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ALASKA OIL SPILL COMMISSION

NOVEMBER 15, 1989

ANCHORAGE, ALASKA

ALASKA OIL SPILL MEMBERS

Walter B. Parker, Chairman

Esther C. Wunnicke, Vice-President

Margaret J. Hayes

Michael J. Herz

John Sund

Timothy Wallis

Edward Wenk, Jr.

VOLUME II OF II

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1 wants to hang around is welcome to do so.

2 MR. PARKER: We have reservations for 20.

3 MS. WUNNICKE: Is this mandatory?

4 (Laughter)

5 (Off Record)

6 (On Record - AOSC Tape # 2A, 11/15/89)

7 MR. PARKER: You want to discuss mandatory traffic

8 control any further or wait for the Staff to flush it out.

9 Quickly, what vessels other than tankers should be

10 mandatorily included, you can work with the Staff on that.

11 You want ferries -- you wanta recommend the State put its

12 ferries under such a system? Tote? Sea Land, etc.? I

13 think that'll follow very naturally.

14 MR. SUND: I think you deal with a vessel -- you deal

15 with a vessel size or purpose.

16 MR. PARKER: Yeah. And its possible hazard in the

17 system. You know, the environmental system or the traffic

18 system.

19 MS. WUNNICKE: Or the human system.

20 MR. PARKER: People are part of the environment.

21 MS. WUNNICKE: Glad to hear that.

22 MR. WENK: You have many recreational vehicles in

23 Prince William Sound in the summer time?

23 UNIDENTIFIED SPEAKER: Yes.

25 MR. PARKER: Yeah, but there's such a big Sound they

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1 tend to get lost in the expanse.

2 MR. SUND: You have a lot of recreational vehicles but
3 I don't think any of them can hurt a tanker. It's a
4 question of the opposite.

5 MR. WENK: Oh, of course. But I'm thinking certainly
6 you'd want to exempt them from mandatory traffic control.

7 MR. SUND: Yeah, that's like I was saying that.....
8 Mr. Chairman, is it possible on these issues here, I don't
9 know, John's not back yet, but I mean you just -- we put
10 this down, I mean -- are we gonna get back a flushed-out
11 position with -- somebody's gonna have to make some
12 assumptions if -- and flush it out and put 'em down and
13 then, you know, either make a recommendation or say it's -
14 - here's the two sides, or three sides and leave it up to
15 the Commission.....

16 MR. PARKER: Well, in my discussions with Counsel,
17 I've said, you know, we have to have paper on these things
18 eventually if the Commissioners are going to be able to,
19 and some of that is present in a fledgling form at this
20 meeting. I think it was his plans to have that documented
21 for the December meeting and in your hands far enough in
22 front of that so you could have time to review it. Is that
23 your understanding, Dennis?

24 MR. DOOLEY: It's my understanding we're gonna flush
25 these out and I don't know how much far in advance that

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1 means. What -- two and a half weeks away.

2 MR. PARKER: Well I think that depends on the energy
3 and the.....

4 MR. DOOLEY: Some of the things, like the vessel
5 traffic system, there's a big difference between discussion
6 of Cook Inlet versus Prince William Sound. You have
7 fishermen that for one group who've agreed to it in Prince
8 William Sound and find it to be in their best interests.
9 That is not shared in Cook Inlet.

10 MR. SUND: Yeah, I understand that very well. It's
11 not fair to Southeast Alaska either. So it's.....

12 MR. PARKER: It's not necessary to have a consensus of
13 all stake-holders to go ahead with a -- it is necessary to
14 define the problems, though.

15 MR. DOOLEY: Well, I guess that's why I'm ask.....

16 MR. SUND: I think one of the issues in the mandatory
17 system, you know, that comes up in Southeast a lot, and I
18 think in Cook Inlet, is not whether you have a mandatory
19 control system, it's whether you have mandated traffic
20 lanes. And that's the big fear the fishermen have and
21 they've got away in Prince William Sound. You can have
22 these mandated traffic lanes 'cause it happens not to
23 interfere with any fishing.

23 MR. DOOLEY: That was worked out in con -- it did when
25 it was originally proposed. We have not had those group

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1 gropes for Cook Inlet. But there was a vicial (ph)
2 reaction against those traffic lanes when they were
3 originally proposed for Prince William Sound as well.

4 MR. SUND: And you see that off the California coast
5 too, if you go down there, and the same arguments occur.
6 But, you know, I think there's some issues that you have
7 draft out and say this is what we're here and we all agree.
8 And then there's that list of controversial ones, or how to
9 approach them, that have to be kind of decided on. But I
10 don't know that we can get through all of that list here.
11 I would assume that we can give some general direction
12 where we're thinking and let them come back and then we'll
13 have to nail it down later. For those of us who feel very
14 strong about some issues we can write some papers
15 ourselves, I guess. Following with Commissioner Wenk's
16 concept.

17 MS. HAYES: Realizing it's one Commissioner's opinion
18 only.

19 MR. WENK: One Commissioner shot his wad.

20 MR. SUND: No, I wasn't say write a whole report -- I
21 mean write 'em to the Staff if we have some concerns we
22 want them to take care of.

23 MR. WALLIS: Mr. Chairman, are we talking about all
23 traffic control systems for all ships or are we talking
25 about traffic control for crude-carrying vessels, or

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1 product-carrying vessels.

2 MR. PARKER: We're talking about traffic control right
3 now for crude carriers and possibly product tankers. Also,
4 and I would assume you certainly would want to put the LNG
5 in there, and that's what -- we haven't decided. We
6 haven't given any direction from the Commission yet, and
7 the Staff has not given us any input yet on whether
8 container ships, cruise ships and State ferries, at a
9 minimum, should be included in that group. I don't.....

10 MR. DOOLEY: If they offer a hazard to those vessels
11 they should be included. To your tanker -- if your vessels
12 are at risk it's a two-way risk. If a ferry can do damage
13 to your tanker it ought to be in this system.

14 MR. PARKER: How about fishing boats over 70'.

15 MR. DOOLEY: I think you can arrive at some sort of
16 nominal tonnage limit and say vessels above this size
17 should be in your vessel system.

18 MR. PARKER: I used 70' in order to eliminate
19 (indiscernible) seiners.

20 MR. SUND: Yeah, but you got long (indiscernible).....

21 MR. WENK: Well, I'm somewhat in agreement with
22 Dennis' approach on this, not only in terms of potential
23 damage to tankers but we've had experiences in Puget Sound
23 where tankers trying avoid traffic did some rather foolish
25 things, so that if there had been more control you woulda

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1 had a higher safety. I think he's on the right track.

2 MR. PARKER: Joe.

3 MR. PORRICELLI: Well I was gonna mention Mr. Chairman
4 (indiscernible) from my perspective I can't envision any
5 fishing vessel that would be a hazard to a tanker in terms
6 of it striking a tanker and giving it sufficient harm to
7 cause (indiscernible).

8 MR. PARKER: 280' processor?

9 MR. PORRICELLI: I don't think so, no.

10 MR. SUND: Well I think the episode is the one that
11 Commissioner Wenk laid out, is the tanker attempting to
12 avoid a collision with a smaller vessel and therefore
13 getting into very weird situations.

14 MR. PARKER: We got into this in the past and, you
15 know, in training tanker operators are at least, you know,
16 laying out some guidelines, you know, as to whether you are
17 in narrow waters, and I think that some jurisdictions get
18 into this. In narrow waters you're expected to crush the
19 small boy instead of putting it on the rocks.

20 MR. SUND: We've had ferry boats run over the top of
21 fishing boats, so that's --.....

22 MR. KEITH: One of the things, Mr. Chairman, too, you
23 might want to remember for the ferry boats we do have
23 people here to consider. One might want to put that type
25 of control on the ferry boats to protect the people. In

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1 other words, it's going to increase a lot of the safety of
2 the Alaska Ferry System by monitoring it for a number of
3 reasons. Just like Commissioner Wenk brought out, keeping
4 the two vessels apart to make them part of the system for
5 their safety as well as the release of oil.

6 MR. PARKER: Yeah. I think we've had enough input on
7 that, then, to give Staff some guidelines unless anybody
8 wants to add to that. Do you want to vote on the motion
9 now, or do you want any further discussion, or do you want
10 to table the motion until the next meeting.

11 MR. KEITH: Mr. Chairman, we have that short 10-
12 minute tape ready to role if the Commission's ready to see
13 that. That's on the vessel traffic system.

14 MR. PARKER: Do you want to see it or do you want to
15 look at it during a break?

16 MR. WALLIS: During a break.

17 MR. PARKER: Okay.

18 MR. SUND: I'll look at it later. We need to really
19 crank up here.

20 MR. WALLIS: If we're gonna vote on the motion, do we
21 have direction to give to the Staff on what we want them to
22 look at? Or are we looking at the whole monitoring system,
23 are we looking at traffic lanes, or what?

24 MR. PARKER: Yeah, I think we're looking at everything
25 you've seen so far, plus strong consideration for

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1 recommending that some vessels other than oil tankers be
2 included.

3 MR. WALLIS: And is that going to come back with a
4 recommendation as to who's going to be running this thing?

5 MR. PARKER: Yes.

6 MR. DOOLEY: We're gonna talk about that in
7 institutions when you get through with these set of topics.

8 MR. PARKER: Any further discussion? You want a vote?

9 MR. WENK: Could you repeat the motion please?

10 MR. PARKER: The motion is that mandatory traffic
11 control is -- to be one of our recommendations. Is there
12 anything else, John, that you wanted to include in that.

13 MR. SUND: No. To me it's just -- it was a guideline-
14 type motion. I think the essence of it, is whether we had
15 traffic lanes in certain areas is depending on what the
16 Staff comes back with. They've got to come back to us here
17 at some point, but we've gotta tell them, okay, proceed
18 down this road and do the best job you can with.....

19 MR. WALLIS: I think we've laid out a lot of the
20 direction.

21 MR. SUND: Direction. I -- that's fine with me.

22 MR. PARKER: Okay, you ready to vote?

23 UNIDENTIFIED SPEAKER: Well, after they come back with
23 their findings I might want to change my mind.

25 MR. PARKER: You can't. Is anyone opposed to the

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1 motion? Okay, we'll carry on with manning.

2 MR. WENK: Mr. Chairman, I just wonder whether it's
3 worth breaking that into two separate items. The reason I
4 mention it is that the term manning seems so widely used
5 now to mean crew size and not to also embrace, as indeed I
6 think we intend to, the question of certification,
7 training, qualifications and so on. I just wonder..... I
8 don't think there's any issue before us at all on this,
9 it's simply whether we want to split it into two.

10 MR. PARKER: Is there anything you want to say on
11 manning, Counsel, above what you've written here?

12 MR. HAVELOCK: No. I think I'm.....

13 MR. PARKER: Okay, the -- as Commissioner Wenk has
14 said the issues are size, the composition of the bridge-
15 watch, especially when they're in interior waters, and the
16 recommendation of our consultants is there be two certified
17 watch standers certified in the sense that both are
18 certified for pilotage, right? In those interior waters,
19 both have Federal pilot licenses at a minimum? Or a
20 Federal and a State pilots.....

21 MR. KEITH: We're saying it's preferable, and the
22 Commission has heard testimony from Captain Murphy, that
23 preferable is with a State pilot, and then one person on
23 board with the Federal (indiscernible). And those cases
25 where the State pilot can't stay on, like off Hinchinbrook,

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1 then it would be two Federally certified pilots.

2 MR. PARKER: But the purpose of our recommendation is
3 to encourage Federal certification of as many watch
4 standers as possible on each ship, right? So that we have
5 two all the way from Hinchinbrook in, two Federal until
6 they pick up the State pilot, the State pilot on in. Two
7 Federal from Kennedy Entrance in to Anchor Point till they
8 pick up the State pilot on in.

9 MR. WENK: Excuse me, are we down to the pilotage
10 issue.

11 MR. SUND: Yeah.

12 MR. PARKER: No, we're still on the crew. Pilotage is
13 a little different discussion. It only gets into this
14 because of the intermixing -- because it's intermixing with
15 the two watch stander requirement. But -- the --.....

16 MR. WENK: Okay, that's another -- as guidance to the
17 Staff, though, I'd like to suggest on the size alone, the
18 tabulation of the different crew sizes used by different
19 shippers, and if possible, some explanation as to why
20 there's such a wide range. My recollection, hazy as it is,
21 is that as low as 17 and as high as 27.

22 MR. PARKER: Yeah, I'd --.....

23 MR. WENK: Same route, same -- you know, everything's
23 the same except crew-size.

25 MR. PARKER: Yeah, I'd like to some exposition on that

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1 'cause we got a lot -- a fair amount of testimony on it and
2 there's gotta be some reason why ARCO runs with 29 and
3 Exxon runs with 17 and so forth.

4 MR. SUND: Well, for their knowledge, it's total
5 numbers that they could break out who they are, in terms of
6 bridge guys, and engineers, and.....

7 MR. HERZ: The things that Captain Nelson
8 (indiscernible) talked about the teaming, planning and
9 management -- does that come in this section?

10 MR. PARKER: It sure does.

11 MR. HERZ: Because I think -- I certainly am
12 interested in having some sort of recommendation regarding
13 that. It seems like a very, very valuable way to try to
14 modify the traditional master, autonomous master role.

15 MR. PARKER: The Chair, you know, remembers NTSB
16 getting into this very tentatively, and I would like to
17 come up with something on this which would encourage NTSB
18 to take bridge-resource management to the extent at least
19 to the level that they've taken cockpit resource
20 management. And really start putting some pressure on from
21 the NTSB to make some dramatic upgrading on this whole
22 thing that we heard from Captain Elthason (ph). And the -
23 - on the other training aspects, the general upgrading of
23 crew capability to respond to disasters, operating in
25 hazardous waters and so forth, through simulator training,

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1 as we heard from Captain Elthason (ph) mainly, and others.
2 I hope that -- and we have the recommendations from ECO
3 here. There's a whole area that I personally would like to
4 see expanded -- also and -- is there anything you want to
5 add to what's in the report on simulators and crew
6 training?

7 MR. SUND: Mr. Chairman, if I understood your issue.
8 One we were asking for some more research on the difference
9 of crew sizing, but there's also a minimum-level crew-size
10 recommendation that has been made in, I think, in the ECO
11 report and also by Captain Elthason (ph) that I didn't read
12 -- moving on that minimum requirement here or
13 recommendation.

14 MR. PARKER: I think we can -- yeah -- I don't know
15 how many motions you need on manning, I haven't sorted that
16 out yet. But other than the two certified officers on the
17 bridge at all times -- are you making that as a motion
18 or.....

19 MR. SUND: No, I was just trying to clarify what the
20 issues were here because the other portion of the issue is
21 more of an institutional issue, as how do you enforce the
22 current law regarding rest before you go on watch which is
23 a loading problem. The current law is probably adequate if
23 it was just followed.

25 MR. PARKER: Well, you bring up an important point.

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1 Fatigue is one of the major factors and Counsel is planning
2 a contract crew-fatigue so.....

3 MS. WUNNICKE: Mr. Chairman, to follow up on John's
4 comment. I think that one way to approach this -- manning
5 by itself I agree with Commissioner Wenk mean one thing,
6 whereas the topic that we're addressing is to cure several
7 problems. One is fatigue, the other is as many eyes as
8 possible to address a problem, and the second is the chain
9 of command strictures on people under the captain who may
10 not want to call his attention to deviations. So it seems
11 to me those are three things that you're trying to address
12 if you could accomplish all those things with a certain
13 number of people. I don't think that we should get hung up
14 on numbers at all. I think that we should be addressing
15 those problems -- the training. Training, fatigue, look-
16 out, ability to tell the captain that he's making a
17 mistake. Is that what you're trying to cure, or are we
18 trying to make some kind of union standards.

19 MR. SUND: Yeah, I think the overall recommendation is
20 you can cure -- I don't know how you'd do the training
21 thing -- but you can cure most of the other ones with
22 additional people. So I don't know what to do on that.
23 I think the recommendation isn't necessarily that there's
23 more people on the ship. The recommendation is that
25 there's certain amounts of people on the bridge when

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1 they're within certain waters, I recall correctly said.

2 MR. PORRICELLI: Yes, sir. That is correct.
3 Basically we made -- in regard to what the Commissioner is
4 referring to as manning, we made two basic recommendations.
5 One was a recommendation that when the vessel enters, what
6 we call restricted waters -- in the case of Prince William
7 Sound from the Hinchinbrook on upwards to Valdez, and in
8 the case of Cook Inlet from the Kennedy entrance on upwards
9 -- that on the bridge there be two qualified persons one of
10 which where possible and when possible to be the State
11 pilot, and the other being a shipboard qualified personnel,
12 and as I think that Chairman Parker said a couple of
13 minutes ago, both prior to the boarding of the State pilot
14 at Homer or up at Bligh Reef in the case of Prince William
15 Sound. Then there be two qualified shipboard people. And
16 that was one recommendation.

17 The second was -- pertained to training. And this was
18 that people periodically need to have training in emergency
19 situations in restrictive waters. And the notion is that
20 people need to be reminded of what to do in an emergency
21 situation. It's something that doesn't happen routinely.
22 It's something that they need to be reminded and even more
23 so with the ability to use a simulator we can create
23 emergency situations in the environment in which they'll be
25 operating, whether that be Prince William Sound or Cook

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1 Inlet, and therefore bring them through these training
2 situations so that in the case of an actual emergency there
3 will be some recollection of proper things to do.

4 MR. WENK: Mr. Chairman. Commissioner Wunnicke was
5 making a point just now that I think has a broader
6 implication. And it has to do with the degree of detail
7 that the Commission wants to get into. Now, I understand
8 this discussion from one of you of self-education. But as
9 I look at this list and see the number of different items
10 there I think we are confronted with the question, are we
11 gonna make recommendations on every single one of these.
12 What comes to mind is really the ultimate performance that
13 we're after. And I'm wondering whether there isn't a way
14 to sharpen attention on what constitutes an economical and
15 safe maritime world transportation system without getting
16 down into this type of micro-scale -- I hate to say micro-
17 scale -- micro management -- but the kind of detail that is
18 not necessary if indeed we talk about the ultimate
19 performance of the system, to which each of these factors
20 is a contributing element. But not getting -- not
21 expecting ourselves, or necessarily Staff, to bring us to
22 the point that we can take a position on -- at this level
23 of detail.

23 MR. PARKER: Well, there's been mention to me in the
25 past of examining the total marine system environment and

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1 it's a -- or the mega-system -- and it's difficult for me
2 to examine the system without examining the parts, so -- I
3 --.....

4 MR. WENK: I'm not suggesting not examining the parts.
5 All I'm wondering about is, for example, whether we're
6 going to get down into detail as to how many people ought
7 to be on the bridge with precisely how much training and so
8 on. That's what I was beginning to hear.

9 MS. WUNNICKE: I don't think we're in disagreement,
10 Mr. Chairman. My sense is from this body, and correct me
11 if I'm wrong, is that we're unwilling to put all our faith
12 in automated, technological systems. But that what we want
13 to have are alert, trained, qualified crew on oil transport
14 vessels. So whether that means 40 people, or 30 people, or
15 100 people, I'm not qualified to make that judgment, but I
16 think I would be qualified to say that those are the
17 elements of the crew on an oil transport vessel that we
18 want to achieve. So I don't think we're in disagreement on
19 it.

20 MR. PARKER: I'm not sure. I think the -- two on the
21 bridge and two in the engine room is pretty basic and has
22 been pretty well defined. If we make our recommendations
23 so broad as to be subject to interpretation I think we'd be
23 right back in the -- at the mercy of the regulatory system
25 of the Coast Guard and its industry-dominated advisory

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1 committees.

2 MS. WUNNICKE: Would it add another factor of that
3 redundancy on the bridge and redundancy in the engine room?

4 MR. PARKER: Yeah.

5 MS. WUNNICKE: Okay.

6 MR. PARKER: I think that's -- however you state
7 redundancy, that's what we're after both in crew and in the
8 automated and propulsion and other systems on board.
9 So.....

10 MR. DOOLEY: One of the suggestions by Captain
11 Elthajohn (ph) was that you have a mate whose duties are
12 loading -- restricted to loading and maintenance so that he
13 isn't one of the watch keepers and he has not -- deals with
14 the fatigue as well as the responsibility issues, and you
15 want to incorporate that as well as your main guidelines.

16 MR. PARKER: I think we want to examine it at least
17 with some -- have you pursue it further at least. The idea
18 of the two third-mates, which I think was what he was
19 talking about -- I wouldn't be ready to phrase it quite
20 that way yet but --.....

21 MR. SUND: I think that, Mr. Chairman, it kind of
22 comes out the way I see it, as, you know, we recommend that
23 there'll be adequate manning with adequately trained
23 people. I mean that's kind of a generic-type statement and
25 maybe the report goes on to say here's some of the concepts

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1 that we're concerned with. We're concerned with crew-
2 size, with training, with fatigue, number of people on the
3 watch, etc., right -- I mean lay out what the Commission
4 had in consideration and some of the parameters that were
5 discussed, I mean that's -- the issue is adequately trained
6 crew in a position and I would just let it go at that. I
7 think the Staff can take this issue now and write a
8 recommendation. Our contractors have come back with this
9 specific number -- two watch standers of certain
10 qualifications and certain licensing. I don't have any
11 problem with that, I.....

12 MR. PARKER: Putting on your old legislative hat, what
13 would you want to see coming before you as committee
14 chairman from this board. How would you want it stated.
15 Would you want some specifics or would you want it in some
16 form that you would have to go out and get the specifics
17 yourself.

18 MR. SUND: You want it as simple and as clear as
19 possible. You want the number that you want if you
20 want.....

21 MS. WUNNICKE: Mr. Chairman, you raise a whole kettle
22 of fish. I don't think we should be in the business of
23 drafting legislation. I think.....

23 MR. PARKER: Well, I was talking about the
25 recommendations I wasn't talking about legislation.

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1 MR. SUND: I don't know, I -- you guys feel you know
2 where we're at?

3 MR. HAVELOCK: I think part of your problem is that
4 you're gonna regret.....

5 (Laughter)

6 MS. WUNNICKE: Is there different places. Do you know
7 how big this elephant is yet?

8 MR. HAVELOCK: You've got to address this primarily
9 through institutions. I mean it's who's gonna set the
10 standards and so on. So when you do the institutional
11 round on this (indiscernible) you'll feel more comfortable
12 with it.

13 MR. SUND: We'll revisit it.

14 MS. WUNNICKE: I don't have any problem with filling
15 in the details I'm just trying to get us over this hump, in
16 which case I vote for the motion.

17 MR. HAVELOCK: We'll come in with some detail, I mean
18 I -- we got back from ECO that we will give some specific
19 numbers for some functions. And you'll either say no, or
20 else you'll be so persuaded by the logic you'll adopt it.

21 MR. PARKER: Alright. No one has made a motion on
22 that and I'm not sure one is required. Let us proceed to
23 pilotage. Pilotage, of course, as I said earlier was in
23 the morning paper. An issue where the industry, meaning
25 the entire maritime industry, has already begun a

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1 (indiscernible). And I -- one in which we've heard a good
2 deal of testimony but of which we haven't had a chance to
3 have any real intensive work sessions with the pilots. So
4 -- the Southwest pilots, at least, are strongly desirous of
5 getting from the Alaska Legislature a substantial upgrading
6 of State pilotage requirements. And -- they haven't
7 furnished us with those requirements yet. I don't know if
8 the Southeast pilots are as strong about that as Southwest
9 or not. But we need to contact them also. The -- how far
10 do you wanta -- Counsel, do you want to go any further than
11 that on this issue at this time?

12 MR. HAVELOCK: As my notes indicate I'm kind of -- I
13 wanted to call it to your attention that we need more
14 factual development on this before we can come in with more
15 specific recommendations.

16 MR. PARKER: The other issue, as you remember, is
17 Federal pilotage which means in the minds of the industry
18 eliminating the State's requirement to have a State pilot.
19 They would like Congress to preempt the State's requirement
20 for a State pilot on that. We will need to have a position
21 on that if that does proceed in the Congress. Where does
22 it stand now? Did they get that in the bill in the House?

23 MARILYN: I'll have to check on that.

23 MR. PARKER: Well, don't worry. Go ahead and check on
25 it later, but it's something that keeps hanging out there

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1 but industry obviously would prefer not to have to pick up
2 State pilots. And in industry I include anybody who can
3 put a Federal pilot on their bridge, meaning cruise ships,
4 and container ships, and everyone else, so.....

5 MR. SUND: Mr. Chairman, I think it's important that
6 we maintain the State pilotage system that we have now.
7 That perhaps the license requirements for handling certain
8 types of vessels be upgraded. That's just a couple of
9 basics. And I think the other areas -- area requirement
10 for pilots -- and that seems to be a little battle being
11 fought down in Prince William Sound -- whether they have to
12 go up beyond Bligh Reef or they can do it inside of that.
13 I think in a specific recommendation for Prince William
14 Sound that the pilotage ideally would be to Hinchinbrook,
15 but because of weather and safety considerations it's -- I
16 would recommend where it is today in the Cook Inlet just to
17 maintain what they have now. That's a little micro-
18 management but -- seeing as that's where the battle-lines
19 are being drawn I think the Commission can take a position.

20 MR. PARKER: Okay.

21 MS. WUNNICKE: I don't have any problem with that.

22 MR. SUND: Well, I am curious -- the guy from API was
23 gonna come back with that list of what states have ranking
23 of where their pilot training ends up in the rankings.
25 They made some recommendations that state pilots aren't

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1 qualified in all states to do what they're doing.

2 MS. WUNNICKE: But wasn't the point, John, that at
3 least all the Alaska State pilots are also Federally
4 licensed?

5 MR. SUND: All of them are. I think their
6 recommendation was that the state pilots should be subject
7 to disciplinary action under -- by the Coast guard.

8 MR. PARKER: As far as I know all State pilots are
9 Federal pilots, but few Federal pilots are State pilots.
10 Just about every skipper that has been at sea a while has
11 a Federal license for some port and some of them probably
12 have 'em for 20 or 30 ports, wouldn't you say?

13 MR. KEITH: That's correct, Mr. Chairman.

14 MS. WUNNICKE: May I ask a question at the risk of
15 offending all the pilots. This is not a feather-bedding
16 kind of thing, is it? I mean, I believe there is a real
17 need for someone with local knowledge of the area to serve
18 as a pilot on these vessels, but when you get into two or
19 three pilots is that a feather-bedding --.....

20 MR. SUND: I don't really understand this battle going
21 on in Prince William Sound and Southeast. They gotta take
22 on a pilot when the hit the pilot station on the cruise
23 ships, and they basically have two pilots on board those
23 cruise ships throughout Southeast Alaska. They gotta have
25 'em on board, they're in pilotage waters, and they run day

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1 and night, so they carry two of 'em at a time all the way
2 through Southeast anyhow. So the difference of picking one
3 up a couple miles farther up Prince William Sound, I don't
4 follow the rationale, but anyway I don't have anything else
5 on that.

6 MR. PARKER: The rationale is simply that their people
7 know the waters as well as the State people. That I think
8 is the basic rationale as I've heard it, but which I don't
9 particularly accept because their quality control isn't
10 that good.

11 MR. SUND: Well, the basic argument, I think, is the
12 State pilot's an independent contractor and not under any
13 direct control of the owner of the ship. I think that's
14 somewhat important.

15 MS. WUNNICKE: I think that's important. Moving right
16 along.

17 MR. PARKER: Alright. Escort vessels under way.
18 Escort vessels docking. Counsel, why do you have these
19 split up.

20 MR. HAVELOCK: Well, the escort vessels docking are
21 essentially -- I mean "tug" by that -- and they're serving
22 a different function.

23 MR. PARKER: Okay. Escort vessels under way, as I
23 understand it, are expected to operate as tugs in cases of
25 power failure and breakdown, but -- the -- is there

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1 anything more anybody wants to say about these two
2 recommendations other than what's in your.....

3 MS. HAYES: I guess I have a question as whether they
4 are intended to apply mutually into what we heard yesterday
5 to Cook Inlet and to Prince William Sound.

6 MR. SUND: Well the Cook Inlet plan, I think, is a
7 availability plan isn't it?

8 MS. HAYES: I'm not sure what the recommend -- is this
9 recommendation that we duplicate Prince William Sound in
10 Cook Inlet?

11 MR. PARKER: No. Let me explain it. In Prince
12 William Sound we have the tugs which assist the tankers in
13 docking and which are also part of the escort. Whether
14 they'll remain there as part of the escort (indiscernible)
15 the escort vessels or not remains to be seen. But we do
16 have the docking tugs. And then we have the escort vessel
17 and the tugs which take the ships out to Hinchinbrook
18 Entrance. And we've gone over why we have -- what the many
19 duties of the escort vessels are earlier. In Cook Inlet,
20 because of its different bottom, the system of operation
21 has grown up for years there, as you heard Bob Williams
22 describe yesterday, the tugs are no good to you at Nikisky
23 because when you dock at Nikisky you throw your anchors out
23 and back down on your anchors until you're against the
25 dock. And there have been discussion about the need for

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1 tugs in Cook Inlet, but certainly not even the beginning of
2 a consensus among the Cook Inlet shippers as I understand
3 it. Dennis, did you ever -- did you arrive in that second
4 day of that Cook Inlet session?

5 MR. DOOLEY: Their discussion was that they have a
6 diversity of terminals in addition and do require -- if you
7 ended up with every terminal receiving a vessel on the same
8 day, you end up requiring yourself to have six stand-by
9 vessels escorting these up and down, as you're requiring in
10 Prince William Sound. Or do you locate them in a strategic
11 location to where you have a response time in the event
12 that there's a failure somewhere. And where is that
13 strategic location to be. And their discussion was that
14 trying to look for stand-by vessels that are in a ready
15 state of preparedness with a crew on board to be able to
16 respond in the event, you know, somebody pushes the button.
17 And -- but not escorting each vessel up and down Cook
18 Inlet.

19 MR. PARKER: How about the tugs. Did you get on the
20 berthing tugs, did you get.....

21 MR. DOOLEY: No, we didn't get -- didn't deal with
22 that issue.

23 MR. PARKER: Okay. That's essentially the big
23 difference between the two and -- I --.....

25 MS. HAYES: If given that, what are talking about

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1 under our proposal number five?

2 MR. PARKER: Pretty much what it says there.

3 MR. HERZ: In this discussion of escort vessels are we
4 talking a single purpose tug with towing capacity, which
5 has the redundant navigation capacity, or are we talking a
6 multi-purpose vessel that might be capable of fire-fighting
7 as well. Fire-fighting is something that we have not
8 discussed at all. I guess you don't have much of a -- you
9 haven't had a serious need for that, but what's the sense
10 of whether these escort vessels -- do the new Alyeska ones
11 -- I think they do have monitors don't they? Fire
12 monitors?

13 MR. PORRICELLI: Yes.

14 MR. HERZ: Because it seems to me now that some of the
15 portable pumping packs that are available that you can add
16 at a not very high expense -- fire-fighting capacity on the
17 escort vessels.

18 MR. KEITH: I certainly think that's a big feature in
19 Cook Inlet, that you need that type of capability both for
20 the Port of Anchorage as well as for the facilities down in
21 Kenai (indiscernible) that basically you don't have the
22 shore-side support if they would have a large fire at one
23 of those chemical complexes. Or for the Port of Anchorage
23 itself. And to have one of those vessels on, like you say
25 Commissioner, it's not a big deal to put on pumping like -

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1 - a monitor up high and 20,000 GPM (indiscernible) so now
2 you can -- and especially if that was on a (indiscernible)
3 reinforced vessel that you could get on the scene very
4 quickly and fight those pier fires from the water side. I
5 think that's a very important -- especially for Cook Inlet
6 because you really, with the ice out there, you -- and
7 especially with the facilities down in Kenai, the Urea
8 (ph), the LNG, and the refinery, that that would be a very,
9 very important item.

10 MR. HERZ: As well as a vessel fire itself?

11 MR. KEITH: If one of the container ships had a fire
12 you could fight that from the ship. When you -- the whole
13 Port of Anchorage -- and you said this many times -- is
14 completely vulnerable to fire.

15 MR. HERZ: There's no fire-fighting plus no water
16 source.

17 MR. KEITH: None from the water side. From the tug
18 boat side. Unlike San Francisco or the other areas that
19 you're familiar with.

20 MR. HERZ: But we have our World War II tug
21 conversions that hardly can be defined as fire boats,
22 but.....

23 MR. SUND: We just bought one from Washington didn't
23 we?

25 MR. PARKER: We seem to be in agreement that that

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1 should be incorporated as a part of escort vessels underway
2 and the other than that they are, as you described, the
3 mutli-purpose ships with -- being able to tow and provide
4 immediate response in case of a spill.

5 MR. HERZ: Are we gonna talk about what we're gonna
6 have for those specifications or are we gonna discuss it in
7 the response section.

8 MR. PARKER: It says, "see also containment
9 requirements under response capacity." I guess we'll
10 discuss it again. Escort vessels docking, other than the
11 bow-thrusters -- do the tugs working Valdez now have bow-
12 thrusters?

13 MR. PORRICELLI: Not to my knowledge. It may be
14 presumptuous of me to say, but I think what you're saying
15 is the thrusters and the docking tugs are really
16 alternatives to one another. If one would recommend, for
17 example, that all the vessels have bow-thrusters on, you
18 might be a little bit hard-pressed in the same breath to
19 say but I also want docking tugs. I think.....

20 MR. PARKER: That's what it says, I read it.

21 MR. PORRICELLI: Okay, I don't have it in front of me.

22 MR. PARKER: Collision prevention. We covered that,
23 that goes under traffic control. Terminal control. Or
24 port authority, as it says -- as it indicates here.
25 Counsel.....

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1 MR. HAVELOCK: Mr. Chairman, I think there are several
2 issues here and we just sort of start sliding into the
3 institution section here. That is, this is directed at
4 controlling the terminal activity itself -- that is the
5 terminal. There's also the question of -- an institutional
6 question -- of who are you gonna have to administer some of
7 the systems you've already discussed locally. And I think
8 the main idea that's been floating around that is the port
9 authority concept, which is not necessarily the same thing
10 as the terminal control issue. And then you have the
11 larger institutional question of whether you're gonna have
12 a locus for prevention in State government generally and
13 where is that going to be if you have such a locus for
14 oversight of the whole mega-system. So you've got those
15 three related questions there that require an institutional
16 discussion.

17 MR. PARKER: You want to put it off till institutions
18 then?

19 MR. HAVELOCK: Well, we're only minutes away from that
20 anyway, if you want to -- yeah -- if you want to look at
21 this weather and the specific question of whether you're
22 gonna do something about that tank farm problem.

23 MS. WUNNICKE: Before we leave the terminal control
23 though, before the break, in looking at the traffic
25 control, is there any merit in combining the powers of

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1 terminal control with traffic control in a public -- body.
2 MR. HAVELOCK: Well, they're different functions.
3 MS. WUNNICKE: I know they're two different functions.
4 MR. HAVELOCK: Maybe even differently located
5 physically. You're talking about controlling vessels
6 moving in and out, and then you're talking about oversight
7 of the tank farm, loading facility and dock itself as a -
8 - well as determined right now there's a set of people at
9 Alyeska as -- they're Alyeska employees that oversee that
10 terminal and the loading and unloading activities from the
11 perspective of the shore-based facilities.
12 MS. WUNNICKE: I'm not thinking so much of loading and
13 unloading as I am the authority to keep a ship in port in
14 the light of hazards or to direct a ship to leave port
15 unfilled. That kind of authority.
16 MR. HAVELOCK: That goes with the traffic control side
17 of it.
18 MS. WUNNICKE: Well, that's why I'm wondering if that
19 couldn't be combined. John?
20 MR. SUND: Yeah, Mr. Chairman, I have been kind of
21 waiting I guess - we're under institutions now?
22 MR. PARKER: Not yet.
23 MR. SUND: I don't know, it sounds pretty much like
23 institutions to me.
25 MR. HAVELOCK: That's what it is unless you want to

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1 dispose of whether you want to do something about weather
2 information.

3 MR. SUND: I have an institution theory when you get
4 to it, Mr. Chairman.

5 MR. WALLIS: I've got a question on terminal control
6 here.

7 MR. SUND: Sounds like institutions to me.

8 MS. WUNNICKE: We're gonna be in one if we don't.....

9 MR. WALLIS: You're right. You're right. I'm sorry,
10 I'm sorry. I'm half asleep.

11 MR. WENK: Mr. Chairman, before we leave the menu
12 here, just one overview with regard to Staff work. To help
13 -- my impression is that the Commission has highlighted
14 these as significant issues on which we may need to make -
15 - we may need to review that decision, but we may need to
16 go to a lower level of detail and decision. My proposal
17 would be that the Staff would help us a great deal if in
18 going to this next level of detail you outline the options
19 -- this begins to sound like decisions process -- but give
20 us some idea of what options are available and what the
21 consequences are of A versus B. This is somewhat different
22 than simply putting in pros and cons.

23 MR. HAVELOCK: I understand. And we'll do that.

23 MR. WALLIS: Mr. Chairman. Where are we at, are we on
25 weather information.

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1 MR. PARKER: No we're -- weather information, anybody
2 want to say anything about weather information?

3 MR. HAVELOCK: I call your attention to Marilyn has a
4 memo, has a paragraph 4 indicates that the State, she says,
5 which is an institutional question, "should maintain
6 computerized data on geographical, meteorological and
7 oceanographic characteristics in coastal areas so equipment
8 and personnel can be sent where they're most needed." Of
9 course, that's also pertinent to navigation.

10 MARILYN: And I guess I should say that that's the
11 Governor's recommendation. I didn't make it up.

12 MR. PARKER: And the tank storage capacity at Valdez.
13 We're awaiting a response from Alyeska on this.

14 UNIDENTIFIED SPEAKER: Do we have a letter out?

15 MR. PARKER: Yes, you've all read the letter.

16 MR. WALLIS: What -- can I ask a question.

17 MR. PARKER: Yeah.

18 MR. WALLIS: Why do we want to require that? If
19 they're going to do other things and -- it seems to me that
20 that would be a decision that they would make as to how
21 they would take care of that type of situation.

22 MR. PARKER: It governs that period when tankers
23 cannot sail because of high winds.

23 MR. WALLIS: I understand that. So I guess I wanted
25 to question whether we require them to add tanks or whether

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1 we let them make that decision on their own. I don't know
2 what's it's going to do.....

3 MR. PARKER: What's the other decision?

4 MR. WALLIS: Whether -- if they want to put in a --
5 put in additional tanks.

6 MR. PARKER: Yeah, well the problem is that if you
7 don't have the tank capacity it takes a while to shut down
8 the pipeline and so the pressure is on the system to have
9 tankers sail in bad weather. That's why we put the
10 requirement in the original Valdez (indiscernible -
11 simultaneous talking) requirements.

12 MR. WALLIS: I understand that, Mr. Chairman. But I
13 guess what I'm saying is do you think they would come to
14 that conclusion on their own?

15 MR. PARKER: I don't know that's what was waiting for
16 the answer in the letter -- to -- and the letter hasn't
17 been answered yet, so I don't know. But, yeah, until it is
18 why it's still hanging. Fire here is an important part of
19 the prevention system, I think. You know, we regarded it
20 as important in 1976 and the -- you know, in the years
21 before the terminal was opened and I think it still is
22 important 'cause, you know, when through-put was -- I said
23 in the letter -- when through-put was increased from 1.2
23 million to 2.2 million, why nothing was done about storage,
25 and.....

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1 MR. WALLIS: I understand. I guess the question, the
2 way I'm looking at it is there was really never any
3 requirements to shut down shipping -- or authority to shut
4 down shipping.

5 MR. PARKER: Yeah, there was.

6 MR. DOOLEY: Yeah. Weather constraints.

7 MR. WALLIS: Yeah, okay. But now they're going to be
8 a little bit more diligent about doing that and preventing
9 ships from sailing.

10 MR. PARKER: Yeah. 'Cause we are -- the record
11 indicates -- a historical record indicates there has been
12 severe slippage in that particular area and the original
13 requirement was you didn't go out in -- 40 knots was the
14 cut-off point and.....

15 MR. WALLIS: But I think we're going to have someone
16 recommend that we have someone now -- someone other than
17 industry that's going to be making that decision. So the
18 threat is there, I guess, that the possibility of being
19 shut down for 10 days is now very real. So it seems to me
20 that they would make that decision to build some extra
21 tanks, otherwise whoever in charge isn't going to be there
22 very long.

23 MR. DOOLEY: There may be a request on people
23 reviewing this report. What are the economic consequences
25 of shutting down your port?

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1 MR. WALLIS: I guess I can see -- our point is not
2 timing to do it but, you know, if you do it these are
3 requirements that you have to follow.

4 MR. PARKER: Yeah, I think our main job is to identify
5 the problem. The problem is identified, it's out there for
6 everyone to see, whether it's necessary for how firmly we
7 should request that, I think we can.....

8 MR. WALLIS: I guess the deal is if we tell them to do
9 it they're going for a higher rate, but they do it, so.....

10 MR. PARKER: Okay. Well, I was thinking about that
11 too, so..... We have a discussion on storage increase --
12 tank storage increase. Moving to regional response depot.

13 MR. HAVELOCK: Mr. Chairman.

14 MR. PARKER: Yes.

15 MR. HAVELOCK: I would suggest that we move the agenda
16 and not do the response stuff at the moment, but go to the
17 institutional side of prevention in view of Mr. Wenk's
18 departure tomorrow and his interest in having input into
19 institutions. So I would recommend that you review what
20 you have now done with respect to the institutional
21 framework, and I would suggest you start with the question
22 of -- that I just posed to you, as to what kind of
23 combination of new, or reordered, institutions you want for
23 port management, terminal management and management of the
25 prevention interests of the State overall.

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1 MR. HERZ: I think that's a good idea but I was gonna
2 suggest that since -- Ed, when are you leaving?

3 MR. WENK: Why don't we break up at 3:30 here today?

4 MR. HERZ: Okay. It seems to me that we were able to
5 go through just putting that list up there without
6 discussing it in about 10 minutes, for prevention. It
7 might be useful before Mr. Wenk leaves to do the same thing
8 for both prevention and response. This will get the list
9 up there and should take us 15, 15 or 20 minutes to go
10 through that list and then go through your discussion.

11 MR. SUND: Nothing takes 20 minutes.

12 MR. HERZ: We did that one in.....

13 (Laughter)

14 MR. HERZ: Well, before we make our change, I think we
15 left off of the escort vessel discussion the towing pact -
16 - didn't we want to say something about towing pacts for
17 Cook Inlet.

18 MR. PARKER: There's only one proposal under response.
19 It has several elements, but it in essence is regional
20 response depot, and it has several elements under it. So
21 how many of those elements did you want to put on the menu
22 very quickly.

23 MR. HERZ: Well, it seems to me that there's some
23 other things that could be added to that -- should be added
25 to that list. That was why I wanted.....

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1 MR. HAVELOCK: Right. Marilyn has some, also. For
2 example, the requirement of animal/bird rescue, housing and
3 equipment. And waste disposal.

4 MR. HERZ: And what about local staging of equipment
5 I don't think is covered in your regional response depot,
6 is it? Or is it. I couldn't tell.

7 MARILYN: Staging and equipment in regional response
8 depots?

9 MR. HERZ: No, no. I meant more loc -- I don't have
10 a sense from this what "regional" means.

11 MARILYN: I don't know what she means either.

12 MR. HERZ: But my thought was that the staging would
13 be done on a smaller than regional scale, that it would be
14 done on, you know, very local -- I don't know. But that
15 may be what you mean by regional here, I think there's a
16 semantic problem.

17 MR. PARKER: I think regional in this case would be
18 defined as Prince William Sound and Cook Inlet as a
19 beginning with other regions to.....

20 MR. HAVELOCK: That's what the intention was when I
21 was writing it.

22 MR. HERZ: Okay. Well, then my -- what I'm talking
23 about is agendizing very local staging of equipment and the
23 utilization of training local fire departments and/or other
25 personnel capable of responding very locally.

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1 MR. PARKER: Yeah, it's 9.9 down here on the work
2 force. I think the staging -- the local staging of
3 equipment just didn't get in here, but, you know, it's an
4 important point that.....

5 MS. HAYES: Yeah, Mr. Chairman, I would say that
6 especially after yesterday's discussion, it refocused
7 attention from the futility of trying to sweep up the
8 spilled oil in comparison to looking at response as a
9 prevention method from having the oil reach resources of
10 high value. And I -- and that shifts the foc -- at least
11 it does for me and perhaps other members of the Commission,
12 to focusing our attention on locating those resources near
13 places that have had value, rather than necessarily where
14 the oil might be most likely to be spilled.

15 MR. HAVELOCK: Well, they're not exclusive. I assume
16 that you have your regional response center, you're not
17 gonna sprinkle all your containment gear up and down the
18 coast. But you'll have a little depot whose job it is to
19 protect a specific fishery and so on. And then you'll have
20 a main regional depot for Prince William Sound where they
21 will have a master inventory for the main response.

22 MS. HAYES: And I personally was also quite taken with
23 the graphics that came out of the ECO report about the
23 location of maybe corralling oil if it happened to be
25 spilled in the right spots, to keeping the damage under

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1 control as in.....

2 MR. HERZ: I frankly think that we have -- we really
3 don't have the finding laid out clearly in terms of what
4 contain -- what is possible with containment and recovery.
5 You know, we -- yesterday I think we were moving in the
6 direction of being convinced that with a catastrophic spill
7 you can't clean up very much, but I heard the ECO people
8 saying that they felt that containment and recovery
9 shouldn't be written off because with smaller spills
10 there's a higher probability of collecting more and I
11 really don't think that we have collected the data that we
12 need to really have findings and recommendations about
13 containment and recovery.

14 MR. PARKER: Well, I think getting some idea --
15 between a 70,000 ton tanker and the 250,000, since that's
16 what we've been talking about, what kind of hourly recovery
17 rate do you need to have a satisfactory recovery?

18 MR. KEITH: Mr. Chairman, for one, I think Bob Schulze
19 could maybe take just two or three minutes and kind of put
20 that in perspective the necessity of (indiscernible) do not
21 ignore the small spills, which are 90% of the spills, as
22 well as what Commissioner Hayes says -- if you have a large
23 spill in certain areas you possibly could block that off.
23 And just kind of put that in perspective -- if you want to
25 do that.

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1 MR. PARKER: Well, we can do that tomorrow or.....
2 Ed.

3 MR. WENK: Just a point of reminding all of us as to
4 what to seem to be the most incandescent issues that had
5 arisen with regard to response. My recollection from a
6 range of witnesses is that, number one, you have to move
7 swiftly. And it seems to me that the importance of the
8 first eight hours, maybe as many as 12, has got to be
9 reflected in some operational way that is not just a
10 question of institutional jurisdiction. It's a lot more
11 than that, it's a state of mind. The second point has to
12 do with the clarity of authority of an on-scene commander.
13 And I looked at this -- the institutional part of response
14 in the material that's been provided us and that didn't
15 come out quite as loud and clear as I thought it might,
16 again in light of the kind of inputs that we've had and
17 what went wrong in the past. There are two or three other
18 elements that could be underscored and I don't think we
19 ought to take the time now to do this, but all of this adds
20 up to the following. In dealing with contingency planning,
21 there are a whole host of different elements that go to
22 make up a plan. And you can go down telephone numbers and
23 so on and so on, just as Commissioner Hayes and others here
23 have singled out the value, and I think that it was John
25 Lathrop that called this to our attention, the value of

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1 looking at the ultra-sensitive spots and not -- going at it
2 with a rifle rather than a shotgun. I think the same thing
3 is true with regard to going to this response. Trying to
4 find those targets where we ought to shoot a rifle and not
5 try to cover equally all the elements that go into
6 response. I mentioned two, I think there are two or three
7 others. It's a little short of time to get into it.

8 MR. PARKER: Even in that short time, however, you set
9 up the dichotomy between the fast response and the --
10 protecting the sensitive areas, and I think that's where we
11 need, in order to get it right in that economy, we have to
12 treat it as a dichotomy and do both. And they're not
13 exclusive. It's part of a total system. But that gets
14 back to the point, you know, how fast do you have to
15 recover oil in that initial phase, in that first eight
16 hours. If you're gonna have a total catastrophic spill of
17 a 250,000 ton tanker obviously you have to recover oil at
18 a rate in excess of 30,000 tons per hour. Can we recover
19 oil in excess of 30,000 tons per hour. No. We cannot. So
20 -- what is the fastest rate we can recover oil under ideal
21 conditions getting it all nicely boomed and with the
22 skimmers sucking away at the greatest rate. Can we do
23 10,000 tons per hour? No. Three? Okay.

24 MS. WUNNICKE: Mr. Chairman, for what it's worth, I
25 passed out to everyone just a talking paper on what I saw

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1 as the major elements, at least in terms of institutions
2 with respect to prevention, and in the second half with
3 respect to response. And the second item under response
4 has to do with a system that would -- actually, as it turns
5 out in light of this discussion, three duties. The
6 lightering of the cargo and ship safety, the spill
7 containment, and the protecting of sensitive areas, which
8 I would add to that. So, this paper is just, I hope, to
9 kind of keep us focused on the elements that we want to
10 address no matter what configuration the institutions might
11 take. But I would add protecting sensitive areas under 2A
12 there, under response.

13 MR. PARKER: Okay. Getting into continuing with
14 prevention, then. Counselor, do you want to go ahead with
15 your first proposal, number 10, then. Your blockbuster.

16 MR. HAVELOCK: Well you can start at either end. I've
17 talked with Commissioner Wunnicke before about how I
18 arrived at the conclusion that you should consider the
19 department, because you have this issue of if you create
20 smaller institutions in a state government, then the
21 question arises where do you put them. And you can either
22 put them in, you know, existing facilities or you can say,
23 well, the whole structure of state government isn't quite
23 right for the oil and gas industry anyway, and you could,
25 therefore -- you get to this larger -- much larger question

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1 that affects a great many other things besides the
2 transportation of oil. And I suggest that simply --
3 because logic compels one to consider it as a proposition.
4 That is that one of the larger macro-systematic problems
5 with the way the State addresses not only safety of
6 carrying of oil at sea, but a great many of its other
7 problems involving the industry, is it simply -- that its
8 response is scattered among a variety of small institutions
9 and subsets that are scattered around State government.
10 You know, the argument on the other side of that is that
11 maybe by being scattered around they're more protected
12 from being co-opted by the industry. Because if you are
13 gonna set up a substantial set of prevention institutions
14 you must face the issue of where are they gonna be housed
15 within State government. And maybe you can -- you might
16 feel more comfortable with starting at the bottom end and
17 looking at an authority to deal with some of these
18 technological fixes. And I'm not sure that those
19 technological fixes provide you answers to the large
20 questions that the State's addressing its systematic
21 responsibilities in the long run.

22 MS. WUNNICKE: Mr. Chairman, in the discussions with
23 Counsel on it, I guess the points that I raised in terms of
23 creating a department of oil and gas or a department of
25 energy, was to add the other aspects of leasing and control

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1 of drilling and all of those other aspects, would detract
2 from this responsibility and also be open to the criticism
3 of being captured by the industry. But in looking at it
4 just in pure functional terms, it seems to me that
5 something on the order of the Department of Public Safety
6 is a better type of institution than one that has the other
7 leasing and regulatory responsibilities of oil and gas.

8 MR. SUND: Mr. Chairman, this discussion reminds me of
9 the -- Mr. Wenk's presentation of why you go to the
10 President and the Skinner-Riley report, why it has 13 logos
11 on the cover of the report. The State agencies have the
12 same amount of entities involved in this whole thing here
13 and how you pull it together, but I just offer my comments.
14 I kind of came from the other end of this spectrum of
15 saying -- this harbor master concept has kind of got me
16 intrigued, and I started thinking about -- at first it came
17 from the point of do we have a State entity to control the
18 port on the basis of weather. And then you sat down and
19 said well, what are some of the other things that may
20 concern the State. Well, whether there's escort vessels or
21 not -- that's an issue. Whether there's adequate drug and
22 alcohol testing of the crews is an issue. Who's gonna run
23 the monitor system, the vessel control system -- that's an
23 issue that's there. And then you just go on down the line.
25 Who runs the emergency drills on contingency plans. And so

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1 it all kind of started coming in one sense that there's a
2 need for all of these things out there and you can split
3 'em up. You can put the emergency drills in DEC, and the
4 monitoring systems in the Coast Guard, and the drug and
5 alcohol testing, give it up to Alyeska, and the escort
6 vessels -- I don't know why they're doing it. They're just
7 doing it 'cause they want to or we told them to do it or
8 something. We exerted some State authority.

9 MR. PARKER: Because the Governor was gonna shut the
10 terminal down if they didn't.

11 MR. SUND: Okay, so we exerted some State authority
12 there. And what do we have authority to close the port -
13 - because of weather or not, I think that's a research
14 issue that we probably gotta work on, but..... And then I
15 saw John's management department theory here, which has a
16 lot of other little strings out there, but..... And I
17 think Tim wrote a little paper the other day talking about
18 the harbor master concept or port concept. So maybe
19 there's a port authority concept here that's always rattled
20 around in the State government for a long time -- that we
21 could look at in terms of controlling the port and access
22 to the port and vessels in and out of the port.

23 MR. DOOLEY: How would you approach that concept with
23 Cook Inlet?

25 MS. WUNNICKE: What was the question?

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1 MR. DOOLEY: How would you approach that port
2 authority concept to Cook Inlet.

3 MR. SUND: I was trying to build the idea, not tear it
4 down. I have a steel plate in the back of this chair. You
5 can shoot all you want.

6 MARILYN: I spoke with Jim Butler from the Kenai
7 Peninsula Borough when I was in Homer last week. And he
8 talked about this idea too, for Cook Inlet. And I don't
9 know very much of the specifics, but one of the things he
10 said was that you could -- if the Borough does have those
11 sorts of authority powers, port authority powers. And one
12 of the things that he was most interested in was making
13 sure that there was a depot with equipment that would be
14 available for response that would apply to any oil spill
15 that occurred in that area, and having the shippers pay
16 fees, or some sort of structure like that. Because there
17 isn't one port there, there's several ports, so.....

18 MR. SUND: Are they all within the Borough?

19 MARILYN: I believe so but I'm not sure.

20 MR. DOOLEY: Well, Port of Anchorage isn't. Just
21 across the top -- and (indiscernible) emerging Port
22 McKenzie if it ever gets real.

23 MR. WENK: First of all, it doesn't take my plea of
23 naivety to say I know very little about Alaska State
25 government. So what I would like to contribute to this

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1 discussion comes from some general principles of public
2 administration. Two things. First, and this is sort of
3 preaching to the choir, 'cause I know everybody here knows
4 this. But the creation of a government agency is a
5 political act in the first instance. In the second
6 instance it's a functional act from the point of view of
7 getting something done. What I mean by being a political
8 act is very simply expressed in terms of the medium is the
9 message. You look at the whole history of creating Federal
10 agencies and you'll find time after time after time when
11 they were created it was in response to some politically
12 incandescent demand. Not necessarily functional, but
13 coincidentally functional. NASA could just as well have
14 been done within the Department of Defense, but there was
15 a good political reason not to do it. The same thing is
16 true of AEC. There was a good political reason not to do
17 it. The functions would have been almost the same. As a
18 matter of fact, AEC ended up spending most of its time
19 making bombs, anyway, that they sold to DOD. What I'm
20 suggesting is, from the point of view of analyzing the
21 importance of this proposal, is the medium is the message,
22 whether or not you want to send a message vis-a-vis the
23 importance of energy the State of Alaska.

23 Now, someone earlier has said that Fish and Game has
25 gotten a heck of a lot more attention in departmental

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1 structure than energy. Did I hear that correctly?

2 MS. WUNNICKE: Well, yeah.

3 MR. WENK: In terms of structure?

4 MS. WUNNICKE: Oil and gas is a division in the
5 Department of Natural Resources. Department of Fish and
6 Game is a full department. And it certainly makes sense in
7 terms of the importance of oil and gas in Alaska for it to
8 be a full department. But the reasons for that are quite
9 different from the regulatory reasons that I think that
10 we're addressing here, and that's my only point. I.....

11 MR. WENK: Right. No, but a good one. But because
12 what I'm bringing out is that the rationale for creating a
13 department of energy is based on this importance in the
14 State of Alaska and not on this question of the functions
15 that are being defined here. The two might coincide
16 completely. But I think one ought to approach this from
17 point of view of two parallel rationales, one political and
18 one functional, and see where you come out.

19 MS. WUNNICKE: We're really talking about regulatory
20 authority. I think that's what John Sund's talking about
21 when he talks about port authority. You're talking about
22 regulatory authority.

23 MR. WENK: (Indiscernible) quick point and I'll quit.
23 But from the point of view of function I could imagine your
25 laying out before coming to the department of energy a

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1 little clear picture of the functions. For example, the
2 harbor master concept would apply to Prince William Sound
3 and then I heard about Cook Inlet, and then I heard about
4 the Arctic, which certainly is an area that needs to be
5 paid attention to in terms of future development. And then
6 there's some other issues that go beyond this and I have a
7 feeling that this is a very interesting concept that might
8 be clear to an outsider like myself in terms of choice
9 among options if they were laid out in these parallel
10 roots. One the political one, how important is it to the
11 State. The other, what are the functions you really want
12 to accomplish.

13 MR. DOOLEY: One of the things that came across to me
14 yesterday listening to Mr. Hawkins, was that they're
15 receiving information which could be readily employed in
16 terms of contingency planning and review of and timing of
17 permits. It did not come across very clear that that was
18 being utilized in such a fashion. And as a matter of fact,
19 you mentioned, well, I think I get PIG reports. He has no
20 idea and you're saved from his presentation. No one in his
21 department has a clear idea of where they ought to be
22 focusing some concern in terms of review of pipeline
23 integrity. And yet they're getting the reports. It's
23 lost. It's in that morass, and if you had that in a -- and
25 I'm playing Devil's advocate here -- but there's one

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1 structure you could hopefully achieve that kind of
2 coordinated approach to the best aims you get out of all
3 that information.

4 MR. PARKER: One of the interesting aspects of this
5 whole thing is we wrote the Department of Transportation to
6 have authority over pipelines, have the authority to create
7 port authorities and so forth, and to do all these things.
8 And of course the Department of Transportation has
9 resolutely stayed away from this issue for the past 12
10 years, as far away from it as it could get. In fact it has
11 taken no action that I'm aware of to exercise any of those
12 responsibilities. So.....

13 MR. DOOLEY: Well, I think pipelines were struck out
14 in the enabling legislation.

15 MR. PARKER: Alright. Dirty devils.

16 MR. HAVELOCK: (Indiscernible) The point he's making
17 there is they're still dealing this in a very piece-meal
18 way if you do something and you're gonna leave out the
19 whole pipeline. Which is where the next break may be.

20 MR. PARKER: Yeah, that's the critical thing in this
21 discussion. Do you want to treat your oil and gas as a
22 total system, because once it leaves Pump One -- well,
23 actually once it comes out of the ground because there's
23 very little storage capacity at Pump One. So once it's out
25 of the ground it's on it's way and our ability to stop it

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1 we talked about a little bit earlier, but the only ability
2 to stop it is to, in effect, shut the entire system down
3 because there's little storage capacity either in the line
4 or at the Valdez Terminal to take over a long delay. So
5 you are committed once it's out of the ground. All the
6 more reason for treating it as a total system. The next
7 storage capacity is in the automobile tanks of the
8 140,000,000 automobiles that Americans operate, or however
9 many there are now. Tim.

10 MR. WALLIS: If the point is, is what happens to the
11 pipeline from a prevention point of view, is what you're
12 saying or asking that we create a new department someplace
13 to oversee all these things? Is that what you're.....

14 MR. HAVELOCK: I guess we're suggesting that there -
15 - is there enough commonality in the prevention systems to
16 suggest that they be clustered administratively as opposed
17 to being spread out among different agencies as they are
18 today.

19 MR. WALLIS: You mean oil and gas as a whole.

20 MR. PARKER: Counselor just wants to know if you want
21 him to pursue this or not.

22 MR. WALLIS: Well -- no.

23 MR. HAVELOCK: Otherwise I'd be.....

24 MS. HAYES: No. Yeah I'm only -- I'm intrigued with
25 the idea of port authorities simply because, if my

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1 understanding's right, port authorities were created to
2 deal with the problem of multiple jurisdictions, multiple
3 ports, the complexity that's involved with the
4 transportation -- marine transportation. And I like the
5 idea as a port authority for the marine transportation
6 system. I might even be lead into bringing in the
7 transportation of oil -- petroleum products -- as a
8 function of -- you know, I must be tainted by sitting so
9 close to the Chairman -- but the Department of
10 Transportation, partly because of the type of people, the
11 engineering background, that kind of expertise that already
12 resides there. But I think it would be a real mistake to
13 take all of the people that are involved with oil and gas
14 leasing decisions and the public process there involved
15 with that, and lump them -- the Fish and Game people, the
16 DEC people, and all of that -- into one department.
17 Because one of the reasons that those decisions are rough
18 and tumble here is because we have different departments
19 with different points of view. And it's one reason the
20 public knows about it, is because there's always scrapping
21 between the agencies. I think that's a valuable -- perhaps
22 inefficient -- but a valuable part of the Alaskan system
23 for making decisions on resources now. So, that's sort of
23 my feeling on it. That there're some parts of it I don't
25 know if it needs to be a department or if it needs to be

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1 encompassed within something like Transportation, but I
2 like the concept of a port authority, as John suggested.

3 MR. DOOLEY: I'd like to address the port authority
4 for a minute. There have been seminars sponsored by both
5 the Department of Transportation and Community and Regional
6 Affairs in the past in conjunction with a Municipal League
7 regarding the development of port authorities. And all
8 three of those exercises, that issue was abandoned. At one
9 time there was a bill presented in front of the Legislature
10 and it was just shelved in committee. The port authority
11 as a concept, as an operation concept, is -- carries a lot
12 of baggage unless you're particularly focused to a very
13 narrow view that -- if we're only focusing on it for
14 monitoring the traffic in and out of the port -- I guess my
15 problem is we're using a term that represents a whole lot
16 of other things to a whole lot of other people.

17 MARILYN: That's where you (indiscernible) the
18 Chairman's term, which is the "prevention and response
19 authority" rather than the "port authority."

20 MR. WALLIS: Speaking from prevention and looking at
21 the need to review contingency plans, etc. and enforcement.
22 That's what DEC is set up for, I do believe, to do that.
23 When you get up to response -- that can go elsewhere. I
23 don't think it should be in DEC. But as far as prevention,
25 regulation, enforcement, etc. I think that can be handled

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1 very well within the Department -- within DEC. They've
2 already got the statutory authority to do all that stuff.
3 I mean, you know, why reinvent the wheel here.

4 MARILYN: There's some question of whether they have
5 authority on prevention.

6 MR. WALLIS: Well, what are we talking about in
7 prevention. Making sure that people have a contingency
8 plan. Making sure that they follow the law? Police 'em,
9 fine 'em. Do whatever? You know, what other big mystical
10 thing are we talking about here?

11 MR. HAVELOCK: I don't have a problem with that as -
12 - in terms of giving us that direction you say DEC. What
13 that tells us is that we need to look at all the ways in
14 which DEC has failed and figure out ways to patch DEC,
15 rather than creating a substitute institutional framework.
16 And that's a reasonable way to go to.....

17 MR. WALLIS: If there's other (indiscernible) they
18 need then let's recommend they pass that.

19 MR. HAVELOCK: Yes, that's right.

20 MR. WENK: Chairman, along this line -- I think, John,
21 your point about finding out what went wrong in the past
22 will serve a very valuable purpose, but things went wrong
23 in other than DEC also. In fact, my impression is things
23 went wrong almost everywhere. Two thoughts come to mind.
25 The first is that it would be interesting as you go through

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1 the next cycle to look at these alternative homes for this
2 function. And I've written down four, and there are
3 probably more than that. But there's an additional
4 function that I'd like to suggest be on the agenda. As
5 Commissioner Hayes says, there are a number of activities
6 already in the Department of Natural Resource, Fish and
7 Game, and so on, that have functional reasons for being
8 there because the expertise is there. And there needs to
9 be a way to mobilize the different authorities and
10 expertises in a variety of agencies -- I'm not sure it's 13
11 logos, John, as was the case with the Feds -- but
12 nevertheless there is a group here. There are a lot of
13 models in terms of how to get some interagency, and I don't
14 like the word coordination -- I think the better word is
15 integration -- next to the Governor. It has to be in the
16 shadow of the Governor's office to, in a sense, reflect the
17 authority of the only one person who, in a sense, is boss
18 of every one of these agencies. But it.....

19 MS. HAYES: But there's already a group like that.
20 The Governor's Office of Intergovernmental Coordination.

21 MR. WENK: Well, set up by legislation.

22 MS. HAYES: I'm not sure -- it's under the Coastal
23 Management Act. And I'm not sure whether you'd find that
23 as a positive or negative example.

25 MR. HAVELOCK: Well, my own experience with public

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1 administration is a rather negative one. But as we all -
2 - those of us that have sat at cabinet meetings know that
3 cabinet meetings are with no doubt the exception of the
4 incumbent, are a waste of time for the most part. And that
5 putting a group people in meetings once in a while with the
6 Governor with major departmental functions does not make
7 them into a cohesive whole, but you end up with more of a
8 show-and-tell session. So I guess I really would take
9 issue, Dr. Wenk, with your public administration
10 perspective here. What are you using as a model where this
11 has worked?

12 MR. WENK: Well, the model is the Marine Sciences
13 Council, 1966-71. Cabinet-level, chaired by the vice-
14 president, to advise and assist the president, first of all
15 in recommendations for action, but secondly in assisting
16 the president with implementation, the chief executive.
17 And the people who have been outside of this, observers
18 writing about it, had some laudatory things to say. There
19 are a variety of reasons why it worked and I've tried to
20 make an analysis of why it works why so many of 'em don't.
21 As a matter of fact, you use much kinder words in
22 describing interagency committees than I have. Because
23 they unfortunately are often made up of people who have no
23 other job to do. And therefore this just adds to the
25 viscosity of the system. But we're confronted with a

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1 dilemma here. Even granted what you say is a reality all
2 to often, you still do have these different functions and
3 different expertise that are spread around, and there has
4 to be a technique of mobilizing them to achieve some State-
5 wide function. Not necessarily emergency response. We're
6 talking about prevention as well.

7 MS. HAYES: But, Commissioner Wenk, those people are
8 not sitting around with nothing to do right now. I mean,
9 those -- the people I'm talking about having the type of
10 expertise have other jobs to do. It's not a question --
11 simply a question of mobilizing people who happen to have
12 the type of experience you need to make them look more at
13 tankers and pipeline safety. Those people already have
14 highways, they're building bridges, they're designing --
15 you know, the stuff that they're doing.

16 MR. WENK: I agree, but I'm not sure what your point
17 is.

18 MS. HAYES: Well, I'm just saying that you -- at least
19 what I hear you saying is simply mobilizing existing work
20 force is not gonna be sufficient.

21 MR. WENK: No, no. I wasn't saying that.

22 MS. HAYES: Okay.

23 MR. WENK: What I was saying is that that is exactly
23 what you need to do. That is that you've got these
25 elements of expert -- first of all, you're faced with two

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1 choices. You either centralize it or you decentralize it.
2 And in decentralizing you're gonna make use of existing
3 capabilities. But if you're gonna use a decentralized
4 system you still need to integrate these to some common
5 purposes. Otherwise each is gonna follow its own
6 bureaucratic direction, having very little, if any,
7 connection to the partner.

8 MR. DOOLEY: That may be an argument for creating a
9 department such as John's presented. Because one of the
10 constraints we've heard in testimony is you want a
11 careerist to be able to provide that adequate kind of
12 response. The individuals you're talking who sit at the
13 right hand of the Governor, and other omniscient beings,
14 they go rather rapidly. In organizational reviews and
15 institutions in Alaska the greatest turnover is from deputy
16 commissioner on up, and including all the Governor's staff.
17 You're not getting that continuity. You're not getting
18 that professional discipline imposed that we have heard
19 repeatedly is a great ingredient for success.

20 MR. WENK: The other model I've suggested --
21 incidentally this was done at a cabinet-level to again use
22 the medium as a message. The stake this country had in the
23 oceans was of such importance to make the vice president
23 cheerleader. But another model, the Federal Council for
25 Science and Technology, to try to bring together the

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1 expertise in all the Federal agencies with research and
2 development, was done at the most senior level of the Civil
3 Service in order, and you put your finger on it, to
4 maintain that continuity. And that was in existence for
5 quite a few years until it too was killed. It's been
6 resurrected now in new legislation. But, all I'm laying
7 out are the two options you have. I put 'em into stark
8 simplicity of the centralized versus decentralized, and
9 there are lots of variations on this. And none of them are
10 perfect. So it strikes me that if you list the functions
11 and you list the available capabilities -- and
12 incidentally, I'm not advocating one or another, I hope you
13 sense that -- all I'm saying is that you're on the horns of
14 a real dilemma here and I've tried to make it as simple as
15 possible in terms of what I think the choices are in front
16 of this Commission. I think we are gonna have to choose
17 one or the other.

18 MR. SUND: Mr. Chairman, maybe a way to get down the
19 road here is to let's maybe identify the functions that we
20 feel the need -- and I get back to say, what are our
21 recommendations, right? There's gotta be a list of
22 recommendations. Secondly is, how do you get 'em
23 implemented. Who is the controlling body in the world
23 today that's gonna implement each of our recommendations.
25 And then you have to figure out how do you motivate that

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1 body to implement what you want 'em to do. Whether it's
2 the Coast Guard, or the Government, or industry, or
3 whatever. And then the third part I think we all have in
4 the back of our minds is how do you maintain this awareness
5 or a continuity of interest in, particularly, the
6 prevention and the response side. You know, what
7 institutionalized functions can you put in that will
8 maintain a level of awareness that we're concerned with,
9 or to combat this, quote, "complacency" is the word we've
10 used for the last 10 years. And I think we're -- what
11 we're getting into is we haven't really clearly identified
12 our recommendations. And then we'll try and figure out how
13 to implement them in an entity that will carry on the
14 function for a long period of time.

15 MR. WENK: Well I wonder if the Staff couldn't follow
16 just that guidance and lay out the functions. I said a
17 minute ago I wasn't taking sides on this. The one side I
18 would take is I think with the medium being the message you
19 do need a new institutional entity. But that's not
20 necessarily a department. There's -- if you're gonna go to
21 the decentralized model.....

22 MR. WALLIS: I don't like creating new entities to
23 handle things. You know we're facing budget cuts and
24 everything else as it is. And, you know, the ability -- I
25 mean, just the fact that it may not even get funded, you

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1 know, and then we've wasted our time. I think there's --
2 I think we ought to work within the existing framework.

3 MR. PARKER: Point out, you know, in response to that,
4 that we created the Department of Corrections, our last
5 one, and crime has risen exponentially, so possibly if we
6 create a new department oil spills may rise exponentially
7 in response to that.

8 MR. WALLIS: Well you did too good a job in building
9 the jails. But in any case, let me just follow up and give
10 you a little bit of my thought. You know, we can't have a
11 department sitting around waiting for a spill. You know,
12 the people have got to be doing other things. That's why
13 I viewed DEC as kind of the prevention, the watchdog,
14 assessing penalties if you will, and all that good stuff.
15 From a response point of view, I look at it as something
16 from more like the National Guard. If the Coast Guard
17 admiral is gonna be in charge from the Federal side let's
18 have him an Alaskan general from here to kind of meet with
19 him. He's got equipment to deploy, he's got people to
20 deploy, and you know, there may be National Guard in the
21 town that is closest to where it hits. I don't know. But
22 these people, you know, already do stuff. They're already
23 assault orientated, if you will. They have the ability to
24 move in and set up a camp and take care of human waste or,
25 you know, all the other stuff you want to deal with. But

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1 I don't think it's going to be that much more of a burden
2 financially on the State by using the existing framework.

3 MR. PARKER: That brought us to then, we're at
4 Proposal #11. (Indiscernible - simultaneous talking)
5 department, the Division of Emergency Service would be
6 given an enhanced capability and role.

7 MR. SUND: We've already created some of these. Last
8 year's legislation created the Oil and Hazardous Substance
9 Response Office within DEC. I mean the entity is already
10 there. I think we commented earlier this year that we
11 thought it should be higher than a director level position,
12 possibly. But there's a vehicle on the hazardous substance
13 response. And I think somehow in DEC's legislation we have
14 'em the authority to work on prevention too. Although I
15 question how they were gonna do it.

16 MARILYN: Yeah, 261. It's very minimal though. 261
17 (indiscernible).

18 MR. DOOLEY: So the question then is if Commissioner
19 Wallace's recommendation were followed that port would be
20 transferred, essentially, to military affairs.

21 MR. PARKER: As far as response goes, yes. I think we
22 should examine it in that guide as to whether it more
23 properly belongs there than in the DEC, yeah.

23 MR. HAVELOCK: Which is DES, basically you're saying,
25 which is already in Military Affairs, so. Tim, how do you

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1 get around the, or where do you put the functions you're
2 involved in managing a port if you don't create an
3 authority to do it? Do you say strengthen the Coast Guard,
4 is that what you say?

5 MR. WALLIS: Well, I'm kind of hesitant to say
6 anything about the Coast Guard 'cause I don't know our
7 ability to influence that. But, you know, as far as
8 managing a port I don't know why we'd want to manage a port
9 other than if we're gonna have these traffic lanes set up,
10 etc. You know, I don't think we need to establish anything
11 all that fancy. I don't know -- a simple harbor master -
12 - is the kind of idea I like.

13 MR. PARKER: That's a good point when you talk
14 authority, port authority, what kind of authorities you
15 want to give it. Which.....

16 MR. WALLIS: Of course, port authority, I agree, you
17 know, I think that's the wrong wording to use for what
18 we're talking about. You know, I think the port authority
19 (indiscernible - simultaneous talking) economic-type
20 (indiscernible - simultaneous talking).

21 MS. HAYES: Use harbor master.

22 MR. SUND: Well, let's use the harbor master
23 (indiscernible - simultaneous talking) I want to give 'em
23 control beyond the harbor, that's the only reason I
25 expanded the concept -- the traditional sense of harbor

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1 master.

2 MS. WUNNICKE: The other point to keep in mind is that
3 even were we to design a single institution that had all of
4 these responsibilities and was fully funded and had all
5 these capabilities, you still are operating, necessarily,
6 within a dual system where there are Federal
7 responsibilities and interactions. And I think, again,
8 something that's less costly but takes a great deal of time
9 is a number of interagency agreements and kind of cross-
10 commissions, as the Chairman and I were talking over lunch,
11 to avoid those Federal/State impediments to efficiency and
12 still accomplish your purpose. I'm a little uncomfortable
13 with Department of Energy as a title, because we do now
14 have the Alaska Energy Authority and, so I just.....

15 MR. PARKER: We don't have to keep them, of course.

16 MR. HAVELOCK: Well, I think from what I hear you've
17 moved beyond that anyway and department is out. So we're
18 talking about when do you have an authority and what kind
19 of powers you give it if you do, and what do you do with
20 those left over oversight functions and higher management
21 functions that an authority may well be too parochial in
22 its orientation to address.

23 MS. WUNNICKE: But just as we -- in talking about
24 response, and I mentioned earlier, you have really the
25 three functions that Staff has illustrated. The lightering

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1 and and ship safety, which may very well be one agency's
2 primary responsibility. The containment, which may very
3 well be another agency's responsibility. And the
4 identification of -- or protecting sensitive areas. Three
5 very separate functions, but to each one of those agencies
6 that function is their primary responsibility so that you
7 don't have that terrible dilemma of do I save the ship or
8 contain the oil, or do I contain the oil or protect the
9 hatchery. And I don't see any problem with that kind of a
10 division.

11 MR. WENK: Mr. Chairman. I wonder if we aren't at a
12 stage where we need to depend on Staff to do a little more
13 studying and come back to us with two thoughts in mind.
14 Again, this inventory of functions. But to do this in the
15 context, again, of a backward look at where those functions
16 were up to and including the Exxon Valdez, and this
17 question of what went wrong. An argument might be made -
18 - I don't think it will be -- but an argument might be made
19 that the remedies are not organization at all. That these
20 functions, all the necessary functions, are already laid
21 out, already authorized by existing legislation, but were
22 poorly implemented for some reason.

23 MS. WUNNICKE: Or funded.

23 MR. WENK: Or funded. And therefore that the
25 solutions may lie only partially in the organizational

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1 realm. I haven't any feel for this at all. All I'm
2 suggesting is that I think -- I feel an appetite for more
3 input from Staff in terms of what these functions are, what
4 they have been in the past, and where they went awry
5 because it's very clear they did. And then to see whether
6 the remedy does lie down the organizational trail.

7 MR. HERZ: Yes, Mr. Chairman. As Staff does that it
8 seems to me that one of the elements that's been left out -
9 - hasn't been left out entirely -- but it hasn't received
10 full attention, it seems to me -- and it's a discussion of
11 the way in which you integrate the resource management
12 information and the sensitive habitat information into
13 these other functions that we are now talking about. And
14 it almost sounds as if, at least with the existing
15 structure, government structure as I read it, that you want
16 to take a person out of DEC, and a person out of DNR, and
17 a person out of Fish and Game and require that they do some
18 sort of coordinated, interactive planning.

19 MS. WUNNICKE: But they do.

20 MR. HERZ: Just that small -- one representative from
21 each?

22 MS. WUNNICKE: Oh (indiscernible).

23 MR. HERZ: And integrate it into the contingency
23 planning operation that we were talking about yesterday,
25 because it sounds like some of that is going on, but it

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1 doesn't sound like all the players are involved at the
2 right time. And functionally, they should be.

3 MR. WENK: Moreover, this decentralized notion, which
4 is one of these two models we talked about, today can be
5 done without people leaving their desk. I mean, this is
6 one of the things that we have to discover in terms of how
7 to use new technology for management purposes of this kind.
8 And with facts, with interacting graphic display and so on,
9 there're all kinds of ways where people from different
10 organizations that are used to thinking vertically, can
11 have access to information horizontally that used to be
12 denied them. At least at the Federal level the competition
13 among agencies is so great they treat each other like
14 Chrysler and General Motors. They don't share information.
15 To the extent they share it they might say to each other
16 what they did last year, but do you think they'll tell each
17 other what they're gonna do next year?

18 MR. PARKER: Nothing changes at the State level, you
19 know.

20 MR. WENK: Well, does that sound familiar?

21 MR. PARKER: (Indiscernible - simultaneous talking)
22 State I found it -- in fact, the barriers were higher and
23 less sharing, so.....

23 MS. HAYES: Well, I'm sorry but I have to disagree
25 with that because I think that recently that -- that

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1 computer-sharing of equipment has already been
2 institutionalized with the intergovernmental coordination
3 system for permitting purposes, and certainly in terms of
4 regional planning, there's been a great deal of work
5 already done on that. And I don't -- like I don't think
6 that that's the problem. I mean in fact the people that
7 are contacted for making those kind of decisions is a much
8 bigger group than those agency people. I mean, the stake-
9 holders in terms of private land-owners, the Native
10 corporations, the fishermen, the recreational users, the
11 miners, the -- it goes on. The groups of 60 and plus are
12 involved with that regional planning process already. What
13 the linkage needs to be made between that and the
14 individual contingency plans hasn't been made yet. But I
15 think that the process is there, it just has to be
16 explained.

17 MR. PARKER: Tim.

18 MR. WALLIS: Yeah, I don't know whether we're going to
19 make this too hard or what. I kinda like to look at, you
20 know a simple way to do things. You know, if you're lazy
21 you like try to find an easy way to do it. Once we decide
22 that DEC is going to perform one set of services, the
23 National Guard another set and we start looking at the
24 different agencies and what do they do in this type of
25 situation. I kind of just, you know, without getting too

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1 complicated, envision the people that are there now that
2 have the experience kind of sit down and decide what their
3 own department are going to do during that set of
4 emergencies, from experience. And basically, set out a
5 procedures manual.

6 MS. HAYES: Just sort of like the way that the wild-
7 land fire has changed the way of fighting fires to
8 organizing certain places as being let-burn areas and
9 minimal first response, and all the gradations in between
10 it. It's a real similar system.

11 MR. WALLIS: The Fish and Game knows what they have to
12 do, you know. The CRA knows what they have to do, they've
13 already, you know, it's a matter of putting it down so
14 people have to read 'em like they were asking industry to
15 read their contingency plans.

16 MR. SUND: In the non-spill season we just let it
17 burn.

18 MS. WUNNICKE: It does seem like there are two new
19 organizations, well not necessarily -- yeah. Two new
20 organizations, though, that we should talk about. If we
21 can.....

22 MR. WENK: New functions or new organizations.

23 MS. WUNNICKE: No, new organizations. And that has to
23 do with local advisory councils or local response groups,
25 for two purposes. One, to be part of that trained cadre of

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1 people available to respond quickly, and two, to be the
2 watchdogs to avert complacency in the future. And another
3 organization which I think we need to discuss for similar
4 purposes with respect to complacency and also increasing
5 the ability of Alaska to get its point of view across
6 nationally, is the interstate compact. But in terms of the
7 other organizations, I think that properly directed, and
8 you were making this point and I think it's a good one, if
9 the regulatory policy function stays, let's say in the
10 Department of Environmental Conservation, the operational
11 emergency response function probably more properly belongs
12 with the office of environmental -- I mean, Emergency
13 Services as an operational arm. And on the Federal side
14 you have the same kind of dichotomy of function, I think,
15 with the Coast Guard having the operational capability and
16 NOAA and EPA providing the policy direction. But I do
17 think there are two new things that we should talk about in
18 terms of additions to the systems, and that's the local
19 groups and the interstate compact.

20 MR. HAVELOCK: Mr. Chairman. I guess we'll take --
21 I'm satisfied -- I think I've got a sense of direction for
22 the Staff, and I think it's coming basically from what
23 Commissioner Wallace has stated, which is for the most
23 part, that the existing institutional arrangements are
25 satisfactory and do not need -- although they may need

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1 bolstering and we need to, particularly in the case of DES,
2 say -- that it's basically okay. But I just want to remind
3 you that you started out with a different assumption when
4 you set up a committee on institutions, and I felt it my
5 responsibility to give a good strong shake to it and just
6 so that you -- I'm happy for you to come back to this kind
7 of a decision, but it's not necessarily where you thought
8 you were going in the first place. Let me start from the
9 other end of the institutional by looking at existing
10 institutions and performance. Let me pick the two main
11 Federal ones. As a result of the preemption, the Coast
12 Guard was given prevention responsibility. I think that
13 there is a sufficient factual case that the Coast Guard has
14 failed. Now, I don't know what kind of patching that you
15 are gonna recommend to the Congress, to the Coast Guard, to
16 improve that, but that seems to me there is a case to be
17 made there. Maybe you say, no it's not, that's not the
18 case and they're just some flukes and some human failures
19 and the likes and it happened. You look at the accident -
20 - the main accident that didn't happen, which was the big
21 break on the uplands. I think you've had enough
22 information that the Environmental Protection Agency
23 would've made the Coast Guard look like one of the great
23 all-time success stories, they are so badly under-prepared
25 for responding to an upland. Yet I haven't heard you

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1 suggest, you know -- maybe that's unfair because I'm
2 talking about Federal agencies and we started with State.
3 But that plate is, you know, there's obviously a very
4 serious problem there. Those are maybe two of the more
5 obvious simply because of the preemption issue, but you
6 turn, I think, that same spotlight on the various state
7 agencies, and you say, well what did happen to -- what
8 happened to the State overall with respect to prevention.
9 The State abdicated, maybe because of the lawsuit, maybe
10 because some people said they were lulled into a false
11 sense of security by their riches or something, but the
12 State as a whole set of institutions did not respond to
13 prevention at all. There is no prevention capability. I
14 shouldn't say "no", but at least in terms of the marine
15 leg. Essentially there was no oversight. With respect to
16 the upland leg we heard VNR, it would appear, had the
17 substantial part of the authority as a result of the
18 permits and DEC has another part of the responsibility with
19 their oversight. Now, the testimony you've heard from
20 those departments may have inspired you all with a great
21 sense of confidence that they are going to prevent anything
22 serious from happening in the upland, and they may have
23 encouraged you to think that if something did happen
23 they're there and they're gonna have a great response. On
25 the other hand, you can have exactly the opposite

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1 conclusion that you might arrive at from the evidence and
2 I was hoping to get some guidance from the Commission as to
3 where the Commission stood on those issues. Are you -- and
4 what I'm hearing is that you are essentially satisfied with
5 State agency performance, at least in a.....

6 MS. WUNNICKE: No.

7 MS. HAYES: No, we haven't said that.

8 MS. WUNNICKE: State agency structure, not
9 performance.

10 MR. HAVELOCK: Not in -- all right, that structure is
11 -- you don't think that structure's the issue, let's put it
12 that way. So institutions are not the issue.

13 MS. WUNNICKE: Well, you mis-define institutions. If
14 you think the institutional working group was formed to
15 pick up new institutions I think you're in error. I think
16 that institutions working group was to look at the legal
17 and organizational barriers to a better performance on the
18 part of all the parties. And I certainly never saw the
19 institutional working group dedicated solely to creating
20 new.....

21 MR. HAVELOCK: Well, I didn't think it was totally,
22 but I thought you were examining whether there were
23 problems -- structural problems that caused the response.
23 Then, you can find, no there weren't.

25 MR. PARKER: One thing we can look at is some

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1 recommendations for eliminating departments and/or
2 combining them.

3 MR. WENK: Mr. Chairman. It seems to me this type of
4 discussion is exactly what this Commission is gonna do best
5 at. Because this is a tough, ambiguous, murky situation.
6 My friend over there and I seem to agree on most things,
7 but I could tell he was not taken with my notion that he
8 may need some new entity. But Commissioner Wallace, let me
9 just make this observation, from -- again as an outsider
10 from where I sit. This activity of prevention is gonna
11 take some more money. In this State. I wouldn't trust the
12 Feds for the whole thing for all kinds of reasons we've
13 already covered. I think the State of Alaska is gonna have
14 to take more responsibility in the future ont this question
15 of prevention than it has ever given thought to in the
16 past. And I must confess I have difficulty seeing how to
17 do this without some more money someplace. That doesn't
18 necessarily mean new organization, but i -- I guess I'm
19 raising a little flag saying, I think to do what this
20 Commission feels the State has to do to keep it from
21 happening again is gonna cost something. I don't know how
22 much, but it's gonna cost something. Whether or not it
23 takes a new organization, I don't know. And we came back
23 to the point, though, that I think all of us feel, John,
25 that we want to see what the functions are that need to be

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1 performed, some diagnosis of what went wrong in the past,
2 so that then we can say can we fix it organizationally, or
3 can we fix it some other way, but we damn well don't want
4 it to happen again. And I think that this is really one of
5 the most important things this Commission can do. I mean,
6 this is just the kind of group that has the kind of
7 credibility to make -- to answer questions of this kind.
8 And I think between the Commissioners and the Staff that
9 this is a great thing to grab ahold of now in terms of
10 where do we go from here.

11 MR. WALLIS: Let me just say one thing, Mr. Chairman.
12 Because I don't disagree that it's going to take money.
13 You know, if you're looking for an argument you're not
14 going to get one. But -- because it is going to take
15 money. It's just the fact that, in my opinion, that by
16 creating something new you're increasing government, it's
17 going to set bad with politicians in election year. I
18 think when you can work within existing framework, that's
19 what I prefer to do.

20 MR. WENK: For whatever it's worth, in the last 10
21 years when I've been consulted on questions like this I
22 have universally been against starting something -- new
23 organization.

23 MR. SUND: Maybe if we're into prevention
25 institutions, back to the topic at hand here -- let's maybe

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1 look at some of the recommendations that our contractors
2 have made and a couple of the items -- I don't see port
3 closures, I wanted to see port closures on the
4 recommendation list, I didn't see it there -- but, anyway,
5 back to the simple approach. Mr. Wallis' baseline here,
6 keep it simple. Maybe you just look down and say, well,
7 those are the recommendations how do you get 'em
8 implemented and who's gonna do each one of those. And do
9 we have an existing entity or don't we or will the existing
10 one be modified or something else. But the worse thing I
11 guess have is sitting here looking at all this saying it'll
12 cost more money. And you can do all of these things, and
13 guess what, within 14 years you'll have a spill bigger than
14 the one we've had now and we still won't be able to do
15 anything about it. I mean, that's the best message we've
16 come up with so far. We cut it from five years to 14 years
17 but we still don't know how to pick it up. I feel a little
18 depressed. But I would just kind of wander down the list
19 and figure out who's gonna do what on it and see what
20 institution and State government can or can't handle it and
21 then make a recommendation, I guess.

22 MR. PARKER: Okay, that gives us to minimum vessel
23 design. Sea Grant offered a tentative answer to this
23 question about how the State government could involve
25 itself in itself in that, so we went totally dependent on

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1 the Coast Guard. That was a very narrow area.

2 MR. SUND: I would say my overriding direction would
3 be to figure out how the State can get involved in any one
4 of these issues to the maximum extent possible. That would
5 be a direction to the Staff if we gotta figure it out. I'm
6 willing to take the step on it from Ed's position here too,
7 is that the State should be willing to take on the
8 responsibility, the authority and the cost to the highest
9 degree possible to prevent this from happening again. And
10 just as an underlying decision-making basis.

11 MR. HAVELOCK: Do you want to spend any money on that?

12 MR. SUND: I don't mind spending money on it at all.
13 My bad point about it is I can't walk into the Legislature
14 and say, if you had \$100,000,000 to spend you still can't
15 stop what's gonna happen. That's the depressing side of
16 this.

17 MR. WENK: Oh, excuse me. Mr. Chairman, I didn't
18 identify my colleague here as a fundamental pessimist.

19 MR. SUND: Cynic.

20 MR. WENK: No that's pessimism.

21 MR. SUND: Pessimism. Okay, I'm sorry. Well, it's
22 3:30, I'm pessimistic.

23 MR. WENK: Okay, but I have a feeling that we've got
23 other highly complex and very dangerous technological
25 systems where we have so far been able to maintain safety.

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1 I start with nuclear weapons. As dangerous as they are,
2 and for as long as we've had 'em, we've been lucky with
3 regard to nuclear power plants. We did have a Three-Mile
4 Island, the Soviets had Gernoble (ph), but there are also
5 some pretty good track records in France and so on. There
6 is no such thing as zero risk. But I'm not one to give up
7 on the notion that we can reduce the risk below what it is
8 today, and I don't -- I would say today the risk is darn
9 near as high as it was before Exxon Valdez. We're moving
10 slowly toward reduction, but we haven't gotten there yet.
11 And that comes back to your point, John, about the
12 (indiscernible).

13 MR. DOOLEY: Mr. Chairman, have we followed up on the
14 three activities that were described -- salvage, pollution
15 abatement and the beach -- and then approached that
16 relationship with the Federal agencies first, and then if --
17 -- following up on what Commissioner Sund is saying --
18 seeing which of those organizations would afford the State
19 the greater interplay, you may come up with models, such as
20 a recommendation that the Coast Guard be made in charge of
21 salvage operations and safety of the vessel and its crew.
22 You may also well come up -- because there's a immediate
23 need, as well, for response in terms of containment, to
23 suggest that another Federal agency, whether it's the EPA
25 or the Corps of Engineers be in charge of that. That

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1 creates an institutional vector there where the cleanup
2 agency has a public digression from the Coast Guard in
3 terms of how effective the Coast Guard was in prevention,
4 by vessel-design standards. It's not all being housed in
5 one little shop. The open concept of conflict that
6 Commissioner Hayes has brought up. EPA, on the other hand,
7 has the ability by the Clean Water Act that has dealt with
8 this pollution thing, to transfer those authorities to the
9 State so the State is in charge, if indeed, that's the role
10 that Commissioner Sund is (indiscernible). Those kinds of
11 relationships may fall out and give you some suggestions on
12 where to organize if you approach it from the Federal side
13 first and then see how your mission in terms of making a
14 major role to the State would emerge.

15 MS. WUNNICKE: Mr. Chairman, what John was starting to
16 do was take our first recommendation, which is vessel --
17 double-hulls and vessel-design recommendations and ask what
18 can the State do in terms to -- in ways of accomplishing
19 that. Well, you can require that be legislation. Then the
20 question becomes how do you enforce it and where do you put
21 that enforcement. Does that lie within the -- assuming
22 that we can wend our way through the preemption mine-field
23 in terms of making that kind of a legislative requirement.

23 MR. HAVELOCK: Well, let me say I -- probably you
25 can't -- is that if I think we've probably that what you

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1 can do there is you can follow Dick Plotter's proposal and
2 do all stuff by way of rule-making recommendations.

3 MS. WUNNICKE: And who enforces it?

4 MR. HAVELOCK: Pardon?

5 MS. WUNNICKE: Then who enforces it? Who sees to it
6 that no ship comes into port after a certain time that
7 doesn't meet that standard.

8 MR. HAVELOCK: I assume that once those -- that
9 they're Coast Guard rules there's gonna be Coast Guard
10 enforcement and you gotta -- but it doesn't end the
11 question, as it did when Federal preemption came through,
12 you know, within the litigation, to say that it's a Coast
13 Guard responsibility. That is you can -- if you are
14 prepared to commit the resources, there's nothing to stop
15 you from having a safe person who oversees what the Coast
16 Guard is doing to see whether they're doing their job. And
17 there's nothing to prevent you, indeed, that -- again, the
18 resource question -- if you make regulation and
19 recommendations to the Coast Guard are you prepared, then,
20 to follow that up by committing resources to have somebody
21 -- you know, go to the rule-making process with their -- to
22 put on the State's case. Are you prepared to, you know, to
23 follow that up with the pressuring the Congress. I mean
23 just the fact that the rule of final say lies in the
25 Federal authority -- it's their forum -- that you can be

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1 there. And we're not likely to be there if we simply make
2 a recommendation and go home.

3 MS. WUNNICKE: Well, then the next question is where
4 in State government do you have the expertise and the
5 ability, and the will, to follow-up that kind of
6 requirement?

7 MR. SUND: I would propose that to attack double-
8 hulls, right, from a rule-making potential, what I would do
9 is ask the Governor -- back to there -- to put an
10 interstate organization together of all the West Coast
11 states and go after the Federal Government and go after the
12 Federal Government from a position of West Coast states
13 linked together on the executive level, and then I'd also
14 ask the Legislature to make appropriate lengths on the
15 legislative level amongst West Coast states to adopt that
16 same position. You know, as a mechanical means of how to
17 get from here to there.

18 MS. WUNNICKE: And I think that's a general rule
19 that's probably a good procedure wherever you're dealing
20 with something that's within the Federal Government's
21 purview. 'Cause you're gonna need as much support from
22 other states as you can get, and not go it alone.

23 MR. DOOLEY: Well the record indicates that hasn't
24 been effective.

25 MR. SUND: Well, I don't think it's been tried very

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1 much.

2 MR. WALLIS: Oh yeah. It's tried very hard, you see,
3 specifically on this issue by the West Coast states.

4 MR. WENK: But I think the mood's different now.

5 (Indiscernible - simultaneous talking)

6 MR. WALLIS: So basically what you're saying, John, is
7 our recommendation is that the State require double-hulls
8 in its waters and that the Governor, Legislature, do
9 everything to carry it out.

10 MR. SUND: Well, I could give some specific ways on
11 how they should -- I'd recommend that they'd carry it out.

12 MR. WENK: But isn't it true your -- even though let's
13 say this governor does make music with three others,
14 carrying out this function is gonna be down at one or two
15 echelons further down the line and there's gotta be some
16 expertise in the State of Alaska to protect Alaska's own
17 interests?

18 MR. SUND: Yeah. Just for example, if the Senate
19 provision got adopted, that's the double-hulled provision
20 which I think says use double-hulls unless you can show
21 there's some other means and methods that's safer, you
22 know, that's a rule-making thing that's gonna happen within
23 the Coast Guard, and it's gonna be ship industry guys and
23 the Coast Guard. And I think, you know, the State of
25 Alaska ought to get itself involved in the middle of that.

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1 And you know that you have to develop that expertise or
2 hire it, whatever you want to have, and stay on it, right?
3 Right through that whole process.

4 MR. WENK: Right. But you need a home for it. That's
5 how we got into this issue is that institutional process.
6 I'm not proposing a home, but I think that's part of the
7 question.

8 MR. SUND: Well, my recommendation for the home is up
9 in the Governor's office. Because I think it's not an
10 ongoing it's -- we're gonna fight this one battle. It's
11 gonna be fought -- on an intergovernmental level. The
12 history of the State of Alaska with the Governor's office
13 is to shed all operational functions out of the Governor's
14 office. We've done it for years and years and years. Most
15 governors wanted to get operational stuff out of there.
16 Occasionally they spring it back for special functions but
17 no for on-going issues.

18 I just want to correct myself, I made a mistake on the
19 record, Mr. Chairman, back where I said if we did
20 everything that's recommended here that it would reoccur
21 every 14 years. That's not true. In Prince William Sound
22 the ECO report says we have a recurrence interval of 57
23 years if we adopt all three levels of their recommendations
23 on a 3 - 11,000,000 gallon spill so..... Under 3,000,000
25 it's every 6.1, though. So it's not quite as pessimistic

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1 as I thought it was. Apologize.

2 MR. HAVELOCK: How 'bout the traffic control. Again,
3 are you gonna do that through rule-making? And I -- here
4 backing away from the authority notion that there's nothing
5 to stop you from going in and proposing rule-making for the
6 whole traffic control system that you've discussed and --
7 again you've got the issue of whether you're going to go
8 beyond the recommendation to have a institutionalized and
9 State follow-up and institutionalize the State oversight
10 over what is what is, then, gonna be conceded to be a
11 Federal function. Or are you gonna try to cut a deal with
12 the Coast Guard, which we heard talked about in the
13 Portland -- Maine to have a joint operating agreement, and
14 if so, what do you put the State's part of that function
15 in. Are you backing into an authority (indiscernible).

16 MR. SUND: I'm not quite sure what the legal authority
17 of the State is to get involved -- I mean, from if we just
18 wanted to go and say, hey, to enter our fort you've got to
19 have this kind of equipment, or control, or abilities on
20 board your vessel -- I don't know where we are on that
21 level. But, I think most of us have thought about having
22 the Coast Guard adopt the regulations of say, Prince
23 William Sound anyway, laying out traffic lanes and traffic
23 monitoring systems. And the issue that's always been left
25 open is who's gonna be the monitor on the shore-based side

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1 and there's not going anywhere you could end up with the
2 Coast Guard monitoring system that's at Valdez today.
3 That's there. And the other level is -- you know -- some
4 other types of qualifications or levels of the person in
5 the monitor position, which I think immediately if you go
6 to anything higher you go into a civilian-type based
7 person, and whether that civilian-base person works for the
8 Coast Guard, which there is a lot of that around, or
9 whether the civilian-based person works for the State or a
10 joint-operating agreement. I don't know what the options
11 are.

12 MR. WALLIS: Let me ask you a question. What's the
13 harbor master going to do besides shut down the port?

14 MR. SUND: Well, I thought he'd watch the screen so -
15 - while he was making that decision.

16 MR. WALLIS: So he could he could be a dual-purpose
17 guy, then, right?

18 MR. SUND: Well, yeah. That's something to do. Is
19 that what you were thinking about?

20 MS. WUNNICKE: Is your means of accomplishing this any
21 different than has already been accomplished with the
22 escort vessels and the pilotage by the State's emergency
23 order?

23 MR. SUND: That's -- I didn't know where the State
25 jurisdiction is.

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1 MR. PARKER: Well, I think the means of the difference
2 is in the whole concept of the vessel-monitoring system.
3 What you've got at Valdez now is simply a communications
4 system, or they talk to the tankers and watch them on the -
5 - radar as far as Bligh Reef and they.....

6 MS. WUNNICKE: No -- John is talking about how you
7 require this. Can you just require it through an emergency
8 order as the State did when it required escort vessels and
9 pilotage to Hinchinbrook and -- I mean, do you have to rely
10 on the Coast Guard?

11 MR. HAVELOCK: Well, historically speaking, pilotage
12 is, of course, a function the State has. And you've got a
13 piloting board.

14 MS. WUNNICKE: Escort vessels? I mean, all those
15 elements that were included in the State's emergency order
16 -- what was the authority behind that besides the ability
17 to close down the terminal?

18 MS. HAYES: I think we did it until they said we
19 couldn't.

20 MR. HAVELOCK: It was the DEC authority.

21 MS. WUNNICKE: Okay. So don't you still have that
22 same authority?

23 MR. PARKER: We had it on the -- you know, basic
23 threat of shutting down the Terminal.

25 MS. WUNNICKE: I guess I was going on Commissioner

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1 Sund's premise that the State take as much control as
2 possible.

3 MR. SUND: Well, I'm asking staff. It looks to me
4 like it's a research issue and I don't know whether our
5 Sea Grant lawyers have looked at it or.....

6 MARILYN: Well, I could speak to that a little bit
7 because there has been some (indiscernible) and I can at
8 least give people an idea -- a little piece of that, if
9 you'd like. But (indiscernible) there's a couple things
10 here that I sort of wanted to say. One thing is that all
11 of these things obviously can be regulated in various
12 different ways. One of the approaches that Allison Reeser
13 speaks to in her report is -- their approaches in
14 California -- proposed legislation which uses the terminal
15 as authority to regulate these types of things. And I can
16 just sort of point out in this legislation what it says.
17 Under their Chapter Two Prevention, Inspection, Response
18 and Clean-up Program, they say no marine terminal or
19 facility in the State may be used to transfer oil to or
20 from any tanker of more than 10,000 dead-weight tons unless
21 they meet certain criteria. And one of the things that
22 Allison Reeser says in her paper is that the -- the pending
23 Senate Assembly bill used the State's regulatory authority
23 over shore-site terminal facilities to impose risk-reducing
25 standards on tankers. Now, this is a questionable area.

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1 I mean certainly preemption is a question, but what I guess
2 what she's pointing out is that tides are changing,
3 preemption was discussed in Congress. There's a different
4 sort of view of the world and maybe courts aren't gonna be
5 as quick to preempt the states from doing some of these
6 things, particularly losing their shore-side authority,
7 especially since the Coast Guard showed an inability in
8 this last spill to really prevent an oil-spill, given their
9 authority. So -- I mean those kinds of things are
10 happening and that may be something that the Commission
11 could think of about in making their recommendations.

12 MR. HERZ: In a related item in California and Santa
13 Barbara County, for example, and Santa Barbara Channel, the
14 County is the one who reviews and approves contingency
15 plans (indiscernible). I mean, clearly preemption isn't
16 the problem.

17 NARILYN: Santa Barbara also has a set of advisory
18 committees and involvement by the community, almost a
19 regulatory function there. So there are ways to bring
20 those kinds of things in.

21 MR. DOOLEY: Commissioners, Coast Guard and EPA don't
22 review contingency plans now. I mean, that isn't a
23 preemption. That isn't a preemption issue now.

23 MARILYN: Although they do under the new -- under the
25 House bill, and I'm not sure the Senate bill, they do

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1 require a review of contingency plans now. But, of course,
2 nothing is (indiscernible).

3 MR. PARKER: Okay, I -- should we go on out to the
4 Clarion now?

5 MR. DOOLEY: Do you want to see this tape before you
6 go -- it might make sense of what you're about to look at.

7 MS. WUNNICKE: I just want to add one other element to
8 institutional prevention. And that is a systematic,
9 scientific research system on hazards and resources.

10 MR. PARKER: Okay.

11 UNIDENTIFIED SPEAKER: Aren't you announcing an end to
12 the day here.....

13 MR. PARKER: No, we're going to recess to the Clarion
14 Hotel to look at the demonstration of the monitoring
15 system.

16 MR. DOOLEY: Yeah. You might look at that tape before
17 you go. It'll make what you're going to see much clearer.

18 (Off Record)

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