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ALASKA OIL SPILL COMMISSION HEARING

IN RE:

RESPONSE PLAN/FAILURE

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OIL SPILL COMMISSION MEMBERS

Walter B. Parker, Chairman
Esther C. Wunnicke, Vice Chairman
Margaret J. Hayes
Michael J. Herz
Timothy M. Wallis
Edward Wenk, Jr.
John E. Havelock, Esq.

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COPY

Reported By: Nancy L. Means, CSR-RPR

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P R O C E E D I N G S

MR. PARKER: The Alaska Oil Spill Commission will reconvene. Dennis? Would you tell the -- there he is. Okay. I didn't see you come up.

Our first witness this afternoon, Commissioner Dennis Kelso, Alaska Department of Environmental Conservation. Commissioner Kelso has been with us several times before.

Now that we have our counsel on board, Commissioner John Havelock, John will be doing the initial questioning and the commissioners will follow in as necessary. We're going to have a panel discussion with all of you at 3:30 this afternoon, and we hope you can stay for that.

And I think on your initial remarks, why, if you can just summarize where we are now. Since we have heard from you twice before, we have a pretty good idea of things, so go ahead.

MR. KELSO: Thank you, Mr. Chairman. You asked for some specific responses to questions, and I will be submitting those in writing. We're close to having a final copy of it today, and within the next day or so I will make sure that I get that to you.

We also are continuing our work in the field with Exxon and the Coast Guard to try to make sure that,

1 definitely to make sure that we get the strongest effort
2 we can this fall and winter, and lay a foundation for
3 appropriate work in the spring, which I think we have
4 talked about with the Commission. We prefer to see a
5 different mix of techniques than have been used to date,
6 for example, in Prince William Sound, where most of the
7 attention has gone. But we are also very interested in
8 seeing alternative approaches pursued in areas outside the
9 Sound.

10 You may be aware that there was another trial of
11 the compound Corexit, which also was not very impressive,
12 as the previous trials had been. In fact, more Corexit
13 was supplied to the beach than oil was recovered from the
14 beach. So this particular compound continues to be one of
15 those things that looked much better on paper than it does
16 in actual field trials.

17 We also, of course, are continuing to work with
18 Exxon as far as some disposal of solid waste. Communities
19 in the Kodiak area have expressed concern about having the
20 AET incinerator location near them, and we are attempting
21 to locate an alternative that would be acceptable in the
22 local communities, as well as one that would work for
23 Exxon.

24 At this point it's sort of moot, given the fact
25 that the AET incinerator has had so many technical

1 mechanical problems that it hasn't been able to operate,
2 but we still want to work with the local communities and
3 with Exxon to see if there can be an alternative that
4 would be acceptable all the way around.

5 So, Mr. Chairman, that's kind of my short update.
6 We will be happy to keep you apprised as we go along.
7 September 15th, which we have done everything that we know
8 how to make sure it's not viewed as a magic date by Exxon
9 or anyone else, is coming soon and we're going to be very
10 interested to see what is happening right around that.
11 And, of course, we're not going to be spectators, we're
12 going to be fully involved in trying to make sure that
13 Exxon keeps its word to Alaskans in getting this job done.

14 Unless you would like for me to, I will not go
15 through the detailed responses to your questions, but
16 would be happy to answer questions. If you would prefer,
17 I can go through the questions that you submitted to us in
18 writing.

19 MR. PARKER: I think that we'll wait for your
20 written answers on those, and I think it would be more
21 fruitful just for counsel to go ahead with some of his
22 questions and we will follow on with ours. Our focus with
23 the federal agencies this morning was on the institutional
24 structure of the response, and that's our primary effort
25 today, is to lay the groundwork for this and our future

1 meetings on how well that total institutional structure
2 that governed the response functioned.

3 So, John?

4 EXAMINATION

5 BY MR. HAVELOCK:

6 Q Thank you. Commissioner, did you participate in
7 any discussions in the first week after the spill
8 regarding federalization of the oil spill? You are, I
9 assume, familiar with that term and the decisional nexus
10 on that word.

11 A Yes, and -- yes, I am; and the answer is yes.

12 Q When did it first come up?

13 A Initially, on day one we could tell that Alyeska
14 was not implementing the approved oil spill contingency
15 plan, and we were not going to wait to see whether Alyeska
16 was successful before we raised the issue. And so during
17 the first half of that first 24-hour period we began
18 putting together a written statement to the Regional
19 Response Team questioning the ability of the responsible
20 parties to carry out the spill response, and asking the
21 RRT to take another look at it.

22 There were other discussions during that first
23 week involving me and our spill response staff, and I
24 could give you some detail, although I would have to check
25 the dates on which those discussions actually took place.

1 For example, it was clear early that the management
2 structure that was in place -- maybe I can give you one
3 other piece of information, and then if I'm going further
4 afield than you want, let me know.

5 Alyeska and Exxon transferred responsibility for
6 spill response during the first, depending on how you
7 count it, 24 to 36 hours. Basically by noon of the second
8 day of the spill some level of that transfer had taken
9 place without consultation by the state.

10 In the course of that, what we feared would
11 happen began to happen; and that is that Alyeska, of
12 course, had not made the response that had been promised
13 in the plan, and then without consultation they
14 transferred that responsibility to Exxon. Well, Exxon, of
15 course, had no structure in place in Valdez, had no
16 personnel, except for the Alyeska equipment, did not have
17 equipment of its own, and our concern was that there would
18 be a failure of the response not only because of Alyeska's
19 initial problems or lack of commitment, but also because
20 of this transfer.

21 So when it became -- after our initial letter to
22 the RRT we followed up, because it quickly became apparent
23 that Exxon was not being any more effective than Alyeska,
24 although they were mobilizing equipment from a variety of
25 places around the country. So we began talking early

1 about the need for the command, given that this is waters
2 of the United States, that the command structure that the
3 Coast Guard could bring to the task without losing the
4 state and local role.

16

5 There were discussions about that early in the
6 spill that resulted in initially a restructuring of the
7 policy decisions at our initiative setting up a structure
8 by which Admiral Nelson, Frank Iarossi, president of Exxon
9 Shipping, and I formed a policy group, and we set up an
10 operations group as well, in order to try to cut through
11 what was becoming an absolute black hole as far as the
12 Exxon response went. I won't give you more detail, unless
13 you would like, on that.

14 Q Well, could you tell me, when was that
15 restructuring effective and was that implemented in a
16 documentary way that was generally available?

17 A This was effective -- this took effect within a
18 few days of Exxon's taking over the spill from Alyeska. I
19 believe there was documentation, and I could check our
20 files if you would like us to supply that.

21 Q I would appreciate that. I would also appreciate
22 what dissemination was given to that documentation, since
23 one of the general impressions of the public is one of
24 lack of knowledge of what the structure of the spill
25 response was.

1 A I should also add that this was the point at
2 which the state asked for the fishermen and other local
3 officials to be included in the decision-making structure.
4 Initially, Cordova District Fishermen United who were
5 present were added to the operations group. Within 24
6 hours or so we requested that the City of Valdez be
7 included as well. So that was -- it was not only the
8 point at which we were saying this is not working the way
9 it is now, it has to be restructured, but also the point
10 at which we brought the local folks in in a very direct
11 way into the decisions.

12 Now, I don't want to give you the impression that
13 we think that that restructuring solved the problem. It
14 solved some problems; it helped the communication. But
15 the underlying difficulties of getting the response in the
16 field to match what we were being told at the operations
17 meetings continued, and I would have to again check our
18 notes to say what date this occurred.

19 But subsequently there was a meeting between
20 Admiral Nelson, Frank Iarossi and me, in which we were
21 very blunt about the inadequacy of the Exxon response and
22 the fact that it simply had to be changed in order to get
23 beyond the blockages.

24 So even after the restructuring we still had some
25 of the fundamental problems which, again, for us one of

1 the tools was to seek federalization. But we also did not
2 want to create a second gap, and that was that the Coast
3 Guard indicated that they would have difficulty with the
4 procurement process. And although we had no personal
5 knowledge of how their procurement in contracting would
6 proceed, we didn't want to have a hand-off from Exxon to
7 the Coast Guard that created another gap, because the gap
8 from Alyeska to Exxon had already been severe enough, even
9 though Alyeska had not implemented the plan as promised.

10 And this was also the subject, in part, of the
11 meeting at the Coast Guard between Nelson, Iarossi and me.
12 And I can give you more detail, if you would like, on
13 that. It was a pretty pointed session.

14 Q Can you pin that down a little more within a few
15 days, since it appears to be sort of a turning point in
16 terms of the consolidation among the three major players?

17 A I would have to look at my notes. The second --
18 the meeting at the Coast Guard with Nelson, Iarossi and
19 myself took place shortly before -- before Admiral Nelson
20 returned to Juneau and the Coast Guard took a more direct
21 role. And the reason for that is, that is the meeting at
22 which I told Mr. Iarossi that we were not going to wait
23 longer, that we were going to, the governor was going to
24 write a letter asking for a stronger federal role because
25 we simply could not continue this drift that was happening

1 with the spill response. I can give you pretty close to
2 what the dates would be.

3 Q When you're talking about the drift, you're
4 talking about a drift in terms of the command structure or
5 are you talking about a drift in terms of the response not
6 in fact increasing or moving or getting support?

7 A The response. The command structure is involved
8 here because, although Nelson, Iarossi and I were in this
9 restructured policy -- it sounds terribly bureaucratic,
10 but it was the only way we could reach it, because there
11 was no legal command structure by which either the Coast
12 Guard or the state could direct this thing. So what we
13 were doing was trying to construct an equivalent authority
14 without having that legal hammer. And we didn't want to
15 lose the state and the local role, because we knew already
16 that that was going to be so important in the overall
17 response. So we were kind of making this thing up to try
18 to compensate for the lack of the legal hammer.

19 Q Let me come back to my original question, --

20 A Sure.

21 Q -- which is the issue of federalization. Did you
22 go beyond raising concerns, if I can use your term, to
23 actually asking that this spill be federalized either
24 before or after the restructuring event?

25 A The letter to the RRT, the Regional Response

1 Team, in the first 18 hours of the spill raises that
2 issue, although I do not know that it -- I don't know how
3 directly it said that federal takeover of the spill should
4 be considered. It was raised directly by the governor's
5 letter shortly after that meeting that I just described.

6 Q Well, were you recommending in either case,
7 either your own or through the governor, that it be
8 considered or that it happened?

9 A No. We were -- I had told Frank Iarossi that we
10 were prepared to ask for federalization, that we had -- we
11 had raised it once before, we had restructured, it still
12 wasn't producing the response needed in the field, and
13 that we were -- in fact, I believe at that point we had
14 already drafted the letter for the governor to send, and
15 then the governor's letter specifically did ask for the
16 Coast Guard to direct the spill. Now, the one caution in
17 this --

18 Q You mean federalization there, that letter, or
19 did it not?

20 A Well, the letter did, yes. But I'm -- here,
21 perhaps, I need to ask you what you mean by
22 federalization. Do you mean full takeover with all the
23 resources coming from the Coast Guard, or do you mean what
24 we now have, which is a directing role from the Coast
25 Guard, with basically the procurement and contracting

1 still coming from Exxon?

2 Q Well, as we understood the Coast Guard's
3 testimony, there is a legal step that they take, which is
4 called federalization, where they assumed responsibility
5 from the party responsible for the spill. And really I'm
6 addressing the focus of that legal decision, and I'm
7 asking whether the state recommended that in fact that
8 state be taken so that the Coast Guard would have legal
9 responsibility for directing the spill.

10 A The governor's letter stops short of that, I
11 believe. The reason for that is that the Coast Guard told
12 us that the Coast Guard would not be able to conduct the
13 procurement necessary without a time delay that would have
14 been unacceptable.

15 Q So if I understand your testimony, then, I assume
16 that you took the Coast Guard at their word, and in fact
17 it was not your opinion that the spill should be
18 federalized, but that perhaps you were using the
19 federalization issue as a hammer with respect to Exxon.
20 Is that a correct or an accurate description?

21 A I would say that we were prepared to ask for full
22 federalization, and would have done so were it not for the
23 caution from Admiral Nelson that they would not be able to
24 get the job done because of the procurement lag. There
25 would not have been -- obviously, we didn't cross that

1 bridge because we have no way of evaluating the accuracy
 2 of the Coast Guard's assessment that they couldn't get the
 3 procurement done. But it was not a matter of our saying,
 4 well, we're close to this line, should we cross it? We
 5 would definitely have asked for that unless we -- unless
 6 we believed that it could have hampered the spill
 7 response, which is where we were.

8 Now, let me also add another piece to this. And
 9 that is, that I mentioned that the conversation between
 10 Mr. Iarossi and Admiral Nelson and I was quite heated, and
 11 in that discussion it was -- we were told by Exxon that if
 12 the Coast Guard began directing the spill, that Exxon
 13 would take its checkbook and go home and --

14 Q Iarossi said that in this meeting between you and
 15 Nelson, the three of you?

16 A That's a paraphrase, but that's correct.

17 Q That cooled your enthusiasm, too, for
 18 federalization?

19 A No, actually I viewed that as corporate pride and
 20 puffery. But what it did was, it meant that we only --
 21 that all we had to go on was what the Coast Guard could
 22 tell us about their own ability to pick up the procurement
 23 effort. We had no independent way of assessing that. And
 24 Admiral Nelson knows his system, and he I had talked
 25 frequently about this step because I had met privately

1 with him and said look, we're not going to sit around and
2 wait. The governor's prepared to take this step. We
3 think that it should happen. Is there any reason that we
4 should hold up? And so he explained that part of the
5 problem from his perspective.

6 So, no, I was not hesitant at all based on what
7 Exxon had said, but there was the concern based on what
8 the Coast Guard had said about their ability to pick it up
9 and make it work.

10 Q If you were not satisfied with what was going on
11 in terms of the response, certainly in comparison to the
12 Alyeska/Exxon effort as it then stood, at least in the
13 first few days, the State of Alaska could also have
14 mounted a substantial effort, could they not, through the
15 mobilization of the Department of Public Safety, and Fish
16 and Game, and Natural Resources, and everybody else? I
17 assume that you did in fact engage in some mobilization in
18 those first few days; is that right?

19 A Yes, we mobilized substantial resources. Within
20 a few days we probably had about a quarter of my staff
21 statewide assigned to the spill. What we didn't have was
22 adequate financial resources because the -- at that point
23 prior to the legislators adding additional --

24 Q How about resources from other departments?

25 A The Department of Fish and Game and the

1 Department of Natural Resources both had people on site.
2 In fact, Fish and Game had an office right with our staff,
3 participatd in our daily operations meetings as well. And
4 DNR's role was different, but they were fully involved as
5 well. For example, whenever there was activity that was
6 likely to take place from shoreline, which DNR manages,
7 their staff was directly involved in decisions; and if a
8 permit to conduct the activity was necessary, they issued
9 it.

10 Q How soon after the spill were you designated the
11 state's on-site coordinator?

12 A Well, we -- our staff was on board the tanker at
13 3:00 a.m., or approximately 3:00 a.m. the morning of the
14 spill. We went on board with the Coast Guard. We had
15 continuous presence on the tanker and on the lightering
16 vessel, vessels, from that point forward. And I arrived
17 shortly after noon, overflew the site, the spill site with
18 the Coast Guard, and then the governor and I went on board
19 the vessel at around 4:00 in the afternoon, on board the
20 Exxon Valdez.

21 Q At the time did you have any authority to
22 mobilize or direct or coordinate resources from other
23 departments outside your department, outside your own?

24 A We were already mobilizing our resources. That
25 takes place essentially automatically, and that had begun

1 immediately.

2 Q The DEC resources?

3 A That's right. And we had also brought the
4 other -- the other three agencies that were most directly
5 involved at that point were the Division of Emergency
6 Services, the Department of Natural Resources, the
7 Department of Fish and Game. The Emergency Services was
8 present in Valdez, I think, from the first day as well.

9 Q Well, did you have the authority to direct what
10 Emergency Services did with their resources?

11 A Yes. Current statutory authority, I believe, is
12 sufficient to allow --

13 Q I'm talking about your authority. Did you have
14 the authority, either through statute or through an
15 executive order, or through some execution of some
16 preapproved plan? Did you have the authority to direct
17 all of the state's resources that were committed to this
18 spill; and if so, when did you get that authority and how
19 was it shown?

20 A I believe my statutory authority includes all of
21 the direct spill response activity. We chose not to
22 extend that to things such as -- let me give you an
23 example: helping Social Services mental health
24 counseling, for example. But in terms of actual spill
25 response activities, my authority is established by

1 statute and we exercised it immediately.

2 Q And you're satisfied that that is sufficient for
3 the next spill?

4 A We're going to be looking at the authority of the
5 department, and all of the state authorities. And
6 frankly, the one thing we will be wanting to do as we get
7 ready for the next legislative session, is to work closely
8 with this Commission because we would like to have our
9 recommendations be in concert.

10 So that is number one on our priority list. But
11 in terms of having the authority to step in and direct the
12 state's effort, we'll take a look at that, but that was
13 not a problem in this spill.

14 Q Well, assuming, then, that it was not a problem
15 and that at least you thought that you had that
16 responsibility or that authority, why couldn't you have
17 done what Exxon did, or to some extent what the Coast
18 Guard did? That is, to provide for contractors and to
19 address the spill directly through the state's resources.

20 A We did. That was limited, though, by the total
21 funding that we have available through the oil and
22 hazardous substance spill response, release response fund.
23 But we did immediately. In fact, this began -- my
24 recollection is that in addition to getting our normal
25 chain of command for spill response moving well before

1 5:00 in the morning the day of the spill --

2 Q When had you spent all of the money in that
3 emergency response fund?

4 A I don't know the answer to that, although we can
5 certainly find out.

6 Q Did it in fact get fully expended within a few
7 days or a few weeks?

8 A It certainly -- my recollection is that it
9 certainly would have been, were it not for legislative
10 activity, legislative appropriation of additional funds.
11 So on paper I believe the oil and hazardous substance
12 spill response fund would have been exhausted fairly
13 early.

14 Now, the way we did it was, whenever we were
15 doing a particular spill response effort, our first stop
16 would be to try to get Exxon to pay for it. If Exxon
17 would pay for it, then we would handle the billing that
18 way so that we didn't draw down that fund. But there was
19 never a guarantee that they would choose to pay for it
20 each time. So as we made decisions on which thing to do
21 next, we would take account of Exxon's willingness; and
22 then if there was some items that they might question, we
23 would pick them up out of the 470 fund. But I can't give
24 you the actual cash flow situation, although we can
25 reconstruct that.

1 Q Was there a question within your office and you
2 since the legislature was sitting, that the legislature
3 would make funds available to you to meet whatever
4 contingency needs that you thought were necessary in
5 responding to the spill?

6 A Well, there were two parts of our response. One
7 was that the governor said, do what needs to be done. And
8 we took that as a mandate to commit what resources we
9 needed to. Obviously, if I'm putting a fourth to a third
10 of my staff into the spill, that has effects on other
11 activities statewide. So we took that as a mandate right
12 off the bat.

13 Second, then, was the question of whether the
14 legislature would appropriate funding to cover what it was
15 costing, and there there was no guarantee of that, but the
16 legislature clearly was very interested and committed to
17 helping with the response. In fact, I think I
18 participated in my first legislative teleconference on
19 this topic when I was in Chenega Bay, and calling in on
20 the village phone while the legislature was talking
21 about --

22 Q So there was some question about legislative
23 support. At least you felt it was a constraint,
24 personally?

25 A I did not think it was a constraint, given that

1 the governor had said do what needs to be done, but I
2 think that it was an open question. I couldn't presume
3 that the legislature would appropriate sufficient funding,
4 although the discussion early on was encouraging.

5 Q Well, I guess one scenario, commissioner, would
6 be that, you know, when you discovered that Exxon had
7 taken over an inadequate response and was substituting a
8 further inadequate response, that you and Exxon could have
9 been out there competing in the marketplace for the
10 materials and personnel, the resources to match the spill,
11 and you could have Alaskanized the spill; could you not?
12 Or did you feel there was a constraint with respect to
13 your ability to do any contracting, or was there a
14 constraint because you thought there were legal
15 limitations that prevented you from bringing the kind of
16 response that Exxon was not bringing?

17 A We did in fact mobilize a response that Exxon had
18 been ineffective in doing. The hatchery sites in the
19 Eschamy Bay were boomed because of the initiative of the
20 state and the local folks. Exxon ultimately paid the bill
21 for that, but it wouldn't have happened.

22 This is one of those things where early in the
23 morning in a meeting between the fishermen and my staff,
24 the fishermen said look, we can get 40 vessels moving out
25 of Cordova at first light. Can you get us some boom? And

1 we just put that together from there. Same with the
2 cleanup effort from the Motor Vessel Bartlett and later
3 the Motor Vessel Aurora. Again, it was just a boot-strap
4 effort, local folks, state. We borrowed the ferry.
5 Ultimately Exxon picked up the tab. But again, that was
6 one where we, exactly as you suggest, we just went after
7 it.

8 There was never a question in my mind about
9 whether to incur a commitment or enter a contract because
10 of worries about funding. I mean, the governor had said
11 do what needs to be done and we were going to do that, so
12 that was not a problem. There was, however, the legal
13 issue that remained in this thing throughout; and that is,
14 these are waters of the United States. In spills of this
15 kind the Coast Guard has primary jurisdiction, and it is
16 only when, as I understand the law, only when the
17 responsible party either refuses to clean up or fails to
18 do the job that the Coast Guard has the ability to step
19 in.

20 Both in the state and federal law, that kind of
21 hesitation factor is built into the law, which to us is a
22 serious flaw, but one which was real, so that that legal
23 question remained. But we did not, frankly, just didn't
24 let that deter us from going ahead and putting together
25 whatever we could to initiate our own cleanup, even though

1 that's not normally what we do. Normally it's oversight
2 and evaluation, sometimes directing, but normally we don't
3 do direct cleanup. In this case we did.

4 Q I'm not sure I understand your identification of
5 the serious flaw there in that mechanism whereby the Coast
6 Guard has a federalization decision to make, and until
7 they make it the party responsible is left to do what they
8 can do; and then if they can't, if they make a decision
9 that they can do better, then they federalize it. As I
10 understand, that's the Coast Guard's essential testimony.
11 What's the matter with that?

12 A Well, the problem is that if you have to wait
13 until the responsible party either is successful or messes
14 up or refuses, then you lose valuable time, valuable time
15 in which your deployment of resources, your entire
16 tactical response -- your entire tactical response to the
17 spill has to be underway.

18 So that if you will permit me an example separate
19 from the Exxon Valdez, it might be helpful; and that is,
20 the tanker Glacier Bay which went aground in Cook Inlet
21 and which spilled a much smaller amount of oil, but at a
22 critical time during the fishery there. We worked very
23 closely with the Coast Guard, and the owners of the tanker
24 indicated that they were in fact going to respond, but
25 they never really did. And as a result of that, extremely

1 valuable time was lost before the Coast Guard believed
2 that it had sufficient cause to conclude that that
3 responsible party was simply not going to mobilize what it
4 said it was going to mobilize.

5 It's very tough for the Coast Guard when -- and
6 for us, for that matter, but given that Coast Guard has
7 this primary jurisdiction, it's very tough for them if the
8 responsible party says yes, we're doing it; yes, we're
9 going to do it; yes, we're putting our stuff together now,
10 we'll be there on Tuesday, you know, call us next week.

11 It's this kind of initial commitment and strings
12 out over time in which you see the ability to carry it out
13 being dissipated. And that's where, for the Coast Guard,
14 it's a very tough call partly, I'm sure, because of their
15 financial resources, but also just because where do they
16 say enough is enough and by golly, we're going to step in
17 and do this job right rather than wait to be waltzed down
18 the primrose path, which is what, of course, happened in
19 Glacier Bay.

20 And elements of that were present here, although
21 clearly Exxon was present and they were mobilizing things.
22 So it was even more difficult for the Coast Guard, because
23 it wasn't as if they had just said they would and didn't
24 show up.

25 Q Well, the Coast Guard, as I understood the

1 testimony of Commander Rome, because this was a spill of
2 major magnitude, in fact the effort that they put into the
3 spill was not substantially different than if they
4 federalized it. That is, they rang the bell in Washington
5 within 24 hours for maximum mobilization. Do you have a
6 different impression?

7 A Of the Coast Guard's mobilization?

8 Q Of the Coast Guard's effort and mobilization.

9 A I don't have a picture of what happened back in
10 Washington. I do know that the Coast Guard and the state
11 were present from the beginning. The structural
12 relationships that are supposed to be there during the
13 spill were there and they worked, everything from field
14 communication through the RRT. So I don't have personal
15 knowledge of the extent to which they mobilized, but
16 certainly they were present with us and in many instances,
17 I think, arm in arm in Prince William Sound during the
18 early going.

19 Q Did the RRT in fact work, if you're saying that a
20 restructuring was required within a first few days, to
21 give leadership?

22 A I think the RRT worked in the way that it is
23 intended to work. That all presumes, however, that the
24 responsible party has the opportunity to carry out the
25 spill response. You probably know that the RRT met daily

1 at a regular time; and in addition to that, met as needed
2 when circumstances required.

3 Q Did you protest when Exxon was substituted as the
4 party responsible for Alyeska?

5 A We did not have the opportunity to protest,
6 because there was no consultation by either Alyeska or
7 Exxon.

8 Q Or the Coast Guard, apparently. The Coast Guard
9 didn't tell you this was going on?

10 A Well, Exxon announced it at a press conference in
11 Valdez and indicated -- I would have to double-check the
12 time of the press conference.

13 Q At the time of their announcement, the Coast
14 Guard was aware that this was going to happen; were they
15 not?

16 A I don't know the answer to that.

17 Q But you didn't hear from the Coast Guard, at any
18 rate, that was in the wind until well after it was
19 announced?

20 A I did not personally. Whether any of our field
21 staff or our RRT representatives had heard, we could
22 certainly find out.

23 Q What use was given to the Alyeska contingency
24 plan after the spill was Exxonized?

25 A The Alyeska contingency plan was abandoned by

1 Exxon, as far as we can tell. There was testimony before
2 the National Transportation Safety Board that Exxon had
3 implemented its own spill response plan, and that was a
4 very serious matter for us because the -- in part the
5 reason for the oil spill response plan in the first place
6 was to save time that you otherwise lose if you're
7 reinventing the wheels that you spent so much time doing
8 in the oil spill response plan.

9 Let me give you one example, and it ties in with
10 why the state and local people took matters into our own
11 hands. The oil spill response plan that Alyeska submitted
12 identifies exclusion areas from which oil is to be
13 excluded by defensive measures because of their
14 sensitivity, and those are preidentified. They may even
15 appear in the plan by location and they're photographed.

16 Q Well, are you saying that the Alyeska plan was in
17 fact a usable plan, then?

18 A Oh, yes.

19 Q For this spill?

20 A Oh, yes. And the frustrating thing was to watch
21 Exxon then trying to figure out which areas should to be
22 exclusion areas. Well, we kept saying it's in the plan.
23 We have already done that. Let's not waste any more time.
24 Let's go ahead and get the booming done. And yet Exxon
25 kept saying, well, we're trying to figure out which areas

1 should be --

2 Q Well, weren't copies of the plan available to
3 anybody for the asking?

4 A Absolutely, but at the NTSB hearings there was
5 testimony that the top level leadership in the Exxon spill
6 response had not even read the Alyeska plan. So clearly
7 it was not on their minds to implement it, and I think
8 that hampered their response as a result.

9 Q Well, with respect to the Alyeska plan, didn't it
10 in fact provide for a response mechanism based upon a
11 scenario spill that was of vastly lesser magnitude than
12 the spill that occurred?

13 A Well, the scenario spill was 200,000 barrels,
14 which is on an order of magnitude similar to the spill.

15 Q Well, I thought that wasn't the planning
16 scenario. That is, that there was a scenario upon which
17 the logistics were built around, which was the sort of
18 average expectable spill, whatever the phrase was, and
19 that you added the large scenario to the spill in the last
20 review of the Alyeska plan, but in fact it never got
21 fleshed, that scenario never got fleshed out in terms of
22 response to the same degree. Is that an inaccurate
23 description?

24 A I think that is not an accurate description. The
25 200,000 barrel scenario is an annex to the plan, it is

1 intended to be a part of the plan. Not only did we ask
2 for the 200,000 barrel scenario to include the response,
3 but also to identify exclusion areas, to make sure that a
4 trajectory analysis was done so we could key those
5 exclusion areas to the probable movement of the spill
6 under that kind of scenario, and to make sure that if a
7 spill occurred, that we knew that it had been thought
8 through, and on an order of magnitude that was large
9 enough to approximate this kind of tanker accident.

10 Q Did you ever, either orally or in writing,
11 instruct Mr. Iarossi or Alyeska that they should follow
12 that contingency plan after the spill was Exxonized?

13 A There were discussions at the operations meetings
14 that were directly involved with -- that directly dealt
15 with steps to be taken under the spill response plan, but
16 bear in mind that we demanded early on from Exxon an
17 indication of what plan they were following, and they
18 declined to give us one. They never did provide an
19 in-the-water spill response plan.

20 It was only later that we learned that they had
21 in fact implemented some other plan that they had in mind,
22 but they never did provide the equivalent of what you see
23 now with the shoreline treatment plan. That was never
24 provided. That was demanded explicitly, and numerous
25 times.

1 MR. HAVELOCK: Thank you.

2 MR. PARKER: Okay. Thank you, Commissioner. Do
3 any of the commissioners have any questions that can't
4 wait until panel time? Okay, thank you. You can rejoin
5 us at 3:30 then.

6 We will next hear from Alyeska, Theo Polasck and
7 Bill Howitt. I want to thank Alyeska for its
8 comprehensive response to our written questions. I found
9 it most instructive, and if you want to briefly summarize
10 anything in addition to what you gave to us in writing
11 before I turn you over to counsel's tender mercies, why,
12 go ahead, Mr. Polasck.

13 MR. POLASCK: Thank you, Mr. Chairman. It's a
14 pleasure to be here today and have a chance to share with
15 you the Alyeska oil spill response. We have given you a
16 fairly, or will be giving you very shortly a fairly
17 detailed statement of our response, along with a detailed
18 24-hour time line response.

19 But before I get started in that, I would like to
20 tell you a little bit about myself. My name is Theo
21 Polasck, I'm the vice president of operations for Alyeska.
22 I have been with ARCO for approximately 30 years in many
23 different capacities, and I have been with Alyeska now for
24 the past three years. I came in July of '86.

25 Today I have with me also Mr. Howitt. Bill has

1 been with the pipeline organization since the day of
2 construction. He was part of the construction effort. He
3 built Pump Station 2, he was the manager of that project.
4 He also was supervisor of Pump Station 1 for a while, and
5 then when I joined the company Bill was the terminal
6 superintendent, and that's where I first got to work with
7 Bill.

8 The reason I wanted Bill here today to help me is
9 that Bill, of course, was at the terminal during the time
10 that the plan was, the '87 plan was being developed.
11 Although he wasn't primarily responsible for it, he did
12 have some insights into it, and perhaps later on he could
13 just share with you a little bit, particularly the drills
14 we went through on the oil spill.

15 And Bill also served another purpose during the
16 oil spill for Exxon Valdez. He spent a good part of
17 Friday, in fact almost all of it, in the Anchorage
18 emergency center. We had emergency centers as well in
19 Valdez and Anchorage, and I think it's important to get an
20 insight as to what the Anchorage emergency center's
21 function was, and Bill can do that.

22 I have Bill standing next to these charts because
23 what I wanted to do today is use four simple exhibits to
24 summarize our response. I think I can do it very quickly,
25 and intend to do so. On drawing number one what you see

3
1 is just sort of a schematic of Prince William Sound. You
2 see that you have Valdez. It's about nine miles to the
3 Narrows. You got the Narrows about three miles, it's
4 about 25, 26 miles out to Bligh Reef. Total distance out
5 to the end of the Prince William Sound, to Hinchinbrook,
6 is about 70 miles.

7 During that night the Exxon Valdez went through
8 the normal courses, went through a normal release, normal
9 procedures. The tug escorted the ship out through the
10 Narrows, as it should, and the pilot stayed on to Rocky
11 Point, as it should. Radar coverage and Coast Guard
12 essentially out through the Narrows, and of course all
13 those things were put in place when the pipeline started
14 operating to take care of what was perceived to be the
15 riskiest part of the voyage, and that is through the
16 Narrows, essentially.

17 But that particular night something happened and
18 whatever the reason was, the ship deviated out of the
19 channel, and you can see that it ended up substantially
20 out of the channel and on Bligh Reef. And at this point I
21 would like to just take a moment to share with you just a
22 few points out of the detailed 24-hour time line we have
23 given you, to give you a feel for what was going on within
24 Alyeska.

25 We got the notice at about 0030, 30 minutes after

1 midnight, on the 24th that the Exxon Valdez had gone
2 aground. We immediately put into place our oil spill
3 response plan that we had drilled many times, and we had
4 had actually practiced many times on smaller spills.

5 At about 0034 the Stalwart, one our tugs, went
6 out, that was specifically designed to respond in
7 emergency situations, was dispatched with the idea of
8 providing stability to the ship, safety to the crew. And
9 it turned out, of course, that the Stalwart was the first
10 response on the scene. In spite of what has been said
11 about Alyeska, we were first on the scene with our
12 Stalwart.

13 At the same time we began mobilizing our people.
14 We set in place and started the action on mobilizing our
15 people. We have a hierarchial call-out process where we
16 have certain size spills, and it automatically ratchets
17 very quickly to the terminal superintendent, or his
18 designee being in charge of that spill.

19 So we call out the people who were on site. We
20 had nine people immediately who were there at 30 minutes
21 after midnight, four of them being our always-designated
22 immediate response technicians. And they, plus other
23 people, immediately mobilized as directed in the plan. We
24 started calling out people who were in town, which is
25 again part of the process. We have the call-out process

1 going. And by 3:30 we probably had --the number of nine
2 had gone to 25, and around 5:00 the number is 37, and by
3 6:00 the number was like 100 people, essentially.

4 We mobilized and asked the people to start moving
5 the barge around so it could be loaded from our small boat
6 harbor, and the barge actually arrived at the dock to
7 start the loading. Before they could do that they had to
8 clear off some snow so they could do their tie-downs of
9 the equipment, but that started about 2:00, the actual
10 clearing of the barge and working.

11 At about 2:38 we submitted an oral request to the
12 Coast Guard to consider, seriously consider the use of
13 dispersants, because in our plan it says you can go at it
14 with everything you have, mechanical, dispersants, and
15 burning if you have a catastrophe. At 2:45 the Stalwart
16 arrived at the scene and provided its services to the
17 Exxon Valdez.

18 At 3:28 we have got the first notice of oil spill
19 size, and it came back at 138,000 barrels out. And it
20 just confirmed what we had suspected, that we had a
21 catastrophe in the making. About 4:15 the U.S. Coast
22 Guard gave us the first consideration that lightering was
23 going to be priority one. They were concerned about the
24 million barrels of oil still in the ship. Yes, there was
25 a lot of oil out, but there was a lot of oil in the ship

1 yet, and lightering was to be priority. So we shifted our
2 loading processes to accommodate that.

3 At 5:06 we had some of our technicians going out
4 and collecting all of the lightering hose they could take
5 from the ships that were at berth. There was considerable
6 concern as to whether you could bring a lightering vessel
7 right up against the Exxon Valdez or whether it would have
8 to be stationed some distance away. But, again, to take
9 out everything we had and we wanted to get that.

10 About 5:40, 5:30, the reports had varied, but
11 there was reports coming in of somewheres between 210 and
12 240,000 barrels out already. Again, not surprising when
13 you rip the bottom of eight tanks; it comes out very
14 quickly. 6:06, we started preparing the control center
15 for Exxon to come in and take over. We had had a
16 longstanding understanding with the owners that if there
17 was a catastrophic spill or a large spill, they would come
18 in and take over, since under the national Clean Water Act
19 they are the responsible party.

20 We had drilled such an exercise with ARCO in May
21 of '88. We had gone through the whole process. We had
22 gone through a three-day drill. That drill included --
23 including the ADEC. We invited all of the members of the
24 Regional Response Team, and a good many did show up. We
25 invited the mayor, all the local people that would come,

1 because we knew that if you ever had a catastrophe, you
2 would have to bring every resource in and everybody is
3 going to be involved.

4 So the first day of that three-day drill with
5 ARCO was what Alyeska's response would be. We drilled
6 that. When I say drilled, it wasn't just a desk-top drill
7 where you just sit around and talk to each other. We
8 called up the vendors of the materials and the equipment
9 we would need, and said if we called you right now, what
10 do you have on site? What could we do? And that went
11 into the modeling: It was available, not available, or
12 how long would it take to get it.

13 We also, the second day, then simulated ARCO
14 appearing on the scene, went through the transition: our
15 people transitioning off to their operations people, our
16 people transitioning to their logistics people. Everybody
17 had a counterpart. We went through that whole process on
18 the third day. Then we just went through a demonstration
19 of the deployment of our equipment. It turns out Bill was
20 there at the time, and if you have any further questions
21 about that he can fill you in.

22 So we were getting ready for Exxon. We created
23 the command center for them. We started at 6:00 in the
24 morning, and when they showed up at 6:00 in the afternoon
25 we had all the telephones, all the communication between

1 that and the civic center where they were doing their
2 press conferences. As best we could, we prearranged it.

3 About the same time, though, during this night we
4 had the Anchorage emergency center open, and its function
5 essentially is to make sure we provide oversight
6 management direction if people need it. Mr. O'Donnell,
7 who was the terminal superintendent, is in charge of what
8 was going on in Valdez. That's what the plan called for.
9 In Anchorage it's either me or one of my alternates are in
10 charge of making sure that we provide all the logistic
11 support, all the material support, and provide any support
12 that they're needing from around the world.

13 During those early morning hours we called up --
14 we mobilized the Coast Guard strike team, and they were on
15 scene later that day. We called Clean Seas, we called
16 Sero, we called all the agencies that had oil spill
17 equipment to come. We called for the dispersant people.
18 It turns out about the same time we contacted them, Exxon
19 had already made the contact. I neglected to mention, one
20 of the very first things we did, and even before we opened
21 the Anchorage emergency center at 1:30 -- I think that's
22 correct, yes. We contacted Exxon and said, you have a
23 ship on the rocks that's reported, and you better mobilize
24 your team and they started.

25 So we knew and we had telephone conversations

1 with the team members all through that morning. And we
2 knew by early morning -- this is three hours earlier --
3 later in Houston -- that they would be here around 6:00,
4 that they would be in Valdez about 6:00 that evening, and
5 they showed up almost precisely at 6:00. So when they
6 showed up we had things set up for them as best we could.
7 We had also called out people like the bird rescue lady,
8 and set up the Bird Rescue Center in Valdez, and all those
9 things were already set up and working.

10 Going back to Valdez, though, for a moment.
11 About 6:46 Chuck O'Donnell, our terminal superintendent,
12 went out to take a look at the oil spill. That was his
13 first real view of it, because it was daylight. Went out
14 in a helicopter, came back about 7:27, and he said it is
15 big. It's out there four, five miles away from the ship
16 already, leading edge, it's a couple miles wide, and it is
17 big. And I talked to him on the phone and he said, we've
18 got about 12,000 feet of boom on the barge. It calls for
19 11,500 and we had about 12,000 we were putting on there.
20 That's two miles, and two miles of boom to encircle
21 something that's at least five miles by two miles, you're
22 not going to do it, and what do we do with the boom we
23 have. We talked about that.

24 At the same time we looked ahead and said, we're
25 going to take every bit of boom we have got in the

1 terminal and rip it off the berths, every bit of boom we
2 have, and take it out. And we began ripping that off, and
3 then later in the day we sent it out in fishing boats.
4 That day we deployed something in the neighborhood of 14
5 fishing boats that carried out supplies and boom out to
6 this thing. So that by that night, and certainly
7 Saturday, we had like 25,000 feet of boom out there. In a
8 minute I will show you how we deployed that.

9 A couple other quick facts, though. The Sea
10 Flier, which was the barge that took the lightering
11 equipment out, left about 10:10. It arrived at 12:05, and
12 it deployed the fenders by about 1545, or 3:45 in the
13 afternoon. The Pathfinder that was going out with the
14 barge, the skimmers, all on the flotilla, went out, left
15 at 11:37 and arrived at about 1454, about 2:54. And so we
16 then began to work the problem.

17 And what I would like to show you are two charts
18 now very quickly of where we had boom deployed and what we
19 did on Friday and where we were Saturday. You have to
20 understand that the weather was not bad then, but it was
21 forecast that sometime in the weekend, Saturday or Sunday,
22 the weather was going to turn bad, and we knew that things
23 weren't going to stay reasonably favorable for some
24 period.

25 This is the picture we had Friday evening at

1 about 2200 hours. The choices we had made early on, but
2 since we had only had 11,000 feet of boom, roughly two
3 miles, where would we -- what would we do with it? We
4 first deployed and we said we'll try to protect Bligh
5 Island and Bligh Island Reef, and we did that. We put
6 boom around those. We also put a boom between the reefs
7 and the ship. That was exclusioned to hold the oil away
8 from the island and land, as much as anything, because the
9 trajectory model said that in general the oil was going to
10 move southwest, and we were trying to help that process.

11 We also deployed 7,000 feet of boom from the
12 stern of the Exxon Valdez to a point near Bligh Reef buoy.
13 The idea there, to do as much as we could to deflect the
14 oil into the deep water toward Zone 1, which is the area
15 that you can apply dispersants most easily. And then we
16 had some remaining boom that's out near the edge.

17 Now, when our boats, our skimmers first went out,
18 the first attempt was to deploy the skimmers about a mile
19 and a half away from the ship. Well, actually it was up
20 just the other side of Bligh Reef buoy, and that area up
21 in there. The fumes were so strong they were driven away
22 from that, and so then they deployed themselves at the
23 leading edge of the spill, and that's about three miles
24 away from the Exxon Valdez itself. Later that night, of
25 course, about that same time, they had tied up the Baton

1 Rouge to the Valdez, and approaching midnight they started
2 the actual lightering operations.

3 And then looking at the next day, remember, we
4 took -- that afternoon we were hauling out another three
5 miles of buoy with our fishing vessels, essentially. On
6 Saturday at 1800 hours, or 6:00 in the afternoon, we had,
7 about noon on Saturday, we had deployed that 7,000 feet,
8 in effect, to provide a boom around the two ships now that
9 were secured together. We had done that. We left our
10 exclusion area booms around Bligh Reef Island and -- Bligh
11 Reef Island and the island itself. We had taken the other
12 boom and, in effect, had provided containment boom around
13 the leading edge of the spill.

14 In effect, we had the spill contained at that
15 point with what we had, and pretty much in Zone 1. By
16 then it drifted. We had our skimmers working and we were
17 there. Now, anyone standing on the deck of the Exxon
18 Valdez might just look around and say, Alyeska is not
19 here. We were over five miles away working on the leading
20 edge of the spill. We had our equipment deployed, we had
21 our boom out, and we had done what we promised to do.
22 Thanks, Bill.

23 So I guess that's kind of a quick overview of
24 that spill itself and how we responded. In the package
25 that we will be giving you there's a much more detailed

1 description of what we did, with a lot more detail. A lot
2 more activity went on than I could possibly cover in this
3 very short period of time, and I think you will find it
4 interesting reading.

6
5 I would like to touch for a moment on the Prince
6 William Sound oil spill plan itself, I guess as much as
7 anything to tell you what it is not, as well as what it
8 is. First of all, if you define the spill and your
9 measure of success being one where you have no
10 environmental damage, or essentially none, for a
11 catastrophic spill, clearly the plan was not adequate in
12 that definition. If, though, you define the plan and
13 adequacy in the sense of, was it adequate to meet the
14 requirements expressed by the state in their laws and
15 their regulations that says you have to be able to pick up
16 the most likely spill in 48 hours, yes, it was. So it
17 depends on how you define the term.

18 Clearly from our understanding of what the state
19 expected from us and what the people of the state expected
20 from us, we had a good plan and we executed it. The
21 problem many times in the discussions is, people have
22 automatically assumed that adequacy or inadequacy hinges
23 on being able to pick up 248 or 262,000 barrels before it
24 gets on the shore. And I think you have heard enough
25 already said, that that is a physical impossibility, to be

1 able to do that sort of thing.

2 So the plan was laid out and I thought really,
3 quite honestly, it dealt with three scenarios. First was
4 60 barrels, and that's the kind of small spill that
5 historically we dealt with, and we have always done a very
6 good job of picking those up. It also dealt with a major
7 oil spill, 4,000 barrels, and that's a major spill. And
8 in that scenario, if you have read the oil spill plan, you
9 know that even in that scenario, with equipment that we
10 had, that we all agreed, had worked out jointly with the
11 state, even in that scenario we ended up with almost a
12 third of that oil on the beach. That's what the scenario
13 says if you read it.

14 For the 200,000 barrel scenario it simply says
15 you call out all the equipment you can from around the
16 world, you mobilize everything you have got, you hit it
17 with the mechanical, you hit it with dispersant, you hit
18 it with burning. And if you read the last paragraph of
19 that scenario, it says you're going to be looking at a
20 long-term cleanup. It made no -- it was very, very
21 straightforward.

22 So the planning process, I thought, you know,
23 went well. We worked on it with the state for a year,
24 essentially, a whole year of writing letters, holding
25 meetings, discussing it, trying to include in it what they

1 wanted us to include in it, like the scenarios and
2 everything else. Took another six months to get tentative
3 approval, another six months to get final approval, or
4 something in that order. So the process really worked
5 pretty well.

6 Now, what do you need in these plans? And I
7 guess that's where you need the common expectation. We
8 thought we had a common expectation, certainly because we
9 had spent a long time discussing it, and the plan was very
10 clear as to what it would and could do. But it turns out
11 in hindsight that that was kind of a false assumption on
12 our part, that that, in effect, represented a common
13 expectation on the part of the people in the state. I
14 mean, we may have reached an agreement with the ADEC on
15 that issue, but obviously that wasn't reflecting what
16 people out beyond them expected when the spill occurred.

17 I would like to touch on two issues, and then I
18 will ask Bill to just say a couple of things. A couple of
19 major misconceptions have existed on the day one. One was,
20 Alyeska historically has tried to scuttle this whole oil
21 spill process. Absolutely false. And many times that's
22 hinged around the statement that Alyeska terminated, got
23 rid of its oil spill response team. Not true.

24 Prior to '82 we had four people on each shift
25 that were the oil spill response people, contract people.

7
1 What we did at that time was take those people, and we
2 created four jobs in our technician force whose primary
3 job was immediate oil spill response. We just went from
4 contract to Alyeska technicians. We have never worked to
5 subvert the process. We have always worked to make it
6 work. And I think our behavior in January, where we
7 cleaned up 1,700 barrels very successfully -- we cleaned
8 up another 60 barrel spill very successfully with the very
9 same people that had been grossly maligned, in my opinion,
10 by a lot of folks in a lot of this rhetoric that's going
11 on. They proved that they could do it and they did it,
12 but we're dealing with a catastrophic spill here, which
13 was beyond what we had planned for.

14 The other one was that we had promised to have
15 the barge on site in five hours. Never did we make such a
16 promise. If you read the oil spill response scenario, the
17 scenario says, under all those exact conditions that are
18 in there, which is, you know, that it happens at 6:00, the
19 longest day of the year, in sunlight. So you're in warm
20 weather, it's in daylight, there is absolutely no ship in
21 distress. It's very explicit in all those issues. And
22 then under those circumstances, and only under those
23 circumstances, could you expect five hours. Conditions
24 were grossly different than that. So that's an unfair
25 accusation against Alyeska, in my opinion, because

1 conditions were dramatically different.

2 That pretty well covers what I wanted to do. I
3 would like Bill to touch on a couple items, and then we
4 will answer your questions.

5 MR. PARKER: Mr. Howitt?

6 MR. HOWITT: As Theo mentioned, my name is Bill
7 Howett. From 1985 to 1988, July of 1988, I was the Valdez
8 marine terminal superintendent, and so in the future if
9 you need to ask questions about the formulation of the
10 contingency plan that was formed during that period of
11 time, I'm prepared to answer those. However, on the day
12 of the spill I was not in Valdez, I was in Anchorage, and
13 so I would like to talk a little bit about, and expand on
14 what Theo said about the activities in the Anchorage
15 emergency center.

16 Each of the emergency centers has a defined goal
17 and a defined mission. As Theo mentioned, Chuck O'Donnell
18 would head up the Valdez emergency center, and its job was
19 to make the operational decisions that were required and
20 to run the immediate response to the spill. The Anchorage
21 emergency center's mission was to provide logistics, to
22 provide oversight, a big picture if you will, to provide
23 coordination with the spiller and other organizations, and
24 to help organize a worldwide response, if that was
25 required, in which case it was at this time.

1 There is an established organization that swings
2 into action at the Anchorage emergency center. If Theo is
3 in town, he is the OSC or the AOSC, the Alyeska oil spill
4 coordinator. If he isn't there, there are a number of
5 other designated positions, operational positions, which
6 assume that role.

7 When I arrived there, there was somebody assuming
8 that role. At various times during the first 72 hours I
9 assumed that role on several occasions. People know their
10 jobs. There are people in procurement, in aircraft
11 coordination, in purchasing, in contracts, in catering, in
12 all the areas that are required to mobilize a worldwide
13 effort. They know where the resources are throughout the
14 world. There are lists both in the emergency center and
15 back at their normal work stations.

16 So when I got into the Anchorage emergency center
17 in the morning following the spill, there was already a
18 pre-worked out plan that had swung into action, and I took
19 my place in that plan as the engineering manager to do my
20 part. For instance, among the things that were done that
21 day, were to help the terminal in deciding how many
22 additional people were going to be needed to be called in,
23 and how those people were going to get there, how they
24 were going to be housed, how their needs for catering, for
25 transportation were going to be taken care of.

1 As part of providing logistics and oversight when
2 Valdez asked for it, and it turned out to be about 100
3 more people, one of our functions in the Anchorage
4 emergency center was to determine where those people were
5 going to come from, how they would get there, did we have
6 housing for them. Housing has already been discussed with
7 you today. We investigated local housing, we investigated
8 bringing in portable camps. And in fact, we did a
9 combination of both of those; we brought in portable
10 camps, both from -- or from the North Slope, as well as
11 tied up considerable hotels and other housing within
12 Valdez.

13 I would like to address drills and drills
14 experience, what Alyeska expects to learn from a drill.
15 Certainly we have a major portion of our drill, and one of
16 the major goals of our drills for oil spill response is to
17 be able to operate our equipment efficiently, and to know
18 for sure that we know the plan and how we're going to
19 execute that plan, and we do that on a regular basis.

20 We learn from those drills. We don't drill the
21 easy things. We drill the tough things, the things that
22 we know we have problems with or we have seen problems
23 with in the past. We find no purpose in drilling
24 something that we can do over and over again repetitively
25 with no problem. We develop new scenarios to drill to,

1 ones that are realistic, ones that come out of actual life
2 experiences, so that we can learn and take the things that
3 we learn in those drills and put them into our operational
4 plans.

5 One example of that, for instance, it came out of
6 a number of drills where we had breakdowns in equipment
7 out on the water. We included a boat mechanic in our
8 response, immediate response, we included spare parts that
9 went along both on the barge and on the tug boats, so that
10 we could repair equipment out on the water, have it
11 functional without it having to come back into Valdez.

12 Theo has mentioned the May 1988 ARCO drill. We
13 had, on the third day of that drill, a demonstration of
14 our equipment. During that drill we blew a coolant hose
15 on one of the Vikoma Seapacks, which is one of the long
16 oceangoing boom packs which are inflated. We had the
17 spare part, we had the equipment, we had the person who
18 had the knowledge to be able to fix that, and we were able
19 to fix that engine which drove the air compressor, put
20 that piece of equipment back into operation, and carry on
21 with the drill, and that piece of equipment became one of
22 the integral parts of that containment exercise. That's
23 an example of something coming out of a drill which we put
24 into our plan and used successfully.

25 Another reason for drills, to echo Theo's

1 statement about expectations, is to drill our interface
2 with government agencies and the owners. We know, for
3 instance, Exxon has a filed plan, filed plan with the
4 State that says for any spill over 250 barrels, that they
5 would come in and take over that spill through a phase
6 transition. ARCO has a similar understanding with
7 Alyeska. In the ARCO drill, one of the prime purposes was
8 to drill that turnover, to drill that phase transition so
9 that we knew it would be smooth, so that we knew that we
10 could turn that over as the drill was in progress, or as
11 the response was in progress, without impeding the
12 function of the cleanup.

13 We did that in the presence of the Coast Guard,
14 we did that in the presence of DEC, and a number of other
15 RRT members. When we drill something, it's to get those
16 expectations firmed up with the various agencies. We were
17 under the assumption and expected that the DEC knew that
18 we would turn over, to an owner or to a spiller, the
19 responsibility and the actions following our immediate
20 response. We had every reason to believe that they would
21 expect that.

22 I was Alyeska's designated spokesperson for the
23 NTSB hearings, and after that one of the news people asked
24 me what most did I learn about this whole process as a
25 result of going through those NTSB hearings, and I have

1 to -- I had to answer the same way that Theo talked about.
2 And that is, that there was a definite gap in
3 expectations. It's essential to have a contingency plan
4 which is workable, a contingency plan which satisfies all
5 parties, a response that is in concert with all the
6 interests, commercial, industrial, public sectors of
7 Alaska, that those expectations be clarified, that we all
8 know what we are expected to do, what we are expected to
9 plan for in order for us to do our job effectively and not
10 have surprises when the actual incident comes along.
11 Clear expectations that are mutually agreed upon are
12 essential. That's all I have.

13 MR. PARKER: Thank you, Mr. Howitt. You
14 mentioned plans with ARCO and Exxon. Where is BP?

15 MR. POLASCK: Well, all the shippers have to file
16 their plans with the state.

17 MR. PARKER: I mean, your drill plans that Mr.
18 Howitt was referring to.

19 MR. POLASCK: They filed a drill plan with the
20 state. Now, we have an understanding with BP. If they
21 spill with BP, they would have sent their team. So it's
22 an understanding that we have with the owners of the
23 companies, the owners of the ships, that if their ship was
24 involved, they would be coming up here to take over.

25 MR. PARKER: They have the same understanding

1 with BP as with Exxon and ARCO?

2 MR. POLASCK: Essentially, yes, sir.

3 MR. PARKER: Counsel?

4 EXAMINATION

5 BY MR. HAVELOCK:

6 Q Mr. Polasck, I think you indicated that you came
7 from ARCO before you went --

8 A That's correct.

9 Q What did you do with ARCO?

10 A The job just prior to this, I was the vice
11 president of mineral exploration for Anaconda Minerals.
12 Prior to that I was the president of ARCO Pipeline. Prior
13 to that I was in the -- as major portion of corporate
14 planning related to ARCO's corporate work. I have been --
15 and before that, unitizing Prudhoe Bay field, and a whole
16 bunch of other jobs.

17 Q That sounds like you have had a wide variety of
18 experience at the top, at the board level; is that
19 accurate?

20 A Only in the sense of being a staff member in the
21 corporate planning function, yes.

22 Q In that corporate planning area have you been
23 responsible for assessing the risk to the pipeline system
24 or to the oil transportation system?

25 A No, I didn't have that.

1 Q Have you ever done anything in relation to a
2 spill before?

3 A No. The plan was put together, of course,
4 originally while I was not involved, in a period of about
5 '77, '76. '77 the plan was put together initially.

6 Q When you were working for ARCO, as I understand,
7 you said you were president of the pipeline subsidiary.

8 A That's correct.

9 Q Are you saying you didn't have discussions about
10 planning for spill contingencies in that context?

11 A That process was put together. The plan was put
12 together by the people in Alyeska at the time. The
13 representatives of Alyeska who negotiated that, worked
14 that out with all the same federal agencies.

15 Q I understand.

16 A I couldn't get involved.

17 Q I assume that's a different pipeline you're
18 talking about, or does the ARCO Pipeline Division mean
19 that part which is the Alyeska part?

20 A No, that part deals with all of ARCO's Lower 48
21 pipelines.

22 Q Right.

23 A At that time it did have an ownership interest
24 and was the legal owner of the TransAlaska Pipeline, and
25 as such I signed some of the financing documents that went

1 with the pipeline. So you will find my name on some of
2 those financing documents with ARCO.

3 Q But people don't discuss safety at that level, is
4 that what you're saying?

5 A There was discussions of safety, but not that I
6 particularly personally got involved with as far as the
7 safety, the assessment of the pipeline. I knew where the
8 answers had come out, in effect, that on the pipeline
9 itself, in general that the check valves and gate valves
10 were placed such that -- strategically, so that the spill
11 in general would be limited if it occurred in the most
12 unopportune place, in the most unopportune circumstances,
13 to something in the order of 50,000 barrels, and therein
14 a -- that you had the people and you had the equipment to
15 be able to cope with that. On the oil spill and the
16 marine all I knew was, at the time that we had agreed upon
17 oil spill response equipment, which was presumably
18 acceptable at the time, yes.

19 Q Did I understand that you did discuss safety,
20 though, in connection with the pipe, security of the
21 pipeline at that time?

22 A There was discussion of that, because obviously
23 we were concerned about security. Security of the
24 pipeline has always been a major concern, because you
25 don't know for sure what could cause a leak or a loss of

1 oil in the pipeline. It could be -- security is certainly
2 one. And right after, if you recall, right after the
3 startup we had a couple of sabotage attempts, one in which
4 they successfully did burn a oil in the pipe and we had
5 oil on the ground.

6 But, again, if the oil is on the ground it's a
7 lot easier to contain, whether it's wintertime or
8 summertime, than when it gets on the water. That's a much
9 more difficult thing to contain.

10 Q Do you have a budget line item in that function
11 for risk assessment for spills in the upland situation?

12 A We have -- we have a part of our people who are
13 on the job. Part of their job is oil spill response,
14 training, maintenance of the equipment. You know, that's
15 not their sole function. They do other civil type of work
16 along the pipeline. They're out there working, but
17 they're responsible for that function.

18 If there was a spill, they would be the ones. We
19 would mobilize our technicians at the pump stations to
20 help with the reconnaissance. And we drill that twice a
21 year to see how quickly we can do reconnaissance up and
22 down the pipeline. We then also drill how quickly it
23 takes us, how long it takes us to get equipment out to a
24 site, to practice booming across rivers, and things of
25 that nature.

1 Q Do you have a separate budget allocation for the
2 functions that you're describing?

3 A They're part -- no, they're part of our
4 operation. We don't show it as a separate thing, because
5 these do multiple functions on the pipeline.

6 Q So from a budgetary perspective you have no way,
7 or you don't have a measurement that's readily available
8 at any rate, of the effort that you're putting into the
9 physical security of the line, or I would gather the
10 maritime section, either.

11 A We have items that deal with security. We have a
12 separate line item on security of the pipeline, because we
13 contract that under our management. So we know what that
14 would cost us.

15 Q I'm using security in the broader section of the
16 integrity of the line as opposed to simply --

17 A Well, there are a lot of things that go into the
18 integrity of the line: the security of it, the corrosion
19 work that you do, anything that could cause a leak.
20 That's all part of the work toward integrity of the
21 pipeline.

22 Q Do you have any function at the corporate level
23 of planning for contingencies?

24 A Yes, we have -- we have an environmental group
25 who has -- they have many functions, and one is, of

1 course, planning for the contingencies of oil spill. They
2 work with the agencies, they work with us as operations
3 people to make the plans workable. And at that time, of
4 course, Bill was an operations person. The person
5 directly working with the agency was a member of our
6 environmental group.

7 Q At the levels you have been discussing, do you
8 ever have any discussion of the trade-offs between cost
9 and the integrity of the line or the integrity of the
10 transportation system?

11 A We look at the problem, and if there is a
12 solution that is reasonable and we can agree upon it
13 technically how it's to be done, we proceed to do it.

14 Q I guess your answer, then, is no, that you don't
15 actually talk about the trade-offs between the costs that
16 are involved in enhancing the security or the integrity of
17 the system, and the benefit that would come from that
18 cost?

19 A We look at the system to determine what is
20 necessary to do -- like on the corrosion work that we're
21 doing now. We're doing a lot of work, we've done a lot of
22 work on research on pigs to allow us to anticipate
23 thinning of the wall, so we can anticipate and put a
24 sleeve on or correct the problem, inhibit it long before
25 the problem occurs.

1 So this goes on all the time. You know that down
2 the road you don't want to have a hole in the pipe. You
3 do what you can to prevent it from occurring. And we
4 spend money, and there are many, many areas for which we
5 spend money for so-called integrity of the pipeline.

6 Q How do you decide at what level you're going to
7 make your expenses for those purposes?

8 A You look at what is the problem and what would be
9 required, and you look for the best solution. There are
10 no limits. You look at what is required.

11 Q So it's whatever it takes?

12 A Essentially, to get the job done right.

13 Q And with respect to the Alyeska response
14 capability to the marine environment, was that the
15 corporate attitude, then, of Alyeska when you went there,
16 that whatever is necessary, just provide the money?

17 A We looked at that on the basis of what was it
18 that, in effect, society, not only in the U.S., but around
19 the world, had decided is the basis you plan on. The
20 basis that you planned on essentially was the most likely
21 spill case. That was kind of an agreed-upon norm that was
22 every place, not -- in the U.S., as well as around the
23 world.

24 Now what's happening is that that norm or
25 expectation is changing. I mean, it's changing right now

1 to something that's greater than that. Saying that that's
2 no longer, perhaps, acceptable as a planning basis,
3 because you're talking about the risk assessment and a
4 balancing of risk and how much insurance do you buy, so to
5 speak, on some catastrophic event which may or may not
6 occur.

7 So that's what you're talking about. And even if
8 you talk about the Prince William Sound, I think it was
9 said earlier today that there are some conditions, weather
10 and other conditions, in which it doesn't matter how much
11 equipment you have, you really can't do a very good job of
12 picking it up. And then you have to rely on dispersants
13 or, you know, it's a different -- it's a very difficult
14 problem of picking up oil off of the water.

15 Q Well, I guess what I'm asking is whether the
16 calculations that you have just gone through, which are
17 essentially discussing the cost benefit of the investment,
18 which presumably have gone on since the spill, in
19 determining the levels of expenditure that Exxon has put
20 in and that Alyeska has put in. Do those kind of
21 discussions occur with respect to contingencies?

22 A I didn't follow your first part. I mean, there
23 has been no balance in terms of up-front, while the spill
24 is going on, sitting and making calculations, if you're
25 implying that. Is that what you're implying?

11

1 Q I assume that when you --

2 A Or are you talking about --

3 Q I don't mean to imply anything, sir. I just want
4 to see if I can find out what your position would be on
5 it, and please correct me if you think I'm making any kind
6 of suggestion that is not correct.

7 What I'm asking, I'm just trying to figure out
8 how you guys make decisions, and I assume that there is
9 somebody who is making a calculation with respect to the
10 spill, to the money you're spending on the spill, as to
11 whether a particular expenditure is worth it.

12 A No, not -- you're off on -- you were talking
13 about the plan early on. Is what you're talking about,
14 pre-spill?

15 Q With respect to the spill, I believe that you
16 make some calculation that --

17 A That's Exxon. Exxon is taking -- is responsible
18 for the spill. That's Exxon's cost.

19 Q Well, Alyeska had a responsibility for that spill
20 too, and I asked you would Alyeska have made that, some
21 calculation of whether it was worth doing something, worth
22 spending money?

23 A None at all. Early we responded, we responded
24 with everything we had and everything we could commit from
25 around the world, and we had no -- there was no question

1 of how much it cost. If we needed it, we got it. And
2 then since then -- that was in our first 24 hours. We
3 then, on the evening, Friday evening at 6:00, we made the
4 transition to Exxon, but it was not an abrupt transition.
5 They took over certain functions. We went through a
6 briefing process with their people where we stood, checked
7 with them, and we said we'll stay on the job and do
8 whatever you want as long as you want us to do it. We did
9 that in certain areas through Sunday, and others we
10 continued for two or three weeks, until they got their
11 people on site. So there was no question while we were
12 there in those first 24 hours that cost was any object.

13 Q And I assumed that something like that was the
14 case, and I am transferring to before the accident now.
15 Before the accident when you're talking about prevention
16 and limitation, you don't have the same calculus, do you?
17 That is, you do -- you don't say when it comes to safety,
18 cost is no object. You have a calculation which you
19 determine what you're willing to spend for safety either
20 directly or indirectly; isn't that right?

21 A When it comes to safety, essentially cost is no
22 object, sir, in safety.

23 Q Well, then how come you didn't plan for the mega
24 spill, then? If cost was of no consequence, it seems
25 ridiculous you weren't planning for the big spill and

1 didn't have a deployment there to cover it.

2 A No, you're mixing safety and oil spill response.
3 Those are two separate issues. You said safety.

4 Q Okay. So you're saying that cost is no object
5 when it comes to the security of the --

6 A The lives and well-being of people.

7 Q Of prevention?

8 A You do whatever you have to to try to protect the
9 well-being of people, you do do that.

10 Q So there is no limit to what you're willing to
11 spend on prevention?

12 A Essentially. You see, that's where we are now in
13 the program. The current plan that we have now has two
14 escort vessels. It's basically aimed at prevention. You
15 got two escort vessels, you have the pilot staying on
16 longer. This comes, as I said, a change in what the
17 expectations were.

18 At that time when the plan was put it together
19 originally, I would presume that those who put together,
20 and I wasn't part of it, assumed that if you had a tanker
21 escort out through the Narrows, if you had a pilot staying
22 on out through the Narrows, and if you had radar out
23 through the Narrows, that that took care of the problem
24 area.

25 Q So you fund to a level of expectation, is what

1 you're saying, with respect to prevention?

2 A You reach a common expectation with the agencies,
3 whether it's state or federal, representing the public,
4 and that's what was done.

5 Q And that's basically what's said in the
6 regulation in this plan?

7 A You have to reach a common expectation and say,
8 this is what we will plan for, this is what we'll work
9 around. And we did that and it worked, you know, well for
10 a number of years. But then this particular circumstance
11 came along, and obviously we had a problem.

12 Q Well, when you're planning on the pipeline, is
13 that what you follow there? That is, that there are a set
14 of expectations and federal/state regulations, and when
15 you decide to make a further investment in protecting that
16 line, it has to do with a government approved plan?

17 A Well, on the line originally, as I said, they
18 worked out a solution that had the spacing to the valves
19 such that you had a certain expectation in terms of spill
20 size, in the worst set of circumstances, and equipment you
21 had to have in the area, in that section, and we worked
22 out those procedures and that expectation.

23 Now we are looking at the whole pipeline again,
24 but again with the agencies. We're looking with the BLM,
25 representing the feds; and the Department of Natural

12

1 Resources of the state, representing the state agencies.
 2 Now, we have to come up again, as we said earlier, with a
 3 common expectation. What is it that we're going to work
 4 around and set as our goal as a society, what is it? It's
 5 not without cost, and we have to decide what it is. And
 6 we will -- our goal is to find out what that expectation
 7 is and try to meet it, and that's what we're attempting to
 8 do on the pipeline now.

9 Q And then you would consider for a group like
 10 this, the Commission which is in the business of
 11 establishing recommendations with respect to such
 12 expectations, that we should set higher regulatory norms
 13 if we're not satisfied with what's there; is that right?
 14 That is, that we can't expect voluntary compliance with
 15 safety or arrangements that are not overseen. That is, we
 16 should not look to corporate volunteerism, but we need to
 17 impose some kind of a standard in order for the industry
 18 to live up to it?

19 A You're mixing, again, safety and oil spill, and I
 20 wish you wouldn't do that because it makes it difficult to
 21 deal with.

22 Q Please separate it when I do it.

23 A Okay. I mean, because we do, we constantly look
 24 at our people's safety environment. They do it
 25 themselves. We have inspections by them, along with

1 safety experts, their managers, and we do it routinely.
2 If they see anything they think could be unsafe, they come
3 back to us and we work out a solution to it.

4 The last thing we want to do is have anybody
5 hurt. The last thing we want to do is have an oil spill,
6 and we will do what we can to try to keep it from
7 happening. To say that we just sit back and do nothing,
8 even in the early oil spill, is not true because we had
9 the plan approved in '87.

10 Sometime just not too long before that, ARCO had
11 had a spill in Puget Sound, and about a year later or so
12 we got together with them and said, you know, what did you
13 learn from this? What are some of the things that you
14 decided? And we decided that, listening to that, that,
15 one, we ought to get ourselves on scene, a helicopter
16 stationed there so we would have immediate air
17 reconnaissance. That wasn't required by the plan.
18 Decided we ought to get a portable communication module,
19 and we built one of those; not required by anybody. We
20 decided we ought to equip the three tugs we had with
21 dispersant capabilities, even though dispersant wasn't yet
22 approved, but we were anticipating it might be.

23 We went forward in all of our processes. We
24 looked at a larger skimmer even, a different technology
25 that might be of some value; not required. We don't wait

1 for people to just beat us over the head. We work with
2 them cooperatively, we try to meet a common expectation,
3 and then continue to look at the problem and work it all
4 the time. We never just sit back and say, well, we got
5 through that and now we don't have to do anything for
6 three years. We don't do that.

7 Q And I gather from what you have said about your
8 response, in terms of the additional things that you have
9 done since the spill and improving your capability both in
10 response, particularly in response, that you're
11 essentially responding to a different public expectation;
12 is that correct?

13 A Well, surely. I think the public expected
14 that -- and I'm not sure why, that no matter what
15 happened, Alyeska could take care of it, or somebody would
16 take care of it.

17 Q Right.

18 A But no one really spelled out the magnitude of
19 260,000 barrels in the water. I don't think most people
20 can perceive how much oil that is and how far it goes and
21 the difficulty of picking it up out of Prince William
22 Sound; a very difficult process.

23 The main thing, that if you look at that plan
24 that we have, what it really does, it strengthens
25 prevention. That's where you do it. Once you have a

1 spill in water, you have a major problem almost always.
2 And by having two escorts, either one of which can direct
3 that ship if it gets into trouble, as well as having two
4 separate sets of eyes watching what the pilot's doing and
5 what the captain's doing, and if we ever get vessel
6 tracking systems out into the Sound, then you have got
7 five levels of oversight. That's much stronger than what
8 we had before. What we really have done is strengthened
9 the prevention.

10 Now, along with that we have strengthened our
11 response capabilities in terms of pick-up capabilities,
12 but the main thrust of it -- and I think you will hear Jim
13 Hermiller talk about this tomorrow when he appears before
14 you. The main thrust of it is prevention. That's what
15 you have to do. That's what we do on the pipeline and
16 that's what we do out in the Sound. That's how you win
17 the game.

18 Q Let me -- we'll talk more about this at shipping
19 tomorrow.

20 MR. PARKER: Counsel, we'll get into prevention
21 on the whole day tomorrow.

22 BY MR. HAVELOCK:

23 Q Let me turn just back to the question of your
24 phase transition takeover, just to clarify how that works.
25 Do I understand from what you're saying that the

1 contingency plan includes the provision for an owner
2 company to take over in the case of a major spill?

3 A The contingency plan says we operate as an agent
4 for the owner companies. The owner companies have all
5 filed thier own oil spill plan with the state, and in
6 those plans they generally reference the Alyeska plan.
7 And as it did in the Exxon plan, it said that they would
8 come in and take over. So the state had all that
9 information, knowing that --

10 Q Prior to the spill DEC had an Exxon plan in --

11 A Absolutely.

12 Q -- their possession?

13 A Absolutely. So I'm told. I mean, I can't
14 verify. You have to ask Mr. Kelso about that, but I'm
15 told he did have a copy.

16 Q You mentioned that you were doing -- you did lots
17 of drills, as I recall you indicated. Did you ever do a
18 drill involving an owner takeover?

19 A Owner transition?

20 Q Right.

21 A That's the one that Bill and I have been talking
22 about, the one in May of '88 where I described it as going
23 on for three days.

24 Q And that did involve a transition to an owner?

25 A Absolutely, and the state and federal agencies

1 were there, the local agencies, and everyone knew what
2 would happen if one of these things occurred.

3 MR. HAVELOCK: I guess I have no more questions.

4 VOIR DIRE

5 MR. PARKER: Thank you, counsel.

6 Did the transition work out to your expectations
7 based on what you learned in the drill?

8 MR. POLASCK: Did the what? I'm sorry, sir.

9 MR. PARKER: Did your transition, when you
10 actually did it with Exxon, work out as you expected?

11 MR. POLASCK: It worked very well. What happened
12 is that when they came in at 6:00, they took over three
13 functions immediately, and one was the dispersant
14 discussion, lightering of the vessel, the responsibility
15 for that, the Coast Guard, and the public relations.

16 That evening my operations people and I made a
17 transition with Frank's people on where we had boom
18 deployed, what our strategy was, where we were headed, and
19 said, is this where you want us to be, you know, because
20 we're going to hold and we'll do generally what you direct
21 us. We have an idea. We drilled, we know what we want to
22 do, but it is your spill, you are responsible.

23 We went through that process, and by the end of
24 Sunday, Sunday and Monday, we essentially had our people
25 out, they had their people on our equipment, using our

1 equipment. But, though, the thing that took them the
2 longest to get up to speed on, it seemed to be, were
3 things like the purchasing, the cure, things of that
4 nature, some of the logistics, communication. And in those
5 areas we stayed involved for three or four weeks in some
6 cases, until they were perfectly comfortable that they had
7 it. It was not just drop it and run. It was, when you
8 are ready we will step out, your people take over. And we
9 did that on all phases of the operation. It was a very
10 smooth transition. They brought up a very professional
11 team.

12 MR. PARKER: Would you leave your charts there
13 for the panel discussion, because we would like to use
14 them.

15 MR. POLASCK: Sure.

16 MR. PARKER: Any other questions at this time
17 before we proceed to Mr. Iarossi?

18 MR. HERZ: I wanted to get a clarification. I'm
19 looking at some testimony from a hearing that was held in
20 Washington on August 10th before the Coast Guard Committee
21 on Merchant Marine Fisheries, and I'm looking at the GAO
22 testimony. And there seems to be a discrepancy between
23 what you're saying about a couple of things and what they
24 said about their -- what came from their interviews with
25 you and the Coast Guard, and I just wanted to clarify

1 those.

2 One of them had to do with the dedicated force
3 that you had that was part of -- I don't know whether it
4 was required by the plan or not, but there was a dedicated
5 team of contractors who were created early on to, as I
6 understand it, guide you and be advisers for the most
7 appropriate way to respond, and a variety of other things.
8 According to this GAO testimony, the team was disbanded in
9 1981 and the responsibility for responding to spills was
10 assigned to Alyeska personnel as additional duties, so
11 that although -- I mean, you implied that there was as
12 much coverage, but I think the GAO report seems to imply
13 that the people who were reassigned this responsibility
14 were doing that in addition to their regular jobs, so that
15 in fact there really was not the kind of coverage
16 available that had been available in your original plan.

17 MR. POLASCK: Yeah. Let me -- first of all, the
18 technicians that were there, or the contract people were
19 there early, were there just to do the physical
20 responding. They don't deal with planning, and so forth.
21 They were just -- you're talking about the people who just
22 did the physical work, running the boats out, setting out
23 booming, and so forth. They did that. They also had to
24 take care of the engines on the boats, do the mechanic
25 work, maintenance, and so forth, during that period. They

1 also would drive back trucks, things like that, during
2 that period.

3 When we created the Alyeska employee that took
4 those jobs -- and a lot of the same people came over from
5 the contractor, just became Alyeska employees. Their
6 primary role, the role they dropped everything else for,
7 was immediate oil response. Now, we might have them also
8 helping us tie up a ship or shoveling snow or doing
9 something like that, but they were in the area, with a
10 radio on their hip, ready to go at any moment. Their
11 primary function was to do that.

12 We also then, shortly after that, decided that
13 one of the things that we really need to also do was to
14 hire a couple of people through our contractor, earth
15 movers who were marine mechanics, who then took over that
16 responsibility of maintaining equipment, because that
17 turns out to be a very key part of that whole process.

18 So what I'm saying is that they were not -- the
19 people who planned it, they were the people who executed
20 it, and we had people who took on those functions
21 entirely. I mean, the complete replacement for what was
22 lost by getting rid of those four people.

23 MR. HERZ: The point I'm trying to clarify is
24 that there have been many allegations made that Alyeska
25 consciously reduced their level of coverage. I don't

1 clearly have a sense, from what you just described, that
2 there is comparable coverage today. I don't know how many
3 people there are today as opposed to what there was
4 before. And the concern is that what we're hearing today
5 seems to be a lot of unilateral decisions that were made
6 by Alyeska, and later by Exxon, regarding how the spill
7 response was going to happen, and the unilateralness of
8 those decisions did not involve either the Coast Guard or
9 the State of Alaska, and I'm trying to get some
10 clarification on whether those things are true.

11 MR. POLASCK: I can understand the confusion.
12 Let me add one other thing, that when we made that
13 decision, we also made the decision that all of the marine
14 techs would become trained oil spill people. So now we
15 have a total of maybe 60 marine techs who are trained oil
16 spill people. We also train our people up the hill in
17 power vapor. They originally, their training was in the
18 area of on-shore response, but they know how to use boom,
19 and whatever, and they were integrated into a total team
20 of oil spill response. It was never, then, it's the
21 contractor's work. It became Alyeska's work to respond.

22 MR. HERZ: What I'm trying --

23 MR. POLASCK: And so, in effect, we have a lot of
24 people who are doing it.

25 MR. HERZ: Did Alyeska unilaterally decide this,

1 or was this decided in conference with, in discussion
2 with, and with the permission of the State of Alaska and
3 the Coast Guard?

4 MR. POLASCK: As far as I know it was unilateral,
5 but you can help me. Unilateral.

6 But we felt we were strengthening it by having
7 more people doing the response. And to imply that our
8 dedication to oil spill response was diminished and to
9 make statements like we have been trying to scuttle it for
10 years, it's just not true.

11 MR. HERZ: But, again, what I'm trying to clarify
12 is whether or not the state and the Coast Guard, who are
13 supposed to be overseeing the contingency planning process
14 and evaluating those response capabilities, were aware or
15 unaware, and I think you have clarified that. Thank you.

16 MR. PARKER: Tim?

17 MR. WALLIS: No.

18 MS. HAYES: I just would like to know whether
19 there was paper documentation for that transition process.

20 MR. POLASCK: The transition to Exxon?

21 MS. HAYES: From Alyeska to Exxon for taking over
22 the response.

23 MR. POLASCK: Not that I'm aware, no, nothing
24 normal. Maybe Frank can help me with that, when you talk
25 to him later. We sat down with their people and we knew

1 the counterparts. We had been talking to him on the phone
2 when they came in. We handed off. In fact, we did give
3 them the records. As a matter of fact, there is a record,
4 because we handed them a record of all the commitments we
5 had made for all the -- when they came in at 6:00. All
6 the commitments we had been making since, essentially,
7 1:00 or 2:00 the previous morning, all day long we were
8 making commitments. We had a long listing of commitments
9 that we handed them and said, here's what we have
10 committed for. This is what will arrive. In fact, we had
11 expected arrival time for booms, skimmers, people, all
12 that, that we gave to them. So, yes, to that extent there
13 is that. I have a document, yes.

14 MR. PARKER: Ed?

15 MR. WENK: Just one question. If I could
16 describe what I heard here for the last half hour, it is a
17 picture of benign corporate America, highly sensitive to
18 social concerns, tuning your cost benefit analysis to this
19 very precisely.

20 Somehow or other there is an element of unreality
21 about this that I want to ask you about. The way I
22 understood you to say you probe what is acceptable risk,
23 and this is the operational term I want to use, is that in
24 your calculus you go as far as the regulatory agencies let
25 you go, because you depend on them to be the interpreter

1 of what is socially acceptable risk.

2 My question is whether in your experience you
3 have ever seen those corporations, who are sources of
4 risk, put any squeeze on regulatory agencies when they
5 think that those standards are going to cost them some
6 money.

7 MR. POLASCK: I have seen a lot of discussion
8 when the belief is that the requests that are being made
9 are unfounded in science, have no real backing; and yes, I
10 have seen industry raise questions about those. And I'm
11 not sure that's improper if you cannot -- if the agency
12 can't demonstrate why it is something that should be
13 required and is good for the environment in the long term,
14 then why, you know, why do it? I think that's an
15 appropriate question to ask, and then you reach an
16 agreement.

17 MR. WENK: But may I suggest, sir, that socially
18 acceptable risk is not subject to scientific analysis. I
19 think you would probably agree that with regard to the
20 risks of oil spill, that none of the calculations using
21 the theories of probability work with a very low
22 frequency, high consequence event. Would you agree on
23 that?

24 MR. POLASCK: Yes, in the sense that --

25 MR. WENK: Well, then, if you agree --

1 MR. POLASCK: To back up on that --

2 MR. WENK: Excuse me. If you agree on that --

3 MR. POLASCK: In a sense that you can do a
4 probability analysis and come up with some
5 representations, that's what I'm agreeing to as to when
6 you can likely expect these on the average. That's what
7 probability statistics are.

8 MR. WENK: But what I'm suggesting is that most
9 of the scientists who work in this field will say that the
10 area of low probability, high consequence is not subject
11 to just the sort of thing you allege to be true.

12 What I'm suggesting is that we're dealing with an
13 area here that has two characteristics. The first is that
14 socially acceptable risk cannot be established by science
15 and engineering; and therefore, when you say that you
16 appeal to regulatory agencies on the basis of your
17 scientists' statements, it misses the point. The
18 second --

19 MR. POLASCK: Let me back up for --

20 MR. WENK: Well, let me finish, please.

21 MR. POLASCK: Okay.

22 MR. WENK: Thank you. What I'm suggesting also
23 is that we have a maritime transportation system which is
24 inherently defective, and it is inherently defective
25 because of a long heritage that nobody can be blamed for,

1 but which only looks at these questions of risk when there
2 is a catastrophe. And I have heard nothing here today
3 that suggests to me that Alyeska, and I hope maybe the
4 next speaker will deal with this, has looked at the
5 question, the whole question of maritime safety, including
6 the question of oil transportation either as it relates to
7 your Alyeska responsibilities or something more broadly.
8 Any comment?

9 MR. POLASCK: Well, I'll leave questions
10 regarding maritime safety, and such, to Mr. Iarossi; he is
11 more expert than I am. But I would like to go back to the
12 question that I asked first. You asked me did I ever see,
13 in effect, a company take issue with some agency, and I
14 had to answer that yes. You understand?

15 MR. WENK: Of course. So have we all.

16 MR. POLASCK: Okay. But in the sense, you know,
17 as it relates to the oil spill, it gets to be more
18 specific and then you shift it to the oil spill, the
19 marine, okay? I just want to make sure you understood my
20 answer when I said yes, because obviously sometimes
21 companies do have discussions with agencies where they
22 don't agree on all issues.

23 MR. WENK: Thank you.

24 MR. PARKER: Okay. Thank you. And would the
25 commissioners remember that we are going to take up

1 tankers tomorrow, and we have Mr. Iarossi coming before us
2 now. Thank you very much, Mr. Polasck.

3 MR. POLASCK: Thank you.

4 MR. PARKER: And please come back at 3:30.

5 So Mr. Iarossi from Exxon. Like I say, Mr. Iarossi will
6 be back before us tomorrow on shipping matters. Today we
7 do want to concentrate on response.

8 MR. IAROSS: Thank you, Mr. Chairman, members of
9 the Committee. As you know, we are parties to litigation,
10 and so some of the subjects may get into areas where I
11 need legal counsel. So Mr. Bob Wood, Exxon legal counsel,
12 is going to be helping me sort through that.

13 MR. PARKER: You missed my little statement this
14 morning, which just to reassure you, I don't know if your
15 counsel has heard it. But our mission is an independent
16 one and we don't consult with litigators, including the
17 state executive, with regard to the questions we ask. And
18 our purpose is not in attempting to assess culpability and
19 quantify or allocate damages.

20 Our purpose, as directed by the legislature, is
21 to find out what policy changes may be required to reduce
22 the possibility of anything like this happening again, and
23 to assure that when the statistically inevitable spill
24 occurs, the policies and practices in place mitigate and
25 contain the consequences of that spill. So while we admit

1 that litigation may complicate the response of a party,
2 our objective is fundamentally different.

3 MR. IAROSSSI: Yes, and I appreciate that, Mr.
4 Chairman.

5 MR. WOOD: Mr. Chairman, you also mentioned at
6 the conclusion of your introductory remarks this morning
7 that the parties, presumably to the litigation, can use
8 the testimony presented at this Commission as they see
9 fit. Ergo, should that situation arise, I'm here to
10 provide legal counsel for Exxon Shipping.

11 MR. PARKER: Okay.

12 MR. IAROSSSI: I'm a nonlawyer, so I need a little
13 help. The other gentleman with me is Mr. Tom Gillett. He
14 is also a nonlawyer. He works for me in the shipping
15 company, and if we need any quick data gathering or
16 literature search to answer your questions, he will do
17 that for me.

18 I hadn't planned to make an opening statement,
19 but in listening to the questions you had for the first
20 two speakers, I think it may help if I try to address the
21 general nature of your questions by talking a little bit
22 about my own background, by talking about Exxon's response
23 plans, since that seems to be an important topic for you,
24 talk about the turnover that actually went on between
25 Exxon and Alyeska, and then maybe to talk about the

1 establishment of the Steering Committee and the Operations
2 Coordination Committee, both comprised of members of
3 Exxon, State DEC, and the Coast Guard.

4 So I will try to go through those quickly, and
5 then open up for any further items you may have.

6 MR. PARKER: I do want to thank you for your
7 detailed and fairly exhaustive answers to our questions.

8 MR. IAROSSO: I'm sorry we couldn't get it to you
9 until yesterday, but we had to dig stuff out of vaults,
10 but I'm glad we were able to get it to you.

11 I'm a graduate of the U.S. Coast Guard Academy.
12 I graduated in 1959. That's a long time ago. I spent ten
13 years on active duty with the Coast Guard. I sailed the
14 first four years of that both as a deck officer and an
15 engineering officer. During those four years I had ten
16 weeks of intense training on disaster control. Five weeks
17 of that period was on vessel salvage and damage stability.
18 The other five weeks was on disaster control. This was in
19 1961, turned out to be a few months before the Cuban
20 Missile Crisis. So the focus was on disaster control in
21 the event of nuclear, biological, or chemical attack.

22 At the end of four years sailing, I was sent to
23 postgraduate school at the University of Michigan where I
24 had master's degree training in naval architecture and
25 marine engineering. I came back subsequent to that

1 training to the Coast Guard, and spent four years in
2 charge of the marine engineering section of their merchant
3 marine technical and safety division.

4 I left the Coast Guard after ten years service, a
5 few months later joined Exxon. I've been in various
6 positions with Exxon for the past 21 years. I had an
7 opportunity in 1977, I was then a marine adviser to Exxon
8 Corporation's board, and I had an opportunity for about a
9 year to coordinate Exxon's approach to major oil spills.
10 And it started from a very fundamental question of what
11 was the corporation's responsibility, how did it discharge
12 that responsibility, and then what is the world's
13 technology, how do we organize ourselves in the event that
14 we do have a major catastrophe, what research needs to be
15 done, how do we organize and coordinate an ongoing
16 research program.

17

17 And all that culminated in, firstly, a clear
18 understanding within Exxon that in the event of a major
19 marine casualty, that it was our corporate responsibility
20 to immediately define our financial responsibility, and to
21 make sure that everyone knew that we were not shirking
22 that responsibility; and then to fulfill our obligations
23 under the Clean Water Act to do everything possible to
24 mitigate and clean up a spill. That's the philosophy of
25 it.

1 The follow-through comes in the form of Exxon's
2 response plan, which actually is contained in some 28
3 volumes, encompassing some 20,000 pages. Those 28 volumes
4 are divided into three general groupings. There are three
5 volumes under the heading of organization. These three
6 volumes define the three levels of response that Exxon
7 would put in place in the event of a catastrophe. The
8 first level is one -- just let me step back. Exxon
9 Shipping Company, within that overall framework, has
10 responsibility for any marine related oil spill regardless
11 of whether it comes from one of our vessels, or a foreign
12 affiliate vessel or a charter vessel of a U.S. or foreign
13 flag, any spill that involves Exxon owned oil, regardless
14 of the vessel. We are the organization within Exxon
15 charged to mitigate and clean up.

16 So getting back to those three volumes, the first
17 level is what we call our field office response plan. We
18 have four field offices in the U.S. The closest one is in
19 San Francisco. And those response plans cover primarily
20 what we would do in, say, small spills, a barrel from a
21 cargo hose at the terminal, or something like that. Or up
22 to, you know, what is, depending on the circumstances,
23 what is the level of capability of that first response.
24 Second response involves mobilizing all of the Exxon
25 Shipping Company resources. The third level of response,

1 the highest, involves mobilizing all of the resources of
2 Exxon Company, U.S.A.

3 There are 19 volumes in this plan which involve
4 resource and logistics directories for different parts of
5 the company -- different parts of the country. One of
6 those volumes covers Alaska. And in those volumes, for
7 each section of the country it defines where there are
8 resources, cleanup type resources, barges, cranes,
9 equipment of that sort. It defines who the cleanup
10 contractors are. It tells you how to get a hold of them,
11 how to mobilize that equipment, where the airports are,
12 where the transportation facilities are.

13 The third general section in that response plan
14 is cleanup techniques. There are six volumes. In those
15 six volumes they define how to use skimmers under
16 different circumstances, how to use booms under different
17 circumstances. There's a volume on chemical dispersant,
18 on burning in place, and I don't recall offhand what the
19 other two are. So that encompasses about the whole
20 bookcase, floor to ceiling, of literature put together to
21 prepare for an event that everybody hopes we would never
22 see.

23 On the night of March 23rd I got a call, it was
24 about 1:20 in the morning Alaska time, and that call
25 initiated -- we went directly to level three in our

1 response plan, and we began to mobilize both Exxon people
2 designated for the response team, plus outside experts,
3 non-Exxon company experts who are on retainer to us to
4 respond just in the event of an incident like this. These
5 are people that have been preselected to fill different
6 positions within the response team.

7 We also began to mobilize equipment. Within a
8 couple hours of notification we had mobilized the Clean
9 Bay Cooperative in San Francisco, we had mobilized the Oil
10 Spill Response Limited organization in London, and we had
11 also got to Clean Seas here in Alaska, and we were on
12 almost continuous communication at that point with
13 Alyeska, and with the Coast Guard on-scene commander.

14 I arrived in Valdez Friday afternoon, it was
15 about 5:30 in the afternoon. I had five people with me,
16 all experts from different phases of response. I was met
17 at the airport by three of our people who came up from the
18 San Francisco office, and three of our people that were in
19 in the Anchorage office. So all together at 5:30 we had
20 12 members of our team in Valdez. We had another 18
21 members of our team that arrived in Anchorage that night,
22 but too late to catch the plane to Valdez. So they made
23 it in on the first plane the following morning.

24 Those 30 members were in operation at a command
25 center that we set up in the top floor of the West Mark

1 Hotel by 12:00 noon on Saturday, the second day. We had
2 actually started the turnover between Alyeska and
3 ourselves much earlier. We were in communication back and
4 forth, and the mobilization steps we were taking, the
5 equipment we were bringing in, the people we were bringing
6 in.

7 When we arrived in Valdez, two of my people, the
8 two people directly under me, and the response team went
9 to the terminal and met with the Alyeska people and began
10 the formal turnover. And this is a very, very important
11 process, because you want to make sure that nothing is
12 left between you when you make the turnover, nothing falls
13 between the cracks. So it's very, very important to say
14 specifically, okay, at this point I have this, I have
15 that, I have that. I will come back in six hours and we
16 will meet again.

17 Friday night at that first meeting we took over
18 lightering; we took over all liaison with the Coast Guard,
19 including the dispersant permitting and the in-situ
20 burning permitting; we took over media and community
21 relations and contacts.

22 The following morning the same two people
23 returned early in the morning, about 8:00, to the
24 terminal. They then did a joint air surveillance of the
25 site to compare notes and to begin to understand what

1 steps Alyeska had been taking and what were in place.

2 As I mentioned, by 12:00 we had our response,
3 12:00 on Saturday we had our response center in operation.
4 And, of course, the biggest problem is getting all the
5 communications and telephones going. But we had that up
6 and running by 12:00 on Saturday, and by that night, it
7 was actually 6:00, 1800 on Saturday evening, we assumed
8 full operations coordination for the spill response
9 activities.

10 We asked Alyeska to stay on certain functions.
11 We asked them to keep their operation going as far as boat
12 dispatch. They were doing all of the boat dispatch work,
13 because our major, initially our major site for putting
14 equipment into water was the terminal. A couple days
15 later we moved that to the container berth, but at the
16 time, the first couple days, everything was moving out of
17 the terminal.

18 So we asked them to continue to control that
19 operation, continue to dispatch the boats as they were
20 needed. We asked them to continue their field operations.
21 They were setting up the camps that Mr. Polasck had
22 mentioned in order to get us more berthing and support
23 facilities. So we asked them to continue with that role.

24 Every single step along the way we were
25 coordinating with the Coast Guard. I don't believe -- I

1 would be amazed if any Coast Guard officer, from Admiral
2 Nelson on down, would tell you that at any time he was in
3 any doubt of what we were doing. Every single step of the
4 way we were coordinating with them. I met Commander
5 McCall for the first time about a half hour after I
6 arrived in Valdez. I continued to work with him through
7 Saturday, Saturday night. When Admiral Nelson arrived, I
8 met with him, and I continued to meet with him at least
9 twice a day, and we had numerous phone calls back and
10 forth in-between. So I don't believe there was any time
11 when the Coast Guard was not fully aware. In fact, we did
12 not have their -- there was any time when we did not in
13 fact have their agreement to do anything, we didn't.

14 I'm a little puzzled by the question of the
15 turnover between Alyeska and Exxon. On March 5th of 1982
16 we sent our response plan to the regional supervisor,
17 Alaska Department of Environmental Conservation in
18 Anchorage. We told them that in accordance with state
19 law -- by the way, the background was, there was an Alaska
20 state law passed in 1981 requiring plans. The regulations
21 came out early in 1982, and our response was very quickly
22 after that to submit our plan.

23 Now, on the very first page of that plan, under
24 the heading Introduction, the very first paragraph, in
25 fact the last two sentences of the paragraph state: For

1 most tanker spills the response outlined in the Alyeska
2 plan will suffice. However, in the event of a major spill
3 by an Exxon owned or operated vessel, it is anticipated
4 that Exxon Company, U.S.A. Oil Spill Response Team, as
5 described on page 4 of this submission, would be activated
6 to manage the spill response.

7 Yes, ma'am.

8 VOIR DIRE

9 MS. WUNNICKE: Mr. Chairman, may I just clarify
10 something before I forget? You were earlier describing
11 your 28 volume response plan.

12 MR. IAROSSO: Yes.

13 MS. WUNNICKE: Was that -- not the 28 volumes,
14 but the three that had to do with Exxon Shipping
15 organization, and the one volume that had to do with
16 Alaska resources?

17 MR. IAROSSO: Yes, this was a summary of the
18 organization that we sent.

19 MS. WUNNICKE: And the six volumes of cleanup
20 technique. Earlier you were talking about three volumes
21 of organization, one volume of resources having to do with
22 Alaska, six volumes having to do with cleanup techniques.
23 Is that what you filed with the State of Alaska in 1982?

24 MR. IAROSSO: No, there were 19 volumes of
25 logistics and resource, one of which was Alaska.

1 MS. WUNNICKE: I understand that in your
2 testimony you said three of them had to do with
3 organization, one with resources covering Alaska, and six
4 having to do with cleanup techniques. So at a minimum
5 were those filed with the State of Alaska?

6 MR. IAROSSE: No, what we filed was the
7 organization piece, which defined the organization we
8 would put in place, it defined the names of the
9 individuals that would fill those positions, and it
10 defined the mobilization technique we would go through.
11 So it was a thin submission, not 19 volumes.

12 MS. WUNNICKE: Not the 19 volumes, all right.
13 Thank you.

14 MR. IAROSSE: It clearly defined one important
15 point in a discussion this afternoon; and that is, there
16 was never any doubt that in the event of a major spill we
17 would manage the oil spill response, and we clearly stated
18 that in the introduction to that.

19 Now, there are some very clear reasons for that.
20 First of all, in the federal Clean Water Act it defines
21 the spiller as the individual responsible. Also, in
22 Alaska statutes, Part 46, Chapter 4, Section 20, the
23 section is entitled Removal of Oil Discharges. Paragraph
24 A begins: A person causing or permitting the discharge of
25 oil shall immediately contain and clear up the

1 discharge -- clean up, I'm sorry. We defined that as
2 saying we were responsible for the cleanup.

3 MS. WUNNICKE: I'm not questioning that. I had
4 heard some conclusion as to what notice was given the
5 state, what plans were on file with the state, and I just
6 wanted to clarify what that plan was.

7 MR. PARKER: When you say "we," you mean you or
8 your agent?

9 MR. IAROSSO: Exxon.

10 MR. PARKER: How about when Alyeska acts as your
11 agent?

12 MR. IAROSSO: In the event of small spills we
13 have clearly defined that we would not be coming, and we
14 defined a cut point as about 250,000 barrels. I'm sorry,
15 250 barrels.

16 MR. PARKER: Okay.

17 MR. IAROSSO: That's a nominal cut point. Of
18 course, any situation that got out of hand and we felt we
19 would have to come, we would. But as a nominal cut point
20 we said if it was below 250 barrels, please handle it for
21 us; if it's above 250 barrels, expect us to be coming.

22 MR. HERZ: Was the plan drafted by Exxon
23 Shipping, Exxon, U.S.A., who, the part that was submitted
24 that you were talking about there?

25 MR. IAROSSO: The submission, at the time there

1 was no shipping company. We were the Marine Department of
2 Exxon Company, U.S.A. when this first submission was made,
3 and it was made in the name of Exxon Company, U.S.A.,
4 Marine Department, which only three months after the date
5 of this letter became the shipping company.

6 MR. HERZ: And the whole 28 volumes was drafted
7 under the direction of Exxon, U.S.A.?

8 MR. IAROSSSI: Yes.

9 MR. HERZ: By an outside contractor, presumably.

10 MR. IAROSSSI: The first three volumes we
11 developed; the 19 resource and logistic volumes were
12 developed under contract; the six volumes on oil spill
13 techniques were a combination, some of it was contractor
14 developed and some was Exxon developed.

15 MR. HERZ: Thank you.

16 MR. IAROSSSI: Just to continue a little bit more
17 on the submission our plans, in September of 1988 we got a
18 telex from ADEC -- '87. Let me take my glasses off. In
19 September of 1987 we got a telex from ADEC reminding us
20 that state law required an oil spill contingency plan for
21 tankers operating in Alaska waters, and would we please
22 submit one.

23 October 7th, 1987 we submitted the plan to Mr.
24 Paul O'Brien, Alaska Department of Environmental
25 Conservation. We got a response back in January of 1988

1 saying that all vessels in trade with Alyeska Pipeline
2 Service Company are covered by APSC's oil spill
3 contingency plan, which was recently updated and approved.

4 And it went on to say that our requirement for a
5 contingency plan would be only in the event that we were
6 loading or discharging in terminals other than Valdez,
7 other than the plan covered by Alyeska Pipeline Service
8 Company, and that no further action would be taken on our
9 plan.

10 MR. HERZ: Excuse me for a point of
11 clarification. What was submitted in October of '87 to
12 ADEC is a revised and updated version of what you
13 submitted in 1982?

14 MR. IAROSSE: Yes, it's the summary of the
15 sections on organization, defining what our organization
16 was, how we would respond, who the people were that would
17 be filling the blocks, what the mobilization plan would
18 be.

19 As far as the process went, once we took over on
20 Saturday, Craig Rassinier, who was our field manager, met
21 with ADEC people on Saturday afternoon, I believe it was.
22 I had a first meeting with Commissioner Kelso on Sunday
23 afternoon. It was at the Coast Guard MSC office. The
24 purpose was to reach agreement and get final approval on a
25 comprehensive plan to address the oil spill. Commissioner

1 Kelso was there, a member of the Attorney General's
2 office, Michelle Brown, Mr. Dietrick and Mr. Lamoreaux of
3 ADEC, and Mr. Den Deloy of the governor's office were
4 there representing the state. This was Sunday afternoon.
5 Admiral Nelson, Captain McCall, Commander Rome, I believe,
6 was also there at the time.

7 And we at that point went through the plan that
8 Exxon was proposing to address the oil spill. There was a
9 lot of discussion about the use of dispersants and the
10 absolute need to begin full scale dispersant application
11 first thing Monday morning just as fast as we could. We
12 had also received approval for in-place burning. We got
13 that approval about 3:00 on Sunday.

14 So at that point we had three means available to
15 us and we proposed to use all three. And the plan, as
16 outlined to ADEC and to the Coast Guard -- we had already,
17 by the way, reviewed this thoroughly with the Coast Guard
18 so they knew it was coming. The purpose of the meeting
19 was to brief ADEC.

20 But if we could look at that chart, the plan
21 proposed -- this is a chart as of Saturday night. As of
22 Sunday night the oil had moved further to the west, which
23 is to the left side of that chart, and also somewhat
24 further south. The plan was to employ the booms in the
25 southeast corner, to keep the oil from spreading further

1 down to the southeast, that's the lower right-hand corner,
2 to the edge, to the west or the far left corner. We had
3 already begun to encroach Naked Island, or the oil had,
4 and we were in Zone 2 at that point, so we could not use
5 dispersants. So in the area to the far west we were going
6 to use in-place burning, and the area directly up the
7 center we were going to use full scale dispersant
8 application, and starting at the southern-most edge and
9 working our way up through the middle. And that's the
10 plan which finally, at 1845, 6:45 in the evening, Sunday
11 evening, was approved and that is the approach we were
12 taking.

13 Part of that plan also involved continuing to
14 boom areas to the east to prevent any encroachment onto
15 Bligh Island area, and those booms are already been put in
16 place. So we actually at that point were employing four
17 techniques, and we were using every single resource we
18 had. There were more skimmers and more booms on the way,
19 but everything we had at that point was thrown into the
20 activity.

21 At that Sunday, late Sunday afternoon meeting, we
22 also discussed the ways to coordinate our activities and
23 our plans from here forward. It was that Sunday meeting,
24 which I believe was the 26th, if I recall dates right,
25 that we first agreed to the formation of two committees.

1 1 The first one was what we call the Steering Committee.
2 2 The Steering Committee was comprised of Commissioner
3 3 Kelso, Admiral Nelson, and myself. I proposed that
4 4 Admiral Nelson take the chairmanship of that committee.
5 5 He declined and said, let's keep it kind of a three-way
6 6 split. He also said he wanted to talk to Admiral Yost
7 7 about that before he stepped out any further. The second
8 8 committee was an Operations Coordination Committee, which
9 9 initially was intended to be comprised of members of the
10 10 Coast Guard, Exxon, and ADEC, and was going to be the
11 11 focal point for coordinating all activities.

12 The first meeting of those, both committees,
13 13 occurred on Monday night and the committee meetings
14 14 continued with the Operations Coordination Committee, at
15 15 least during that first week or ten days, meeting twice a
16 16 day. It was, I would say in hindsight, a great attempt to
17 17 open the process up. Unfortunately, it did not work. The
18 18 attendance at the meetings got to astronomical
19 19 proportions. We very quickly were at the point where we
20 20 had 46 attendees.

21 One meeting, I think it was the second or third
22 22 meeting I attended, it was myself, and a gentleman who I
23 23 had put in as normally chairman of that committee. There
24 24 were two of us from Exxon, there were five from the Coast
25 25 Guard, including Admiral Nelson and Commander McCall,

1 there were 39 representatives of various state agencies
2 and the local interest groups. It got to be an extremely
3 unwieldy operation for us. The meetings were two to three
4 hours in length, so we were spending five hours, four to
5 five hours in meetings.

6 It was necessary in order to get some sort of
7 feeling of input, but in hindsight, as having lived
8 through it, I hope next time no one tries it because it is
9 not a way to manage a disaster. It is no way to manage a
10 crisis in which hours are important, but there does have
11 to be some way to make the crucial decisions on how you
12 allocate resources.

13 Let me first say that one of the reasons you're
14 in crisis management and disaster control is because you
15 have limited resources. If we had unlimited resources and
16 we could handle everybody's requests for booms and
17 everybody's requests for skimmers, we wouldn't need -- we
18 wouldn't be in a crisis, we would just be doling out
19 resources.

20 We're in a crisis because we did not have, at the
21 time we needed them, all the resource to satisfy all of
22 the things that everyone wanted done. We were in the
23 process of mobilizing it, and from the first moment of our
24 notice of the grounding we began that mobilization
25 process. We went worldwide.

1 I had no authority. Let me make sure you
2 understand that. I had no defined authority. My
3 authority was unlimited as far as Exxon was concerned:
4 there was no budget, there was no talk of anything. My
5 job was to clean it up. I chartered planes in Europe, I
6 paid for boom coming out of the Black Sea of Russia, and
7 we did this all on a spur, and without need to go to
8 Houston or go to New York or anything. In fact, I
9 immediately delegated all my authority to Craig Rassinier
10 and Harvey Borgen, and told them not to come looking for
11 me, just do it, recognizing we had to keep some records
12 and recognizing at some point later down the road we would
13 have to attest we didn't spend money foolishly, but that
14 was going to be something that would come months later.

15 So we immediately went into the development of a
16 mobilization, and the mobilization to get all the
17 resources we could to the scene. In the process we had to
18 develop a transportation system from Anchorage to Valdez,
19 and we did that both by air and by land. And then we had
20 to get into the process of once those resources began to
21 show, where do we put them, who decides the priorities.

22 I would say that is an impossible situation for a
23 commercial company to be in. There needs to be some clear
24 definition in the future as to how those scarce resources
25 are allocated, and needs to be done in a much more

1 efficient way than we were in in Valdez.

2 And I don't think had someone gone through it
3 from the standpoint of a commercial company, that a
4 commercial company can in fact fulfill that role of
5 deciding where scarce resources go. I think there is a
6 role for a commercial company in trying to mitigate the
7 results of something that its operations caused, but
8 clearly there needs to be -- and I've said this before in
9 groups, and it's a title I have chosen very carefully.

10 We need to have someone in a disaster who has the
11 authority to act very quickly. Obviously, you will have
12 to later discuss why certain decisions were made, but we
13 need to have a central decision authority. That person
14 has to have a title that ends in the word dictator. I
15 don't care if you call him oil spill response dictator, or
16 whether you call him casualty response dictator. But if
17 it doesn't have the word dictator, you will miss the whole
18 purpose of why you have to have that individual.

19 It has to be a very strong individual, because
20 he's going to take a lot of heat. But I don't think we
21 will manage crises any better and more efficiently unless
22 we get to that point where we do have some central
23 authority in the event of a spill.

24 MR. PARKER: Okay. Thank you. Counsel?

25

1 EXAMINATION

2 BY MR. HAVELOCK:

3 Q Let me start with your last point, it sounds
4 interesting. You were here when we had a discussion of
5 the federalization issue, which is a decision that the
6 Coast Guard makes, as you know, that it will federalize
7 the spill. And if I'm hearing your last few remarks
8 correctly, you're saying somebody has to have
9 responsibility more than those, or more than the label of
10 on-scene coordinator, if I understand you correctly, and
11 you're leery of having a private party do that because of
12 the responsibility of a public officer assuming that role;
13 is that correct.

14 A Yes, and I'm probably speaking more from my
15 personal feelings than I am -- I really don't have
16 knowledge of where the industry would come out on this.
17 But as having been one individual who lived through it,
18 I'm giving you my personal feeling. I have mentioned it a
19 number of times at Exxon meetings, and have general
20 agreement that that's the way it ought to be.

21 CONTINUED VOIR DIRE

22 MR. WALLIS: Excuse me, counsel, can I ask a
23 question here? Are you saying the spiller should not be
24 responsible for the spill?

25 MR. IAROSSI: No, absolutely not, absolutely not.

1 The spiller is responsible for the spill.

2 MR. WALLIS: I thought that was your
3 recommendation, that maybe it should be someone else.

4 MR. IAROSSO: No, no, no. Please let me clarify
5 that.

6 MR. WALLIS: Okay.

7 MR. IAROSSO: The spiller has financial
8 responsibility for the spill. The spiller, in the case of
9 a commercial company, has clearly a lot to bring to the
10 party, and in my view should be a part of the process.
11 But what I'm really saying is, the decisions, once
12 resources arrive onto the scene, the decisions as to how
13 those resources are going to be spread and to whose needs
14 are fulfilled and whose aren't, a commercial company is in
15 a tough spot to try to fill that role. It can't.

16 MR. WALLIS: I was talking strictly the cleanup
17 and nothing else.

18 MR. IAROSSO: No. As far as the cleanup, the
19 commercial company, the spiller, is the responsible party
20 and I believe does have a role to play in the cleanup.

21 MR. WALLIS: Thank you.

22 MS. WUNNICKE: May I just follow up on that, Mr.
23 Chairman?

24 MR. IAROSSO: I was primarily -- just to help a
25 little bit more, I was primarily talking about the spill

1 response or the crisis management phase when you really
2 are in a situation where you have to make a lot of
3 judgments as to how to dole out limited resources. That
4 is a tough decision for a commercial company to take and
5 to stand up for.

6 MS. WUNNICKE: Mr. Chairman, just on that point,
7 would it be helpful to have a predetermined list of
8 priorities site specific? And I understand that there was
9 some listing of priorities in the Alyeska plan, just as
10 you had preapproval for dispersants and preapproval for
11 in-situ burning, for example. Would that be a helpful
12 tool to help that person who has to respond to a spill of
13 this magnitude?

14 MR. IAROSI: I think what is very helpful is to
15 have a predefinition of where the sensible -- the
16 sensitive areas are, the environmentally sensitive areas.
17 As the crisis develops, the situation changes and it never
18 looks like the scenario that you put together. So you do
19 have to be continually evaluating which spots are in the
20 path and which are the most likely to encounter the oil
21 spill.

22 So it's hard to have a menu of steps to take,
23 because rarely can you define in advance the situation you
24 find yourself in. It would be a mistake, I think, to just
25 lay out and say, do all these steps in the event of a

1 catastrophe. You have to continually assess how the
2 situation is changing. Now, I think the piece that is
3 very, very important is to have predetermined the
4 sensitive areas.

5 MS. WUNNICKE: I think that's what I'm getting
6 at. Did you have available to you as a guide, assuming
7 you had time to read at that moment, the Alyeska plan and
8 was that used as a guide at all?

9 MR. IAROSSO: Greg Rassinier, who was the number
10 three person in our organization at the spill, is our
11 full-time oil spill response coordinator within the
12 shipping company. He was familiar with the plan, and he
13 was familiar with the sections defining the most sensitive
14 areas.

15 MS. WUNNICKE: Thank you, Mr. Chairman.

16 MR. IAROSSO: If I could just -- you mentioned
17 two things which there are -- or one item, which there is
18 considerable confusion about, and that has to do with the
19 word preauthorization. The preauthorization that people
20 talk about does not give to the response team any
21 authority at all.

22 Let's take dispersants, for instance. There are
23 three parties, as I understand it, to the decision to use
24 dispersants: the Coast Guard, the EPA, and the state
25 representative. In the preauthorization the two parties,

1 the EPA and the state, essentially give their vote to the
2 Coast Guard. So rather than a vote of three on the use of
3 dispersant, two of the parties in advance relinquish their
4 vote to the Coast Guard. The Coast Guard on-scene
5 commander still has to give permission for the use of
6 dispersants. That permission was not granted to Exxon
7 until 1845 on Sunday afternoon. That was day three.
8 Coast Guard totally agrees with that.

9 There is, if I can just take this opportunity for
10 the Commission, I don't know if you are familiar with the
11 report to the president that was filed by Mr. Skinner and
12 Mr. Riley. But that, in my view, is a very, very
13 authoritative document, and clearly spells out times to
14 the seconds when different things were done.

15 Also in our submission we provided our version,
16 which is called a chronology. Most of us that were on
17 this response team were trained to the point where we
18 understood we had to take minute notes on everything we
19 were doing. So you will see times spelled out to the
20 minute of when things were happening. This chronology
21 came from a compilation of all of our notes. It was done,
22 and then that was created in this package, and that was
23 been submitted to a number of congressional committees and
24 other groups. It's basically all of the details as well
25 as we can define them from our notes.

1 MR. PARKER: Counsel?

2 CONTINUED EXAMINATION

3 BY MR. HAVELOCK:

4 Q To continue with the question about your
5 intriguing recommendation, we have had testimony
6 presenting a number of options on who that person might
7 be, the resource allocator; and one is, of course, to give
8 the Coast Guard OSC, or some person above the OSC, that
9 responsibility. Another possibility would be to give a
10 state person such a responsibility. These decisions might
11 have to do with the level of the emergency too. That is,
12 as to who you're giving allocating authority. And the
13 third possibility was a discussion of an interstate
14 compact under which there would be a regional person that
15 would have authority of this nature based on a specific
16 coast's/state's compact, for example.

17 Do you have any sense of the pros and cons of
18 those, of any of those approaches?

19 A Well, I would say that what would be important to
20 us would be to have a consistency from state to state as
21 to how that authority would be utilized and what the
22 ground rules would be and what the role, different roles
23 of the different organizations would be.

24 One way to get that consistency is to place that
25 dictator title on some federal authority, such as the

1 Coast Guard. I don't know that I would vote for the local
2 on-scene commander. Having lived through 14 tough days, I
3 think it requires a skill and a capability that the
4 average bear doesn't have. I think that it's a full-time
5 job for somebody to be trained and ready to head an
6 organization like that. I don't think that it would
7 really be beneficial to diffuse that authority amongst 20
8 or 30 or so people. It does require a lot of skill and a
9 lot of capability. It requires a very unusual individual
10 to be able to operate under those kind of circumstances
11 and to keep balance and control and perspective.

12 Q So you suggest that the individual, in any case,
13 be drawn from a national pool, if you will, of talent with
14 respect to the ability to manage oil spill response?

4 15 A Yes, I -- you know, I understand there's a state
16 versus federal role here. I'm not in the position to
17 decide that, but I think really that it has to be an
18 individual or a small group of individuals very highly
19 trained in the ability to manage an operation like this.

20 Q I didn't hear whether you had any activity
21 yourself in building the 28 volume set. Were you involved
22 in that in some point in your career?

23 A Yeah, the one year I was -- this was 1977, 1979 I
24 was a marine adviser at Exxon Corporation, a marine
25 adviser to the board, and during that period you may

1 recall the Amoco Cadiz grounding and subsequent oil spill
2 occurred, and that's what propelled us into a total
3 restudy of our capabilities and our philosophy. And I
4 headed up that study for about a year, which created the
5 organization and the three levels of response. The basic
6 organization that we used, I headed up the group that put
7 that together.

8 Q It sounds at least as complicated as the
9 encyclopedia Britannica, and presumably inasmuch need of
10 regular update. Do you have a process for updating that,
11 and do you have resources by which -- I mean, the budget
12 allocations that go into that? Do you have somebody in
13 charge of that who is accountable for keeping it the state
14 of the art?

15 A Yes. Craig Rassinier, whose name is mentioned a
16 couple times, is full-time associated with -- he's our
17 environmental conservation coordinator and our oil spill
18 response coordinator. His role is to keep, or one of his
19 many roles is to keep those plans updated where necessary.
20 One of the updates occurred in October of 1988 when we had
21 our most recent response team drill.

22 Q Is this managed in a separate operation from any
23 prevention and risk control function that the company --

24 A Yes, the prevention and risk control lies
25 primarily in the operating department. Greg is part of a

1 group called the Fleet Services, which is a support group.

2 Q Before this bill was there a copy of this
3 compendium in Alaska?

4 A I'm not sure. What I know was filed with the
5 ADEC was the organization piece.

6 Q What I'm wondering about, the accessibility of a
7 massive work like that to people that might have use for
8 it in the field, even in Alaska. In the center in
9 Anchorage, for example, Crisis Control Center, whatever it
10 was called, would those folks have access to --

11 A Yes. The Alyeska group? I don't know. If I
12 know how contractors work, I'm sure that volume which we,
13 19 volumes which we paid to create, has been sold many
14 times over. But I'm not aware of how many other companies
15 have similar logistics and resource directories.

16 Q Did you in fact look into it when you were
17 working on the response for Exxon?

18 A Yes. What we did was do a worldwide resource and
19 technology survey to start with, in which we tried to
20 define what was the existing state of the art. We had
21 contractors working for us in different phases, we had our
22 own organizations working on different pieces of it.
23 Development of dispersants was one piece that we did a lot
24 of work on, but we also did a lot of work, both contractor
25 and ourselves, on fate and effects. Understanding what

1 happens to oil once it is in the water, development of
2 computer programs to track spill trajectories, that was
3 part of our research. And we had an ongoing research
4 budget for a number of years to try to develop different
5 parts of technology that we felt were necessary.

6 Q Did you have an ongoing research program? I'm
7 sorry, go ahead.

8 A Not all of it came to any improvement in the
9 technology. It turns out to be, some phases of it turn
10 out to be a very, very difficult problem. Mechanical pick
11 up is one area where a lot of money has been spent. I'm
12 probably not the best judge, but I will make a judgment.
13 I don't think it's advanced the technology much, and I
14 think we're dealing with technical issues on the
15 mechanical side that are very, very hard to find better
16 technical approaches than the ones we have. And the ones
17 we have, quite frankly, are inadequate, having lived
18 through 14 days. But I'm not sure there are clear avenues
19 for improvement. There has been a lot of money spent to
20 find better mechanical approaches, but it's very, very
21 slow and tedious.

22 Q Was this Russian skimmer in your inventory, in
23 the 28 volume --

24 A No.

25 Q How did you pick that one up and when?

1 A On the first day we were here we had a response
2 that talked about an ice breaking dredge from Russia, and
3 we were in the middle of some wild activities and I think
4 I made the comment, the last thing I need is an ice
5 breaking dredge.

6 About two days later we got another comment, or
7 another information from the president of Veco, and this
8 was -- I don't know whether it was a different Russian
9 vessel or the same one, but this one had a one page
10 discussion or description of the specification of the
11 vessel, and at that point I said we want to charter it.
12 So we put in place the mechanism to charter the vessel.

13 Two days later, when I checked up on what was
14 happening, I was very frustrated to find out that the
15 dispatch of the vessel was mired in red tape involving
16 it's certifications, and at that point I maybe came the
17 closest to losing my temper. And I said, we're going to
18 bring the vessel to the edge of Prince William Sound and
19 then we're going to decide whether or not we'll use it.

20 The funny sequel to that, I got back to Houston
21 on day 15 and I ran into -- there was a notice from the
22 U.S. Customs Department saying the vessel could not be
23 used, it was a Russian flag vessel, could not be used in
24 Prince William Sound. And I sent the telex back saying, I
25 invite the U.S. Customs Department to stand at the

1 entrance of Prince William Sound and bar the vessel,
2 because I certainly was not.

3 So maybe there is an area there also to look in
4 to, as far as in a crisis situation, smoothing through
5 some of the legal issues that prevent the mobilization of
6 equipment, although I will say that that is the only one
7 that I know of in this whole process, that we got
8 equipment from just about all over the world in pretty
9 quick fashion.

10 Q Do you have any explanation for why the Russians
11 would have a major piece of equipment like that with us
12 not having an equivalent?

13 A Well, you know, they have a whole different form
14 of government and priorities are set differently. Quite
15 frankly, before we get enamored, the thing didn't work
16 very well at all. I don't think that's -- you know, I'm
17 not throwing stones. I don't think it was ever intended
18 or designed to handle the kind of heavy emulsion that was
19 present by the time it got here. It clearly did not help
20 at all, but that's perhaps a process or a function of the
21 fact that the oil was heavily emulsified and the type of
22 suction process that it went through, or that it was
23 designed on, was not very effective on the heavy emulsion.

24 Q By the time it got here, in fact, things had
25 changed?

1 A Yes, sir.

2 Q There's been some debate about not just the
3 preauthorization, but then the restraints on the use of
4 chemicals and dispersants. Actually, if there had not
5 been any delay, or there was still not that volume of
6 dispersants around, it wouldn't make much of a difference,
7 would it?

8 A Well, there were 365 drums in Alaska. That is
9 exactly the quantity called for in the Alyeska spill
10 response plan. It was in exactly the three locations
11 called for in Alyeska's spill response plan, and that
12 there were 45 drums in Valdez, 160 drums in Kenai, and 160
13 drums in Anchorage, exactly as spelled out in Alyeska's
14 contingency plan.

15 There also were quantities worldwide. Besides
16 the 365 drums in Alaska, there were some 2,500 drums in
17 worldwide inventory. Exxon Chemical Company knew the
18 exact placement of all of those drums, and we began to
19 mobilize on Friday morning. Before we left Houston we had
20 begun the mobilization of those dispersant quantities to
21 Anchorage. We had also put Exxon chemicals on high
22 priority manufacture for new dispersant. And in fact
23 Sunday afternoon, which was Easter Sunday afternoon, the
24 Houston chemical plant went into full scale manufacture of
25 Corexit dispersant. The orders had gone to the U.K.

1 chemical plant to begin the full scale manufacture of
2 dispersant also.

3 So, you know, there's been a lot of comment,
4 well, we only had 365 drums here. But it seems to me
5 people are saying that if you don't have a refrigerator
6 full of food for the next ten years, that you're not going
7 to survive. I mean, the dispersant process is one in
8 which you replenish as you use. The important thing is
9 having the equivalent, I would say, of at least a day's
10 dispersant on hand, and then you back that up with a train
11 of, in this case planes, a system to replenish by moving
12 from the other worldwide stockpiles. On Friday afternoon
13 we had in fact chartered two 707 jets to do exactly that,
14 Friday afternoon of day one.

15 CONTINUED VOIR DIRE

16 MR. PARKER: Counsel, if I might interject on
17 that. Looking at the situation at 1800 on Saturday, we
18 have, as defined, 11 million gallons of oil in the slick
19 there. How many gallons of dispersant would you have been
20 able to utilize at that time on that particular slick?

21 MR. IAROSSI: We had, as of Saturday morning, one
22 C-130 dispersant plane here, and we were staging out of
23 Anchorage. So that plane probably could have made between
24 four and six, let's call it five missions or sorties each
25 day, and each sortie dispenses about 100 drums. Each drum

1 is 55 gallons, so we're talking about 5,500 gallons of
2 dispersant times about four or five missions a day per
3 plane. We got the second plane in on Sunday and the third
4 one in on Monday.

5 MR. PARKER: But how many gallons, then, of
6 dispersant did you calculate would it have taken to
7 effectively disperse the 11 million gallons?

8 MR. IAROSSO: It's a real tough call, because you
9 have to match the droplet size, the thickness of the oil,
10 and the conditions that you have, and that science is way
11 beyond me. I had one consultant whose job was to do
12 exactly do that. He is a retired Exxon Chemical employee
13 on contract to us, and he was one of the five people I
14 took to Valdez on Friday night. I couldn't give you an
15 off -- myself tell you how many gallons of crude oil would
16 be dispersed per gallon of dispersant.

17 MR. PARKER: Well, we have had, you know, our
18 testimony in a range of, to handle the 11 million gallons,
19 in the low range of 500,000 gallons of dispersant
20 necessary to disperse that particular slick at that time,
21 up to, by some calculations, three and a half million
22 gallons. So you're right, it is inexact, but those are
23 the ranges that have been given to us up to this time.

24 I think, you know, the reasons it's important is
25 that there has been a consistent drumbeat in the press

1 that the spill response, one of the primary reasons for
2 spill response failure was the inability to use
3 dispersants at this critical time between 1800 Saturday,
4 say, and 1800 Sunday. And I would appreciate any input
5 that anyone, we can take this up again during the panel
6 session, that anyone can provide on that particular
7 subject, because it is one of the reasons why dispersants
8 are so controversial. It seems on almost every oil spill
9 we run into this particular debate. And if dispersants
10 are going to be a principle means of response, and
11 continue to be a principle means of response, we need to
12 fine tune it a little more.

13 MR. IAROSSO: Yes. I would say, Mr. Chairman, in
14 response to your discussion, that that probably is a very,
15 very important function that we have to address nationally
16 and as a society. Number one is the creation of a
17 dictator, whatever we do, in my mind. Number two is, we
18 have to decide are dispersants going to be a means of
19 moderating an oil spill or not on the national policy
20 basis.

21 MR. PARKER: Yes, I think we have to stop
22 offering it with a pallet.

23 MR. IAROSSO: If they're not, then let's get away
24 from it and get on to something else; if they are, then
25 let's put a process in place whereby we can use them.

1 That's about the best advice I can give.

2 MR. PARKER: Go ahead, counsel. Are we finished
3 with Mr. Iarossi for now?

4 MR. HAVELOCK: Let me just ask two more
5 questions.

6 MR. PARKER: Okay.

7 CONTINUED EXAMINATION

8 BY MR. HAVELOCK:

9 Q The system, the planning system you described,
10 sounds like Alyeska had this one spill that it was capable
11 of responding to, and there's a fairly high degree of
12 localized and specific planning in relation to what people
13 are to do with respect to that, and then above that there
14 is a gap. That is, what comes next is not a response
15 plan, but an organization system which is not necessarily
16 specific about how you would handle that larger -- it's
17 not site specific. And the resources that are available
18 for that larger program, or the availability of them, is
19 determined by market forces, not by any governmental
20 decision, unless you count sort of the accumulated effect
21 of a lot of small regulatory decisions about what people
22 are supposed to keep on hand somewhere.

23 Do you think that there is room here for a
24 federal regulation with respect to state-of-the-art
25 depositories for resources, inventories of resources, that

1 should be available in the case of a major spill?

2 A In general response let me say clearly, there
3 needs to be more equipment more readily accessible than we
4 had on hand to us in the first three, four, five days in
5 Valdez. Clearly we didn't have enough resource and it
6 didn't get here soon enough. It's very clear that hours
7 count in a situation like this. I guess it's very
8 analogous to a fire: the faster you can get to it and
9 attempt to get it under control, the better off everybody
10 is going to be.

11 So clearly I would say there needs to be more
12 equipment, the equipment needs to be based on better
13 technology than I think is available now, it needs to be
14 closer at hand. I think the industry, through the API,
15 clearly agrees with this and has proposed a creation of, I
16 think, five regional stockpiles, or actually it's many
17 more than five. There are five basic stockpiles, and then
18 minor equipment stockpiles in other areas. And I
19 understand there is considerable legislation in process in
20 congress to perhaps create federal stockpiles. I think
21 that's all great.

22 MR. HAVELOCK: I have no more questions.

23 MR. PARKER: Thank you. We will reconvene in
24 five minutes, at a quarter to 4:00, for our panel
25 discussions. So if the eight panelists will be available

1 then, it will be most appreciated.

2 (Recess taken.)

3 MR. PARKER: The Oil Spill Commission will now
4 reconvene. For the purposes of this panel, the
5 commissioners will be addressing their questions, and I
6 would -- panel members, when they have something to add to
7 a commissioner's question, if it's addressed to the wrong
8 members, please feel free to move in. But we have
9 received, in our many hearings we had to date on this,
10 some disparate information. Now that we have many of you
11 principals in this before us, why, we would like to
12 clarify some of those differences, and also just tie up
13 any loose ends that have been left over from your
14 individual presentations today. So I will give my
15 colleague, the vice chairman, Mrs. Wunnicke the first
16 question.

17 MS. WUNNICKE: I will begin with a rather simple
18 one. We started out this morning with a very good
19 description of the Incident Command Team, and how it
20 worked in Seward. And I guess I would like to ask Mr.
21 Iarossi, or whomever could answer, if they had any
22 knowledge that the Incident Command Team had been
23 requested to come to Valdez, or if you have any
24 information as to why the Incident Command Team was not
25 used in Valdez.

1 MR. IAROSSO: I didn't meet with the group, but I
2 understand that -- I think it was BLM requested that they
3 come to Valdez. Craig Rassinier, some days after the
4 event, told me he had met with the group and they had, he
5 and the individual he met with -- I don't recall his
6 name -- had discussed how the team could help. And that
7 the mutual agreement was that their expertise, which was
8 primarily in firefighting and setting up base camps and
9 living in remote areas on their own, at the point where we
10 were in the response, and I think this was like the second
11 day or third day, that we were in a very different
12 environment, but we were going to keep in touch with them
13 and if we got to the point where we actually were
14 operating from the land side, we would certainly look to
15 them to help us out. But as far as the stage we were in
16 in day three or four, the most we were going to do with
17 them is use them as laborers, because that's about what we
18 were doing, and we were going to use them on the water
19 because that's where we were addressing it.

20 MS. WUNNICKE: Commissioner Kelso?

21 MR. KELSO: Madam Chair, I think we may be
22 talking about a couple of different things here, and Frank
23 should object if I mischaracterize it. But I think at the
24 time what was being proposed is the use of not only the
25 ICT that BLM uses in firefighting, but also the

1 firefighters themselves. And I think that the
2 conclusion -- I remember these discussions very well,
3 because there were issues of whether people from villages
4 in interior Alaska, who are already geared up to fight
5 fires, might have a useful role in this setting. And
6 there were also issues of whether if those folks were
7 ready to go, what that would mean in terms of the
8 involvement of people from villages right in the Sound.
9 And I believe Mr. Iarossi and his staff were involved in
10 discussions about that.

11 And if my recollection is the same, he and they
12 concluded that it was not desirable to bring folks who
13 were trained in really different kinds of response into
14 that. So if that's a fair characterization --

15 MR. IAROSSSI: Yes.

16 MR. KELSO: The other part, though, and I think
17 what you were getting at is whether the command structure
18 itself might be appropriate for this, not the teams that
19 carry out the command structure. That was discussed, but
20 I don't know now whether the -- whether the leadership of
21 the Incident Command Teams actually sat down with the
22 leadership in Valdez. The part that I know --

23 MS. WUNNICKE: I think that they can answer that.

24 MR. KELSO: -- did happen was that fire chief
25 Duey Wetzel from Cordova actually briefed the operations

1 group on Incident Command Team structure and recommended
2 it for consideration. I don't remember if Frank was
3 present during that meeting.

4 But the other place where this comes in is that
5 the MAC groups in the different communities in the Kenai
6 Peninsula, for example, really are Incident Command Teams.
7 That is the model. It may not be exactly the model that
8 you discussed this morning, but there was a lot of
9 interest in communities in using that because of the
10 clarity of the command structure.

11 MS. WUNNICKE: But I'm just trying to get at why
12 that decision was made in Valdez, because they were --
13 they were requested into Seward, they did operate there
14 not by bringing in the firefighters themselves, but by
15 bringing in their command team, and they did operate with
16 the MAC group, at least from everything I have heard, very
17 successfully in Seward. And I was just wondering, maybe
18 there was not enough understanding of what this incident
19 command structure was.

20 MR. IAROSI: From my point, I absolutely missed
21 that perspective to what -- what I got was that these were
22 trained firefighters who lived out in the bush, set up
23 their own camps, didn't need any support, could live in
24 the wilds of uninhabited islands, except that's not the
25 way we wanted to address the issue. I missed the point

1 about a command structure. Quite frankly, I was not in
2 the position to turn away any help.

3 MS. WUNNICKE: It does follow --

4 MR. IAROSSO: And if I realized what I had been
5 offered, I certainly would have jumped at the chance.

6 MS. WUNNICKE: I think from our understanding of
7 the Incident Command Team structure and your
8 recommendation of a dictator in place, still with an
9 advisory group like a MAC committee, for example, to touch
10 base with all interested parties, that we may be getting
11 close to some kind of institutional structure, at least,
12 that may be helpful for the future.

13 MR. IAROSSO: Yes. Well, in this particular
14 incident, in the heat of the activities, whether that was
15 described to me that way and I missed it or whether the
16 description was not totally complete, I did not make the
17 connection with the team.

18 MS. WUNNICKE: The gentleman on your right can
19 remedy that.

20 CDR. ROME: One thing I would like to say, if I
21 could first, and then Dave can go ahead and talk, is that
22 in some of our initial contacts with the Department of
23 Interior and within the Regional Response Team, in fact
24 the RRT had held a meeting in Fairbanks and went through
25 the fire service center up there. And they had indicated

1 that BLM had some capabilities that could be used during
2 an oil spill that was -- that would support a function.
3 And initially, you know, he talked to -- I talked to Greg
4 Rassinier and there was a need for this further mobile
5 operation, that we would need possibly land camps or, you
6 know, that would fit in potentially in a cleanup. And I
7 talked to Paul Gates, the regional environmental officer
8 for DOI, and he indicated, well, BLM can set up and
9 maintain land camps.

10 So some of the initial discussion with BLM coming
11 in was to provide that type of service, and at the time my
12 understanding was that they had a basic ordering agreement
13 with Alyeska that they could access them and actually use
14 them in that fashion. So I met with Mr. Liebersbach, when
15 he came on the scene in Valdez, and indicated that that
16 was the role that we had intended, or at least been told
17 that he would be used in. And he -- we had a discussion
18 about the MAC group and that incident command system and
19 how it was working. And I, at that particular time I
20 said, you know, we got essentially a Steering Committee
21 right now, and it seemed to me like we would be getting
22 into that structure eventually, and with one more group in
23 there would only add to the confusion. That was my
24 personal feeling.

25 MS. WUNNICKE: Dave?

1 MR. LIEBERSBACH: Just to say that at the time I
2 arrived in Valdez was actually, I believe, the fifth day.
3 It was the 28th and I did meet with Commander Rome and I
4 met with Craig Rassinier.

5 MR. IAROSS: Rassinier.

6 MR. LIEBERSBACH: And at that time it had been
7 determined, to my knowledge, that the crews were not
8 coming and it had to do with possible injunction, or
9 whatever, dealing with a number of things in terms of
10 where we were getting labor from and whatnot.

11 But that aside, I sat down and we talked about
12 the structure, how it would work or couldn't work, and
13 didn't feel that at that point in time that that structure
14 was needed, and that what was going on would be -- would
15 fill the needs that they had there. Realize, these
16 people, I'm talking to some people, and myself very tired,
17 but there had been many, many hours without sleep and
18 you're not sitting there in the middle of a crisis trying
19 to decide how you're going to do a structure.

20 I think the important thing, to go forward from
21 here, is to get this thing in place, something in place in
22 the future. Not to say, you know, why didn't you, why
23 whatever, there's -- my God, it wasn't there, people
24 weren't knowledgeable. As I explained in Seward, when we
25 came in at the head of everything, we brought in a

1 training organization with us that trained everybody that
2 worked with us or that came in in the system, and that was
3 a 12-hour process before they went to work in our offices,
4 a familiarization program so --

5 MS. WUNNICKE: Mr. Chairman, the reason I ask it
6 is simply because we are trying to look to the future, and
7 look to having something in place, rather than trying to
8 find out what went wrong here.

9 MR. KELSO: Madam Chair, if I could add one or
10 two other things. When this was being discussed we were
11 already fairly well down the line, and one of the things
12 we were concerned about was another handoff to another
13 structure. We just didn't want to see the downtime, which
14 is not a commentary at all on the ICS structural system.

15 The other concern was that whereas a clear
16 accountable command structure is very important, we didn't
17 want to necessarily import a structure that may not have
18 been tailored for the situation that we found here. For
19 example, the ICS system that, as I understand it, that
20 interior is, Department of Interior is most familiar with,
21 wouldn't necessarily have built into it the role for the
22 state and local folks that we had already established at
23 that point.

24 Now, that doesn't mean that he couldn't do that,
25 but I think the point is a good one, that you want to do

1 that up front rather than trying to bring something in and
2 do the tailoring as you're installing it.

3 MS. WUNNICKE: I think it did work very
4 successfully in Seward with -- but granted, they had a lot
5 more lead time than Valdez did.

6 MR. KELSO: Yes, and it's a different scale.

7 MR. JOHNSON: The point is that they didn't have
8 the oil.

9 MS. WUNNICKE: Not just then.

10 MR. JOHNSON: Not just then.

11 MR. KELSO: And in talking to people from Kodiak,
12 where a modified ICS structure that they called a MAC
13 group was in point also, that lead time made so much
14 difference because they weren't right in the middle of it
15 as they were trying to put the structure together.

16 The only other thing I wanted to mention, which
17 probably bears further discussion at another point, is
18 that when we're talking about a command structure or a, to
19 steal a phrase here, a dictator, I mean that's a
20 particular kind of allocator of resources. But if we were
21 to be talking about how to handle an overall response and
22 all the elements that go with that, the concept I would
23 urge would be to have the clarity of that, the essential
24 buck-stops-here characteristic, but to draw it much more
25 broadly, because it isn't just the allocating of the

1 resources. It is also bringing in all of the elements of
2 this, being able to demand resources, not just allocate
3 them, and being able to bring in other factors that bear
4 directly on this, although they may not be spill response
5 per se.

6 For example, some of the things that were
7 happening in communities made a big difference as far as
8 how those communities were responding as the oil reached
9 them. And this command structure or central figure,
10 however we call them, needs to be much broader than just
11 the allocator of resources, in my view.

12 MR. LIEBERSBACH: Comment to that, I agree with
13 that. In previous types of assignments I have been on,
14 the issue, I think, that I heard that you didn't deal
15 with, and some other part of it was social services, et
16 cetera. I have put under my team in California, when we
17 were evacuating 11,000 people in front of forest fires, an
18 established basis to take those people into stress
19 management teams, coming and working for our team to deal
20 with social things.

21 I'm not saying that our team is the answer or the
22 ICS, but the ICS does allow to cover all of those types of
23 things. Yes, we did not have oil. We use the ICS system
24 from what we call initial attack, on up in a
25 building-block type of manner. So it's a system that you

1 can go in at any level that you need to to work with.

2 I think whether you use ICS or not, you still
3 need that because a lot of your emergencies have potential
4 to grow. Floods is a good example. It can grow into
5 bigger things and you need to be able not to change
6 organizations, but to build on whatever you're starting
7 out with as an initial response, not to start switching to
8 different organizations, but to build on this to different
9 levels up to what you need to meet the emergency at hand.
10 And whether it takes -- at Yellowstone Park, I think we
11 had about 20,000 people mobilized down there. Started out
12 as fairly small. Same structure right from the first
13 lightening strike up to the time they left in the snow.
14 And we brought military in and out, agencies from all over
15 the country in a specific -- specific discipline for sure.
16 In that case, fire.

17 But I believe that when you look at something in
18 terms of the management structure, the technical on the
19 ground, on the water, whatever, can be brought from
20 elsewhere. The management of the emergency is fairly
21 similar for everything. It's to get some kind of
22 resources there in a hurry, allocate it, and provide
23 objectives to mitigating the emergency.

24 MS. WUNNICKE: Thank you very much. I think this
25 panel sitting before us probably has more combined

1 experience in the Exxon Valdez grounding than anyone that
2 we have had before us, and we would -- I would just like
3 to ask you, I know you have all given thought to what, if
4 you could do it over again or it could be done over again,
5 what changes you would make. I would just ask you as you
6 think about those things, if you would, to share them with
7 us in just a letter or a note or a telephone call, because
8 I think that your combined experience has surely given you
9 pause on what you have learned and what you can do
10 differently. And I would, we would all welcome having
11 your thoughts, but I won't take up any more time.

12 Thank you, Mr. Chairman.

13 MR. PARKER: Thank you. Tim?

14 MR. WALLIS: Just one on a request. Could you
15 jot down, as Esther says, your thoughts on what we could
16 do to prevent an oil spill, another oil spill, what
17 changes should be made and how we should go about
18 upgrading, updating, whatever.

19 And I have one more question. Who wrote the
20 national response or national contingency plan?

21 CDR. ROME: The Environmental Protection Agency.

22 MR. JOHNSON: EPA.

23 CDR. ROME: It's part of the regulatory process
24 where essentially they put out a notice of proposed rules,
25 and everybody that has an opportunity to write a response

1 or write any input into it, they provide those comments
2 and then the notice of final rule comes out after that.
3 And the last firm final rule was in November of 1985, and
4 EPA's currently reviewing, or actually going through to
5 put out a new national contingency plan and they're in --
6 just through the public comment period.

7 MR. JOHNSON: I would like to add, I think the
8 original NCP was a part of the original Clean Water Act
9 and has subsequently been incorporated into the Super Fund
10 Law. But the structure itself, other than the
11 modifications Commander Rome has said, has basically been
12 the same since the original Clean Water Act, with
13 improvements or changes.

14 MR. WALLIS: Are there any guidelines or
15 something that you follow as to what a contingency plan
16 should include?

17 MR. JOHNSON: The NCP, in Section 300 of the
18 Super Fund, does get into, let's say, generic type
19 guidelines; and then the '86 regional contingency plan
20 would reflect those we call more general guidelines.

21 MR. WALLIS: Do we have copies of those
22 guidelines?

23 MR. PARKER: I don't think we have them yet. Did
24 you provide them?

25 MR. JOHNSON: We'll provide you -- I can get you

1 copies. I will run them across the street. You want both
2 the NCP and the regional plan?

3 MR. PARKER: Yes.

4 CDR. ROME: You have got the national contingency
5 and the regional plan. I provided that yesterday.

6 MS. WUNNICKE: I think we do have it, yes.

7 MR. WALLIS: That's all.

8 MR. PARKER: Thank you. Mike?

9 MR. HERZ: I have one specific question and one
10 sort of generic question. The specific one is in response
11 to something Mr. Iarossi said, which I was very pleased to
12 hear him say, about a corporation having a responsibility
13 to mitigate something that it caused. But I guess the
14 reason that I was thinking about that was that that seemed
15 to reflect a somewhat different sentiment and a
16 contradictory one to what the Otto Harrison memo said and
17 what the follow-up interactions with a number of people
18 from Exxon have led to, where it appeared that Exxon has
19 gone back on what Harrison has said a little bit. But
20 still it seemed to an awful lot of people that, and
21 particularly the people in Alaska, that Exxon had not gone
22 the last nine yards or the last yard. They had gone maybe
23 five or six of them, but not the last yard in terms of
24 what's going to happen in terms of after the long Alaskan
25 winter.

1 And I wonder whether in light of that comment you
2 made about the need to mitigate what you take
3 responsibility for, whether you would care to expand on
4 what has already been said.

5 MR. IAROSSI: I think as a general philosophy,
6 clearly that's where Exxon has been since the mid-'70s
7 when this issue was first started. It may have before
8 then, but the first time I got into it was in the
9 mid-'70s.

10 There is in fact a written corporate policy that
11 states what the corporation's responsibilities are in the
12 event of an oil spill, and it states what parts of the
13 organization are responsible under different circumstances
14 for carrying out that response. There's never any doubt
15 that the corporation would assume a financial
16 responsibility and start moving all the resources possible
17 to mitigate the results from it.

18 I haven't read Otto's famous memo. I have heard
19 different interpretations of it. I'm sure he wished he
20 never wrote it, and I really can't comment much more than
21 that on it. I have not been directly associated with the
22 cleanup, per se, after about the fifteenth day.

23 MR. HERZ: Okay. I have a more generic question,
24 in which we spent a lot of time talking about the Exxon
25 plan, and I guess to a number of us who have been looking

1 at the various plans that are operational here in this
2 incident, this Exxon plan is somewhat of a mystery because
3 most of us thought we had the three Coast Guard plans, the
4 national, regional and local plans; we had the state plan,
5 and we had -- well, we had the two Alyeska plans.

6 What I'm confused about is, at least from the way
7 in which you have described the Exxon plan, it was not
8 drafted to meet any specific regulations, either of the
9 state or of the Coast Guard. And from the way you
10 described it, it doesn't sound as if it speaks to the
11 issues that are generally sort of the required list on
12 contingency plans, in that it only specifies the
13 organizational side. It sounds like it does an extremely
14 thorough job of cataloging the mechanical resources that
15 exist around the world, and that must have been the key
16 ingredient that made your ability to bring all this stuff
17 here so quickly so successful.

18 But in terms of the specific response for Prince
19 William Sound, for how you deal with, how you identify
20 first and then how you protect and deal with the
21 endangered resources in Prince William Sound and elsewhere
22 in Alaska, and some of those endangered resources should
23 be considered, I think, the communities, as well as the
24 communities of organisms that aren't people.

25 So I guess my question, partially for you and

1 partially for Mr. Kelso and for the Coast Guard, is in
2 terms of the drafting of these contingency plans, the ones
3 that I listed, who is determining what the standards are
4 that these plans are designed to meet? Who determines
5 what the scenarios are that will be spelled out and that
6 the plan will use to show how response will work? And
7 where do the numbers, like the amount of dispersant that
8 should be kept where, what the response time for a
9 dispersant delivery aircraft should be, what the response
10 time should be in terms of a barge and boom, and is five
11 hours enough? The degree to which there has to be
12 feedback from the drafter of these plans to responsible
13 agencies, such that if somebody is doing what Alyeska did
14 and what was admitted to earlier, that in fact it was done
15 unilaterally when you disassemble some portion of that plan
16 without discussing it with the entities who have approved
17 that plan, how does that take place? And do you or do you
18 not have to notify people when you take equipment out of
19 service?

20 I mean, there are a whole bunch of standards and
21 requirements that to me don't seem to be spelled out in
22 terms of requirements, either on the state side or the
23 federal, in terms of what must be in the plan. And I'm
24 wondering whether the group that we have here could
25 address some of those issues.

1 MR. IAROSSE: Well, if I can just respond to your
2 introductory comment as far as the Exxon plan. The Exxon
3 plan is not developed in response to any regulatory
4 requirement. It is primarily an internal organizational
5 plan, trying to define for an organization that operates
6 from Kennebunkport Port, Maine to the Panama Canal, back
7 up to Valdez, Alaska, both in tankers and tug barge
8 operations -- and by the way, including the western
9 rivers, Mississippi River all the way up to Chicago and
10 Pittsburg. And so we cover almost, just about most states
11 in the union, and we have to be able to respond to just an
12 infinite number of circumstances because of the geography
13 we operate in.

14 So the plan, by its nature, is not site specific.
15 It talks about how do you mobilize yourself and how do you
16 mobilize the activity to respond anywhere within that
17 geography. And as far as what you do when you get to the
18 site, then you have to refer to local plans, in this case
19 the Alyeska plan, to define for you sensitive areas, to
20 the extent that the plan does that, define for you the
21 nature of contacts with agencies, things like that.

22 We have one advantage in that no matter where we
23 are, except probably Central America, no matter where we
24 are in the U.S. we're going to flange up with one
25 regulatory authority, and that's the Coast Guard. So it's

1 not as hopeless a situation as it may seem. While we
2 operate in a very widespread geography, we always hook in
3 to the same federal organization.

4 And that is a help and a strength to us, and
5 that's why I say when we got into this question of whether
6 there should be 50 czars or whether there should be a much
7 smaller number, I made the point that you really, from my
8 perspective, from an industry perspective, you want
9 consistency and you want to know what the connection is
10 going to be. Otherwise, it would just be a hopeless
11 transition.

12 That's about all, I think, of your many questions
13 that I could answer.

14 MR. POLASCK: May I respond, please. Part of
15 your question seems to assume that the four contract
16 people we had prior to '82 were required in the plan.
17 There is no specific requirement for those people. If
18 there is something specifically required in the plan, we
19 have always notified the ADEC if we make some change, if
20 it's taken away in some way; but it was not specifically
21 required.

22 Also, this new context of us having those people
23 as technicians was, part of the plan was approved in '87.
24 I mean, there was no secret. It was known to be there and
25 was approved when we did the plan in '87. Now, Bill was

1 involved in managing in the terminal.

2 And do you have anything to add to what I said,
3 to clarify?

4 MR. HOWITT: Just to expand on what Theo said, as
5 a matter of fact we cannot unilaterally change anything
6 that's in the plan. If we were to propose a change in
7 the plan, for instance if a piece of equipment was
8 specifically called out and we wanted to replace that
9 piece of equipment with another type of equipment or
10 reduce that piece of equipment, we would be required to
11 have concurrence with the regulatory agencies that have
12 approved that plan, and then carry that forward into the
13 next regular update of that plan.

14 So the things that we, Alyeska, can change on a
15 unilateral basis are those things which are not included
16 in the plan and are -- and in the case of these personnel,
17 were just the method in which we carried out our
18 responsibilities in the plan, but not specifically named
19 as a requirement.

20 MR. HERZ: So, for example, the point about the
21 equipment being out of service because the barge was being
22 hulled and work done, there was no requirement in the plan
23 that either the state or the Coast Guard should be
24 notified that there was no coverage, the response
25 capability that was stated in the plan was not available,

1 that that just -- that was not a requirement?

2 MR. HOWITT: If in fact the barge had been out of
3 service, Alyeska would have been required to notify the
4 DEC within three days, but in fact the barge was not out
5 of service. The plan did not call for the barge to be
6 loaded in any particular sort of way. The plan called for
7 the barge to be available and to be in service. Although
8 the barge was damaged, the barge remained in service, and
9 in fact was used during the spill for an extensive period
10 of time.

11 MR. HERZ: But I was under the impression,
12 perhaps mistakenly, that it was not capable of responding
13 as specified in the plan, and in fact it was supposed to
14 be the delivery mechanism for some of the boom and some of
15 the skimmers and those things. As a result of the barge
16 either being out of service or damaged, as you indicated,
17 that equipment did not arrive on scene until some 18 -- I
18 have heard a variety of numbers, 15, 18 hours after the
19 incident occurred.

20 MR. HOWITT: The barge was never --

21 MR. HERZ: Is that wrong?

22 MR. HOWITT: Yeah, that's -- some of your
23 assumptions there are incorrect. The barge was not out of
24 service. The barge in fact was available and operational
25 and was used. There is no requirement in the plan for the

1 barge to be loaded with any particular piece of equipment.
2 We talk in the plan of the fact that the barge would be
3 utilized to carry certain pieces of equipment and to carry
4 certain lengths of boom, and that sort of thing. And in
5 fact, on the day of the spill the barge did carry those
6 pieces of equipment. In fact, it carried more than those
7 pieces of equipment.

8 The estimated response time was part of what Theo
9 talked about earlier today. That five-hour estimated
10 response time was for a particular scenario only, under a
11 certain set of weather conditions. That is not in any way
12 a guaranteed response time or a required response time.
13 That is an estimated response time for one of the
14 scenarios.

15 MR. HERZ: Well, an awful lot of people who would
16 not -- well, what is the state's view on those provisions?

17 MR. KELSO: Well, Mr. Herz, I would like to say
18 something about the Alyeska suggestions here, but I don't
19 want to miss the point of your original question.

20 Let me say that this is a remarkable display of
21 revisionist history, the most incredible hocus-pocus, and
22 I think if you look at what Alyeska said during the spill
23 from the stage of the auditorium in Valdez, it does not
24 square with what has been said here. It is absolutely
25 inexcusable to hide the ball in this fashion.

1 I suggest to you that we probably did not put in
2 the plan that the barge had to float either, or that it
3 had to be used to deploy equipment rather than to serve as
4 a bookend. But anybody who reads the plan with any sense
5 of what is intended by the plan, and what the state
6 statute requires, would understand that that's exactly
7 what we meant.

8 If I could respond on your actual question,
9 Exxon's plan was a very different creature than the
10 Alyeska plan. The Alyeska plan was site specific, it
11 was -- excuse me. The Alyeska plan was site specific; the
12 Exxon plan, of course, was not. The Exxon plan had never
13 been submitted to us. The volumes that, at least to my
14 knowledge, the volumes that Mr. Iarossi referred to really
15 are an internal organizational document, and we were given
16 a summary of that, but it was not submitted for approval
17 as state law requires.

18 In 1982 Exxon indicated that Alyeska was its
19 agent. In '87 their letter indicated that Alyeska was the
20 agent. The '87 letter drew no distinction between spills
21 of different sizes. And Alyeska's plan itself, in the
22 context of which the letter from Exxon in '87 must be
23 read, indicated that it was the respondent if there was a
24 spill.

25 So when you look at that, along with the fact

1 that had Exxon's plan been submitted, it was not site
2 specific, it never would have been approved, there is no
3 basis for moving away from the Alyeska plan and
4 implementing some plan that had never been approved or
5 submitted for approval. This is a very different thing.

6 In fact, part way through this spill I wrote a
7 letter to George Nelson, president of Alyeska, saying, by
8 the way, you're not off the hook. The Alyeska plan still
9 applies here. And part of the reason we wrote that letter
10 was because it was so clear that Exxon was not following
11 the Alyeska plan and we wanted to be -- to alert Alyeska
12 to the fact that just because they transferred the ball
13 doesn't mean that they somehow got themselves off the
14 hook, because they are the designated respondent in their
15 own plan and in the letter from Exxon designating them the
16 responding agent.

17 It is correct that the plan holder or the
18 spiller, unless they are the same person here, is
19 responsible to make a full response. State law requires
20 that they be prepared to do that. So it's up to the
21 proposer of the plan to come in with a proposal that
22 contains the equipment necessary to get the job done. But
23 the idea is not to have this be some kind of amorphous.
24 Well, golly, we will tell you what we think we might do if
25 we're not too busy, and if we think it's a good idea at

1 the time.

2 The plan is designed to set the framework under
3 which the response takes place, and that's why it's
4 inexcusable to drop the plan and go on to something else
5 however it may -- however convenient or useful that may be
6 to the company that's trying to do the response.

7 MR. PARKER: Commissioner Hayes?

8 MS. HAYES: Just out of curiosity, when did the
9 barge get underway, how many hours after the event?

10 MR. POLASCK: The barge left -- I have to look at
11 the exact time line. It left about 11:30. Let me look at
12 the time line here. Just a second. By the way, you will
13 have all this in the time line, when we give it to you.
14 But here we go, just a second. Barge left about -- it
15 says the Pathfinder plus the barge, all the equipment,
16 everything was out at 11:37.

17 MS. HAYES: On Saturday morning?

18 MR. POLASCK: No, no. Friday morning.

19 MS. HAYES: Friday morning?

20 MR. POLASCK: Friday morning.

21 MR. HERZ: It arrived at --

22 MR. POLASCK: It arrived at before 1454, or about
23 2:54 in the afternoon.

24 MR. HERZ: So 15 --

25 MR. POLASCK: It was about 14 hours or so until

1 the time it got there. Yeah, that's right. You know,
2 it's interesting listening to Dennis' characterization,
3 because that barge has never been loaded from the day this
4 plan was approved in '77. It sat out there unloaded for a
5 good reason. In the wintertime you put that equipment on
6 the barge. With the heavy snows we get, it tends to
7 become ice-logged. Heavy snows, you got a real problem
8 keeping it clean. It was done for a purpose.

9 Everybody has known that the barge has been
10 there. The local ADEC reps have known that from the
11 beginning. And in fact, in the summer of '88 the local
12 rep specifically said it was okay for us to use that barge
13 to move some equipment around the berths as we repaired
14 them. So the local ADEC people have known that that barge
15 was not fully loaded and the plan didn't call for it. So
16 there are no surprises.

17 MR. KELSO: I need to add one other thing. The
18 plan is intended to lay out a road map for how you get
19 from a state of preparedness to response, if one is
20 necessary. It shouldn't be necessary to say that the
21 barge will be loaded in order to get the job done. But
22 even if it were necessary, I would refer the Commission to
23 the discussion in Valdez in which a member of the Alyeska
24 staff participated, in which he explained that the reason
25 the barge was not operating in the fashion that it was

1 supposed to is that it had been damaged by ice or --
2 excuse me, by winds, not ice, sometime previous to the
3 spill, and that it was not able to operate as contemplated
4 because of that.

5 That's a very different picture than is now being
6 painted, and I suggest to you that at the time I think we
7 were getting a much more spontaneous picture from Alyeska
8 than we are now that litigation is not only a possibility,
9 but has actually been filed.

10 MS. HAYES: Well, not meaning to barge in, I
11 would like to change the subject slightly, back to
12 contingency plans, because I was quite taken, Theo, with
13 something that you said today about the shared
14 expectations. And I'm wondering, Mr. Iarossi, if perhaps
15 that was some of the confusion about the extent of the
16 contingency plan and whether Exxon's contingency plan was
17 applicable or not.

18 You paraphrased the response you got from Mr.
19 O'Brien at DEC. That made it sound as though unless you
20 were covered by Alyeska's plan, that Exxon's plan would
21 only be in place, the one that was submitted in '87 or
22 '88, I guess -- let's see, '87.

23 MR. IAROSSSI: It was submitted in 1982 and again
24 in '87.

25 MS. HAYES: Okay. The '87 plan would only take

1 effect if you were outside of the area that Alyeska's plan
2 was in effect. So for the purpose of educating me, what
3 is the area of effect, the geographic area of effect of
4 the Alyeska plan and the Exxon plan that were in effect?
5 Do you agree with that? Where is the Alyeska plan, in
6 which geographic area does the Alyeska plan apply? How
7 far out from Valdez terminal?

8 MR. HOWITT: Alyeska has one contingency plan,
9 but it consists of many volumes. It's actually a 15
10 volume set. First there's a volume of general provisions.
11 Then on the pipeline there are 12 volumes, one for each
12 section. Sections are defined as those between each pump
13 station. So for instance, section two would be between
14 two and three.

15 MS. HAYES: I just want the maritime if you --

16 MR. HOWITT: I will get to that.

17 MS. HAYES: Okay.

18 MR. HOWITT: There is then a volume for the
19 Valdez terminal, and then there is a volume for Prince
20 William Sound. Prince William Sound goes slightly past
21 Hinchinbrook to Seal Rocks.

22 MS. HAYES: And where does Exxon's plan, Mr.
23 Iarossi, where does Exxon's plan apply? If Alyeska's
24 applies to Hinchinbrook Island, where does Iarossi -- does
25 the Exxon plan - the Iarossi plan - the Exxon plan apply

1 given the response that you got from Mr. O'Brien at DEC?

2 MR. IAROSSO: The plan applies everywhere we need
3 to mobilize, because the plan spells out how we will
4 mobilize and organize ourselves, how we will mobilize
5 equipment, and then in general terms how skimmers, booms,
6 dispersant, et cetera. Gives you a lot of technical data
7 on the use of different pieces of equipment.

8 MS. HAYES: What about --

9 MR. IAROSSO: It does not go through a list of,
10 in this particular site, say San Francisco Bay, just to
11 get away from Prince William Sound if we can, it does not
12 spell out how one would address a spill of a certain
13 characteristic in San Francisco Bay. Our plan does not do
14 that.

15 MS. HAYES: Well, in respect to Prince William
16 Sound, coming back home, would you have felt bound by the
17 list of sensitive areas and the work that had been done by
18 Alyeska?

19 MR. IAROSSO: Yes.

20 MS. HAYES: So you work, you use both of those
21 together, both plans together?

22 MR. IAROSSO: Yes. When we do get to a site that
23 has a plan, such as the Alyeska plan spells out for Prince
24 William Sound and for Valdez harbor, that would provide us
25 the site specific information we would need.

1 MR. POLASCK: Actually, I think Craig Rassinier
2 worked at the terminal for two years, didn't he?

3 MR. IAROSSO: Yes.

4 MR. POLASCK: Totally familiar with Prince
5 William Sound, so he was not a stranger to the area.

6 MS. HAYES: Well, then, my next question is to
7 Mr. Kelso, because I find it slightly peculiar that the
8 two agencies that would fall in -- and, Mr. Iarossi, it's
9 not just the Coast Guard that you would have to deal with.
10 It is conceivable you would have to deal with EPA as the
11 on-site coordinator in a spill in inland waters, as I
12 understand it, correct?

13 CDR. ROME: Yes.

14 MS. HAYES: I find it peculiar that the two
15 federal agencies that would be responsible for stepping in
16 if a shipper failed to do what it was supposed to do, that
17 neither one of them have a formal review of the
18 contingency plans required by the State of Alaska. I
19 would assume that if Exxon had been unable, or Alyeska had
20 been unable to respond, I would assume that the Coast
21 Guard would have found the Alyeska plan as a useful
22 document, having been approved by the State of Alaska.

23 Why isn't there some more formal linkage between
24 the people that are responsible for doing a spill cleanup
25 under the federal statutes with the plans that are

1 submitted the State of Alaska?

2 CDR. ROME: On the plan review itself and -- you
3 know, we do upon invitation, and we certainly get copies
4 of the Alyeska plan, and certainly any of the local
5 cooperative plans. Rather than give you the pat answer
6 that, you know, says it's not a regulatory requirement for
7 us to approve the Alyeska Pipeline plan, there's a sheer
8 manpower problem if we approved, you know, all the major
9 shipping company's contingency plans, and reviewing and
10 keeping that up. That's something that I personally feel
11 the Coast Guard doesn't have enough manpower simply to do
12 that, and maintain them and make sure that they're
13 accurate throughout wherever we have these plans in
14 effect.

15 So I'm not sure what the answer is. I know in
16 that part, what we assume is that the spiller,
17 particularly if it's a major shipping company, has their
18 own plans. Those folks are professional people and should
19 know how to enact the plan and run the plan. And we make
20 that assumption, or have to make that assumption going in,
21 that these people know their plan and know how to put it
22 in.

23 MS. HAYES: But nevertheless, there are
24 situations in which you're faced with having to step in.
25 I mean, the Coast Guard is faced with having to step in.

1 CDR. ROME: Yes, and in those circumstances,
2 since we were probably -- since we're more familiar with
3 the Alyeska plan, we would follow the Alyeska plan,
4 certainly.

5 MS. HAYES: What about EPA? I mean, as we
6 understood it, you have a veto vote on the use of
7 dispersants. Certainly that's something that's considered
8 in contingency plans as you identify it.

9 MR. JOHNSON: Yes. I think to further clarify
10 maybe some of your confusion, I think EPA and the Coast
11 Guard -- the first fall back is going to be the regional
12 contingency plan. Of course, Alyeska has site specific
13 information in both agencies, along with the state, are
14 very aware of what Alyeska's plans have. Whether it's a
15 formal review process or not, I don't know if that's
16 really necessary.

17 I think that the important thing is that in this
18 case, the state agency and the two federal agencies are
19 aware that that's in existence. To go further, Alyeska
20 and some -- I'm not quite sure of the membership role, but
21 they are included in a lot of the RRT functions. So there
22 is a fairly well-established working relationship with
23 these groups.

24 MS. HAYES: But the RRT isn't site specific, and
25 as I just understood from Mr. Kelso, that was one of the

1 key things that you thought should be integral to a
2 contingency plan, would be site specific information that
3 you could do, that you could identify resources at risk or
4 primary sites for location of materials, and that kind of
5 thing, right? Am I correct?

6 MR. KELSO: You're correct.

7 CDR. ROME: If we assumed -- if I can say just
8 one quick thing. If we assumed responsibility in, say,
9 federalizing, to use that term, we would follow the local
10 contingency plan that was in Prince William Sound for
11 Marine Safety Office Valdez, and that action plan
12 basically says, you know, a major incident isn't going to
13 be occurring because of the Alyeska terminal, and we
14 follow their plan.

15 MS. HAYES: Let's move to Prince William Sound.
16 What do you do there? I mean not Prince William Sound,
17 excuse me. Cook Inlet.

18 MR. JOHNSON: Same thing.

19 CDR. ROME: Cook Inlet, we follow MSO Anchorage's
20 plan, which relies very heavily on Sero.

21 MS. HAYES: Is it site specific?

22 CDR. ROME: At least, you know, that's under
23 review right now; but it is site specific, yeah.

24 MR. HERZ: Are there standards, like response
25 time, number of feet of boom, number of gallons or barrels

1 of dispersant? I mean, does anybody have those? That was
2 part of my earlier questions. Are the contingency plans,
3 either for the state or the feds, designed to meet
4 specific standards; if not, why not?

5 CDR. ROME: From the federal side, historically
6 we have not set given numbers on things. We say, you
7 know, you, as a transporter or shipper, should be able to
8 clean up a 100,000 barrel or 200,000 barrel or 300,000
9 barrel spill. And what we have always had was a
10 performance specification that says you are the spiller,
11 you're the carrier of the oil, you're the spiller, you're
12 responsible for cleaning it up. And the way that the
13 contingency plan comes up with, as the way Commissioner
14 Kelso described it, is basically you develop scenarios for
15 varying degrees of spillage, and basically you negotiate
16 out based on, you know, what a contractor for the industry
17 has provided as what they think is a reasonable level of
18 effort. The government side says, well, I think this, you
19 know, and you negotiate the numbers and that's how it's
20 done.

21 The only numbers I have ever seen is on the outer
22 continental shelf where minerals management established
23 and said that, you know, industry, in order to drill, has
24 to have some recovery capability of a thousand barrels a
25 day, respond in --

1 MR. HERZ: State of California Coastal Commission
2 has those requirements as well.

3 CDR. ROME: Yeah. And, you know, the equipment
4 has to operate in five to six-foot seas. You have to
5 operate in two, or respond in two hours, something along
6 that line. Like you know -- you know those. But I'm not
7 sure if even those are good enough.

8 MS. HAYES: Well, just in my closing, because I
9 realize other commissioners want a chance, but I just want
10 to make the observation, you talked before about shared
11 expectations. And while it may be true that in the first,
12 these last two sentences of the first paragraph of the
13 conveyance of the contingency plans, or in the scenarios,
14 there may have been expectations about how oil was going
15 to be picked up, and the lack of success thereof on big
16 spills.

17 But several members of the Commission in their
18 previous lives have listened to oil companies at the time
19 that leasing decisions are being made, and have heard
20 different stories about the oil, ability of the oil
21 industry to deal with oil spills, and with the kind of
22 disasters that each one of those communities that we have
23 had to deal with imagine is going to happen. And I guess
24 what I'm suggesting is, there's a lack of confidence even
25 from people we have talked to, that have testified before

1 us that in the past have been strong supporters of the oil
2 industry, about the ability of the industry to clean up
3 this kind of spill.

4 So my question for both of you would be, what are
5 you doing about improving the capability of cleaning up
6 the spill? And for all the discussion this morning about
7 cost was no object, obviously there is some kind of
8 trade-off between prevention, as we will be talking about
9 tomorrow, and preparation for contingency in the event of
10 a spill. And there's some kind of relationship there
11 that, there must be some kind of internal process going
12 through there, but I want you to discuss a little bit
13 about what your thought process on that is.

14 MR. POLASCK: I guess as far as that particular
15 question, I think it would be more appropriate to talk to
16 Jim Hermiller. He's going to be talking about the whole
17 plan: Prevention, response, the whole thing.

18 I would like to, just for a moment, go back. I
19 think there's an a little bit of confusion regarding
20 spills on land. In those cases Alyeska has a plan and we
21 execute. We have no one to handoff or go through a
22 transfer like we're talking about, like we did with Exxon.
23 The reason that's different, it's marine federal law says
24 the shipper is responsible. They have it. We have turned
25 the oil over to them. We're out of it. We have no legal

1 requirement to have a plan in Prince William Sound.

2 So we're out of that part. There is a little bit
3 of confusion. We work with the EPA, and actually the plan
4 on land specifically is reviewed every year by the BLM and
5 the Alaska Department of Natural Resources for any changes
6 they want to see us incorporate in that plan. So we get
7 both state and federal insight and oversight on our
8 on-shore oil spill response capability.

9 MR. IAROSSE: If I could, I will answer your
10 question in the reverse order. Having looked out a plane
11 window at 240,000 barrels of oil on the water, it's quite
12 an awesome sight and what it does is impress, I think
13 beyond any reason, any further thought of the need to
14 carry out everything possible as far as prevention,
15 because with that much oil on the water and coming at a
16 relatively very short period of time, I think the Coast
17 Guard has said within five hours or so it was basically
18 all out of the ship, you are presented with an enormous
19 problem to try to clean it up, and that just drives you
20 further toward the need to look very hard at all aspects
21 of your operation, to do everything possible to prevent
22 reoccurrences. And those activities are going on:
23 they're going on at the national level, they're going on
24 within industry groups, and they certainly have been going
25 on, and will continue to go on within our company.

1 The key to this particular event is that it was
2 totally a human failure that caused the particular event,
3 or at least based on all the knowledge anybody or any
4 group has at this point. I would make that statement.
5 And that makes it a little more complex, because it would
6 be a lot easier if it was a steering gear, we know how to
7 fix steering gears; if it was a boiler, we know how to
8 make boilers better. But we are dealing in this instance
9 with human failure, and that presents us with a more
10 complex set of circumstances to deal with, but we are
11 looking at many, many different approaches to it

12 As far as how to respond better in the future --
13 or let me just stay with prevention for a minute. There
14 are other things outside of the tanker operating company
15 itself, specifically in Prince William Sound, that have
16 been done, and I think will go a long way to preventing
17 another incident. And that is, in part, the activities of
18 Commissioner Kelso's group, part the activities of
19 Alyeska.

20 But if you look at the incident itself there are
21 two changes that have been made, that were made very early
22 after the event, which absolutely would have prevented
23 this particular event. And that is, moving the pilot
24 station to the south side of Bligh Reef rather than the
25 north side. I believe that that change alone would have

1 prevented the incident.

2 Secondly is the new interest in the VTS, being
3 able to track vessels at least south of Bligh Reef. That
4 certainly is a major factor in preventing future
5 activities, or a future instance like this. And, thirdly,
6 I would say the use of the response vessel and a tug
7 accompanying the tanker out of Prince William Sound or
8 down through Prince William Sound. I think that is
9 certainly a change which makes a difference.

10 So I think three changes have been put in place
11 that clearly will make a difference, at least in the
12 circumstances that were associated with the Exxon Valdez
13 grounding. There are a lot of other prevention type
14 activities that are being looked at and have been put in
15 place by different companies to further carry prevention,
16 and I think there is a lot more to do, and a lot more
17 discussions and analysis will be done there.

18 As far as how to respond better, I think the
19 package, the proposals put together by the American
20 Petroleum Institute involving not only the stockpiling of
21 equipment and different locations, but also the formation
22 of response groups, which will be professional full-time
23 groups of people located in different spots to respond,
24 that also is a very important step in improving response
25 capability.

1 I think there is another aspect to it, which is
2 technology development. There are different proposals
3 being weighed to put a lot of money behind technology
4 development. I certainly would support that and hope that
5 that gets us better tools to use. Hopefully the next time
6 someone has to face this -- and I hope it's a long time.
7 I doubt I could say that -- I hope it never happens again.
8 I think that probably sometime in our future someone will
9 face this kind of thing again. Hopefully it will be many,
10 many, many years from now, and hopefully that individual
11 will have a lot better tools at hand. So I think I have
12 addressed those.

13 MS. HAYES: Have you budgeted for that or do you
14 intend to? Does Exxon Shipping intend to have some kind
15 of budget allocated for R and D for cleanup techniques?

16 MR. IAROSSO: We support the API by funding the
17 research program that they have put together. I, within
18 Exxon I'm a member of a committee of five individuals:
19 myself, the head of the Exxon Pipeline Company, the head
20 of Exxon, U.S.A refining, head of Exxon, U.S.A. marketing,
21 and one other individual. And the five of us have been
22 charged with the responsibility within Exxon to develop
23 programs to look at all aspects of Exxon's business from
24 the standpoint of risk and incident prevention, to look --
25 and that particular charge also includes looking at

1 different opportunities for research into tools. So while
2 I can't tell you we have budgeted, the fact is we will, as
3 soon as we can define where that money can best be spent.

4 MS. HAYES: Thank you very much.

5 MR. PARKER: Commissioner Wenk?

6 MR. WENK: Thanks very much, Mr. Chairman. I
7 have got about four questions, and I only want to
8 characterize these as being sort of at the strategic
9 rather than tactical level, which gives the members of the
10 panel a lot more flexibility in answering these questions.

11 First, Mr. Iarossi, to you, to make sure I'm
12 right about something, and then to follow it up. I
13 believe in your opening statement, you made to me a
14 telling point about a policy developed at Exxon when you
15 were an adviser to the, I think, board of directors
16 following the Amoco Cadiz accident 11 years ago, when it
17 was easy to fantasy another one happening to Exxon.

18 MR. IAROSSSI: Little did I know.

19 MR. WENK: Little did you know. But it seemed to
20 me that you, if I understood you correctly, that you took
21 several steps. One was a policy, a blanket policy so to
22 speak, that you were going to instantly assume
23 responsibility as the spiller to do whatever was necessary
24 to mitigate the consequences.

25 MR. IAROSSSI: Yes.

1 MR. WENK: And, secondly, that you would then
2 undertake --

3 MR. IAROSSSI: And by the way, it was because that
4 policy was in place, had been previously thought out, that
5 there was no hesitation. Half hour after I stepped off
6 the plane I made that statement.

7 MR. WENK: This is really quite important to my
8 follow-up question. I want to make sure my facts are
9 right, and then I'm going to ask Mr. Polasck about
10 something to follow this up. The second part of this, it
11 seemed to me, was that you also had an advanced commitment
12 to be as muscular as necessary in terms of containment and
13 cleanup.

14 MR. IAROSSSI: "Muscular" meaning throw what
15 resources --

16 MR. WENK: Yes, whatever it took.

17 MR. IAROSSSI: Yes, yes, yes. If that's what
18 muscular means, yes. There were no limitations placed.

19 MR. WENK: Having confirmed that, my question has
20 to do with what other users of Valdez have a similar
21 philosophy, policy, pre-event preparation, and so on. I
22 don't know how many different subscribers Alyeska has
23 there. It strikes me that what we have heard about Exxon
24 is quite important. Is it easy to answer? I realize this
25 may not be a fair question. Is it easy to ask the

1 question, do all of the users of that terminal have a
2 similar policy?

3 MR. POLASCK: I think tomorrow you will get some
4 of those answers. I understand you're having the shipping
5 people; is that correct?

6 MR. PARKER: Yes, shipping people.

7 MR. POLASCK: Yeah, people who actually own the
8 ships and who would be making these kind of decisions. So
9 you can ask them that question tomorrow and get direct
10 answers.

11 MR. WENK: Okay, fair enough. Second question
12 now, again, Mr. Iarossi, back to czars and dictators.

13 MR. IAROSSJ: I accept czar as equivalent to
14 dictator.

15 MR. WENK: I sense a kind a Catch 22 in our
16 situation, though, in this respect: if I understood you
17 correctly, your advocacy of central command and authority
18 assumes the availability of resources to command: and in
19 the case here, Exxon provided those resources. The
20 situation I'm wondering about is that situation where
21 there is not an Exxon, and in fact I don't know what the
22 other company is going to say, but let's imagine that
23 there is one that isn't quite prepared financially, or in
24 terms of social responsibility or whatever.

25 Now we turn to the Coast Guard in terms of, first

1 of all, imagining that though you were -- you didn't want
2 to be explicit about this, it sounded to me as though you
3 were saying it's got to be a public figure in that
4 position, and you don't want the disparity from state to
5 state; and therefore, a federal official sounds like the
6 one. The API plan in fine print sort of says the same
7 thing, as you may recall. Why it was so hesitant to say
8 this clearly I'm not sure, but it essentially says the
9 same thing.

10 But now to come to the other side of the
11 question; and that is, in those cases where the spiller
12 has neither the fiscal nor the moral resources to do what
13 may need to be done, now we come down to what the Coast
14 Guard's capabilities are or are not. There are a couple
15 of litmus tests here. The first one has to do with the
16 consideration of federalizing even this spill.

17 My recollection is that when asked this question
18 about would the Coast Guard or would some federal
19 official -- and apparently according to Admiral Robbins,
20 might have to be the president -- decide to federalize,
21 the early answer was, early in terms of hours after the
22 spill, was for goodness sakes, let's not do it because
23 there's not a dime in the bank, or actually there's only
24 three and a half million in that 311 K fund, and we don't
25 know where we would get any more money. And once more, we

1 don't even know what bank we go to to get it, and so on
2 and so on.

3 In other words, what we got from Admiral Robbins
4 and Commander Rome, I read this into your comment too, was
5 there simply are not the fiscal resources. And I sensed
6 also from what Mr. Kelso said at one stage, that the
7 viscosity of the system, in order to find those resources,
8 made him somewhat timid about pushing for federalization.

9 So where's the Catch 22? The Catch 22, it seems
10 to me, is on the one hand visualizing this federal czar,
11 possibly the Coast Guard; on the other hand, the Coast
12 Guard not really at this stage, as I understand it, having
13 resources to respond under these circumstances. Now, with
14 an API type plan and those resources in place, I could
15 imagine something, then when you have a federal czar and a
16 private source of some resources. But somehow or other
17 there's a mismatch here that I can't quite get my hand on.
18 I know I'm not asking the question --

19 MR. IAROSSE: Well, I think you addressed the
20 question to me, so let me try to answer what I think the
21 question is.

22 MR. WENK: Okay. Thank you.

23 MR. IAROSSE: You're absolutely right, the czar
24 or dictator concept in and of itself is only one element
25 of the solution. The other elements, just off the top of

1 my head, would be resources stockpiled fairly close at
2 hand or fairly mobile; and organization of trained people
3 to support that czar, fairly mobile; a fund of some sort,
4 I imagine a national fund which would be made available to
5 states and local communities to fund activities which need
6 to go on over and above machines and booms, and things
7 like that. Those are at least four of the elements.

8 The fifth element I would say is technology
9 improvement, another element is a national policy or
10 statement on the use of dispersants, and if dispersants
11 aren't in the arsenal, then what is? I don't know. I
12 think I have exhausted my --

13 MR. WENK: Well, but you have already given us a
14 pretty explicit list. Now, with that in mind I would like
15 to ask Commander Rome, and I know it's not fair to address
16 this question today at this level. But never the less,
17 any reaction to this? What position is the Coast Guard in
18 to respond to those cases where you don't have corporate
19 responsibility?

20 CDR. ROME: The activities in the shopping list
21 of Mr. Iarossi, in terms of taking aim at the
22 administration, is in favor of passing the civil liability
23 convention act, which essentially establishes a 500
24 million dollar oil spill pollution fund, that that
25 certainly eases the financial burden. Whether it's done

1 with the COC convention or whether it's done as a domestic
2 fund, you know, the fact that we create a large oil spill
3 response fund is important.

4 The other part is relaxing somewhat during
5 emergency situations the federal government's ability to
6 spend and move money into the commercial sector. Now,
7 that's something we can accomplish either by having some,
8 say, basic ordering agreement with co-ops, with the
9 industry, with the API, with these depots that says,
10 basically, here's the terms and conditions of any contract
11 that I have with you, and I can call in that contract up
12 to, you know, hundreds of millions of dollars, and we have
13 to do that and we'll work out the money on that.

14 Those two, you know, in terms of an owner
15 assuming or backing out of a spill, it's basically the
16 money and being able to tap the commercial resources that
17 would be necessary in an expeditious manner. If we can do
18 that, ease it in, then, you know, sir, we would be in
19 great position to be in.

20 MR. WENK: Well, your comments have been very
21 helpful in this regard. I see someone else would like to
22 comment, and then I'm watching the clock. I have just one
23 other question.

24 MR. LIEBERSBACH: Just real quick from that.
25 From a federal standpoint there is the ability -- I'm

1 talking the Coast Guard people who work with me in Seward,
2 to get those authorities to work with federal, and the
3 federal government to work with emergency funding. We
4 have a system already set up for fires. It's all deficit.
5 We go in -- we will be going in in October for the 1990
6 budget to pay for the 1989 fire season, and similar type
7 of things for other emergencies.

8 So it's just a matter of the agencies getting it.
9 I'm sure the Coast Guard can get a similar thing that is
10 used in fire. But when I went to Seward, I had plenty of
11 authority to commit federal funds or to commit the -- not
12 federal funds so much, but to make a commitment that the
13 federal government would pay for what was done.

14 Now, where the federal government goes to get
15 that money is probably involved in litigation and whatever
16 else. But I had the authority to do it, and I think that
17 this is the type of thing that in an emergency of this
18 scale it's capable of being done for other agencies.

19 MR. WENK: Well, I think many of us are struck by
20 what several people have told us about the viscosity of
21 administrative regs in terms of funding, and that flies in
22 the face of what we also have come to understand, that the
23 first six or eight hours are absolutely crucial in terms
24 of responding, that by the time you get to the second day
25 you have had it. So one has to find a way through this.

1 Let me go to the last question if I may, please,
2 and this comes back to this question of shared
3 expectations. I want to recall the phenomenon of
4 disparity of expectations that apparently you were
5 suggesting existed, and that you thought was a major
6 lesson to be learned. And to some degree I think I have
7 to agree with that, but that leads me to the next
8 question. Why is there such a disparity?

9 Let me suggest something and ask for your
10 reaction to it. My recollection when oil was first
11 mentioned as being shipped to Puget Sound and when there
12 were some questions raised about the possibility of an
13 accident in Puget Sound like this one, that one particular
14 oil company insisted that traffic was absolutely safe,
15 that its ships had double bottoms; and moreover, any
16 precautions which were later taken by the state government
17 to reduce risk, by reducing the size of tanker, were
18 absolutely unnecessary. The name of the company is ARCO,
19 and I was the one who was challenging them on this point,
20 so I can talk with a certain degree of authenticity.

21 Not only did ARCO attack the message, but they
22 attacked the messenger. That's not unusual. The crux of
23 the matter, however, is that the publicity that was put
24 out then about double bottoms turned out to be absolutely
25 untrue. Those tankers had double bottoms in way of the

1 engine room, but they weren't double bottoms, but public
2 expectations of safety were influenced. I think we have
3 evidence of time after time when the expectations of
4 safety of oil transportation here in Alaska have been
5 influenced by the shippers.

6 What I'm asking is this: Is there some way that
7 those organizations who are responsible for risk can face
8 this squarely internally first in order to deal with this
9 question in terms of its own policies, and then face it
10 squarely outside with the public?

11 MR. POLASCK: I'm not sure that I'm the one to
12 answer that question. I think you're rather fortunate in
13 that you will have, I think, an ARCO person here tomorrow
14 to ask that question to directly. But I do think that the
15 kind of discussions that are ongoing right now throughout
16 the state relating to the spill and the awareness,
17 essentially gets us to this common expectation, because I
18 think before we get a plan approved this time -- you know,
19 we have submitted a plan, it's in draft form, and the ADEC
20 has it now, they're studying it, and my guess is that
21 there will be public hearings on it. I'm not sure. It
22 depends on what ADEC plans to do with it. But I believe
23 through those processes we will get this sort of common
24 expectation, and that's how you do it. I think we're
25 going to go a long way toward achieving it this next time

1 with the plan that's currently being considered.

2 MR. WENK: Okay. Anybody else on the panel want
3 to comment. Mr. Kelso?

4 MR. KELSO: Well, I think your point goes right
5 to the heart of the issue of whether the risk that the
6 public believes it is bearing is actually the risk that is
7 inherent in the situation. There are a variety of ways of
8 looking at that, and I think as a state we need to look
9 from a fresh perspective. It doesn't mean that the
10 state's going to toss the oil industry out. That's
11 certainly not going to happen. That wouldn't be a good
12 policy choice anyway. But we need to reduce this gap
13 between what Alaskans believe that they have the oil
14 company's word to deliver and what it is that the
15 companies are prepared to deliver.

16 And I also want to be clear that I'm not
17 intending to lump all the companies together in terms of
18 their operating style or their performance. I think there
19 are differences. But since Alyeska's plan is, in effect,
20 a plan for all of the seven operating companies, it's very
21 important that we have some common ground there.

22 There are a couple of points I would like to just
23 make quickly, and not to discuss because we can talk about
24 them more another time. But one of the statements that
25 was made here by Theo is essentially that Alyeska is not

1 required to have a plan approved by the state in these
2 waters.

3 Well, I will leave the niceties to the attorneys,
4 but the truth is, state law requires that there be a plan
5 and that it be approved. And in addition to that, it was
6 under state law, under my exercise of emergency order
7 authority, that the strengthening provisions that Frank
8 Iarossi mentioned were put into place.

2
9 Now, you can't have it both ways. Either state
10 law applies and the emergency order carries weight; or it
11 doesn't apply, in which case I think some hard questions
12 have to be asked of Alyeska as to whether it's political
13 factors or something else that caused it to comply with
14 the emergency order, which it did. But the point is that
15 state law in this is very important, and clearly I
16 disagree with Theo's interpretation of state law. And I
17 think this goes back to what Commissioner Hayes was
18 suggesting, if I don't embellish this too much. And that
19 is, that the state's role and the Coast Guard's role are
20 different. There's nothing inappropriate about either.

21 But if you're going to get an effective response,
22 you need both pieces of that in this kind of a situation
23 where there's jurisdiction. And I'm not meaning to leave
24 EPA out. I'm just using this by way of illustration. If
25 an approach, such as the one Frank described in which

1 there is a fund and a federal czar/dictator and some other
2 pieces, if that's put in place there is some real dangers
3 in that, not because the Coast Guard is bad guys -- I
4 don't feel that way, we have a good relationship with
5 them -- but because there is a difference in role that
6 Commissioner Hayes highlighted.

7 Some of the pitfalls, and we will save the
8 discussion for another time, are that if you end up with a
9 fund that has an arbitrary cap for either liability or
10 cleanup costs, the people who hold the bag are the people
11 who got hurt in this spill. If you have a situation where
12 state law is preempted, or where in the hope of
13 establishing such a clear command structure that it's
14 totally ambiguous, and so that you put all of the
15 authority just in the commandant and Coast Guard, you
16 lose -- and you preempt state law and a local role, you
17 lose some very important power in the response. If in the
18 effort to make sure that it is consistent throughout all
19 of the states, you basically erase what are very real
20 differences among those states, you lose the opportunity
21 to strengthen your spill response capability.

22 So all of these things I would keep in mind, and
23 they are particularly poignant in a situation like this
24 where we have a large spill, where it's an area that has
25 not had damage from industrial activity before, where the

1 local people are highly dependent on those resources, and
2 where -- and I will disagree with Frank about this --
3 where I think we have a system failure, not just a human
4 failure. Human factors contributed and were prominent in
5 the press, but we have a system failure here.

6 So all of those things I would urge that we keep
7 in mind, and I think some of them, I would be happy to
8 join in a longer discussion about several parts of it.

9 MR. PARKER: Thank you, Commissioner. The chair
10 has a few questions. Commissioner Kelso, before you came
11 back in, why, Alyeska commented in some length about their
12 handoff plans with Exxon and the drills that were
13 conducted on those, which were accompanied by state
14 employees, and that the plan provided for the handoff.
15 Was that your conception of what was going on?

16 MR. KELSO: No, it isn't. For one thing, I would
17 like to go back and check our records, to see what our
18 records show about involvement of our staff. But even so,
19 I assume this is the drill with ARCO that --

20 MR. PARKER: This is a drill with ARCO, and
21 supposedly with Exxon and also BP.

22 MR. POLASCK: No, the drill was with ARCO,
23 ARCO/Alyeska drill. We had observers from Exxon and other
24 companies, but it was an ARCO and Alyeska drill.

25 MR. KELSO: Well, the essential difference is

1 this, and this is why I wouldn't agree with that
2 characterization. Even that drill contemplated a
3 transition that took place after 48 hours, during which
4 presumably the responding -- the secondary responder, and
5 of course the initial spiller, would be gearing up and
6 ready to take that handoff. Here the handoff began. The
7 exact number of hours is less important than just how
8 quickly it started happening. Within 24 hours this was
9 happening. Exxon, I give credit to Exxon, was mobilizing
10 equipment. This is something that Frank Iarossi and I
11 talked about a million times at least.

12 MR. IAROSSSI: Usually at 2:00 in the morning.

13 MR. KELSO: Usually at 2:00 in the morning; very
14 clear thinking at that time. But they weren't geared up
15 at that time, they didn't have a base of operations,
16 although they were certainly scrambling. So it was a very
17 different situation. And no, I don't see the two as
18 parallel at all, compared to what really happened.

19 MR. PARKER: Okay. Thank you. This is a
20 question for all of you, a very specific question. The
21 chart before you shows the slick as it existed at 1800
22 hours on Saturday, some 18, 24, 42 hours after the spill.
23 And there has been unending press comments that the reason
24 why the spill was not successfully responded to is the
25 failure to use primarily, one, dispersants; and two,

1 in-situ burning, which has been on a much lesser level.

2 Surely now, some five months and one week after
3 the spill, somebody must have some very good ideas worked
4 out on how many dispersants would you have had to bring on
5 to that particular spill, at that location, at that time,
6 in the next 24 hours to disperse, to have had an effective
7 response through dispersants.

8 MR. POLASCK: You want to handle the dispersant
9 part of it?

10 MR. PARKER: Whatever dispersant, Corexit 9527
11 or --

12 MR. POLASCK: While Frank is looking for the
13 number on dispersants, the plan always said that it was a
14 combination. It was not dispersants alone. You did all
15 your mechanical, you brought in equipment, you burned, and
16 you used dispersants.

17 MR. PARKER: That's not what's being told the
18 public in the press. What the public is being told in the
19 press over and over and over, and only being refuted by
20 the state, is that dispersants would have done the job.
21 And, you know, how much dispersants is the question.

22 MR. IAROSSO: Well, I have listened to a number
23 of experts answer that question. I haven't heard any of
24 them say that dispersants would have eliminated all the
25 oil on the water.

1 MR. PARKER: Not all, but how much?

2 MR. IAROSSSI: It is a function of how much time
3 you carried out the dispersant activities. You know, if
4 you narrow it to Saturday and Sunday you get one answer;
5 if you extend it through into the three or four days
6 following that, you get another answer.

7 MR. PARKER: Well, when did the wind start to
8 blow and make aircraft operations dicey?

9 MR. IAROSSSI: Sunday night.

10 MR. PARKER: So let's use that as our
11 termination.

12 MR. IAROSSSI: So if you look at that window of
13 opportunity, depending upon which experts you listen to
14 and what assumptions they make in putting in their
15 analysis, the answers I have heard range from 20 percent
16 to 50 percent of the oil spilled. If you concentrate only
17 on Saturday and Sunday, if you look at planes that were
18 available and when they were available, and dispersant
19 that was available and when it was replenished. In other
20 words, using the actual availability of aircraft, the
21 actual availability of dispersant, narrow yourself to
22 Saturday and Sunday opportunity only, the range of answers
23 is between 20 percent and 50 percent that I have heard.

24 And the reasons you get that range is because you
25 have to make assumptions on the spray rates and the

1 effectiveness rates and your coverage rates, and just
2 depending upon what your assumptions are, you get that
3 range.

4 MR. PARKER: How many gallons would you have had
5 to mobilize to hit 50 percent?

6 MR. IAROSSE: Whatever we actually have here.
7 This is not any projection. This is if you go back -- and
8 I could read off to you the amount of gallons. I got it
9 in barrels, but it's in our submission and it's in the
10 chronology. There is one section of the chronology that
11 is on dispersants.

12 So if you use only what was actually here, avoid
13 any arguments about hypothetically what could have got
14 there, just actually what was here, the times it arrived,
15 because we had arrivals on Saturday, we had a few arrivals
16 on Sunday. So if you add all that up, if you look at the
17 planes, we had the first plane Saturday morning and second
18 plane Saturday afternoon, the third plane Sunday night, I
19 believe.

20 If you just look at what was actually available
21 from the aircraft and dispersant you get that range from
22 20 to 50, and the range is dependent upon the scientific
23 factors of coverage, effectiveness rates, and how much
24 dispersant you would have had to put down for an acre of
25 area.

1 And I think the people within that range, you
2 know, they probably all believe they're right, whether
3 they're on a 20 percent end or 50 percent end, and it's
4 all a function. Like all these other studies, it's a
5 function of the assumptions you make, and probably all
6 those assumptions are rational. You can't attack any of
7 them. We just don't know factually what would have been
8 the circumstances, but I think 20 to 50 is about the range
9 you're dealing with.

10 MR. PARKER: Commander?

11 CDR. ROME: Yes. Thank you, Mr. Chairman. One
12 of the -- in putting together the preapproval for
13 dispersant application in Prince William Sound, the basic
14 assumptions that both the federal people and industry
15 people put together for the assumptions of how the
16 dispersants would work, and how they would be effective,
17 would be in terms of timeliness. The application time
18 would be somewhere in the time period of one to eight
19 hours, basically, because you want to have the dispersant
20 more effective during the time when you have the light-ins
21 there.

22 The other thing is, in the actual application you
23 have to have proper droplet size and a certain amount of
24 film, oil film thickness so the droplet will reach the
25 oil-water interface. You have to get sufficient energy

1 into the system so it can mix up and disperse. And the
2 other thing with that and what we said, with all these
3 conditions being equal, what kind of efficiencies would we
4 expect to get for that. And although there is no hard,
5 firm numbers, the general number that came up was, under
6 those conditions, about 35 percent effectiveness.

7 So when we go to the time frame when the first
8 application is made at 18 hours after the spill, and we
9 have a 300 gallon bucket and there is no energy in the
10 system and the consensus, and the way the federal on-scene
11 coordinator felt, was that dispersant simply didn't work.
12 And that was his consensus on the second day, the
13 dispersant simply didn't work.

14 So when you get to the third day when we had some
15 potential of some dispersion, and all agreed that there
16 was some dispersion on Sunday afternoon when that final
17 test, or when the final application was made, was you're
18 almost 48 hours beyond the incident itself. You're in a
19 situation where certainly most of the light-ins are gone
20 and the effectiveness of the dispersant is going to drop.
21 And I'm not going to assign a number, but I would say it's
22 probably, my best guess would be less than 20 percent,
23 certainly. And this, you know, this opportunity to use
24 dispersants, you know, we just didn't -- it just didn't
25 work. So when you guess a volume, it may be meaningless.

1 MR. PARKER: Okay. Commissioner?

2 MR. KELSO: Mr. Chairman, I think if I understood
3 your question, I can give you one answer. Others may have
4 other answers, but they should say what they are.
5 Alyeska's literature, Alyeska's material submitted to us,
6 indicated a 20 to 1 ratio, dispersant to oil. That would
7 have required, assumming that you were going to try to
8 treat the whole thing, 550,000 gallons. There was neither
9 the dispersant nor the equipment available. That's the
10 reason. For example, the equipment unavailability is why
11 a helicopter bucket drop was done on the first day, which
12 I witnessed myself from the deck of the tanker.

13 But as Commander Rome suggests, the conditions
14 were not right for dispersant use to be effective. But
15 even if they had been, the equipment simply wasn't there.
16 Alyeska's contract plane was not available, as they had
17 anticipated, or at least as their contingency plan had
18 suggested. Even bear in mind that the wind came up for a
19 period of about roughly ten hours, my recollection, and
20 even after that Exxon's aircraft was not loaded and ready
21 to go.

22 So your point is a good one, it seems to me. A
23 substantial amount of this stuff would be necessary, but
24 equally importantly you have to be able to deliver it, and
25 the point that Commander Rome just made, it has to be able

1 to work, and none of those three conditions was present.

2 MR. PARKER: And only 50,000 gallons was on hand
3 as of Sunday night, according to the figures we were given
4 here, around 50,000 gallons. So only less than one-tenth
5 of what would have been required to use dispersants.

6 The point I'm making is that in order to keep a
7 level playing field on this, people have to start being
8 more specific about the effectiveness of systems as they
9 bring them before the public, because one of the
10 advantages we have, we're getting to the stage where we
11 can start to deal from a greater base of intelligence on
12 responding to claims that are made by all of the many
13 participants on this, whether we're talking dispersants,
14 tankers, navigation systems, or anything else.

15 Does anyone else care to challenge the 20 to 1,
16 550,000 gallons?

17 MR. IAROSSO: Yes. Twenty to 1 was not anywhere
18 near the ratio we used. I don't have the figures at hand.
19 I believe the first test was run at 6 to 1, and a Sunday
20 test was run at, I believe, 6.3 to 1, the one that we were
21 clearly successful.

22 MR. PARKER: Which would have required even more
23 dispersants?

24 MR. IAROSSO: No, it goes the other way. I'm
25 sorry. I'm talking per acre, I'm talking about dispersant

1 per acre. It's a different ratio. I will go back and
2 check on the basis that the 20 to 1 is what the ratio was
3 that we actually used.

4 MR. PARKER: Okay.

5 MR. HERZ: Mr. Chairman, I have to butt in. I
6 spent three years of my life sitting on a national
7 research counsel review committee looking at the
8 effectiveness of oil spill dispersants, and all of the
9 things that have been said today are correct. But there's
10 an implication, and I think you were getting at, there's
11 an implication that dispersants will work, and the problem
12 is that in every field application that we have had, none
13 of the conditions have been optimal. We practically never
14 have had a real demonstration in a real spill situation
15 where dispersants have been effective. They are effective
16 in the laboratory. But as Commander Rome was suggesting,
17 there are a whole lot of factors that have to be gotten
18 right for them to work, and we don't know what those are.
19 And I think part of what Mr. Iarossi was saying earlier,
20 about if we're going to decide we're going to use them, we
21 have to make more of a commitment to test them and find
22 out what those conditions are. But we don't have a handle
23 yet on those conditions so we can say this is when they're
24 going to work, in these proportions, and just go out and
25 make it work, the Gordon Lynbloom notwithstanding.

1 MR. KELSO: And we need to bear in mind that it
2 doesn't actually take oil out of water. It still has the
3 potential for impact. It may be an acceptable impact
4 because of trade-offs; but you're dispersing it, you're
5 not removing it.

6 MR. PARKER: Very well. I think as both in this
7 particular area of dispersants and in bioremediation, we
8 would like to sponsor a little workshop later in the fall
9 on this, and I think I found myself my own good
10 bioremediation expert close at hand, but we're always open
11 to others. But a little workshop to take off from where
12 Mike's group left us with their report, which came out
13 last year, was it, two years ago?

14 MR. HERZ: No, early this year.

15 MR. PARKER: Early this year, and take off with
16 that as a starting point, and what we have learned from
17 this spill, and put some of these things to rest so we are
18 all playing at the same level, and I would hope we could
19 do that sometime in the October framework.

20 The other point on common expectations, in 1977
21 when we did the ARCO Fairbanks trials in Prince William
22 Sound in March of 1977, which for myself climaxed eight
23 years of effort on tanker operations both as a fed and as
24 a state employee and as a university employee, why, my
25 common expectations were that, you know, the tug escorts

1 would be maintained at the level that they were
2 established in the 1977 regulations, that pilotage would
3 continue south of Bligh reef. We had it to Hinchinbrook
4 then. That tankers would stay in the tanker lanes which
5 we established and which we ran through exhaustive tests
6 on the simulator; the tankers would not operate in wind
7 conditions over 40 knots, which was the initial
8 requirement; that the VTS system, the vessel traffic
9 system, would be somewhat proactive and not just be a
10 passive monitoring device, although this was not
11 established in the regulations, but that was the
12 expectation; that pilots and masters -- and we'll be
13 getting to the pilots later in our discussions. But
14 pilots and masters would be given fairly intensive
15 simulator training. And these were, you know, some of my
16 common expectations and I must say that we'll see
17 tomorrow, as we get into tanker operations, how well my
18 common expectations of how well the system, how the system
19 would operate were fulfilled over the 12 years since the
20 terminal opened.

21 On response, why, I think our common expectations
22 on response have been fairly threshed out here today. A
23 good many of us that are here today will get together on
24 them later in the fall, as I told you in the letters, and
25 go over them again to see what more, what greater degree

1 of commonality we can establish.

2 Now, any other commissioners have anything else
3 they wish to bring up at this time?

4 MR. WENK: Can we request -- we have already
5 requested of DEC a history of drills and drill responses.
6 I would like to see if we could get for the response sub
7 group the same kind of information on the history of
8 drilling, both surprise and routine exercises that you
9 have run at the terminal. I don't know whether the Coast
10 Guard has run any drills yourself. If you have, we would
11 very much like to get those data. And Exxon has not done
12 this independently of Alyeska, have they?

13 MR. IAROSSO: Yes. We had a response drill in
14 October of 1988, was the last one we had.

15 MR. HERZ: Do you have any sort of report that we
16 might have, in terms of performance and changes in
17 response capability that might have come from --

18 MR. IAROSSO: I will check through and see what
19 we have.

20 MR. HERZ: Thank you.

21 MR. PARKER: Do any of the panel members have
22 anything?

23 MS. WUNNICKE: I just have a question of Theo, if
24 I may. If I'm understanding the procedure now, I think we
25 had initially thought that Alyeska's responsibilities were

1 geographic, and now I think we understand them to be
2 matters of time and magnitude of the event. Did you have
3 copies of the operable parts of Exxon's contingency plan
4 at Alyeska, knowing that they, as one of the shippers, you
5 might have to hand off to them?

6 MR. POLASCK: We had copies of two or three of
7 their volumes, and I'm not quite sure which they were.
8 But our environmental group that looked at this problem
9 and coordinated it did have copies.

10 MS. WUNNICKE: Would that be true of all the
11 other shippers from the Alyeska terminal?

12 MR. POLASCK: I don't know the answer. I don't
13 think we did. I don't think we did from all of them, no.
14 That's my recollection.

15 MS. WUNNICKE But you did from Exxon?

16 MR. POLASCK: Yes.

17 MS. WUNNICKE: Okay. Thank you.

18 MR. PARKER: I would like to remind everybody
19 that tomorrow's hearing begins at 9:00 at the Federal
20 Building in Suites 133-137.

21 MS. WUNNICKE: May I ask Commissioner Kelso the
22 question of copies of contingency plans from all the
23 shippers.

24 MR. KELSO: We're in the process of actually
25 doing an inventory in other areas as well, that you're

1 interested in, such as Cook Inlet, and we should be able
2 to give you specifics within Prince William Sound.
3 Alyeska was the designated responder, the designated
4 hitter for all of the oil companies. So it's Alyeska's
5 plan that applied here. We did not -- had not received
6 separate contingency plans from each of the shippers.
7 That's my belief. I can double-check that.

8 MS. WUNNICKE: Would you share that information
9 with us?

10 MR. KELSO: Sure.

11 MS. WUNNICK: Thank you.

12 MR. KELSO: And we are inventorying the other
13 areas, like Cook Inlet.

14 MS. WUNNICKE: Thank you.

15 MR. PARKER: One of the commissioners has
16 requested an executive session, and so the commission will
17 remain in executive session.

18 Thank you all for your participation today. The
19 Commission will remain in executive session, so thank you
20 all.

21 (The proceedings convened at 5:30 p.m.)

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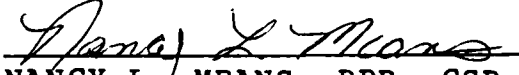
REPORTER'S CERTIFICATE

STATE OF ALASKA) ss.

I, Nancy L. Means, a Notary Public of the State of Alaska, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time; and that I am not a party to nor have I any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME
THIS 7th day of September, 1989.


NANCY L. MEANS, RPR, CSR,
Notary Public, State
of Alaska