began to do was to just
23 wonder about that. I teach organization studies and we know
25 that, for all sorts of reason, the human beings, both individually

1 and collectively, are flawed. And for a number of reasons the
2 idea of failure free performance is quite astonishing. We found
3 three organizations and the chairman already alluded to them,
4 and we've been studying them closely for the last four or five
5 years. I just remind you the air traffic control in the US was
6 some work comparing our system with a different system in
7 Europe. Pacific Gas and Electric in northern California operates
8 one of the major electrical power distribution grids in the
9 world and then we have the astonishing fortune -- and I'm not
10 saying it's good fortune, but the astonishing fortune of being
11 able to study two nuclear aircraft carriers. And what we've
12 been doing is essentially spending a lot of time in these
13 organizations, trying to understand how -- what they've
14 evolved into as organizations to effect the level of reliability
15 that they demonstrate. And if I can give you some statistics if
16 you're interested, but -- and I will if you want me to later on.
17 But, these -- all three organizations are just astonishing in the
18 level of activity that they evince and the level of performance
19 that they are able to mount. They share a number of things in
20 common. One of the surprises I guess we had was that as you
21 move in a way toward those areas where hazardous activities
22 are carried out, the human beings involved have developed
23 rather similar characteristics. They may be very different
23 kinds of organizations. As I named them, they're very
25 different technologies. And they may be in quite different

1 institutional settings. But where the people do the work in
2 these effective organizations, they have evolved similar
3 patterns. Let me just list them. They share the goal of
4 avoiding operational failures altogether. It's an explicit goal. It
5 rivals short term efficiency as a primary operational objective.
6 That is, it is held intention with efficiency as a major goal and
7 is quite explicit. In these case, and you can, as I name them,
8 failure free performance is indeed a condition of providing
9 benefits. If you don't have failure free performance or nearly
10 failure free performance, the benefits don't flow. Each
11 organization -- and what I'd like you to do as I'm speaking
12 here is to make a connection in your mind with what you know
13 to exist here in Alaska. You've been generous in bringing an
14 outsider from the Lower 48, as I think you say it, here. I'm
15 quite naive about your rather splendid state. And I must say
16 it's been a privilege to be here and try to catch up a little with
17 you all in the last couple of days and week or so. But as I
18 speak, how -- to what degree do these conditions characterize
19 the organizations that you know and are addressing? They're
20 large, internally very dynamic. Many things are happening.
21 Intermittently, intensely interactive. That is, they have peak
22 loads. They perform very complex, demanding tasks under
23 considerable time pressure. It's not a leisurely operation.
23 They also do this with very low failure rates and almost total
25 absence of catastrophic failure. They operate tightly coupled,

1 complex and highly interdependent network technologies. By
2 that I mean that the physical hooks between people -- parts of
3 the process are almost cheek by gel. You can't pull them apart
4 and do part here and do a part over there. They're all hooked
5 together in a kind of network of activities, technical activities
6 like you can see air traffic controls, image that. I have been
7 told that something like that exists from the time the oil gets in
8 the pipeline at the north and gets down to Valdez and has to
9 get out into the ocean. There's not a lot of waiting time around.
10 It's a continuous flow. This is also, incidentally, when you have
11 tightly coupled, interdependent technical processes you end up
12 having the same thing with the organizational units that are
13 the social expression, if you want, of the technical system that's
14 being operated. They also face a very dynamic, physical and
15 economic and political environments. That is, they're gonna be
16 surprised along the way from some source. That's what I mean
17 by changeful and dynamic physical environments. You
18 certainly have that here. In the context of these kinds of
19 organizations, and I think this is similar to the ones you're
20 concerned with, what we call them is high reliability
21 organizations in two senses. Not just one. Their challenge is to
22 manage complex, demanding technologies, making sure to
23 avoid major failures which could cripple, perhaps destroy, the
23 organization itself. I mean that quite literally, physically, in
25 some cases. But certainly economically or politically. Our

1 organizations we're studying, vary along that -- where the
2 sources of destruction might arise. So what we've been trying
3 to do is -- the reason I'm emphasizing this now is not just
4 safety, but it's safety in the context of intense provision of
5 capacity, productive capacity. Those two are held together as
6 important dual goals. You can't -- often -- occasionally I make
7 a parenthetical sort of a run off to one side here. Often the
8 work on risk management and safety is only about safety. It
9 ignores the other pressures the organizations are under and
10 that is to maintain capacity. They're costly and they're
11 beneficial. So, in our work with the nuclear power industry, for
12 instance, we are working with the nuclear regulatory
13 commission that only cares about safety. Could care less in
14 informal -- it's informal quote. Could care less about
15 productivity. They're there to protect the safety of the public
16 interest. Doesn't include economic interests. Sometimes that
17 warps the kind of considerations that are carried out. So our
18 research group has been interested in what happens when
19 organizations like this actually pour off -- let me just say a
20 little bit more about who's in our group. I'm the social scientist
21 with the sociological and organizational interests. Carlene
22 Roberts, who I think some of you have seen the article that was
23 recently published about what we're doing, is the
23 organizational psychologist. Then we have -- his name is Gene
25 Rockland, who is the physicist and social scientist. He's our

1 technology swing man. Keeps us honest and not so completely
2 overwhelmed with technical wonders of what we're seeing.
3 And we've been spending a lot of time trying to understand,
4 with the participants, how they do it. Interestingly, they don't
5 know how they do it. They know that they do, but not how.
6 This is very interesting. So, what we've been trying to do is to
7 watch and work with them, almost like anthropologists, to
8 ferret out what it is they do, but can't say. Is a concept in my
9 part of the world called "tacit knowledge". You know what it is.
10 You've got the intuition and you can do it, but you can't say it.
11 It is not -- because you can't say it, often the importance of
12 what you're doing is dismissed by those of us who can say
13 things and whatever legal of jargon you wish to (indiscernible)
14 do. We're about two thirds of the way through our empirical
15 work. We've finished the two carriers. We've done a lot of
16 work with air traffic control. And we're now, this summer --
17 and one of the reasons you don't have some sort of, anything
18 more than a little handout that I've just given you, is we're
19 now working with Pacific Gas and Electric in their power
20 production facilities. In the fall we'll be going to Diablo Canyon
21 Nuclear Power Plant to continue that. What we've done is to --
22 and what I've handed out and if you'll forgive me a little bit of
23 academic generalization or abstraction. What we've done is to
23 ask ourselves what does an organization that tries to be
25 perfect, what kinds of properties should it exhibit. And what

1 you have here is sort of a summary of that. What we've done
2 is to say -- now the reason I'm going to spend some time here
3 is because as you consider the organizations you're concerned
4 about -- you can ask yourselves the question, how do they
5 meet these properties, these conditions. And I'll talk a little bit
6 about the ones that -- how they do it and the ones that we --
7 there are really two sets of things here. What knowledge must
8 they have about what they do and how much they behave as a
9 consequence of that knowledge. When we go through them
10 real quickly, it's not a surprise. But I'd emphasize some things
11 that are not usually emphasized in this. Obviously, you want
12 to know what you're doing, technically, as completely as you
13 can. Know, exhaust the knowledge necessary to carry out what
14 you're doing and then carrying it out. Essentially, on that basis
15 through a whole series of training, socialization or coming to
16 understand how things really work, act out that technical
17 organizational knowledge. And that's what you'll usually see
18 anywhere. And what you don't usually see is number two.
19 That is to identify or to develop what we call era regimes,
20 specifying deviations from operational norms. You might say,
21 knowing when you just beginning to deviate off of what you
22 really want, but knowing that in a very finely grained way.
23 Not wait for a disaster to happen. Not wait for a small mistake.
23 But to know when the gauges are off a little and be alert to
25 that. The second one would be, or the behavioral aspects of

1 this is, let 'em know that we're getting off. Let 'em know we're
2 beginning to have a problem, maybe. Almost anybody who
3 operates a high pressure, high steam processing system will
4 know what I'm talking about here. You don't want to get those
5 things out of order. You want to get ahead of the problem. But
6 then the organizational aspect about this is, who does that?
7 Who's rewarded for that, under what terms? The third one
8 would be what about the knowledge, complete knowledge if
9 you can, of what the consequences of errors are going to be if
10 they occur. You can't -- and I suggested here the behavioral or
11 the organizational aspect of this, you want to have error
12 absorbing capabilities. Keep it inside. Lighten them. Don't let
13 that stuff get out. If you're going to have a problem, keep it
14 inside the perimeters. Develop redundant channels of making
15 sure that if something fails in this channel, either containment
16 or development, you have another process that's not harmful if
17 it fails. That's interesting -- a very difficult thing to actually
18 design, it turns out, in these different organizations, and
19 perhaps yours as well. Most organizations, when they operate
20 these systems, do not operate technologies that have external
21 effects of great drama. Nuclear power does, and it turns out
22 yours do too. So that there are parallel sets of things to know
23 about and do which have to do with external -- it's loose from
23 you all.

25 MR. PARKER: In the knowledge of errors, consequences,

1 what are some of the means -- I don't want to break your
2 thing, what are some of the means that you think could be
3 brought about. In air traffic control we used to just use
4 simulated problem and when they ran two together, why they
5 had failed the course and it was made graphically clear to them
6 that you just crashed two aircraft together. Do other people
7 use similar techniques.

8 DR. LAPORTE: Yes. Simulations, particularly if you don't
9 want to go through the actual events, simulations are an
10 important, a very important -- or, you used the language of
11 drills here. You can certainly - that's one way to discover the
12 consequences and the responses to error internally. There are
13 a lot of other ones as well that if you thought a little bit about
14 how -- learn about consequences-- I was going to save this
15 comment for later, but since you raised it, I think I'll raise it
16 now. I was surprised to hear our Exxon representative
17 yesterday, Mr. Harrington, say that he was, with great
18 enthusiasm, that he had learned a lot about what the
19 consequence -- oil, different kinds of oil has for -- in the
20 different source of beach condition after the fact. How
21 interesting. A contingency plan that has, that's taken seriously
22 would have asked the question, what about this, before you
23 ever had the problem. The question about what you would do
23 to contain -- over here in this behavior internally to contain
25 something. You would have thought about that ahead of time,

1 tested the scenario, and have seen the inadequacies or
2 technical opportunities well before you had to try to solve it in
3 a rushed way. Now I understand why, most of our lives, we
4 don't -- including my talk with you this afternoon. You wait 'til
5 the last minute to get all organized. I understand that. On the
6 other hand, if you were going to follow these sorts of question
7 out with regard to large consequences, you would have
8 invested enthusiasm before the fact as well as after the fact.
9 Just -- what you see in the end of this is essentially a
10 knowledge about behavioral or biological environmental
11 affects. What we just talked about a little bit. And the --
12 develop a monitoring capability which would let you know
13 you're about to loose control or that you're beginning to have a
14 variety of -- I think it's the sort of thing that Mike Herz is
15 doing with the Bay area. If I understand, they keep keepers
16 correctly. Then finally, you need to know what it is you wish
17 to avoid. That last one, with a system error regime, it's kind of
18 a high falutin way of saying, look, what are the most valued
19 conditions to not -- have an understanding of what those are.
20 In an effective organizational alert and system, some of the
21 things you asked Mr. Martin about. I guess the last question's
22 really that you had to do with, how do you know that you
23 should respond. And then your concerns about response
23 capabilities fit right in there in terms of the way we're thinking
25 about this. What we tried to do is to say -- what we did was

1 the following. The organizations that we're studying are
2 demonstrably very effective. We reasoned that they were in
3 some fashion meeting these requisite pretty well. How were
4 they doing that? What were the internal processes that
5 allowed them to meet this R&D, training, so forth? And I don't
6 need to go through those particularly. I suspect they're pretty
7 evident here. What I want to do know is to, after I -- is to sort
8 of call out a little bit about what we found and focus on two
9 areas -- we call them authority structures. I was trying to
10 figure a different, another way of saying -- it's the
11 relationships you have. The real falling relationships. Who
12 calls the shots? I'd like to talk a little bit about that and the
13 organizational cultural -- we called it a "culture of reliability"
14 for lack of a better term. Before I do that, though, the words
15 around the table here in the last couple of days in literature of
16 hazard, risk, error, liability have been used as if we all
17 understood what it was we were talking about. I would like to
18 tell you what we mean by that. Hazard, we mean it very
19 specifically. That is it's the characteristics of the production
20 technology such that if it fails significantly, damage to life and
21 property is considerable. We deduce that from risk. And we
22 use risk in a pretty ordinary engineering way, probably the way
23 you're using it. Although it's not that -- it isn't used that way
23 in risk literature particularly. That is the magnitude of harm
25 multiplied by the probability that it will occur. So, -- then

1 errors or mistakes and so forth that we see. What we're
2 studying, if you want to put it this way. It's a bit odd to put it
3 this way, but high hazard/low risk systems. The language that
4 you can turn to often is risky systems, a risky -- well, they're
5 not risky in this -- they're extraordinarily reliable and low risk,
6 but it isn't the technologies in their design that makes them
7 that way. It's the human beings operating them that make
8 them this way. And that's what makes it interesting for us.
9 And I'm fascinated by what you're trying to do because I
10 understand what you're trying to do. If I understand it
11 properly, you're struggling with how can you, through
12 legislative measures, improve the human aspect of operating
13 hazardous systems, or systems with enlarge glops -- tankers of
14 that scale. They become hazardous. So, with that clarification,
15 let me go on. What are some of the things we've found? Some
16 of them are pretty ordinary and to be expected. Some of them
17 we found that they weren't. I've alluded to one of them
18 already. That is, despite the diversity of the tasks these
19 organizations carry out, operators work in the same, very
20 similar operating environment, share similar responsibilities.
21 Expectations is important. Objectives, goals and shows similar
22 manifestations of stress. I'm talking about air traffic
23 controllers, energy dispatchers, people who -- the tactical
23 action operators on carriers, the combat direction center
25 people. Now I realize I'm talking about a level of operations

1 that you have not really dealt with in your considerations.
2 Your considerations have been rather more lofty in regard to
3 large relationships between corporate entities. And I've tried --
4 later on I'll try to make a connection between these, but it
5 seem to me important to emphasize that we have been down
6 where the work goes on. And in developing questions -- if I
7 were in your place, I would be struggling to develop questions
8 that would allow some way to understand the relations
9 between corporate -- relations to corporate structures and how
10 people actually experience the world and carry the work out.
11 What's it like to be confronted with a reward structures on "X"
12 or the career patterns in "Y" and how does that work out over
13 time? As a person, to do these things at the level of reliability
14 and concentration that is probably needed for the outcomes
15 here. Secondly, there's an operating culture that is strongly
16 failure averse. In term dynamics, those structures are
17 predominantly influenced by requirements to avoid certain
18 types of events, accidents and failures. I mean, they really
19 worry about that, all the time. Let me give you an example of
20 how that's expressed. Air traffic control, as you certainly
21 know, Mr. Chairman, has a kind of rule for controllers. It says,
22 if you get airplanes closer together than five miles apart in
23 trail, you're in trouble. The kind of trouble you're in is that if
23 you lose separation, three times in your career, you're out. Not
25 once a year, three times in your career. And that's right up

1 here at the foreheads of the controllers as they do their work.
2 And they really make it stick. It's a kind of expression of the
3 importance -- now, I said they were also worried about
4 capacity. Well, what's the capacity -- you know, if you want to
5 avoid five miles apart, you get 'em six miles apart. Just troupe
6 across the country at six miles apart, no problem. The other
7 part of that is that the real -- they'll say the real artist who has
8 a lot of airplanes 5.1 miles apart all the way across the country.
9 Think about that a minute. Three times in your career and
10 you're out. But the artist is 5.1. That means that you're right
11 on the edge. The efficiency is to be nearly to personal disaster.

12 MR. PARKER: No dose can keep them apart. It takes an
13 artist to move traffic.

14 DR. LAPORTE: There you go. But think about the
15 combination of rewards and punishments that produce that
16 kind of elan (ph) in concentration, so forth.

17 MS. WUNNICKE: What are the rewards?

18 DR. LAPORTE: Rewards are -- I mean there are several
19 kinds of rewards. First of all, it's a really interesting job. That
20 is -- when you're doing that you're doing -- on a job that's got
21 relevance. Now how many jobs in the society that we live in
22 today really make a difference? Not very many, really. They
23 do and they know it. And so it draws people for whom that
23 itself -- to be able to get through a day doing that kind of work,
25 you come out thinking that's all right, I did something today.

1 Usually, and I almost did it myself, well, you get well paid. But
2 that's not really what's important. It is important as a symbol
3 of regard with the importance of what they do. I started this
4 work with air traffic control a year and a half before --
5 remember the PATCO strike? And then Reagan fired my whole
6 organization. He's not a very -- I'm not a fan of his, they're
7 subject to my research. And I had to wait two or three years
8 to go back. And the people who go into this, who were fired
9 and wanted to come back, but didn't come back and were
10 replaced, they're kind of a set of persons for whom this is an
11 intrinsic challenge.

12 MR. WALKER: On the other side of that, Todd, is that
13 prior to the PATCO strike several years, Congress -- because
14 the controllers went to Congress because of the incompetence
15 of FAA management and got premium pay and early
16 retirement is very tangible rewards for being controllers. But
17 it didn't keep the PATCO strike from happening.

18 DR. LAPORTE: And if you -- that's why I mean -- the
19 money and working conditions is kind of a surrogate for or
20 substitute for regard, recognition of importance.
21 Parenthetically, I think it's true that the pilots for Scandinavian
22 Airlines and air controllers in Sweden are paid the same
23 amount of money. Here it's a one to four ratio. Controllers are
23 paid pretty well. The people who they are controlling are paid
25 four times as much. That's interesting. The dynamics on the

1 work floor. Thirdly, however formally assigned organization
2 responsibilities might be, the informally operating groups
3 accept the sense of responsibility for maintain the safety of the
4 hole, is a kind of ownership of responsibility. Not of one's own
5 job, but of those around one. It is done in a non-hierarchical
6 way too. It's not a strongly hierarchical sense. It's the
7 judgement, experience, and trained intuition of seasoned
8 operators that is most responsible for maintain system
9 reliability and safety. By that I mean the seasoned operator
10 knows the ins and outs of the system that they're working in
11 and in a sense can overcome the inadequacies of system design.
12 That's gonna, later on, be an important aspect of part of the
13 culture of reliability, because they have a kind of deep
14 intuition about how the thing works. And can, in some sense,
15 anticipate or diagnose strange, odd behaviors of outside the
16 standard operating procedures. There's also a historical
17 learning process that is one of trial and error. I said before
18 that's not what you want, but you see it there but in a quite
19 unusual sense. There's open acknowledgement and acceptance
20 of responsibilities for past error. Personal identification,
21 acceptance of past error, recognizing that it is often rewarded
22 that you acknowledge the source of the problem, which is
23 yourself. There's a kind of ethic that says, it's in the interest
23 and is rewarded to allow to tell others where problems are.
25 Now, most of us have spent a lot of our time in bureaucracies

1 for exactly the reverse is the case. The expectation is that if we
2 screwed up it's because we were short, mean, nasty, brutish,
3 and maybe we were corrupt. We're not sure about that. At
4 least short, mean, nasty or brutish. Short, I've got to be careful.
5 I'm pretty short. Tall, mean, nasty and brutish. What you see
6 here is the open acknowledgement of the difficulty of the task
7 they're carrying on. A story. One night in the tower, the
8 bridge -- well, not the bridge, it's called the air control tower.
9 Aboard an aircraft carrier at night, we spent some time
10 watching the operations. There were five airplanes doing
11 landings. It wasn't a big deal -- at night. And across the deck
12 comes a sailor going like this, which means stop flying, foul
13 deck, foul deck. Anybody on the deck can stop operations. The
14 lowest level person can stop operations if, in their judgment,
15 they see something that's dangerous. Whether it turns out to
16 be or not, and this guy comes across yelling, I've lost two tools,
17 I've lost two tools. Well that means he was a mechanic of some
18 sort and you get two tools on the deck and they can get sucked
19 into the airplane, blow open an engine or be blown by jet lag
20 into somebody -- generally miserable all the way around. And
21 they stopped. They put the five airplanes -- circled them
22 around. And turned all the lights on and walked down the
23 deck and found these tools. It took about 20 minutes. Their
23 boss, who calls up -- down to the deck -- I'd like to have that
25 man and his supervisor up here as soon as they can get here.

1 And who's his commanding officer. You know what's going to
2 happen know. Pretty soon, 20 minutes later, up trudges, about
3 9 floors up, trudges this guy with his supervisor coming on
4 behind -- sort of stands in the back ground. It's very dark
5 with little red, night vision lights around, and finally the air
6 boss is informed that the guy came and -- whirls around and
7 says -- he finds out that -- Seaman Sorge (ph), that was first
8 rate. That's exactly what we want you to do. In his presence,
9 calls up the guy's commanding officer and says I want you to
10 know what Seamon Sorge (ph) has just done. Well, that's not
11 exactly what you'd expect from a person in a military
12 organization in our stereotypes. But later the man said to me,
13 he said, you know that's a tough environment down there. We
14 need to have them tell us when a problem arises. They need to
15 understand we appreciate that. We say, subsequent to that, a
16 number of incidences very much like that. Now that's -- if you
17 think of it some sort of the culture of liability a little bit in
18 terms of senior people rewarding -- now if the guy had lost
19 tools three times in a row, it's another matter.

20 (Tape Changed)

21 (Tape Number 89-08-04-3B)

22 MR. HERZ: I've an interesting story from the oil industry.
23 So striking that I can't not tell it. In some of the contingency
23 plans for oil spill platforms, it reads something that anybody
25 can, and is encouraged to, report the spill of any amount of or-

1 der no matter what size the spill and that that person, the
2 person who alerts, is supposed to be rewarded for that kind of
3 behavior and that's supposed to trigger responding with the
4 appropriate kinds of things for the level and size of the spill.
5 In fact, the information that I've gotten is that if anybody does
6 that, they are in big, big trouble. Because they have disrupted
7 operations. They have made a whole bunch of people do things
8 that they don't really want to do. So it's the total opposite of
9 the situation that you're describing and it may be diagnostic.

10 DR. LAPORTE: Well, you can -- I can't comment on that
11 except to say that's pretty interesting. The -- finally, and here
12 I wanted to make a transition now to the more specifics of your
13 considerations that the organizational structures and authority
14 relationships have a common patter. There's a clear separation
15 between operations and maintenance of the systems.
16 Operations is a demanding task and is separated from keeping
17 all the things, everything together. It isn't leaking. May not be
18 too important for you or your situations. There's substantial
19 delegation of operating authority to subordinate units. It is not
20 a -- think of what -- this is a military organization I'm talking
21 about here or the FAA. The people at the operating level are
22 delegated -- to whom are delegated a great deal of operating
23 autonomy. They will say the same thing. We are keying in our
23 own area. Now, in an organizational process, that means that
25 somehow training processes have gone on so that senior

1 authorities can trust the capabilities of their subordinates. It
2 also shifts, changes the character -- since the senior people are
3 still responsible, they are as interested in loyalty as they are
4 punitive sanctions. They are interested in loyalty, drawing
5 loyal respect from persons who are on scene than they are
6 about compelling behavior through punishments. And finally,
7 not surprising, there are many patterns of redundant
8 information sources to informed decision making. All kinds of
9 patterns of different ways to getting information back and
10 forth in an ethic that promotes this. Now, I'm going to shift for
11 a moment to try to make a -- to put some of these general
12 contents in the context of what I see you to be confronting. I
13 may have this wrong and if I do, why let me, please tell me.
14 I've given myself some boundary conditions in considering
15 what it is you're up to. One of them is that in a short term, the
16 problems you are confronting are at hand. The next couple of
17 years there's going to be such attention, there's not going to be
18 any problem or not very many operational. The best time to
19 fly is the week after a terrorist attack on an airplane. I don't --
20 I know we're all a little nervous, but in fact that's the case in
21 terms of the operations involved. But what you consider --
22 what I'm going to be talking about is the longer term challenge
23 that you confront.

23 MR. PARKER: Except in aura to go.

25 DR. LAPORTE: No, I would say, well I take your point,

1 but.....

2 MR. PARKER: Walk right out, right on the airplane
3 without a check two days after a terrorist attack.

4 DR. LAPORTE: That's the longer conversation. I thought
5 maybe you were going to say Italy, which I might allow. What
6 I'm concerned about here, from my perspective is the longer
7 term challenge. That is, as the -- it's really thinking about the
8 lifetime of the challenge. The window of risk is at least 10
9 years. Relatively high volume through pipeline and sea,
10 probably longer than that. So I've thought almost completely
11 about what it means out there a ways, rather than the
12 proximate situations that you're confronting. I also assume
13 that it's unlikely that the present volumes or quantity of oil
14 flow will diminish either in the pipelines or the scaled
15 tankers. If you had smaller tankers you would have a lot --
16 very different problems in response. Therefore, that -- the
17 scale of any serious failure is likely to overwhelm response
18 capabilities. Now I'll come back to this a little bit later.
19 Therefore, the flow of traffic and the flow of traffic will remain
20 at about, what, a thousand tankers a year? Three a day plus or
21 minus. And in a sense, if you think of that's the magnitude of
22 the flow -- one of the things we try to think about is how
23 intense the activities of the organization we're studying are.
23 What does that mean in terms of the human scale of
25 monitoring whatever it is. There's a good deal of the

1 knowledge necessary to monitor traffic and respond to spills is
2 known. This is not a particularly exotic knowledge problem.
3 The organizational challenge is to assure transporting and
4 overseeing organizations to assure they're development, whose
5 operating, whose operations radically reduce the number and
6 volume of oil spills. That is to reduce the risk. And to sustain
7 that capacity in a demanding environment over the lifetime of
8 the threat of the risk which is many -- two or three work
9 generations. I'm going to emphasize this as kind of a -- it's not
10 that I don't think the shorter term responses are important, it's
11 that most people will think in the short as if the problems
12 solved in the short term will be solved through time. And
13 we've learned that's not true. And you certainly have many
14 examples of how the contingency plan and so forth, so well put
15 together some years ago, eroded. You see in the case of
16 planning and attention to organization of transports, some
17 planning already. What I want to do is to partition, now,
18 prevention from response and talk mainly about prevention.
19 Lotss of people will be talking about response. I'd like to
20 suggest before I do this, that if you wanted to find analogies in
21 other areas that seem interesting to draw on, prevention in
22 terms of -- really means making sure those tankers hold
23 together and don't run into anything. And is a strong parallel
23 to air traffic control functions. That's what air traffic control is
25 trying to do. There's some characteristics that make the

1 transfer not so readily useful. Mainly that air traffic control,
2 air traffic controllers carry to people who fund them -
3 Congress. And passengers who vote for things. And there's a
4 little difference there in terms of oil transport. The connection
5 between those who benefit and those who are harmed is not so
6 clear cut. In terms of the response capacities, it's a little like
7 the emergency responses to the problems of nuclear power
8 plans. You have the requirement for a very large
9 organizational response that would be activated very, very
10 rarely. As the times of -- one of the problems, one of the
11 things that make it easier to do what we -- to study the
12 organizations we're studying is that they know they will
13 confront a problem with relative frequency. It's not the case
14 here and it produces a radical problem for any kind of
15 institutional development. What I want to do then is to talk
16 about sort of the mix of authority relations and cultures that
17 we see in our organizations that might be relevant to what
18 would be involved here. What we see is something that we
19 were quite surprised about. And maybe that's because we
20 were so steeped in organization studies that we were blinded
21 to what we were seeing. It took us a while to figure this out.
22 Most organizations have a kind of bureaucratic structure. It's
23 neat little boxes and it's informed by all kinds of standard
23 operating procedures and bureaucratic rules that have a
25 function. We get irritated with them, but they do have an

1 ordering function, a kind of providing stability. And you'll
2 certainly see these organizations, each of them, having such a
3 process and they're punishment-centered. You screw up, you
4 get hammered. The assumption is that you can know
5 everything. You can know all the procedures and carry them
6 out and if you don't you're short, mean, nasty, and brutish or
7 tall, mean, nasty and brutish. What we're saying is, in addition
8 to this in a kind of underneath the surface -- how many of you
9 use MacIntosh? You know, windows? They have a window
10 and you put -- suddenly its another one on top of it. It's kind
11 of like suddenly, when things become very intense, a high
12 tempo, peak load, the bureaucratic pattern recedes and out
13 pops a very different mode of behaving. It's much more
14 cooperative, highly conflictual. Lots of argumentation going on,
15 regardless of status. Lots of fighting going on about what they
16 will - how will they accomplish goals. The person who prevails
17 is the people who know things, whatever their rank. Now, I'm
18 talking about military organizations still as well as other kind.
19 And here the same -- now I want you to remember it's the
20 same people, not a different group. I'm disrobing something
21 that we're familiar with in the University as a professional,
22 collegial organization versus a bureaucratic one. We have these
23 two kinds of organizations in the world, separated from one
23 another. But here you have them overlapped in a sense, in the
25 minds of the people involved. But there's a third one that will

1 pop out when they have a genuine emergency, that is pre-
2 programmed. They know what to do. In a way it's not even an
3 authority structure. It's like a play that they know what their
4 script is. And it pops out. The same people and often,
5 depending on how speedy things are, you'll see them switching
6 back and forth between these different ways. They don't even
7 know they do it. It just makes sense. They'll say, well this
8 makes sense. It does make sense, but look at the leadership
9 requirements that produce that, because they are quite -- I
10 was going to use the word "authogonol" (ph), but at odds with
11 one another. Status is important in the bureaucratic one.
12 Status is not important in the other one. Conflict is generated
13 and, in fact, stimulated in one and not the other. What we see
14 is that the senior people can act in a way to liberate, to free,
15 the movement from a bureaucratic one to what we call a high
16 tempo one. If, because the bureaucrat -- high tempo one is
17 sort of against the rules. It provides you great flexibility, but it
18 takes you outside of those well-established set of rules that we
19 call SOP's. Which provides you a sense of security if you're a
20 senior operating, I mean senior manager. They're following the
21 rules, therefore things are so completely unpredictable.

22 MR. PARKER: It destroys all those accumulated
23 psychological perks which you accumulated through the years
23 that have made you a supervisor or a station chief or whatever.

25 DR. LAPORTE: Whatever, so now we also see -- we've

1 seen, sort of talked to us, not intentionally, by the switch of a
2 commander from one kind that liberated -- one kind was kind
3 was a real son-of-a-bitch. And people were afraid to go into
4 this other mode when they knew they should. And you can see
5 all kinds of almost physical manifestations of this. People
6 wanting to say, no, but being afraid they would be hammered
7 for going outside, becoming informal. So part of the culture -- I
8 don't know how else to say this. Part of the culture of how
9 reliable the organization is the understanding, either conscious
10 or tacit, or senior people to allow, to reward, to encourage the
11 contributions of knowledgeable operators when it is required.
12 But you can't know when it's going to be required. It's going to
13 be the exception when it is required. So that there's this -- you
14 can't program it. But you need to help people move out of the
15 discipline of the bureaucracy which is terribly important, to the
16 possibility of this other mode. Now that, what I've described to
17 you, is not the way you talk about it, they do it. And as we tell
18 them about what we're finding, they'll both say yes, but we
19 shouldn't do that, some of them will say. Some of them will
20 say, hmm, that's right. The one's who are secure in themselves
21 will say, that's right. The kind for whom this is a problem, that
22 is it gives them a sense of loss. will be quite concerned. Well,
23 I've given you some of the -- a kind of pattern of what seems
23 to be very important, and we'll say functional, in dealing with
25 these tightly coupled systems that confront surprise. There are

1 some conditions which foster these various sorts of things. Let
2 me see if I can name some of them and they may be relevant
3 to your considerations. In each of these organizations, there is
4 considerable external pressure and insistence on error
5 free performance. It is not only self, internally generated.
6 There are a series of, you might say, watching groups.
7 Sometimes they're formal regulators. The FAA, however, does
8 not have any formal regulators. They have that National
9 Transportation Safety Board that occasionally throw verbal
10 hand grenades at them, but has no legal responsibility for --
11 yet they have all kinds of groups and passengers and what not.
12 But there needs to be an insistence to externally reinforce the
13 importance of reliability in the safety sense. That it's not just
14 to put senior people on the line in terms of their own careers if
15 they have to make choices with regard, which honor the
16 reliability of safety part in the face of economic part. I'm
17 reminded of that "Time" article about Captain Hazelwood and
18 how he was criticized for returning to port, when he went back
19 to New York, to save the ship. That's odd and it would be very
20 unusual to find that kind of behavior in the kinds of
21 organizations that we have been studying. There needs to be a
22 clear indication of the value and the importance and in fact the
23 punishment if you are derelict with regard to the safety part.
23 There also needs to be a quite well integrated direction and
25 protection function. This has to do with senior management

1 now. Direction in terms of consistency of goals and a
2 willingness to protect your people in the face of untoward and
3 often unrealistic criticism from above, including from
4 Commissions like this, that you're also obviously a part of the
5 first one. What you see it all the way down the line is
6 supervisors do not supervise so much as protect. They give
7 space to their people to do what those people know to do.
8 There needs to be specific rewards and punishments. Both for
9 good work and for failure.

10 MR. PARKER: Wait a second. Who do the supervisors
11 protect them from?

12 DR. LAPORTE: Well, depending on which organization
13 you're in, almost always it's the people at headquarters.

14 MR. PARKER; Okay.

15 DR. LAPORTE: It doesn't vary. The enemy, often that
16 language, the enemy are those guys at headquarters. And, if
17 you want me to expand on that I can in a little while when I
18 finish.

19 MR. PARKER: I understand.

20 DR. LAPORTE: That is received by the people at
21 headquarters with some ambiguity, to say the least. There
22 needs to be -- let me come back to this business of rewards
23 and punishment here. What we see are very strong
23 punishments for failure. Thank you. For failure not only at the
25 operating level, but well above that. It is -- it does not vary.

1 It varies in intensity, but quite high up in the organization if
2 their people somehow blunder, they're not the only ones that
3 get the hammer. It goes well above the operating level. Now
4 there's a reason for that. That is, if the higher level people
5 understand themselves not only to be responsible in the formal
6 sense but also to be accountable in terms of rewards and
7 punishments. That has a rippling effect. It also increases your
8 wish to have your people loyal to you. That doesn't mean
9 wishy washy, but it changes a relationship and it also gives the
10 people below a sense of the justice in the system. Because they
11 will frequently tell you -- and I don't know if this is the case in
12 your situation, is that they will try to overcome lax of practice,
13 lax of resources in the interest of the whole and find
14 themselves, and I think you had a fellow this afternoon who
15 did that. Hanging out there, not wondering whether she would
16 or he would be protected or not. Not clear, but there is this
17 tension, and I think necessarily, between headquarters and
18 operations. What I talked about here. It's the tension of
19 demand on the one hand from down -- and from the "give my
20 people room". It's interesting, if you follow this down, as we
21 did several times, the -- it'll switch. As you look up, you'll
22 demand discretion. I want discretion. And as you look down,
23 you'll hammer on your people to get the job done. This
23 actually happened when I was on the carrier from Admiral to
25 Captain, Captain to Commander, Commander to all the way

1 down. And it was this "wich, wich, wich, wich", all the way
2 down. I could hardly believe it. They were playing two roles
3 in regard to keeping the pressure on. At the same time people
4 knew they were keeping the pressure off. It was very
5 interesting.

6 MR. PARKER: Is that just in air crew and air ops and
7 their command superstructures or is the whole ship involved?

8 DR. LAPORTE: It was mainly the air people. But we've
9 seen the same thing in our other organizations. I take your
10 point. That's an interesting -- this in sort of an insider's point
11 of people who know by air wings versus the service fleet in the
12 navy, which you might expect the surface ones to act
13 differently.

14 MR. PARKER: Brown shoe, black shoe.

15 DR. LAPORTE: Yeah. There's also a very high emphasis
16 on training. Continual training. Maintenance of high skill.
17 Why would that be the case? If you're going to depend on
18 your people and delegate to them, you want to know that
19 they're squared away. You want to know all the time they are.
20 That means you worry about the degradation of skills as
21 turnover occurs. You worry about -- and here's something I
22 want to call out. You exercise coordination requirement, even
23 in the face of no problems. It's back to this question of drills
23 that you've been talking about here. What I've been struck by
25 is how, not just here, how hard it is to develop reality based

1 simulations. And how important it is to do, to know
2 particularly in tense -- remember I talked about the high
3 tempo operations. But that's across units. Who are the players.
4 How can you do a count on them? But exercise the
5 requirements to solve problems together before the problems
6 are real. Finally, there is an important aspect of team
7 relationships in -- and I can't remember, I just was talking to
8 somebody about this and I don't remember whether they've
9 done it yet or not. So, forgive me if I'm repeating. What you
10 see is, as the tempo becomes higher and higher, the arrival of
11 watchers. Not of supervisors, but of watchers. Another pair of
12 eyes will arrive. Somehow they know the status of the system,
13 of what's happening to people. The senior people will simply
14 come to where the person who got the command or the
15 situation will be there. But you then have to have more people.
16 You can't have a lean crew if you loose your watchers, your
17 extra eyes. If you look at what apparently was happening on
18 the Exxon Valdez as it egressed. It was suffering from a
19 limited crew. There wasn't an extra pair of eyes. Now, you
20 could ask the question, why do you need an extra pair of eyes.
21 Aren't you skilled? Aren't you -- you probably do, particularly
22 when things are slow.

23 MR. PARKER: You know, this is probably the most
23 difficult thing we're going to have to grope with on prevention
25 because, as you know, the tendency is in marine shipping to

1 automate everything and crank the crews down to the absolute
2 minimums.

3 MR. HERZ: Related to that, I wanted to ask the question
4 of have you -- do you have enough experience with enough
5 different kinds of organizations to have yet constructed a
6 continuum and know what the dimensions are along which you
7 can lay out some of these parameters. Because, in continuing
8 with the Chairman's point, it seems to me that one of the
9 problems in terms of response capability is the infrequency of
10 events or incidents. I've started calling it the "Maytag repair
11 man syndrome". It doesn't -- they don't get called out.

12 DR. LAPORTE: I've -- the answer to your first question is
13 no. We don't have close experience with organizations, that
14 many organizations. It turns out -- maybe it's not surprising.
15 It's been to us, but these organizations are much more complex,
16 with much more subtlety in their human relationships than we
17 had any idea. So there's almost an organic quality to them.
18 What I've described to you are not characteristics that can, that
19 will have the result if they simply appear in ones and twos.
20 They all have to be there somehow. Or they all seem to be
21 there. So, we will be doing work with nuclear power station in
22 the fall. But I think what you hear upon, in terms of your
23 response question is probably the most difficult one to deal
23 with. Because, given that's the case, you then use simulations,
25 training, other sorts of things to evoke the kind of

1 concentration and substitute for on-the-job practice.

2 MR. HERZ: It sounds like there's a dimension in her that
3 all these things that you've mentioned seem to build esprit de
4 corp.

5 DR. LAPORTE: That's true.

6 MR. HERZ: And, if you don't have a corp to bring
7 together to put the esprit into, you can't have that dimension
8 represented. And that's -- I mean, there are so many players
9 that are involved, if you go into the field now I'm sure you'll
10 find -- I get the sense from the descriptions of the scientific
11 meetings that occur there's a real high esprit de corps among
12 the people in the field: the bird people, the bird rescue people,
13 the otter rescue people, probably some of the people who are
14 actually hands on, but that only happens after an incident. If
15 you're working on the prevention side or trying to develop
16 good response capability, in the absence of incidents, how do
17 you create that?

18 DR. LAPORTE: That's an interesting challenge. I don't
19 know. One can imagine a number of other things one does to
20 keep people energized. But they are often quite costly. They
21 can't certainly be done only with volunteers. We know too
22 much about volunteer, the intention of volunteers in busy
23 lives know and in other sorts of settings. But their intention
23 will simply dissipate. But we do, and I hesitate to bring this
25 up, but we have an institution in the United States, some of

1 them, that operate like that. They don't get to do their thing
2 very often. They're called the military. Military can't do their
3 thing very often, and thank God. But they keep trying to be
4 ready. The military's particularly remarkable in that regard.
5 They are within 100 days or less of being combat ready all the
6 time from their final. It's just enormously expensive, in two
7 ways at least: dollars commitment, life's commitment, career.
8 It comes from, obviously, from a high, a very, very strong
9 symbolic value of patriotism that people will invest their lives,
10 working lives, in being highly skilled to do things they wish
11 they never have to do. It's a sort of -- there's a kind of
12 pathology to that. But we wish them to be there. Now,
13 question. In something like you're describing, is some -- one
14 hopes a dim parallel of that necessary in this condition. I don't
15 know. But it seems to me that if you're talking about a 10 or
16 15 or 20 year life span, you are talking about careers. Or
17 you're talking about these, your response and/or prevention in
18 the context of a larger system where this is an important
19 stepping stone to a career. Let me -- 'cause you've helped me
20 go to the next step I wanted to go to. And that has to do with
21 what the challenges would be. In these organizations that I've
22 described to you, the people -- it requires an awful lot of
23 commitment, personal commitment. Often to -- the damage to
23 one's family. To be as committed to keeping us safe as we
25 want them to be committed. We wouldn't want to do this. We

1 want them to. Well what does it mean now in predicting the
2 prevention. Response is such a hard problem. It seems to me
3 that it's, for lots of reason, but I'm just now on the physical, it's
4 very difficult to realize a sustained response capability of much
5 capability. Now let's put it as a hypothesis. We put it -- that's
6 another thing, I'm going to put it this way. But if you thing
7 about the prevention one, what would it mean to have, not just
8 in Alaska, because those tankers go other places along the West
9 Coast, a tanker traffic control system that would have the,
10 would provide the infrastructure of assurance. See, what's
11 happened -- another way of thinking about what's happened is
12 that it's like human relationships. Trust has been lost and
13 shattered. But it was there. This is like the nuclear industry.
14 We don't trust the bastards, sort of. Maybe more than sort of.
15 Therefore, you have this apparatus of the substitute for a trust
16 relationship. The question would be what institution, set of
17 institutions, might be required to recover a sense of confidence
18 if not trust. That means if I -- that means, sort of going up on
19 the board of people here who, on the State level, are gathering
20 information about what the operators are doing, available to
21 the communities involved. 'Cause they have as great a stake in
22 this as governmental institutions do. Probably more, a higher
23 stake. They become part of the watching like in the traffic
23 control thing. The other one is you have a core of radar
25 operators. You mean, it's not hard to imagine what the system

1 would be like. Not a very, technically a very difficult one
2 actually. It's all off the shelf stuff. But what you need to think
3 about is why would people want to do this for 15, 20 years.
4 Why would they want to do that? What is it about that
5 activity, again in the symbolic or material value, that would
6 keep people sort of in to the scope. The people who burn out in
7 air traffic control, are those people who exhaust the intrinsic
8 interest of the controlling activity after ten years. For whom
9 the intrinsic activity of controlling, which is really fun. It's like
10 leviathan games, it just pulls you into the scope. He's terrific. You
11 just want to try it yourself. After about 10 years, you see
12 everything. But you're still need to be drawn into the scope
13 relatively. And you just exhaust yourself and are pushing
14 yourself into the scope of things. Think about, and I don't
15 know what the answer to this is.

16 MR. PARKER: Well, the answer is, you know, you
17 addressed it earlier, it's the band of brothers concept. It's us
18 against them, in a very positive sense. Them being those who
19 are trying to destroy our perfect record.

20 DR. LAPORTE: Competition among -- yeah, there's lots of
21 things like that.

22 MR. PARKER: You know, the ones who -- people leave air
23 traffic control for two reasons. One you just described. You get
23 essentially bored and being part of a close knit band of
25 brothers is no longer enough to sustain you. Or you get

1 promoted out because you lost it and you're no longer very
2 good at it. Or you simply career advancement by defining your
3 career objectives as going higher in the organization and
4 leaving it for something else.

5 DR. LAPORTE: So, you can see the thrust of what I have
6 to share with you. I hope it's useful. I can, just in terms of
7 what I've seen so far, it strikes me that the legislation that we
8 heard about yesterday moves some direction in providing some
9 of the characteristics of this. Some of the infrastructure.
10 Although it may be imperfect. The Alyeska contingency plan is
11 mostly mute with regard to prevention. So it hasn't been -- it's
12 not clear -- we'll let's put it this way, they haven't yet.

13 MR. PARKER: I couldn't find it either.

14 DR. LAPORTE: There's a little tiny bit there, but it's not
15 much and it's only a promise and it's really a recapitulation of
16 other things that other people have done.

17 MR. PARKER: Yeah, John?

18 MR. SUND: Well, I have a couple of comments and
19 observation that the entire response of the industry to this
20 event is to commit \$250 million, \$25 million a year for the next
21 10 years, to put depots in for equipment to capture oil that's
22 escaped from a vessel. There's been no effort at all, from API
23 or anybody, to spend \$250 million in the next 10 years to
23 prevent tankers from having collisions or going on rocks or to
25 alter the design of tankers so that they could withstand.

1 They're proposal, it does include a prevention element. I want
2 to bring up a kind of an issue I guess and ask our witness here.
3 Perhaps in your mind you can help us define what we are
4 trying to prevent.

5 DR. LAPORTE: Well, that's really not for me to say. You
6 guys are the one's who've got the problem.

7 MR. SUND: This is an essential question that I think the
8 Chairman worked on in air traffic control. Have you ever been
9 able to come up with an acceptable level of crashes in a year
10 that you could publicly announce?

11 DR. LAPORTE: No. What we've done is to take whatever
12 the organizations wishes to never experience as a definition of
13 -- and so I think that's an important and interesting question,
14 but that becomes outside the realm of.....

15 MR. SUND: I'm in charge of figuring out prevention. Now
16 what am I trying to prevent?

17 DR. LAPORTE; A short and snappy answer, I suppose is a
18 certain level of well you don't want to get out.

19 MR. SUND: Okay. Am I trying to prevent a zero
20 tolerance of oil in the water from any event? Or is it I don't
21 want more than 50% of the oil from the largest tanker in
22 Alaska's waters to ever hit the beach? I don't know.

23 DR. LAPORTE: Well, what's the hazard. When does it
23 become, in a -- it seems like it's quite relativistic, given the
25 conditions of the location in which it would happen. that the if,

1 if -- you're asking me to comment on something I hadn't
2 thought much about except in the roughest sort of way. But if
3 it's hazard you're concerned about, it has to do with
4 environmental and economic consequences, those can be
5 known,. They aren't, particularly well written precision now,
6 but they can be known for different parts of the route. One
7 would suppose that you can determine -- it becomes a political
8 and social choice of what the level of allowable hazard would
9 be. I mean risk has.....

10 MR. SUND: It gets -- you brought up the point of the
11 definition of risk is magnitude times probability.

12 DR. LAPORTE: You have to know what the consequences
13 are. That's why I said hazard just now.

14 MR. SUND: Yeah. And I think that something that we're
15 all kind of wrestling with. But I've had a hard time trying to
16 figure out, definitionally, what type of system we should try to
17 put into place, 'cause you're talking about the transportation
18 system transporting oil in tankers, right? So far, nobody's said
19 don't' use tankers anymore except Mayor Pughes from Dutch
20 Harbor recommended that we build another pipeline and then
21 we won't have a tanker problem.

22 DR. LAPORTE: It's not very helpful.

23 MR. SUND: Well, I think it's extremely helpful to
23 eliminate a tanker problem. It also creates a lot of jobs. Some
25 people want those. But, assuming that -- you've raised some

1 assumptions in your discussion here that one we're going to
2 pump two million barrels or thereabouts through the pipeline,
3 that we are going to continue to transport oil in tankers, that
4 we're going to, and I think it's questioned, that we're going to
5 continue to use the same size of tankers and the same
6 frequency. I think that's an open question.

7 DR. LAPORTE: Good. If it is then as those change then
8 the infrastructure, organizational scale of prevention and of
9 response is there already.

10 MR. SUND: Right. And there's just as much opportunity
11 to bring smaller tankers in here as there is to bring larger
12 tankers.

13 DR. LAPORTE: Don't misunderstand me. Those
14 assumptions were not preferences.

15 MR. SUND: So, I come back to how do you analyze or
16 how do you figure out what is an acceptable amount of oil to
17 enter the water, since zero is not acceptable. Nobody wants to
18 pay the cost of having a totally safe system. So therefore, we
19 are saying that we will accept some type of oil to enter the
20 water. Now the question just becomes how much. And then
21 you've thrown in the other element, where? Is it different
22 inside Prince William Sound versus on the Ocean.

23 DR. LAPORTE: I can't comment on that. I don't know
23 enough about the.....

25 MR. SUND: I'm not asking you to comment. I'm just

1 asking you to help me figure out how to analyze it. I mean,
2 you've brought an analytical approach here.

3 DR. LAPORTE: Well, if I had that problem -- thank God I
4 don't have that problem. If I had that problem, there are
5 people who do, both in economics and in environmental
6 ecological field that can -- it would be a very interesting task
7 force exercise to begin to get a sense of what the likely
8 magnitudes and probabilities of damage to be -- as a function
9 of difference sizes of oil spills in different places. It seems to
10 me that's a place to begin.

11 MR. PARKER: Let me help out on this. The -- you know
12 what Todd's been working on in the reliability is the human
13 factors in reliability primarily. I think anybody who works in
14 it has to aim at zero, at zero error is what you're going for to
15 the limit of your resources, always, however you apply those
16 resources. And the, on limiting outflow is a design problem,
17 which we can approach by double bottoms, double hulls,
18 smaller tanks, smaller ships, larger ships, possibly, because you
19 have to consider the situation at the busy terminal end where
20 flooding a terminal like Long Beach with T-3 tankers might
21 make it impossible to operate it.

22 (Tape Changed)

23 (Tape Number 89-08-04-4A)

23 DR. LAPORTE: If I have a contribution in this area to
25 make, it's to resist the temptation to go for a technical fix. And

1 it's double bottoms are just fine. But not very much of the
2 solution.

3 MR. PARKER: No, just a small part.

4 MR. SUND: Mr. Chairman, I had another comment I
5 wanted to comment on that you started. On the nuclear side, or
6 your steam boiler example, how do you tell when you're
7 getting out of control? And to that, you have to know what
8 controls your system. Then you have to figure out how to
9 measure it. How do you approach that problem? Let's just
10 take tankers for instance. How do you approach analyzing the
11 problem of when you are in control or when you are out of
12 control. What are the factors that get you into trouble?

13 DR. LAPORTE: If, if I -- again if I have had that problem,
14 I would ask the operators to tell me. Then I would really give
15 their answers some going over. Or rather than try to solve
16 their questions or their problems in advance and then let them
17 shoot me down. I would say, you guys are the experts, I want
18 to know how you know whether you're under control or not.
19 And not just -- then take another sort of analytical task force if
20 you wanted to just wring it out.

21 MR. SUND: Again, a simple example. My brother's a
22 captain on the State ferry system. They say a week on, week
23 off with passengers. We've talked about this team work or
23 camaraderie, or whatever. The difference of what makes his
25 life easier or not easy on the week he runs the ship depends on

1 who's on his crew. It's whether does he trust his First Mate, or
2 Second Mate or Third Mate, and if he doesn't trust them, he
3 doesn't sleep for a week. Which again escalates the possibility
4 of error because he's now got 80 some hours probably of very
5 little sleep. And if you look at the Exxon Valdez, I don't believe
6 that deck crew sailed together prior to this incident.

7 DR. LAPORTE: There are things like this -- I don't know
8 the technology of operations really very much at all. But these
9 kind of questions are exactly the right ones to ask. And then,
10 it's actually what you do so in other systems. Like airline pilots
11 have a certain number of -- it says it's artificial. Some of them
12 can handle more, some a little bit less. But what they've done
13 is to be conservative about the number of hours and pacing
14 that are allowable. And they just ground an airplane. Some of
15 you may have been on an airplane, the crews -- they dumped
16 you off in Denver when you wanted to go to San Francisco.
17 They couldn't fly any farther. They really make it stick. Those
18 kinds of things are sort of a -- in the small, practical
19 expressions of these things. Now, right or wrong, the minute
20 that you say that you have to ask the question, how much does
21 it cost to administer such a thing? It is not so easy. These all
22 take monitors and rewards and punishment of resources. And
23 they go up pretty fast. I don't know how many people are
23 involved here. But, how many different tankers are going out
25 of there?

1 MR. PARKER: About 40.
2 DR. LAPORTE: No, literally, the whole population is 40.
3 MR. PARKER: About.
4 DR. LAPORTE: Well, that's not very much population. If
5 you add up people, that's a pretty easy population to deal with,
6 really.
7 MS. WUNNICKE: All managed by different people.
8 DR. LAPORTE: What?
9 MS. WUNNICKE: All managed by different companies.
10 DR. LAPORTE: Okay. Just tell them they can't come past,
11 unless their boarded, pass a set of inspection and inventory. I
12 mean -- what am I trying to say -- and surprise drills. If you
13 thought about it, how could you convince yourself you had
14 quality traffic? You do -- this is what they do with airline and
15 positive annual checks and they go out and they wring them
16 out. Everybody's been able in interest to do this. I mean, there
17 are -- this is not in some sense, a hard problem in terms of
18 other examples. It's a hard problem for us to get it, to be
19 allowed to do this and to spend the money but it's not even
20 very much money, I suspect. The question is not only that, but
21 doing it for 15 years. It's the long term infrastructure of the
22 current infrastructure that will bring good people into this.
23 And I must say, I haven't got any guidance for you on this
23 because we don't know how these organizations have
25 developed it. We know that they have, but not how they have.

1 That's the next step.

2 MS. HAYES: Well, it occurs to me as you've been talking
3 and as I read the article in Smithsonian that the problem with
4 the tanker captain is a little different than the problems that
5 you were describing. I imagine that their problems are more
6 like your airline pilots of long hours of boredom with a few
7 moments of.....

8 DR. LAPORTE: There are nuclear plant operators also.

9 MS. HAYES:very similar. And then the other types of
10 organizations you've examined, you say that it has to be
11 enforced from above, throughout the organization not just self-
12 developed.

13 DR. LAPORTE: You can't let the operators be the martyrs.

14 MS. HAYES: But, nevertheless, there's a certain sense of
15 emergency about having a plane load of people or a nuclear
16 power plant, sort of thing. And I think one of the problems
17 with something like the tanker safety is that I heard several
18 people, in fact even in our meetings yesterday, talk about
19 Prince William Sound as being a remote area. From Alaska's
20 perspective in the summer, it's just crawling with people in the
21 summer time and during the tourist season. There's lots of
22 communities there compared to other places in the state. We
23 think of it as relatively highly developed area. But,
23 nevertheless, the perception is that it's something that no
25 people -- we've heard before, nobody lost their life, we should

1 be grateful. And so, it can't be that terrible a disaster. And
2 internalizing the results of the spill is something that is very
3 difficult for people who aren't familiar with the Sound as it was
4 before the spill.

5 DR. LAPORTE: Well, as I understand it, your mission is to
6 take up exactly that kind of problem and say, what source, in
7 this case, substitutes to the immediacy of aircraft hazards
8 might one require. Like surprise drills that culled captains out.
9 I mean there are things you can do to get them to pay
10 attention. They're likely to be punitive initially or to reward
11 differentially, the guys who come in well. There are.....

12 MS. HAYES: But that doesn't get to the sort of organic
13 quality that you're talking about.....

14 DR. LAPORTE: Not at first, certainly.

15 MS. HAYES:about they should permeate the entire
16 organization about error free. We have a problem, and I think
17 a problem with the error free stance that if you have the
18 problem with ballast, water, or other types of discharges that
19 has plagued Alyeska -- we've heard a lot about it in various
20 communities, about the amount of oil that's discharged from
21 the terminal, that it's hard to then turn around and say to the
22 tanker traffic, we're going to have zero free emissions. But
23 we've already accepted a certain amount of oil going into the
23 Valdez Arm. We've already accepted a certain amount that's
25 going to be less than zero, or something more than zero. And

1 so, trying to permeate that through an organization seems to be
2 extremely difficult and I wonder if you have any clues about
3 that? Is it just punitive?

4 DR. LAPORTE: Well, certainly it has to have strong
5 punishments at the top to our experiences are the following.
6 The people who are at the operating level know what to do in
7 quality. They're usually pretty good professionals. They
8 frequently aren't allowed to by -- the people usually like to
9 work hard and well if, when they're operating people. If they
10 don't, you get rid of them. Then the question is, are they
11 allowed to do what they know to do? If they aren't, then
12 you've got to go higher and their punitive sanctions, economic
13 or otherwise, may very well be required. Once those occur, it's
14 surprising how rapidly other things, on a more positive term,
15 can develop.

16 MS. HAYES: Is there a relative effectiveness of punitive
17 versus positive?

18 DR. LAPORTE: I don't know. I suspect there is, but no
19 one knows it. I don't, certainly.

20 MR. PARKER: let's put the oil spill then in perspective.
21 The last time I got the figures, there's still 80% of the oil that's
22 spilled in the water is operation loss and only 20% is due to
23 catastrophic loss. So it's a generally sloppy system to begin
23 with.

25 DR. LAPORTE: I hesitate to raise this and I do it for

1 mostly for speculative purposes, but your own Legislature has
2 already and that is considering something called an
3 environmental crime. That there are assaults to our living
4 space that are sufficiently dramatic and irreversible as to
5 represent a public menace. Not just a civil or economic one.
6 And I'm taking it that you're experiencing such a one in the
7 context of Alaskan culture and values.

8 MR. HERZ: Isn't the legislation introduced that was
9 described to us yesterday, if you have spill more than 10,000
10 barrels, you loose your operating permit if you're a.....

11 MR. _____: 100,000.

12 MR. HERZ: 100,000? What's an order of magnitude?

13 DR. LAPORTE: That's a civil or commercial one. But if
14 you made it and held somebody criminally negligent -- you
15 know we have, quite different, we have know the first
16 incidences -- this is a different area, where you have guys who
17 kill people when they're drunk driving jailed for second degree
18 murder.

19 MR. PARKER: Wait until you see my new litter bill. It's
20 not only gonna get the litterer, but it's gonna get the litter
21 producer. Really sock it to 'em.

22 MR. HERZ: If you look at your list, there's some -- I was
23 just reviewing the list of characteristics of these organizations
23 that function error free, try to. At least that's the goal and
25 measure and look at movement of oil with those, on those

1 measures. There's some real problems because although
2 there's considerable external pressure for error free
3 performance -- I mean, the public now is mad as hell, they're
4 not going to stand it any more. So that's there. Integrated
5 direction and protection function in management, I don't think
6 there's very much of that. Significant rewards or punishments;
7 there are punishments that are minimal, but there's practically
8 no reward system at all for good performance. High emphasis
9 on training and skills; I think there's practically none and that's
10 one of the things, the manning requirements and licensing
11 requirements are being reviewed now. The importance of
12 team relationships; certainly on a tanker there's none. I mean,
13 as somebody pointed out, this crew had never sailed together
14 before, probably. High personal commitment; I don't thin there
15 is and part of that is the question of whether -- and I wonder,
16 with the other areas you've studied is there a perception of
17 high -- that the people engaged in this activity are engaged in a
18 high risk endeavor and therefore eternal vigilance is really
19 important. Because with air traffic, with the aircraft carrier
20 and with the nuclear industry, they're all really high risk. The
21 people who sail on tankers, I don't think -- they may worry
22 about the weather, but I don't think they are permeated by a
23 fear of collisions and spilling oil.

23 MR. PARKER: It's the same for traffic controllers.
25 There's no danger to you in the air traffic console, you're killing

1 others.

2 MR. HERZ: But, you are holding the lives of other
3 people.....

4 MR. PARKER: You got, you know if you establish an
5 environmental ethic in the tanker industry, why they'll view
6 themselves as holding the lives of others too.

7 DR. LAPORTE: I think that's part of the answer. That is --
8 okay, let's suppose all the absences that you've listed are truly
9 absent. It strikes me that one of the tactics this Commission
10 could take is to insist that the people who are the transporters
11 address those issues and tell you how they're going to remedy
12 those things. You don't have to do it and it's harder -- it's a
13 difficult task, but they're far more able to provide the solution
14 than you are. But you can demand that there is one addressed
15 and then evaluate its efficacy and quality once it's presented.
16 Now again, it's the 15 year timeframe. The problem really is
17 not that they can't figure out a way, but they'll quit doing it in
18 three years or they get tired. How are you going to keep the
19 attention?

20 MR. HERZ: How does it work -- why do Volunteer Fire
21 Departments work?

22 DR. LAPORTE: Well, they have fires. Actually, that's not
23 true. There's a place in -- I don't know why. It'd be an
23 interesting question. There's a -- one of the communities not
25 very far from my university. I don't know. I think there's a

1 lot of symbolic, intrinsic satisfaction that arise. But sometimes
2 it's hard. We have a community that doesn't have fires. It has
3 a Volunteer Fire Department. And the City Council keeps
4 trying to cut their budget. So what they've done is they have
5 an annual fire. They announce it and burn down a building
6 and they, everybody comes and watches them put the fire out.

7 MR. HERZ: Do they get to choose whether it's the Mayor,
8 or Vice-Mayor or which house?

9 DR. LAPORTE: Let's go back to the strategy I just talked
10 about. It seems to me that to insist on some set of changes and
11 solutions to those -- not necessary these, but whatever seems
12 sensible with regard to the performance level you want, that
13 these be addressed and that you not be put in a position of
14 providing the solutions that they can shoot down. 'Cause once
15 they shoot them down, it means they don't have to pay
16 attention to them. If the table was turned and you shoot them
17 down and say come back again -- but this is a whole history in
18 the environmental protection area is a good parallel to that.
19 It's the developer that's supposed to provide the solutions and
20 the community's supposed to evaluate the quality of those
21 solutions. I think the parallel is a good one.

22 MR. PARKER: We need to get some business done before
23 Ed leaves. Nobody wants to keep this going more than I do, but
23 I'll get to you later, Todd. And in a year or two when I start
25 my redesign of the great American air system, why I'll come

1 see you. It badly needs attention, not as much as tankers at
2 the moment. And I thank you very much for this time with us.
3 Before he leaves, my friend, Dr. Wenk, has some things he
4 wants to bring up.

5 MR. WENK: Well, thanks very much Mr. Chairman.
6 These are items of business that have sort of rolled around
7 loose and I thought I'd try to nail them down by formal
8 resolution. The first would be to give -- I'm not sure of the
9 exact language, but I'll say, resolve that the Chair has authority
10 to hire on the basis of a telephone poll, not necessarily a
11 telephone conference. Just to simplify life. I know how
12 difficult it is to synchronize.

13 MR. PARKER: You've heard the motion, is there a
14 second?

15 MR. HERZ: Second.

16 MR. PARKER: It's been moved and seconded. Any
17 discussion?

18 MR. WALLIS: Question? Is it just to hire, the motion?

19 MR. WENK: Yes.

20 MS. HAYES: Does that include contracts?

21 MR. WENK: No, this is just to hire. I have another
22 motion on contracts.

23 MR. PARKER: Any further discussion?

23 MS. HAYES: Mr. Chairman, I just have a question of --
25 okay.

1 MR. WALLIS: I understand.
2 MR. PARKER: Anything else?
3 MR. WALLIS: I'm curious. No, go ahead. Question.
4 MR. PARKER: Anybody opposed? (No audible response.)
5 Motion carries.
6 MR. WENK: Okay. The second motion is one which I will
7 hope my colleagues here will forgive me as a whim, but it has
8 to do with getting a work plan adopted. I'd like to resolve that
9 the Commission adopt, as an interim work plan, three
10 documents that have already been in hand. I've looked at
11 them carefully and I'm happy to report to the best of my
12 study, they are internally consistent. They are in fact, in some
13 places redundant, but so be it. The first is a one page
14 memorandum that Commission Sund prepared on goals of the
15 Commission. The second is a staff document on one page which
16 is otherwise unidentified, but I think all of us have had copies
17 so that I think you would -- it's a tabular form. And the third
18 is.....
19 MR. PARKER: It's identification is goals of the
20 Commission.
21 MR. WENK: Goals of the Commission. Okay. And the
22 third is that July 19th letter from this Commissioner to the
23 Chair. The motion again, the resolution again is to consider
23 these only interim, but in order to have, to nail this down as a
25 basis for our internal operation, but also to help us in

1 explaining our goals and strategies to our contractors and
2 others who have an interest.

3 MS. WUNNICKE: I'll second the motion.

4 MR. PARKER: It's been moved and seconded, discussion?
5 Does everybody have the July 19th letter.

6 MR. HERZ: What's the staff done.

7 MS. WUNNICKE: It's the one page.

8 MR. _____ I thought it was Sund.

9 MR. PARKER: That's it.

10 MS. WUNNICKE: No, that's Sund.

11 MR. WENK: Well, the first one was a memo from John
12 Sund.

13 MR. PARKER: John's memo was incorporated in that.....

14 MR. SUND: The top five things across the top are the
15 same.

16 MR. WENK: It's really the same.

17 MR. WALLIS: Question.

18 MR. PARKER: Questions been called for. Everybody
19 know what they're voting on? Okay. Any body opposed? (No
20 audible response)

21 MR. WENK: Okay. Thanks very much Mr. Chairman. The
22 third resolution.....

23 MR. PARKER: Motion carries.

23 MR. WENK:is.....

25 MS. WUNNICKE: What was the first one? I missed it?

1 MR. WENK: We gave Walt authority to hire people.

2 MR. PARKER: To hire unilaterally. I'll call you on the
3 phone, but it's very difficult to get through sometimes.

4 MR. WENK: The third resolution is in the spirit of some
5 earlier discussion with regard to contracts. And that is that the
6 subcommittees be empowered to develop their own criteria for
7 selection and that only copies of their short list, plus their
8 recommendation for award be circulated to all the
9 Commissioners and that, here again, a vote could be taken by
10 telephone poll, rather than teleconference.

11 MR. SUND: Mr. Chairman, may I add to that, with
12 permission of the sponsor, that we give the Chairman the
13 authority to sign the contract.

14 MR. WENK: I accept that amendment. Oh yes.

15 MR. _____: Excuse me, didn't we do that once
16 before?

17 MR. PARKER: We have a motion to the motion. Now
18 you've confused me. Parliamentary. Is that an okay motion?

19 MS. WUNNICKE: Yes. I second the amended motion.

20 MR. PARKER: The amending motion is seconded. All if
21 favor?

22 COMMISSIONERS: Aye.

23 MR. PARKER: Opposed? (No audible response.) Motion
23 carries. We're back to the original motion.

25 MR. WALLIS: The reason I asked to split the motion was

1 so I could vote against his motion. And the reason for doing
2 that is that it, I don't know about -- we're going to be talking
3 about re-evaluating our position on an Executive Director and
4 getting him involved. I think that all this information going out
5 and what not, I kind of think it's a waste of time and -- we
6 know what we want. Go out and contract what -- evaluate the
7 proposals and hire somebody.

8 MR. PARKER: Any other comments?

9 MR. SUND: If I could understand the motion before us.
10 Ed's made a motion that the criteria developed by the
11 subcommittees, the final five, if there are five, contracts be
12 circulated to the members and that the Chairman -- I didn't
13 quite understand, poll the members or call up and ask each
14 person what their opinion on each of the contracts before he
15 signs them?

16 MR. WENK: Well, what would go out would be the short
17 list, plus the subcommittee recommendations and all this is
18 telephone poll that essentially aye or nay.

19 MR. SUND: Is it an information poll or if the Chairman
20 polls seven people on a contract and four say okay and three
21 say no, does he sign the contract?

22 MR. WENK: I think that's up to him. I think what he
23 does at that stage is up to him. In other words, I think if
23 anybody is going to have an objective, it has to be a
25 substantive. I don't think anybody is going to say no

1 arbitrarily. I can't imagine that.

2 MR. SUND: I'm just wondering, are we giving the
3 Chairman authority to sign the contract whether you're just
4 asking for an informational poll before he signs so that you
5 have an opportunity to say something, but then the Chairman
6 can go ahead and really do what he wants to do anyway. He
7 can take your advice, or not take your advice, or comment or
8 whatever. So you just want an informational knowledge.
9 You're not asking for a vote.

10 MR. WENK: I think, excuse me, as I understand it, that
11 authority for the Chair to sign, was separated from this.

12 MR. SUND: Right, and we approved that.

13 MR. WENK: We approved that. So I think what you're
14 asking is really on the premise that we are going to go ahead
15 with that second motion.

16 MR. SUND: Well, the motions on the table. I was just
17 trying to understand what your intent behind your motion was
18 is whether you wanted him to circulate the information and
19 then he has to get at least a majority vote by polling or is he
20 just polling for information purposes and then he does what he
21 wants to.

22 MR. WENK: Let me tell you what's on my mind 'cause
23 I've been in the situation several times. There's some of us on
23 the Commission who may know some of these potential
25 contractors and know of their past performance and we will

1 know whether it has been exemplary and we will know
2 whether or not it has been disappointing. And I think that's
3 important information for the Commission to have in advance.
4 There's no way to get that information in advance except by
5 this process, as far as I know. But I would feel, as a member of
6 this Commission, trying to carry out the responsibilities for the
7 State of Alaska, I would like to have that opportunity to
8 express those views and not be caught afterwards with a
9 contractor, who I know from past experiences lets down their
10 sponsors. I know a number of these people who are going to
11 bid, I think and I've got some very positive views. But I just
12 think this is a good cautionary vote.

13 MS. HAYES: I'm partly concerned -- I share some of
14 Tim's concern, but I'm also concerned about time period. Those
15 of us from Anchorage are usually here. I can usually get Tim
16 on the phone if I need him. John seems to be pre-occupied
17 with fish, but you're usually available. You're going to be gone
18 for two weeks.

19 MR. WENK: I'm going to be gone until the 26th.

20 MS HAYES: And I'm just wondering whether we can go
21 ahead and get some people hired before then. I'm thinking
22 that we may not need to have that kind of telephone poll. I'd
23 also like to clarify whether it means that you get four out of
23 seven. Does that satisfy that requirement or is it you have to
25 talk to every one of the seven members. For Ed's purposes, it

1 means you have to talk to everyone of the people, one of the
2 Commission members. And I guess I think that the
3 subcommittees that we want, that we think should be done and
4 their going to be looking at the contractors with somewhat of a
5 jaundiced eye. I think if the subcommittees can agree on
6 somebody, I think we're probably safe.

7 MR. PARKER: Mike?

8 MR. HERZ: Well, I'm torn, because I think on the one
9 hand we have a responsibility to exercise this kind of oversight
10 for the reasons that Ed outlined and also because we're
11 spending the State's money. But on the other hand, hopefully,
12 we're going to close a lot of these off before you come back.
13 There's two weeks of time, any how that can be saved, it seems
14 to me, 'cause we can start this process the week after the 11th.
15 So, I'm concerned -- I mean I think you're not imposing
16 something that couldn't go on in your absence, right?

17 MR. WENK: I don't think any one member of this
18 Commission is crucial to any of these votes.

19 MR. HERZ: Then, I'm not torn.

20 MR. WENK: And I'm not asking for, you know,
21 unanimous vote. I think the chairman would find it useful to
22 have advisory information on these people. I'm not sure I fully
23 understand all the Commissioners' nervousness about this
23 process. If you're concerned that this Commissioner is going to
25 vote negatively on your proposals, then please let me reassure

1 you that I don't enter this with any prejudice with any of these
2 people. I just feel this responsibility. I don't want to prolong
3 the discussion. Why don't we vote.

4 MR. WALLIS: Let me just respond to that. I don't have
5 any feelings of that nature. There's a couple of things: one,
6 time. Secondly, I think we might get ourselves in the little
7 problem of conflicts of interest and what not in doing all this.
8 And I'm going to drop it at that.

9 MS. WUNNICKE: Mr. Chairman. I'd just like to suggest as
10 an alternative that we leave it to the Chair's discretion to
11 consult with members of the Commission with respect to
12 proposed contractors and not make it a formal process
13 requiring it.

14 MR. SUND: Well, Mr. Chairman, my reason for
15 questioning it had to do a little bit with your inability to
16 contact anybody. Does that mean it just stops everything. And
17 if it's just a matter of sending it to your address, that's fine for
18 information. But Mike brought up the point, Ed, that you're
19 going to be gone for two weeks. Does that mean we can't do
20 anything because we're not able to contact you to ask you
21 about these contractors. I don't think that is a good position to
22 be in.

23 MR. WENK: Why are you in that position?

23 MR. SUND: 'Cause that's what your motion said, I think.
25 I was trying to clarify what your motion was.

1 MR. WENK: Keep in mind if the motion fails, that will
2 prevent him from calling you or sending you the information.
3 MR. SUND: I'm willing to see a motion fail. I've proposed
4 many motions in my lifetime that have failed.
5 MS. WUNNICKE: Call for the question?
6 MR. PARKER: All in favor -- we'll poll the Commissioner
7 Hayes?
8 MS. HAYES:
9 MR. PARKER: Commissioner Herz:
10 MR. HERZ: Yes.
11 MR. PARKER: Commissioner Sund?
12 MR. SUND: No.
13 MR. PARKER: Commissioner Wallace?
14 MR. WALLIS: No.
15 MR. PARKER: Commissioner Wunnicke?
16 MS. WUNNICKE: No.
17 MR. PARKER: Ed?
18 MR. WENK: Yes.
19 MR. PARKER: Chair votes no. Okay, I think the Chair,
20 accepting the validity of using.....
21 MR. SUND: There was another motion. For signing
22 contracts.
23 MS. HAYES: We have voted on the one that signed.
23 MR. HERZ: I thought we voted on the motion to accept.
25 MR. _____: I thought we flipped the question on.

1 MS. HAYES: All we did was

2 MR. SUND: I thought, didn't we?

3 MR. PARKER: The chair just wanted to comment on the
4 motion that just failed. The Chair will certainly use the
5 resources of the Commission members and urge the
6 subcommittee chairman to contact everyone they feel
7 necessary in arriving at their decisions and staff is also
8 encouraged to contact Commissioners on those proposals that
9 make the short list. Having no idea of the scope of what's
10 coming in to us with so many ads in the paper. I hesitate to
11 commit beyond that because we just never get there.

12 MS. WUNNICKE: Mr. Chairman, may I ask Mr. Wallis a
13 question? You mean, with respect to the first part of
14 Commissioner Wenk's motion, which was that the criteria be
15 developed by the subcommittees.

16 MR. WALLIS: What, I'm sorry.

17 MR. SUND: The motion that's on the table is my motion
18 to authorize the Chairman to sign the contracts and I think Ed
19 is correct. I think we've already done it. I think that we've --
20 but I don't mind doing it again in case we didn't.

21 MR. WENK: And if you just introduce it, I'll second it.

22 MR. SUND: I just move to give the Chairman authority to
23 sign the contracts.

23 MR. WENK: Second.

25 MR. PARKER: Okay, it's been moved and seconded. Any

1 discussion?

2 MS. WUNNICKE: Question.

3 MR. PARKER: Everybody heard the motion? Questions
4 called for. Anyone opposed? (No audible response.) Motion
5 carries. Okay, I think we need to go back into Executive
6 Session until 5 o'clock so we can continue our discussions at our
7 previous Executive Session. We'll go off the record and resume
8 at 5 o'clock.

9 (Off the Record)

10 (On the Record)

11 MR. PARKER: For the record.

12 MR. DIXON: My name is Patrick S. Dixon. I'd like to
13 testify twice. Once as an individual and once as a
14 representative of the United Cook Inlet Drift Association.

15 MR. PARKER: Okay. Which is first?

16 MR. DIXON: I've been trying to decide that all afternoon.
17 I think I'd like to testify as an individual first. And the -- my
18 testimony involves, like I said, some documents. I have a
19 couple of things that I've written. I've been a writer for a long
20 time and I commercial fish on Cook Inlet and one of the things
21 I like to write about is what I love. I've heard a lot of
22 testimony and certainly no where near what you've heard, this
23 afternoon and talked to a lot of people over the past few
23 months about problems and solutions and those kinds of things.
25 But I don't want this Commission to pass over or ignore or have

1 it gone unsaid that there's another side to this entire event.
2 And that's the emotional side that all the fisherman I know and
3 are aware of have felt. They're a lot of people, like a friend of
4 mine put it, that are kicking the dog this summer out of
5 frustration. They're a lot of people who are very sad and very
6 angry at what's happened. And some of my lifestyles been
7 yanked away from me. It's something that I dearly love and
8 I've loved for a long time. I fish, like I said, in Cook Inlet. Cook
9 Inlet has the second highest tides in the world and those tides
10 create what are call rips, or riptides, in the inlet and they
11 present some problems in terms of oil cleanup, but they also
12 present problems to fisherman concerning what we have to go
13 through to harvest fish and the fish do hang out on the rips.
14 And at the start of the summer, wondering whether or not I
15 was going to fish and then later modified this piece of writing, I
16 wrote a poem. And I just want to read it to you to let you
17 know what kind of -- how deep it goes. It's called "Middle Rip,
18 Cook Inlet". Poem read and submitted to Commission.

19 MR. PARKER: Excellent, the middle rip hasn't change in
20 30 years since I was last out there fishing it.

21 MR. DIXON: Thank you. Just a couple of comments in
22 response to what I've heard in the brief time I've been here.
23 One gentleman mentioned the relevance of a job and I have to
23 point out -- and I think that does, that the job is relevant to the
25 person and something dear to me has been taken away that no

1 man, no amount of settlement checks are every going to repay.
2 I've talked to a lot of fisherman who feel the same way about
3 opportunities lost. And then I -- in terms of an environmental
4 crime, if this Commission determines that that's something they
5 want to consider, I ask you from the bottom of my heart to put
6 teeth in it and to -- and in that I just want to point out, in my
7 opinion, Exxon's largest offence has been their arrogance. And
8 in not understanding this kind of a side to it. I'll leave that
9 poem with you, plus a couple of articles I've put together and
10 have been working on. So, I'll take off my personal hat and
11 don the hat of a UCIDA representative. The United Cook Inlet
12 Drift Association asked me to come up here and testify before
13 this commission because we weren't sure you were coming to
14 Kenai, but I understand you will be. We'll probably be back.
15 We have just a few issues, out of many, that we'd like to point
16 out. I met with some members of the Board of UCIDA
17 yesterday and they were very clear about the type of things
18 they wanted me to say. One of the first ones is, is that from the
19 onset, financial assistance to the fisherman has been extremely
20 necessary and slow and poor in coming. It takes a lot of money
21 to commercial fish. And Exxon's settlement claims have been,
22 their interim settlements, have been unsatisfactory to the bulk
23 of the Cook Inlet Drift Fleet. One of the Board members told me
23 he had to cancel his health insurance last month as a result of
25 not having enough money. He said a friend of his also lost his

1 farm as a result of not having enough money. And I would like
2 to point out that the TAPS fund has never been accessed. Not
3 in 1987 and not in 1989. It was my understanding, and the
4 Board's understanding that the purpose of the fund was to help
5 those who were impacted financially by the spill and I know it
6 won't kick in until \$14 million has been paid, but that requires
7 that there have to be claims made against the spiller. And, in
8 our opinion, cannot help us if we cannot access it. And people
9 are still in financial straits, regardless of what Exxon is paying.
10 So, if there's any change of enacting some sort of legislation for
11 some sort of funds which -- and the TAPS is sitting there
12 collecting interest. Maybe a spinoff fund of that. To make
13 more fund available through the state to impacted fisherman.
14 I'm sure it would be a large help. Also, I'd like this Commission
15 to consider recommending a moratorium on State permit
16 payments for the commercial fisherman who have lost their
17 seasons. The -- it's our opinion, that, at this point, we haven't
18 caught any fish. The permit is a license to catch fish. And
19 again, we may be years before we see any more type of a
20 settlement. So something along those lines would be helpful.

21 MR. WALLIS; I'm sorry, can I interrupt you?

22 MR. DIXON; Yeah.

23 MR. WALLIS: You said put a moratorium on the fish
23 permits.

25 MR. DIXON: On the permit payments.

1 MR. SUND: State loans.

2 MR. DIXON: State loans, I'm sorry.

3 MR. WALLIS: Oh, okay.

4 MR. DIXON: State loans for commercial fishing permits.

5 MR. WALLIS: Okay. Thank you.

6 MR. DIXON: Just as an aside on that, knowing that our

7 area was declared a disaster area, we approached the -- my

8 wife and I approached the Small Business Administration about

9 an emergency loan. And that was available and we were

10 involved in a raft of paperwork and may not get it because the

11 theory goes, if you're not eligible elsewhere, then it won't come.

12 It's a long process and as a result, makes for a long fishing

13 season.

14 MR. PARKER; SBA, of course, speeded things up

15 dramatically after the quake and carried most of the burden

16 for quake relief.

17 MR. DIXON; I think it's bogged down again now. At least

18 from my experience.

19 MR. PARKER: I'd push 'em. I'd have the association push

20 'em and see what it take to unlock them.

21 MS. WUNNICKE: Have you contacted CFAB and what kind

22 of response did you get.

23 MR. DIXON: I personally have not contacted CFAB so I

23 can't answer that question.

25 MS. WUNNICKE: Have others?

1 MR. DIXON: I don't know. For emergency loans?

2 MS. WUNNICKE: This is on the loans.

3 MR. SUND: Well, there's two different programs here.
4 There is a State loan program for permits that's run through
5 the Department of Commerce. I assume that's what you were
6 talking about.

7 MR. DIXON; That's what I was talking about.

8 MR. SUND: That the State has effect over. CFAB also has
9 the authority to take permits as collateral and they will make
10 judgment based upon a lot of other issues. They make
11 judgments to defer payments for a year for fishing for a lot of
12 reasons. If guys have breakdowns, or physically incapacitated,
13 or they weren't coming -- they make a banking judgment
14 reason. We could send them a letter asking them to take this
15 into that kind of consideration, but one of my partners is on the
16 Board of CFAB.

17 MR. DIXON: And again, as an aside, in terms of Cook
18 Inlet and what our expenses are. We're a very short-lived
19 fishery. Most of our boats are smaller than the other fleets
20 around the state. Most of the guys in Cordova and Valdez and
21 around the State have much higher payments in terms of boats
22 and Bristol Bay permits are much higher than Cook Inlet
23 Permits. So, you're speaking to somebody on the low end of
23 things.

25 MR. PARKER: How many boats in your fleet?

1 MR. DIXON: 600

2 MR. PARKER: And you haven't had an opening yet?

3 MR. DIXON: No, 100% of our red season is gone according
4 to fish and game as of yesterday, as of August 5th.

5 MR. SUND: I wanted to ask you whether your guys are
6 using -- are they going over and working for Exxon on the
7 clean up, or VECO, or most of them not?

8 (Tape Changed)

9 (Tape Number 89-08-04-4B)

10 MR. DIXON: Some have, most have not. And that's the
11 next point I want to make. The reason that most have not, we
12 were scared away from any type of volunteer cleanup or any
13 type of cleanup activity whatsoever by the fact that the way
14 our season was closed, it was period by period. Then it became
15 two periods by two periods. And there were never any DEC
16 clean up stations located conveniently to a large number of
17 boats in our area.

18 MR. HERZ: Plus you have small boats.

19 MR. DIXON: Plus, we have small boats. But we could've
20 handled it. We could have gone out and cleaned. But we were
21 warned away. Even the drift association's position was you
22 better not because you might go fishing tomorrow and DEC
23 doesn't have the inspectors or the cleaning stations and you
23 have to be re-certified if you go clean. So what ended up
25 happening is that at the time, and one of these documents

1 speaks to that, at the time where it became crucial we were
2 hindered. We didn't feel like we could go.

3 MR. HERZ: One of the things I want to get a sense of is
4 whether there's any judgement made on those guys that go?

5 MR. DIXON: That did get jobs with Exxon?

6 MR. HERZ: Yeah. Are they judged.....

7 MR. DIXON: Harshly, by the rest of the fleet. No. It's a
8 matter of opportunity and some guys got on. I think the
9 judgment is more toward Exxon and the way they handled it.
10 Because at one point I know they were trying to rotate
11 contracts through so more people could get a little bit of that
12 pie, but what ended up happening is that got washed away by
13 the tide or whatever and that did not happen and some people
14 have had contracts every since the beginning and other guys
15 have never had contracts and have tried like mad to get them.
16 There's not any resentment toward the other fisherman who've
17 been working. They're like any of the rest of us. There's
18 resentment about the policy and the way it was handled. It
19 didn't spread the wealth and share it so some people made out
20 like bandits. But beyond that, one of the things I want to talk
21 about as a UCIDA representative is, we're extremely dis-
22 satisfied with the clean up in Cook Inlet. In fact, all over
23 Alaska, but Cook Inlet specifically. There was a dipnetting
23 effort that basically lasted for the month of July and has now
25 ended altogether. We clamored and have written letter after

1 letter, phone call after phone call to Exxon's Homer Command
2 Center. We were told that basically, a larger group of boats
3 cleaning the Inlet was an impossibility to manage. The
4 communications and the logistics they said were too great.
5 And, most fishing boats are more than seven boats strong. On
6 July 11th, I was part of a group that went out as a volunteer
7 and 13 boats went out and tried to dipnet oil and we had no
8 problems in terms of communications.

9 MR. PARKER: What's the logistic problem. I mean, when
10 you're fishing, you all get your fuel and your food. And when
11 you're fishing you're all on the same radio nets. So what are
12 the logistics that are impossible.

13 MR. DIXON: I have to -- I asked that question myself
14 and they didn't have an answer. They just said it was too big a
15 group. So, the -- dipnetting oil, in fact, out of the rips may
16 have worked if there had been more boats. There are other
17 methods that the fishermen had thought of that may have
18 worked better, such as taking herring nets and two boats along
19 the rip, where the oil's collected and trying to collect it that
20 way. It was never attempted.

21 MR. HERZ: Dip netting, using a landing net or what?

22 MR. DIXON: They took -- they manufactured small mesh
23 dip nets and then a drift boat would be out there and have a
23 skiff or two in its charge and put people in the skill and they
25 would dip in the kelp or the sticks and pull up a bunch of stuff,

1 throw it in the boat and sort out the oil. You know, that's the
2 way it went. It was kind of a ludicrous situation, but I don't
3 think Exxon ever really intended on cleaning Cook Inlet. But I
4 talked with Paul Rusch, who's a Fish and Game biologist in
5 Kenai and I asked him point blank if I could quote him and he
6 said he wouldn't have a problem with that. And he told me
7 that if I were to become an activist, I would not be an activist
8 for the oil floating in the Inlet because he didn't believe
9 necessarily that it would be there. The stuff that's there now
10 would not be there later. I disagree with that statement,
11 personally, but that's what he said. He said if he were going to
12 be an activist, he would be sure the beaches on the outside of
13 the Kenai peninsula that had been oiled were cleaned and clean
14 well, including the Baron Islands where it's still pooled up. No
15 matter how hard it is, he felt that that oil has a very good
16 chance of coming off the beaches in the spring and that we may
17 be dealing with this same problem next year. So the cleanup is
18 something that we're extremely unhappy with. The condition
19 of the oil in the Inlet right now is drastically different than the
20 Glacier Bay. And a lot of people have said, well won't it go
21 away like the Glacier Bay oil did? The Glacier Bay oil, when it
22 was fresh and weathered, picked up silt that the Cook Inlet's
23 famous for and sank with the weight of that silt. And it has
23 produced upwellings. In fact at the start of the oil in our
25 district, they did find Glacier Bay oil. The first tar ball tested

1 was a Glacier Bay tar ball. So, it's still coming up occasionally.
2 But the oil from the Exxon Valdez, and I know I've held one in
3 my hand, is weathered and I pulled I out of the Inlet about
4 three weeks ago in a bucket and picked it up out of the bucket
5 in my hand and I set it back in the bucket after holding it for
6 maybe 30 seconds. And nothing came off on my hand. It's not
7 absorbing any of the silt. It's full of seaweed and pine needles.
8 It doesn't show, to me, to my way of thinking, any sign of going
9 away. Exxon claims that the tidal action over the winter will
10 flush it out of the Inlet, but all the evidence we've had all
11 summer long has brought it into the Inlet. And I don't see it --
12 I don't think it's going to go away.

13 MR. PARKER: Well, we know from past oil spills that the
14 tides movement back and forth for years. We've got a well
15 established pattern of that in Cook Inlet, going back to '58.

16 MR. DIXON: I'll try to hurry up through this. The fox is
17 in charge of the hen house. The biggest mistake in our opinion
18 is that Exxon was in charge of the clean up. I think you took
19 somebody who had a vested interested, not you, but the
20 government's decided that Exxon should clean it up for
21 financial reasons and something needs to change there. The
22 spiller should not be in charge of cleaning up their own mess. I
23 think they have a vested interested not to. And, as we all
23 know, money spent is not work accomplished. Exxon is
25 claiming that they've spent so much money and employed so

1 many people on the spill, but the fact remains that anybody
2 who has traveled, or fishes and traveled the water knows that
3 that's not the case. The work has not been done. We'd like to
4 see all tanker traffic - I want to change topics again here
5 because and addressing tankers. We'd like to see all tanker
6 traffic have higher liability insurance than is currently present.
7 We don't feel that it's great enough. And then we'd like to
8 speak to the Cook Inlet tanker traffic because we're a little bit
9 different than all the others. We've had three seasons and two
10 oil spills. And we're ripe for another one. Cook Inlet is some of
11 the most dangerous water in the entire state, if not the
12 continent or world. We have more tanker traffic, traffic not
13 tonnage, in Cook Inlet than they do in Valdez. The materials
14 transported are extremely varied. We're not talking just about
15 oil, but we're talking liquid natural gas and we're talking urea
16 and chemicals. And if the liquid natural gas tanker happens to
17 hit a rock, we'll be lucky if we're still there. The tankers that
18 travel the Inlet, according to a gentleman I talked to in Homer
19 on the phone this morning, are older than the tankers that
20 travel through Valdez and southeastern waters. The Glacier
21 Bay -- they never did decide on a figure, it was between 14
22 and 17 years old. They also have more varied ownership. If
23 the Exxon Valdez had been owned by British Petroleum and
23 carrying Tesoro oil and shipped by Trinidad Shipping, like the
25 Glacier Bay was in '87, I doubt if we'd have the kind of clean

1 up effort that we've seen in the state. And, they can -- that's
2 continuing in Cook Inlet. There are no contingency plans in
3 place at this time, although I understand that some are going to
4 be drawn up next week. There still are any at this time for any
5 of the tanker traffic that comes in the Inlet. And the Coast
6 Guard, as far as I'm aware, does not even inform DEC of the
7 traffic when it enters the Inlet, when it's coming in. There's
8 nothing watching gout -- and these are far more dangerous
9 waters with navigational hazards.

10 MR. PARKER: Who's the Captain of the Port in Nikiski?
11 Do you know?

12 MR. DIXON: Coast Guard?

13 MR. PARKER: Yeah.

14 MR. DIXON: I -- the only gentleman I know involved in
15 the Coast Guard in that port is a Lt. Wilson, but I don't know
16 who the Captain is.

17 MS WUNNICKE: He's in Homer.

18 MR. SUND: He's the marine safety officer in Kenai. He's
19 head guy.

20 MR. DIXON: The Drift River Terminal. Besides Nikiski,
21 there's also the Drift River Terminal across the Inlet. And it is
22 one of the hardest terminals to tie up to. By contrast, the
23 Valdez Terminal is one of the easiest. And again, the point is
23 that we're ripe for another spill. And there's no real clean up
25 capability in place if something should happen. CIRO is

1 ineffective. It's our opinion that we need escort vessels, ideas
2 like double hulls and twin screws. When you're talking tides
3 that can move seven, eight, and nine knots at a time and if a
4 tanker becomes disabled as one did off Valdez here just the
5 other day, those tides can take them into a rock pile very
6 easily. There is a very big rock pile just below the Nikiski
7 dock. Some plans need to be in place. Some good strong plans
8 with teeth in them and they need to be enforced and they need
9 to have equipment to back 'em up. And, if there's anyway,
10 especially considering the area we're from, not to slight any of
11 the other areas and any of the other things you're doing, but if
12 there's any way that you can address some of these things in
13 terms of recommendations, before January, the traffic is still
14 there and it's still going on and this whole situation is
15 continuing to exist.

16 MR. HERZ: Do you know if there's any -- what response
17 capability exists in the Inlet?

18 MR. DIXON: There's a Cook Inlet Resource Organization.
19 It used to be called the Response Organization, known as CIRO
20 and they were supposedly the ones that were stockpiling the
21 equipment in 1987, that was to help Glacier Bay. They've since
22 changed their name to resource because they didn't want to be
23 the ones that were responding, for obvious reasons. Other than
23 that, no, there's -- and their equipment, they don't have
25 anywhere near as much equipment. They helped out on the

1 Exxon Valdez spill, I believe, but I don't think they have any
2 where what needs to be in place. But they are an organization
3 that's there. I was just talking a few moments ago with some
4 gentlemen that are here and, you know, it seems that if you
5 had to pick an area or an organization or whatever, you would
6 do much better and serve your interests better and the
7 interests of the state and the people of the state better by
8 going to organizations like the fisherman's organizations and
9 asking them to help set it up. And maybe through existing
10 organizations like CIRO, but have some volunteers in place. It
11 needs to be more localized and more grass roots. I know -- I
12 hope one of the lessons we learned from Exxon Valdez was that
13 the fisherman understood the currents and understood how to
14 clean oil a lot quicker than the experts and that's because they
15 live there and they're constantly doing that. I think that's all I
16 have to say. Thank you for your time and I'll leave these
17 articles with you.

18 MS. WUNNICKE: Spell your last name for me.

19 MR. DIXON: D-I-X-O-N.

20 MS. WUNNICKE: Oh, I misunderstood it.

21 MR. SUND: I have a question. Just a, based upon -- I
22 don't know if you were at the hearings yesterday or not, but
23 Mr. Harrison and I got into a little disagreement on the zero
23 tolerance issue and I'd just like to know what your opinion is
25 on that policy?

1 MR. DIXON: I went through some changes over the
2 summer with my opinion of that policy. I felt that the policy as
3 well taken from the onset. I -- it is involved in marketing, but
4 it has every reason to be. And it seemed to me that as the
5 season progressed and as we found out what was happening,
6 that it was being handled very well and I didn't have any
7 complaints with it. I had a little bit more problem with it after
8 I went dipnetting and couldn't find any oil. But then, after
9 talking with Fish and Game and finding out why I couldn't find
10 any oil -- we were out there on a choppy day and oil suspends
11 itself beneath the surface with tidal and wave action and it's
12 maybe six feet down. All the test boats that were employed by
13 Exxon and Fish and Game that day, that were fishing with nets,
14 got oil -- the oil fouled their nets. Our entire fleet did not find
15 any oil to dipnet, so it needs to be calm so the oil can float back
16 to the surface. And then, my mind changed again. And I'm
17 speaking on a personal level here, not as a UCIDA
18 representative. I've had twinges of having a hard time with
19 zero tolerance in regard to the drift fleet being put on the
20 beach and the set netters being able to harvest all the fish,
21 when set nets were in fact fouled with oil early on in the
22 season. And it became almost a political game, in my mind,
23 that fish and game was trying to play. But I also understand
23 very clearly that if they let all those fish go up the river, we'd
25 have a nightmare on our hands in terms of destroying the

1 resource. So, it's come and gone. I would have to say that if it
2 were at all to happen again, zero tolerance, to my way of
3 thinking, overall, today, sitting here, has been a good policy and
4 has done the job it was intended to do. So, I agreed with your
5 comments in the paper.

6 MR. SUND: I just, you know, I didn't know what your
7 answer was going to be, knowing that it's hard to keep a
8 fisherman on the beach when there's fish out there to be had.
9 Even if they might even pay you an adequate amount of
10 money. That's a very difficult feeling. But, you know, just
11 another concept that was going around and at the time if they
12 did not adopt a zero tolerance up here, those of us from
13 southeast Alaska were going to initiate our own advertising
14 campaign to distinguish Prince William Sound and Cook Inlet
15 fish from the rest of the state in the sense that we didn't want
16 to get tainted with it which would have driven a tremendous
17 wedge into the marketing scheme of salmon from Alaska that
18 we may have never recovered from.

19 MR. DIXON: I think damage has still been done. I've
20 been told that Pike Street Market has signs up saying "not
21 Alaskan salmon" .

22 MR. SUND: Yeah, we sell to 'em. Cheap.

23 MR. DIXON: But no, I think.....

23 MR. SUND: I was trying to explain yesterday that this
25 has impacted southeast Alaska. The tender's are -- the tender

1 capacity is down. We're having one of the biggest pink runs in
2 the history of the state. The ferry broke down, so we couldn't
3 move fish around. You couldn't rent a barge, 'cause Exxon's got
4 'em all. And in the market place, people do not distinguish one
5 part of the state from another. Alaska's Alaska and it's this
6 little dot in the upper left hand corner of the map I saw when I
7 saw in grade school, right? So, okay, I appreciate -- being a
8 lawyer, I never like to ask a question I don't know the answer
9 to, so I was holding my breath for a minute.

10 MR. DIXON: Like I said, there were mixed feelings. I did
11 want to point out one more thing that I -- a topic had come up
12 and I hadn't written it down. One of the articles that you have
13 in front of you here is an article that is being submitted to a
14 magazine about my -- again, my emotional opinion of what's
15 going on. The other is a description of an action that was taken,
16 I guess it was a little over a week ago now, where myself and
17 14 boats blockaded a tanker at the Nikiski dock. And, as not --
18 as a representative of the fishing organization. And I tried to
19 summarize the article, or summarize the event in that for
20 national fisherman. I understand it's going to be edited like
21 made, but in any case, in its entirety, it's there. I hope it comes
22 across that these were reasonable people that were doing an
23 unreasonable action because of an unreasonable situation.
23 And, no one got hurt and our point was well taken, I think. We
25 made national news and we generated, hopefully, some

1 pressure, although a week later Exxon decided to remove its
2 dip fleet from the Inlet. But while we were there, at the
3 Nikiski dock, the tanker that was coming in, the Flying Clipper,
4 dumped ballast water into the Inlet. And there was nothing in
5 place to contain it. One of our group got on the radio and called
6 them on it -- actually called the Coast Guard. And the skipper
7 of the tanker came back that this was approved by the Coast
8 Guard and they had permission to do this. And they were
9 discharging oily water into the Inlet with permission from the
10 Coast Guard. And, you know, be that as it may -- the tides may
11 wash it away.

12 MR. HERZ: Did anybody ask the Coast Guard whether in
13 fact they.....

14 MR. DIXON: No, we were too busy running away from
15 the Coast Guard. We -- they tried to chase us down in skiffs, so
16 -- and then everybody was so afraid of a citation afterwards,
17 we didn't call them. But, in any case, that's, you know, just one
18 other symptom of the problem we got.

19 MR. HERZ: It's sounds worth following up on though.

20 MR. SUND: Do they have ballast water treatment at the
21 Nikiski plant.

22 MR. DIXON: I don't know that for a fact, but I don't think
23 so.

23 MR. PARKER; I don't think they have ballast water
25 treatment at Nikiski. I think they're supposed to either dump

1 beyond the Barrens or take it to the next ballast water
2 treatment plant is my best recollection.

3 MR. HERZ: I certainly need to verify -- I can't believe
4 the Coast Guard could.....

5 MR. DIXON;: Well, if there's no ballast water treatment
6 plant, you have to authorize 'em to unload their ballast in the
7 water.

8 MR. PARKER: Yeah, if he was too heavy to get into the
9 dock.

10 MR. DIXON: He was empty.

11 MR. PARKER: He was empty?

12 MR. DIXON: He was empty. He was coming in to receive
13 a load of bunker oil.

14 MR. PARKER: Oh, he was dumping it so he could take the
15 oil.

16 MR. DIXON: In any case, the Coast Guard, as I
17 understand it, is there every time a tanker comes in the Coast
18 Guard is present for inspection purposes.

19 MR. PARKER: One of the things the industry got a
20 hanging on the supplies to fisherman too. The Exxon Valdez is
21 targeted, oil in the water again, so people are going to have to
22 clean up their act on dumping ballast, 'cause everybody's
23 reporting phantom spills all over the place. Although
23 yesterday, why Mr. Harrison said to us that that spill they had
25 that closed down the Esther Island was not Exxon Valdez, but

1 in the morning paper they said it was Exxon Valdez. So, you
2 know, we're going to be going through this the next couple of
3 years as to whose oil is floating out there.

4 MR. DIXON: That's right. We've already experienced it.

5 MR. SUND: It might be a shiny rock Mr. chairman. A
6 black, shiny rock.

7 MR. PARKER: A black, shiny rock. Okay. Well, thank
8 you, Pat.

9 MR. DIXON: Alright. Thank you very much for your time
10 and your efforts. I know you're putting a lot of work in.

11 MR. PARKER: Charles McKee. Welcome back, Mr. McKee.

12 MR. MCKEE: Thank you. Chairman, Commission, I'm here
13 today with a little known book. It's called "None Dare Call It
14 Conspiracy", and I photocopied a page out of the book that
15 shows a stock collapse through the years '36 to '70. It's factual
16 and that's why I'm introducing it to this Commission because it
17 shows restrictive measures where they've made money and
18 expensive measures on a down side, which is where we have
19 the stock prices going down, plummeting. And so, we can
20 consider from their point of view, their management -- I'm
21 talking about prevention still, and it's from the management
22 point of view that I'm looking at it. There's a possibility that
23 this is a restrictive measure to bring, which did happen, stock
23 prices up in the oil industry two weeks after it happened as
25 well as prices of gasoline across the nation. And so, I'd just like

1 to introduce this to everybody. The book was printed in '71.
2 A lot more information there, but basically it focuses on the
3 monetary system that we're dealing with, money. If we're
4 going to have any kind of environmental criminal act placed on
5 this oil spill, we've got to focus on the objective of these people
6 is to make money. I'm sure that they're not going to come
7 forward and say, oh, well and testify and give evidence,
8 incriminating evidence against themselves that they indeed did
9 mastermind this thing to cause a economic crisis on our part,
10 but an economic windfall for them. But we need to focus on
11 that in order to bring about a truly prevention scenario. And,
12 again, I'm a common law citizen in the republic of the United
13 States of America and this is a maritime country and this is a
14 maritime accident. Thank you.

15 MR. PARKER: Thank you, Charles. Any questions? Rawls
16 Williams?

17 MR. WILLIAMS: My name is Rawls Williams and I am
18 presently the supply and equipment dispatcher for the
19 National Park Service Oil Spill Operation which is -- put
20 resource protection officers out with all Exxon, VECO work
21 crews. They go on National Park Service land. Just for a little
22 background in case you're wondering who I might be and what
23 I know. Six of the last seven summers I've worked as a
23 dispatcher for the Bureau of Land Management, Alaska Fire
25 Service. In 1988, I was the incident Chief Dispatcher at the

1 Storm Creek Fire in Yellowstone National Park. I've been
2 involved with the Federal Incident Command System since it's
3 inception and was involved with implementation of the original
4 fire management plans throughout the interior of Alaska. I
5 have two basic comments I'd like to make. It's -- I can go on
6 and on about specifics. I can tell you about undiked fuel caches
7 on the Katmai coast that Exxon has. I could tell you all sorts of
8 things you probably don't want to hear about, but I won't.
9 What I will say is that my biggest critique that I would give of
10 the Exxon work effort is what the National Park Service has
11 done so well. Every work crew that has gone ashore on
12 national park lands has had a Resource Protection Officer with
13 the work crew. This Resource Protection Officer is an armed
14 individual who protects the bears from the people, and say,
15 don't take your ATV above the high water mark, but it down
16 that wall, leave that alone, pick up that coke can, and basically
17 is the final word on environmental impact. I think that each
18 clean up crew that goes ashore, regardless of where it's going
19 ashore, should have a non-Exxon, non-Coast Guard, which is
20 very important. The Coast Guard men are men of good
21 intention, but they're military officers. They are not trained
22 resource management specialist. But every work crew that
23 goes ashore should have non-Exxon, non-Coast Guard, educated
23 and trained resource management specialist. The state should
25 insist on professional, non-Exxon, ecological monitoring of each

1 and every work crew that goes ashore to treat beaches. I think
2 this should be done without exception. It should be done
3 tomorrow. There are plenty of unemployed biologists in this
4 state that could be hired. My second comment is -- has more
5 to do with -- even beyond the oil spill itself. If you'll bear with
6 these next four sentences. The Federal Aviation
7 Administration has 39 potentially contaminated sites across
8 Alaska. It's a known fact. The Department of Defense has
9 major toxic hazardous waste problems. Rural Alaska is
10 suffering benzene contamination problems due to past fuel
11 storage practices. As we all well know, the train wreck outside
12 of Moose Pass caused an emergency situation due to ammonia.
13 Okay, the state of Alaska has the Department of Environmental
14 Services. In late April, I went down to Valdez looking for
15 employment as a logistics dispatcher. And nobody even knew
16 they need logistics dispatchers. The DES was, at best, shoveling
17 reports out to photograph the site. I think the State of Alaska
18 should initiate its own First Response Toxic Hazardous Waste
19 Management Team. A first response team could react to a fuel
20 team in McGrath, a toxic waste site at Lake Minchumina (ph),
21 or an oil spill in Prince William Sound. A first response team
22 would not directly manage the incident except when no other
23 agency was capable of resolving specific emergency situations.
23 Whether it would function as an advisory council to other
25 agencies, trouble shooting inter agency operations. The bottom

1 line is you need to hire people that are willing to take
2 responsibility for their decisions and make decisions. IE: when
3 the overhead management team was mobilized out of
4 Fairbanks to go down to Valdez, they were told by one specific
5 individual within the Department of Interior who I will not
6 mention, that they could attend press conference. These guys
7 called up the villages. They mobilized 70 native crews to go
8 down and deploy booms and they were criticized because they
9 wanted to camp crews on the beaches. Well, that was a bad
10 decision on their part, but their intentions were to go out and
11 treat the oil just like a fire. They had their operations people
12 fly over the spill, they looked at it just like a fire. They wanted
13 to go out and boom it, corral it, move it into the bay, and skim
14 it up. What happened when they deployed the first booms, 36
15 hours after the spill? They put them right next to the
16 rupturing tanker. Well, the oil's halfway out to the Gulf by that
17 time, so what good is it doing. Your problem is way gone past
18 you. It's like trying to put a fire out where it's already out
19 instead of going out to the head of the fire. But basically, in
20 synopsis, I think the State of Alaska should consider creating a
21 work force whose focus would be the honest, aggressive
22 oversight of toxic hazardous waste management operations.
23 The Department of Environmental Conservation is understaffed
23 and under-funded and Alaska cannot wait for industry or the
25 federal government to follow up on broken promises. I think

1 this ties in really nicely with what the fisherman was saying
2 from Kenai, is that we need to mobilize on the local level, but
3 on the State level we need to keep the marines in place. We
4 need to have an incident response team of five, maybe seven
5 people that are professionally trained, that can train the local
6 people, and that can respond because -- I mean, as we all well
7 know, this is not our only toxic hazardous waste management
8 problem in the state. And, in closing, I would have to
9 comment, although my friends made me take the comment off
10 about the federal government treating us like a banana
11 republic, but if this spill had occurred outside of San Francisco
12 Bay, would the feds have federalized the spill? Thank you for
13 your time.

14 MR. PARKER; I'm sure they would have. Stick around a
15 minute. We're working on the -- we're going to be working
16 closely with elements of the Federal Response Team as we
17 work our way through this and Commissioner Wunnicke has
18 already had a good deal of contact with many people in the
19 organization. I -- now as I understand it, the Park Service is
20 the only one that's sending a Resource Protection Officer
21 ashore?

22 MR. WILLIAMS: Correct.

23 MR. PARKER: So, from the time the scab finish their job
23 and the crews go, there's only VECO or Exxon oversight on those
25 beaches?

1 MR. WILLIAMS: On non-park service beaches. That's
2 true. There is no oversight that I know of and sometimes my
3 nose is so far down the details of trying to figure out where
4 this mustang suite is, or what happened to the NSH4 element, I
5 don't catch everything that goes on in the field. I know the
6 Fish and Wildlife services talked to us about using some of our
7 Resource Protection Officers on their land, but I think the State
8 of Alaska should insist upon the same.

9 MR. PARKER: I'm not sure, I'll check with DEC and see
10 what role -- they've got a lot of people on the beaches, and see
11 what role they're playing.

12 MR. WILLIAMS: Well, my understanding is, and it's
13 mostly from indirect communication with a friend of mine from
14 Fairbanks who was a DEC biological monitor in the Sound, that
15 they had no impact on the crews. That if they pulled up on the
16 beaches in their little skiffs and said hey, why are you doing
17 that, they got ran off the beaches.

18 MR. PARKER: I have some of the same perceptions.

19 MR. WILLIAMS: And basically, I think the fox guarding
20 the hen house is the classic example. I mean, one, there's a law
21 on the federal books that says the Coast Guard's required by
22 federal law, regardless of what Stevens tells you, that they're
23 required by law to react within five hours to a spill. That law
23 is on the books. They didn't respond and I think the Coast
25 Guard is just as liable as Exxon and I think that the State

1 should be more aggressive in managing the waste on their
2 lands. We're not talking outside in international waters. This
3 is in the state of Alaska and we've kind of been relegated a
4 red-headed step child position in this whole ordeal.

5 MS. WUNNICKE: I don't know whether you were in the
6 audience or not when Mr. Martin from the Office of Emergency
7 Services appeared before us, but from your experience with
8 the Instant Command System, in Yellowstone I believe you
9 said, last year, would you see merit in that kind of system
10 through an Office of Emergency Services as an immediate
11 response team rather than the department of environmental
12 Conservation which is not, at least at this moment, an
13 operational agency in that regard.

14 MR. WILLIAMS: Well, I don't know the DES well enough
15 to be honest and I just know some side dealings I've had with
16 the DEC at Lake Minshumina (ph). I've been real involved with
17 the clean up operation out there. It's -- I don't know the
18 charter that DES was established on so I'm kind of ignorant in
19 that expect but I would think this is what DES is supposed to be
20 doing. I would fire them all. I do think one thing you do have
21 to be leery of when you go directly to the federal Incident
22 Command System is it's made up of a bunch of "good ole boys"
23 and oftentimes you're going to get more than what you need.
23 IE: the fires that were just this summer out in McGrath. Well
25 this would have been last summer, we never would have

1 touched any one of those fires. So you don't want people that
2 are going to throw the book at it. You want people that are
3 going to look at each incident and say, well in this incident we
4 don't need a Logistics Section Chief and and Incident Chief
5 Dispatcher and four dispatchers and an R&D guy and seven
6 supply clerks. All we need is two people that can wear seven
7 hats. You need people -- it's my experience in ten years
8 working for the federal government that territorialism sets in
9 really fast. I think you need to get people into this that have a
10 strong background in the ICS system, but you need to be
11 careful about bringing them in totally and letting them do it for
12 you 'cause they're going to give you more than you bargained
13 for. You need to have the flexibility to look at a situation and
14 not always do as the book says down the line. For instance, the
15 ICS flow chart doesn't have a research section chief and that's
16 what needs to be implemented into the ICS flow chart. You
17 should have, for instance, a gentleman name Will Troyer is
18 heading up the biological oversight on the Katmai Coast and,
19 although not on paper, in reality he is the research section chief
20 for that ICS operation. So, you know -- yeah, it probably
21 should fall on DES, but it's something that we -- I personally
22 don't think we can wait three years to evolve the system. I
23 think we need to do it this winter and put it in place, because,
23 ie: we have 39 FAA sites and at 38 of them, the people don't
25 even know they're potentially contaminated yet.

1 MR. PARKER: My God, they sucked Troyer back in. My
2 God, he's as old as I am.

3 MR. SUND: Mr. Chairman, I just note that yesterday we
4 also had a review of the legislation passed and they did
5 establish the Hazardous Substance Response Office in DEC last
6 year. It's in there and has a response course set up that's
7 funded. They're hiring a director and from what I understood,
8 they're to do exactly what you have asked them to do. We're
9 going to have some conflict I guess between that and the DES.
10 Now neither one of them will know what they're supposed to
11 do, but.....

12 MR. WILLIAMS: That's the whole point. is nobody -- it's
13 what I say in Valdez when I was down there is that you had
14 DEC, you had DES, you had the Forest Service, you had the Park
15 Service, you had the Coast Guard, you had Exxon, you had
16 Exxon and, lord, it was -- you could go in and talk to people
17 about looking for work and here I'm a logistic dispatcher with
18 credentials that will, that I have to drag through the door. And
19 everybody was like ping pong. They would say, well you need
20 to go over here and then over there they would say, no, no, no,
21 you got to go over there. It's like, well I just came from over
22 there. And, well you got to be on right roster. Well how do I
23 get on the roster? Well, the roster's closed right now. The thin
23 is, regardless of what the law is, is that we need to, in reality,
25 establish an organization of people that are -- the bottom line

1 is that we need people who are willing to accept the
2 responsibility for their decisions. If I would have been in
3 charge in Valdez, you better believe there would have been
4 people out there setting booms at the head of the spill and
5 going around. Now I might have lost my job or been
6 excommunicated from the bureaucracy for it, but something
7 would have gotten do. And you need people who are willing to
8 do that kind of stuff, regardless of what the loss is. "Cause, like
9 he says, now we're going to have DEC doing it. And isn't that
10 what DES is supposed to be doing? My question to you is what
11 does DES do?

12 MR. SUND: Well, they don't do oil spills.

13 MR. WILLIAMS: Obviously, and they don't do toxic
14 hazardous waste sites. That's a fact. So what do they do? And
15 how much money do we spend on those guys.

16 MR. PARKER: They do restaurants.

17 MR. WILLIAMS: Well, they might. They probably do
18 lunch quite frequently.

19 MS. WUNNICKE: They do community-related.....

20 MR. SUND: Community related.

21 MR. WILLIAMS: Such as?

22 MR. WUNNICKE: Well, I lived through the earthquake
23 and.....

23 MR. WILLIAMS: Well, that was '64, this is '89.

25 MR. SUND: Well, I think the description today is that

1 they are called in on a people-related thing. If you have to
2 evacuate a village or a town, they'll come in and provide the
3 police service and protection.....

4 MR. WILLIAMS: I challenge that. Are they capable of
5 it?

6 MR. SUND: I didn't ask them that. I'm just telling you
7 what he told me.

8 MR. WILLIAMS: That's like FEMA (ph). My point is that
9 on paper that might be what their function is. But I think that
10 if you were to do a test, say McGrath, and set the sirens off and
11 don't tell DES it's a test is that they wouldn't know where to
12 charter an aircraft. Now maybe I'm being.....

13 MR. PARKER: Are we talking emergency services or
14 environmental services?

15 MS. WUNNICKE: He's talking emergency services.

16 MR. WILLIAMS: Which is what he was just talking
17 about. And this is my whole point, is that regardless of what's
18 on paper -- in my position of the last two years is the initial
19 attack dispatcher in Fairbanks. And last year we burned 2.2
20 million acres. It is far easier to beg forgiveness than ask
21 permission. And that's the kind of people you need to put in
22 charge of this kind of function. You need to turn 'em loose
23 when you got to turn 'em loose. I could go on and and but I
23 won't take nay more of your time. Thank you for your time.

25 MR. PARKER: Anyone else? Marcia Hodson, did you

1 want to say something?

2 MS. HODSON: Thank you. Hello again.

3 MR. PARKER: How's it going?

4 MS. HODSON: Just fine, thank you. My name is Marcia
5 Hodson and I'm representing the newly name Oil Reform
6 Alliance which we introduced to you before as the Alaska Oil
7 Spill Coalition, so we've decided upon a name and we're moving
8 forward. First of all I'd like to thank you very much for the
9 public hearings today and yesterday. They were most
10 informative being able to listen to Mr. Harrison and also Vice-
11 Admiral Robbins and Mr. Kelso. It brought together just a lot
12 of concerns, but one particular concern that came out of the
13 testimony provided by Vice-Admiral Robbins was the use of
14 Correxite 9580. It was a bit confusing to me at the testimony
15 whether Correxite (ph) is in fact the dispersant that was initially
16 going to be used by Exxon at the outset of the oil spill. We
17 have been in conversation with DEC and others trying to clarify
18 this matter. It's not clarified yet, so in response to this I'm
19 going to present to you three letters. We have written to the
20 Coast Guard, to Bill Riley at EPA and also to Mr. Kelso. And we
21 faxed these letters off. One is from the Coalition, another is
22 from the Sierra Fund Legal Defense Fund, and another is from
23 CDFU, signed by Dr. Ricky Ott (ph). And we're all asking that
23 more tests -- that, first of all, more clarification is given to
25 Correxite (ph), and actually what is it? Is it a dispersant? Or is

1 it a modified dispersant as we're being told now? Just what
2 the chemicals are that are in place in this dispersant, or this
3 solvent, or this extractant.

4 MR. PARKER: I discussed that with the State's deputy
5 on-scene coordinator a couple days ago, the upcoming test. He
6 said that Exxon has done is take one of the old dispersants and
7 take the aromatics out of it, which is supposed to remove the
8 toxicity and there you've exhausted the limits of my knowledge
9 of the chemistry of dispersant.s

10 MR. HERZ: It's my understanding that there's one
11 version of Correxite (ph) which is 9527, which is the stuff that
12 has been approved and is stockpiled throughout the country,
13 actually throughout the world, as the main dispersant. And it
14 has a relatively low toxicity. But that this new version is called
15 9580, which is a different version that Exxon is attempting to
16 rush into use that yesterday we were told that they had done
17 some of the -- well, it wasn't clear. It made -- I think Harrison
18 mentioned that they had done preliminary, it sounds like,
19 preliminary toxicity testing, but it sounded as if they were
20 attempting to get permission to go ahead without going through
21 a complete toxicity screening.

22 MS. HODSON: I think that's correct, Commissioner. And
23 what we have asked for is that there will be an approval
23 probably made at six-thirty tonight from DEC as to whether
25 they can go ahead and do testing, limited testing is what

1 they're asking for now, on Smith Island. We're just very
2 concerned with the fact that they're rushing in. And, also, they
3 have not disclosed, in my conversation with DEC to the
4 individual I was talking with, they have not disclosed, Exxon
5 has not disclosed any of the results of their testing. And it
6 would appear to me that if they want to be using a dispersant
7 they would have done widespread testing themselves before
8 asking us to go ahead and test it for them. We're also very
9 concerned that if we don't get test results back until August
10 15th, then they try to put this into effect -- and they're going
11 to be pulling out now, starting their initial pull out. How
12 effective is this going to be anyway? I just think the question
13 is do we want to add more chemicals to already chemicals that
14 are in there, or do we just want to leave it alone at this point.

15 MR. PARKER: I wonder if Mr. Riley went down there for
16 the test. It's interesting. I didn't see anything in the press
17 about it.

18 MS. HODSON: No, but I understand he's in Anchorage
19 now. Thank you very much.

20 MR. PARKER: Thank you. Anyone else? It appears not.
21 I don't have anyone else signed in. Any Commissioners have
22 any parting remarks they would care to make to me,
23 themselves, or the audience.

23 MS. HAYES: Goodbye.

25 MR. PARKER: Goodbye. This means we adjourned.