AOSC
0173
V.1

ALASKA OIL SPILL COMMISSION

NOVEMBER 16, 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 I OF III

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

CHAIRMAN PARKER: This morning on our agenda it says prevention institutions policy review until noon lunch and then from one to four response institutions policy review. In the .....

MR. HERZ: Mr. Chairman, I probably have to leave here at two to catch a three o'clock plane and I is there any way that we can have a working lunch so that I can be involved in more of the response.

MR. PARKER: Good idea unless there's objections we will have a working lunch here so that Commissioner Herz can maximize his time involved in response so we'll just get some sandwiches and bring them back here and plow on and maybe finish a little early. The plan as I incision it this morning is to proceed on prevention the chair has a few comments on that yesterday we seemed to be going into a gyro again a gyrations and I think that we need to build our mechanism possibly from the water or the ground up and go back to examine those what we incision as the type of prevention mechanism that should be present at the local level and then move on to how we can build support maximum support for those efforts that the state and federal level. We have three major oil provinces in Alaska that we are considering that we indicated in our staff discussion here. Cook Inlet, Prince William Sound,

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

and the Arctic. As oil development occurs in the rest of the state why institutions can be developed to handle that.

Whether we can handle all three of these with the same institution or we need to have enough flexibility in our institutions to adapt for geographical and environmental differences remain to be seen. But I think we've go some good indications on that. Commissioner Wunnicke provided a paper yesterday which laid out some guidelines would like to say anything more about that.

MS. WUNNICKE: (inaudible) of my own passion for food. Yes Mr. Chairman I would and I don't say many pride of authorship for this you won't have a ...

It was first given to you in handwritten form and then the staff was kind enough to type it for you. But as we were in our discussion yesterday we were kind of caught in a dilemma we institutionally didn't have the benefit of a report organized we had lots of pieces that staff has put together and that C-Grant has put together and there coming to us in piecemail fashion. The paper I distributed is designed to do is really to provide a framework within which you could look at institutional arrangements in ways and means so to speak under the major elements that we're attacking it. First, this four major elements with respect to prevention. And, then it seems

to me if we list these major elements as our purposes or whatever under (inaudible) add today this becomes a framework within which you can place the staff papers that you've received those Sea Grant papers that you've received and all other research that's been done.

So, the first element that I list to is that we really desire a shipping industry that is devoted to the environmentally safe shipment of oil and to some extent of that's been addressed in some of Commissioner Wenks comments and comments of others on the Commission. I would like to pass that at least in terms of our discussion today. Secondly, it seems that our purpose is that we would support an alert a strong regulatory agency on all levels, fully funded to oversee oil shipment and each one of those words has meaning I think in terms of what our recommendations would be.

And thirdly, that there be a new organization arrangement at the local state and interstate level to serve as a watchdog to guard against shipper complacency and regulator complacency in the future.

And fourthly, that there be a systematic scientific research system on hazard and resources at risk to feed into all the decision makers that are represented in the other elements. Now I did a similar thing with respect to response a similar thing in respect to long

term cleanup and restoration and there just a skeleton within which I think we can organize our thoughts but I would like to talk in respect to item three. You have a paper from Maryland on advisory, local advisory bodies. You've heard from Harry Bader and you have a paper from him on interstate compact as a means of assuring that interstate watchdog. What we were talking about yesterday and I understand why council gave us the department of oil and gas as a talking point because it did it certainly got my attention and got everyone elses attention but what we haven't really addressed or what I hadn't addressed in my own mind was that middle ground of the state watchdog. And we've alluded to it and other Commissioners have talked about the mini cabinet or talked about an office in the office of the Governor and so forth. We've alluded to that statewide watchdog.

What I'd like you to chew on today while your thinking through this would be not a department and certainly not designed around oil. But designed around our purpose which is pollution prevention. An authority similar to the old Alaska power authority in structure which has ... although it had some operation responsibility in terms of building dams. I wouldn't see this authority having operational responsibilities at all those operational responsibilities would rest pretty much where

they rest now. In the various agencies, but what it would...

What such an authority would do would allow you to have that focal point you would have this body at least being the only body who had pollution prevention as it's primary mandate. Every other organization dealing with the problem has some aspect of preventing oil spills, preventing pollution. But no one has ever had it as there primary responsibility. The membership of such an authority could be the key to it's success and just the first cut at it would seem to me that you could have at the Commissioner level non-delegatable the Commissioner of environmental conservation. The Commissioner of the department of natural resources. Perhaps the head of the office of emergency services. You could also have as its membership the head of Alyeska, the head of a major shipper in Cook Inlet, the head of a major shipper in the Arctic, and if it were possible I would like the staff to look at this it would also be beneficial to have as it's membership the Coast Guard and the EPA.

If that were not possible it would certainly be beneficial to have them at least as advisors, so you have this middle authority receiving information from you local watchdog bodies on the ground the people most affected in case of disaster. They would also be the impetus to the

Governor to the Legislature to create the interstate compact. So they would be the focal point as I said facetiously the head of this agency is the guy that gets to summarize (inaudible) if something goes wrong. At one of the other benefits of it by not making oil as its common denominator would be that if you had a catastrophe as they had at Moose Pass some months ago involving a tanker on the Alaska Railroad and not carrying oil but a chemical. You would have a body in place I hope with all the appropriate players to address that problem. So, I would like you to chew on that think about that as a new institutional arrangement under either the three in terms of watchdog organizations. Thank you, Mr. Chairman.

MR. PARKER: Thank you, Commissioner Wunnicke. I think that opens up several vistas that we can proceed down. Council I ...

As we move out of prevention into response in line with item 4 on systematic research I would like to hear briefly from Mr. Lathrap who I understand has some things he wished to brief for us on contingency plans. So we can plan that I think for before lunch sometime I'd also like to hear from Lt. Goodbody from the Department of Defense who is the special assistant to assistant secretary for research and development I think I've got that all right and I think this is an important linkage.

It shares a desire that in our report we fully and can pass all those elements that took part in this spill that have not been reported upon sufficiently in other elements and the Navy it seems to me to be the major one in going over some of the early reports of our own investigators why the amount of impact the Navy had on the spill was substantially greater than anything that anyone would be led to believe from the other reports that have been made on. Especially the famous skinner report to the President. The Skinner Riley report for those of you who insist that Mr. Riley get his due. Tim did you want to say something?

MR. WALLIS: Oh I was just going to talk briefly on this .....

MR. PARKER: Go ahead.

MR. WALLIS: Last week when I was reading some paperwork and going over this whole thing it kind of dawned on me that basically when I came in and began looking at the oil spill, was that there was a lot of confusion as to what the state was doing, what the federal government was doing, what EXXON was doing and we began receiving input as to what was going on what had happened what had caused it all this good stuff.

And I think maybe we got caught up in the confusion ourselves as to how we were going to approach this,

and approached it from inside the confusion and trying to fix it outside instead of stepping back and looking at it from a fresh point of view. And I looked at it I really didn't see anything that complex about it in all reality. Is that we weren't going to be responding to cleaning up an oil spill. That the state was going to respond to the impact of the oil spill. And that various departments were going to deal with the impacts. And that DEC basically shouldn't be involved in the contract other than to police the cleanup. And if the Coast Guard was in fact going to be in charge of the cleanup from the federal side and overseeing it, etc.

It really leaves a statement with very little authority other than perhaps initially. And that's why I thought perhaps the Department of Military Affairs perhaps do an initial response and perhaps containing a spill until things got rolling where the spiller or the Coast Guard to come in and take things over. We really weren't going to be involved in cleanup.

And, so with that in mind there was really very little for us to do and I see what Ester is trying to get at and I don't think that's the answer. I think that perhaps something like the people that you involve there I think should be set up in a committee, task force, whatever you want to call it and to further looking at

this aspect for products spill, cruise ships, and all that sort of thing inland spills, and getting more involved in that and making recommendations to further improve on what we're trying to do here. So basically I mentioned that I think we can work within the existing framework to do what needs to be done. Well that's all I wanted to say.

MR. PARKER: Thank you. I think you know in the you'll hear later from Lt. Goodbody and possibly others that you've hit your, you know, focusing on the Department of Military Affairs is something we really need to probe further on because there is a role there, you know, as we talk about emergency services and everything we kind of waltzed around this, but there is something we need to focus in on, so council there are some staff presentations that I think that need to be made.....

MR. HAVELOCK: Well, this being a work session we make up the agenda as we go and I assume that there would be some reshuffling today and I didn't know to what extent you wanted to revisit as Commissioner Wunnicke has revisited prevention or whether you want to sit on it some more or debate it some more. We have at some point we would go to making a presentation on response and maybe as I listen to Commissioner Wallis it may be good to put some of that on the table now because there is an obvious series of inter-relationships between the response and the

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

prevention.

So, sometimes we want to pull them apart and sometimes we want to put them back together again. I think with the idea that we do at some point we do take a break or maybe you don't want to break, maybe, I'm thinking Lt Goodbody and Mr. Lathrop would you want to put them up front and hear them or do you want to hear them later.

MR. PARKER: I think that my feelings we're ready to move forward and discuss response because many of the elements we're going to be talking about have major applications in both and I think you can't separate them but neatly.

MS. WUNNICKE: Mr. Chairman

MR. PARKER: Yes.

MS. WUNNICKE: There are major elements in response also that I think might provide the framework in which to hold that discussion and staff has the paper if you would .....

MR. DOOLEY: Absolutely, yeah.

MS. WUNNICKE: .....want to use that as a means. It also has four major elements but the instant command system and what Commissioner Wallis is getting about in terms of the Department of Military Affairs I think that discussion needs to be had under that.....

MR. HAVELOCK: Well, as perhaps part of the frustration of yesterday for which I make no particular apology, arises from the fact that the institutional handles on prevention are not there because so much of the power seems to be elsewhere so and the state seems to be in the position of having to oversee federal authority.

Where as, I think as the staff presentation today would indicate there are real institutional opportunities in response for the stat to react and maybe when you look see the kinds of institutional arrangements that are involved in response.

It may lead you back to looking then afterwards at prevention institution, but I wanted prevention on first. There was a method to the madness was that this body is said and we all agree that prevention is several times more important then response in terms of the significance of what we can recommend and I think that if you felt some confusion I'll admit in part the confusion was contrived was a gyro was contrived in the sense that if you are going to find order out of chaos for which I will not give you the latinism.

You should start off by having a good look at the chaos and then impose your order and I think that yesterdays trip was actually very beneficial to the commission and has certainly helped in the interaction of staff.

MS. WUNNICKE: What, Mr. Chairman and I would propose for a framework for the discussion on response that we do a similar thing with respect to the response element, institutional response elements.

MR. PARKER: I think that would be a .....

MS. WUNNICKE: Staff would do that.

MR. HAVELOCK: Okay, and then the question of Mr. ... The reason I mention the presentation by Goodbody and Lathrop is that I assume that it being the work stop you're going to get pretty intense about the stuff as you get into it and whether you want to break that to listen or whether you want to listen to these people up front as I get this line I suggest.....

MS. WUNNICKE: It was so much more fun to argue when you have some basis for it so lets have the presentations first that's how I vote.

MR. HAVELOCK: So, what do you want to do about ... Would Mr. ... I don't want to have Dr. Lathrop and Lt. Goodbody lost at the end of the day and I'm wondering about breaking the continuity if we start right in with that presentation. I guess that's the agenda issue that I'm posing to you, Mr. Chairman. What is your pleasure, do you want to stop doing our discussion at a quarter to twelve or something, I mean we should pick a time certain if you want to and we will stop discussing the response

and the response institutions and then hear those people and then go back.....

MR. PARKER: No, I think we need to hear them before we get into response institutions because that's what they are addressing and I think that we also need to have the four elements that have been developed by Commissioner Wunnicke put up there just so everyone can have address them.

I find the four elements up there on prevention very handy, a very handy guide in which to relate and you know in blocking them out in my own mind the shipping industry equal reports the elements in that take care of large parts of the problems of the shipping industry.....

MR. HAVELOCK: Right.

MR. PARKER: ..... and in the technical sense institutionalizing those technical improvements is of course what we are about today. So, the alert strong regulatory agency were ... having watched the demise of the alert strong regulatory agencies for the last fifteen years the only way you're going to have an alert strong regulatory agencies is by number three and by systematic research is of course some of the things that we need to ... we've heard a lot on and the institutional arrangements by which we achieve systematic research does need some real work at this meeting and at subsiquint meetings.

So I think having those other four elements on response up there would be extremely helpful if we can get them up there.

MS. WUNNICKE: Mr. Chairman, the first element really needs a decision as to whether you want it stated that way because what this element responds to is the weight of testimony that we heard from people who said they did not want the spiller in charge of the response. So the way this is worded it says a single preferably public institution to take immediate charge of spill response.

Now that I think is the ... your going to want to debate is to whether your going to want that element to be stated. But that response to all the testimony that we heard of people saying we don't want the spiller in charge of the response. And that Steve has the others ... The instant command system which gets back to Commissioner Wallis's proposal with respect to the Department of Military Affairs for response for these purposes. So Steve's going go ahead and put that up while we listen to the presentation.

MR. HAVELOCK: That would... my preference is just to make myself clear I would like to hear Dr. Lathrop then I'd like to hear Lt. Goodbody, then I'd like Marilyn to start her presentation.

MR. PARKER: Okay.

MS. WUNNICKE: Mr. Chairman.....

MR. HAVELOCK: We have... Sharon will be coming in but she'll be merged into Marilyn. Marilyn will introduce her at the appropriate point in her presentation.

MS. WUNNICKE: Mr. Chairman, I'm very very pleased that that's what councils doing because I want to as the non technical member of the Commission to thank the ECO people for there presentation for making it understandable and clear to even laymen like myself and I appreciate that very much as I did Dr. Lathrops .....

UNKNOWN: Thank you very much.

MS. WUNNICKE: ..... response to that. I'm glad we're having staff presentations also.

MR. PARKER: Dr. Lathrop.

UNKNOWN: John, do you want me to give the oath.

DR. LATHROP: And, as usual I have these handouts for the all to pass them in two directions. They look the same, but if you read the title there different.

Mr. Chairman, and members of the commission, my pleasure is to make this presentation today I should (inaudible) by saying that this was done up on tuesday night in my hotel room. I didn't come... this was not a result of an extensive study this is a result of hearing

the proceedings on tuesday combined with the background which I happen to have in emergency response planning involving both marine emergency management resources and nuclear power plants, emergency response for that.

I apologize for my sore throat, I can't even blame Alaska for the sore throat I was coming down with it as I was got on the plane for Anchorage. What I'll be talking about here is some ideas about emergency response in the environmently sensitive areas. These seem to be things that we could use a little bit of structure on as we think about them. Doing that I'll present... There will be two parts to my presentation. One is some ideas on developing an improved spill response capability and another is outlining very briefly the research plan for a determination of the adequacy of the spill response system based on environmentally sensitive areas. I should say, in keeping with discussion just before I got up here, this is not looking at the institutional sort of arrangement.

This is more of a technical and a procedural look at the problem and what is required in order to maintain preparedness for a rare event. And that is one the themes behind this which I found from my work from three mile island and a couple of other cases of emergency response. It's very hard institutionally in fact to get an institution in place which can actually maintain preparedness for

a rare event.

We're all very pleased with the idea that we're getting something going here. How alive will it be in five years or eight years or ten years when the next big spill is apt to happen, hopefully we won't have a big spill for a while. But it's a trick to keep these things alive and going.

The other reason I pleased I was able to make the presentation at this point in the day is that I'm a little troubled by a lot of the statements that have been made about prevention versus emergency response and I don't want to polarize this and make it into an argument. But, we have to realize that we should care about both of those and one thing that I think is easy to lose sight of is that the small spills are so much more frequent and the small spills are largely containable by quick response emergency response system. We shouldn't lose sight of that. I take some responsibility for that cause I was reviewing the ECO work and Virgil Keys got on the boat with me very early and we talked about the spill sizes and I say yes the spill sizes sound appropriate what I didn't realize at the time is by setting the spill sizes as large as they were we wound up with a situation where we have the ECO report and a lot of our findings from that have to do with forget about emergency response is just not going

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

to help you. And that is true for that size.....

MR. KEITH: Let me interrupt on that if I can. That isn't in the report and we make this very very clear on the report that you can't give up and I think I said that yesterday and I agree with what Commissioner Wunnike but I think everybodys in total agreement what you have here that we asked to address the large spills and to look at that because they have never been looked at before. The small spills have several times over because Alyeska looked at them. So I think it's not fair to say the ECO report does ignore response because that is not what it says.

DR. LATHROP: Okay, I.....

MR. KEITH: Alright.

DR. LATHROP: ..... I -- The report does not say .....

MR. KEITH: I think everybody that heard that knows.

DR. LATHROP: I thought I heard that being said in this room I said that, I was trying to be diplomatic, I wasn't you know.

MR. KEITH: I just didn't want you to say the ECO report .....

DR. LATHROP: Okay, that was not fair I stand corrected.

MR. KEITH: Alright.

DR. LATHROP: So, as I say here with the large spills even though you work a lot on prevention they will happen then in fact you may want to focus the emergency response and protection of resources as opposed to scrambling out to the middle of the sound to try to contain the oil, which your not apt to be able to do well anyway. With small spills it'll happen many times more frequently than the large spills and there you may want to focus on containment.

So, in looking at emergency response we see it has a role in both types of spills in fact to some extent we may decide it has two different roles depending on the size of the spill. So its interesting when I was looking at this and I would say well maybe I can just sit here in my hotel room on tuesday night and lay out some simple sort of decision rules. For when do you decide to scramble your emergency response to containment versus to protection of the resources. There's a lot I couldn't come up with any it's a very hard problem. How could we decide here in this room whether to scramble the response towards the spill or towards the ESA it's very tough and this is us sitting here in the calm of planning as opposed to the fog of battle.

So, how can we expect the crisis manager to have

an easy time to decide which way to scramble the emergency response resources. The spill variables are spill size and location, the winds, the currents, the location of whatever environmental sort of resources you would want to try to protect, the season, where the response resources are and there location and availability and I'm sure the people at ECO could add a few more variables to that list.

So, one answer I came up with, and in fact I didn't come with the answer, it's an easy answer in fact this came out in talking with Joe Fortelli and myself on tuesday that maybe what you really need is what we call an adaptive oil spill response system. Where you don't hope to set up a complete contingency plan that lays everything out before the facts. You set up a process to test and develop a contingency plan using a real time oil spill model and contingency plan guidelines like we heard from ECO in fact. And, I'll tell you there's several good things about this, one of them is, again this problem of how do you get the research done, how do you get the research funded, how do you get the work going, well that's not an easy thing to do if you try to do it all up front. And the other thing is how do you get these people so that there are ready to scramble for an emergency and yet so that they're not board. You have to give them something to do like Commissioner Wallis said and maybe

you can do that by setting up an oil spill response system which occupies itself by keeping itself ready and in running drills and developing and refining the contingency plan. So now I'm stepping over into what might be viewed as someone of (inaudible) sort of proposal but its a vehicle for laying out some of the issues which we should have in mind when we look at a response system.

We set it up in two phases, because we do want an emergency response at the front. We don't want to wait three years for them to develop the whole thing we would set it up immediately based on the best engineering judgement, then we would realize we get the decision rules and a lot of the arrangements for decision making that would be developed in the long term based on the accumulation of the research and on the experience during very many drills which you have is what I'd call spill management center. Which probably would be in the same place as the onshore vessel management center which has been suggested by ECO. I mean there you have the people, there you have the information on where the vessel is located and so forth.

Now, this spill management center would have and develop and expand and use two databases, one of course is on the response resources and we've heard something about that from the earlier days of this week and on the

environmentally sensitive areas, and they would use and develop a real time oil spill bottle in frequent drills. Which would automatically use those databases and use decision rules to recommend which direction to scramble the resources. And the model would be setup at minimum real time data required. That's all you want to put into it, is where the vessel is and very roughly how much oil you think is coming out of that vessel. You may not even have to do that. Everything else is what we call defaulted out. It will assume that it's the average current of that time of year and maybe even the average winds for that time of year, but it might be a good idea to be able to enter wind speed and direction since you happen to know that pretty readily at the time.

My guess is this wouldn't be a big step from where you already have you ECL spill model.

And, one of the big things is that the emergency center would have a lot of drills at random times. The antidote that you want to talk about at this point is when they first came out with radar is World War II and shortly after, they sat these people in front of a radar screen to look for blimps. You can imagine, if there's no blimps, you eventually fall asleep. After 20 minutes you are just nodding off.

How do you maintain the awareness of a person

staring a radar screen? You give them phony blimps. Once every ten minutes. Or some random time, because if you give them a phony blimp and they have to punch buttons and make sure it really is a phony blimp. We come across this here, too and you want to have a lot of drills to avoid the boredom problem to maintain preparedness. To develop the decisional rules which you would use, then and to check the currency of your data bases.

The other point, where this comes up is nuculer reacter safety (?). All these statements made after (inaudible - speaker had back to mike). You'll have an emergency response center and you'll stamp it with phd's. Well, that's a big mistake. You know, I'm a Phd. Phd's are sort of slow. You don't want a Phd. You want a master's person. You know, Master in Science, Master of Engineering, very qualified persons who really knows. But, that person is going to be bored. So, he's going to be sitting there watching a reactor for giving reactor, nothing is going to happen. For years.

And, it's true here for Prince William Sound. A lot of this will not happen, so how do keep these very skilled people, these Masters and so forth and so on. We keep talking about them. How do you keep them from being bored. You put them through a set of drills. And, of course, you give them the other things to do involving

presenting the advice to vessels, which we have been hearing about.

So, that's my thought about what we want to think about in setting up an emergency response capability. I'm not sure if it's realistic or not. But, one of the things you want to keep in mind is this idea that the Contingency Plan -- the problem with Contingency Plans and we saw that, Mike and I saw that In Santa Barbara, we see that in neucular reactor safety, we see that all over. Contingency Plans tend to be things which are written up and put up on a shelf. And, they are not looked at again. They will literally have dust on them.

And, even if they are relatively current, typically the person at the desk in front of the shelf doesn't know the details of the Contingency Plan. So, to say you won't have Contingency Plans, you also say you want to have some procedural institutional way to keep it exercised and keep it going, keep it alive. Things change. Data bases, Mike and I found in Santa Barbara the data bases were way out of date and they were locating emergency response resources which weren't really there. They were there three years ago, they are they now. So, again there's a real trick to do this. You need to keep an organization alive to be able to keep the work actually responsive.

We are talking response rates, what we would like from out there and -- 8 hours, 16 hours. I mean, you are not going to do that. Not with a Contingency Plan sitting on the shelf. We certainly found that out with the Exxon Valdez.

Moving on now to a slightly different idea. It was mentioned on Tuesday that once we start talking about emergency response in environmentally sensitive areas, that's sort of a mess and we are at sea about that. How do we arrange that?

Well, we can in fact assess the adequacy of emergency response resource. It's taking into account environmentally sensitive areas. But, it does take several steps beyond where we are now. So, what this would be is not something we should try to add on to what has been done is part of the Commission's work now, but a research plan to be called for. And, I'm sort of cheating here, I'm cribbing this research plan from work. Matter of fact, my peers and I did a year or two ago in Santa Barbara, where you take the spill location, spill size and we already have those spill locations from the ECO work and they are probable and for each one you had to go through a six step process.

You have to asses the adequacy of the response resources independent of the timing. Then you have to

assess the reaction time. How long is it going to take to detect the spill, to decide what to do about it, to marshal the resources.

This is the other thing. It is one thing to have a resource. It's another thing to have -- an agreement with another company that if the boat happens to be free you can get the boat out to the spill. So, there is a lot of marshalling time we have to talk about.

Loading of equipment on the boats and then travelling to the spill. Now, you can say even if things go really quick you are still talking many, many hours and as ECO has told us, those first hours are some of the most important.

Then you want to asses the grace time. How much time do you have before this spill is out to get onshore or onto an environmentally sensitive area. Now, the understanding here is these are spills which are small enough where you can do something about it in terms of containment, but also when they do apply the cases where you would scramble towards the resource to be defended in addition to the spill.

What I gather from some of the maps I've seen is in Prince William Sound or Cook Inlet, the probability is about 1. It's going to hit the area.

Then you rate the severity of the impact of the

oil on the area with the existing response system and rate it again with any sort of upgrades you want to give to the system. The idea is if you are able to upgrade the system to get the response time faster, you are more apt to intercede the oil on it's way to the environmentally sensitive area or be able to protect the area with the system upgrade or the system modification. To use the language of ECL you will have less of a severity.

With the work in Santa Barbara we did it just on a spread sheet. And, I don't want to -- don't look at the numbers, don't worry about it. I think the spreadsheet - the idea is fairly simple. You have a spreadsheet -- you fill in the various columns. The trick is, of course, inserting the data that you need. And, you see these columns, the reaction time, the grace time, probability of impact, and ratings for the impact and the types of upgrade and so forth.

Maybe I shouldn't have used this -- It seems intimidating. Computationally, it's actually very simple. The problem is doing all those ratings. In Santa Barbara we were able to identify the resources and your first reaction is the data is overwhelming. There's too much data there. If you prioritize the resources appropriate-ly, there doesn't have to be such an overwhelming data base. And how you prioritize it we've been talking about

this in fact some of the staff -- one way to do is to talk with your appropriate departments and say 'if you had a 1,000 feet of boom, and you had the whole shoreline endangered where would you put that first 1,000 feet of boom. The typical reaction 'we can't possibly prioritize'.

Alright, you got to make a decision so one way or another you got to put that 1,000 feet somewhere. Okay, now that you put it there, fine. We will mark that out. Now, here's a second 1,000 feet of boom. Where would you put that? And so, forth and so on. So, you can do that sort of thing.

The ratings of severities -- I have been involved in two projects where we did that. One. They both happen to be -- you'd think I live in Santa Barbara. I don't. But, all this work seems to have been done in Santa Barbara Channel. For logical reasons. There's a lot of environmental resources there and a lot of proposed offshore oil development there. In the first case, we've just defined three levels of concern or sensitivity.

The primary level of concern is where the oil would result in a major change in the distribution or size of structure of the biological resources where recovery would require several years to a decade.

Secondary, sensitivity is a moderate change

required of -- recovery in the a few years. So, we don't have -- you don't have to be rocket (inaudible). Okay. to get this sort of sensitivity going.

For the other work, in fact, we have had a 10 point severity scale and this was worked out, in fact, in concert with Commissioner Herz who in fact did some of the evaluations of which sort of impacts would rate where on a ten point scale. It's just a refinement on high, medium, low.

The important point is that the points on the scale are defined well enough so that through relatively repeatable severity ratings people who understand what the impacts of the oil in those resources are apt to be.

But, you can get from that type of research the actual sort of point ratings of how much the risk is and they could be scaled. So, you could say well, just with this system modification we are cutting the risk from 180 to 120 and 60 points. What's 60 points. That's just on a point scale. Well, it's equivalent to preventing the severity level of impact for shore or it's equivalent to reducing the probability of a severity level pack from 100% to 40%. So, it's a way to get sort of a risk meter so you begin being able to quantify how much risk you are talking about and how risk reduction you are talking about.

MR. PARKER: Okay. Thank you. We will follow up, you know, and see what the DEC and Fish and Game are developing any models like this. Virgil?

VIRGIL: I just wanted to say, Mr. Chairman, we really agree with everything that John has said here today. (away from mike and cannot understand) --

Spill sizes range from 300 gallons on up into millions. But, to a model we model a bigger spill because that hasn't been done. But, we totally agree those small spills are very important and very frequent and they are recoverable. I think we have seen that on the Thompson Pass. We have seen that on the number's bill. We are just saying the Exxon Valdez is what Commissioner Sund says is very important. You better put your money on prevention. Just wanted to make that clear.

And, the second thing, Commissioner Wunnicke always says she doesn't understand these technical aspects. I sometimes think she understands better than anyone in the room. And, I've heard her say this twice and once yesterday. I don't know if anyone else picked it up. We've got to stop thinking -- we got to release the spill equipment to go out to the hatcheries, to go out to those sensitive areas, at the same time someone is attacking the ship, the same time the Navy is saying that you are going to hear from Lt. Goodbody that cleaning up

this spill in the Sound. And, I've even heard her say before, perhaps you may want booms already on site in certain hatcheries and then somebody, the first one comes out there and there's a 40 foot container. You hook up to that boom and you pull that off within hours. And you just protect that area. You are attacking the ship and you are attacking the spill in general Prince William Sound all at the same time.

I think too many people including ourselves have thought seriously on this in saying we've got so much boom let's go here. I mean if there's a sensitive hatchery, boom is not that expensive. Get it out there, especially, in Alaska. Get it on site. Have it hooked on one end and then have the fishermen, whoever's the first one on the scene strike that boom across that particular area.

MR. PARKER: Yeah.

MR. VIRGIL: And, I haven't heard anyone else say that. But, she said that yesterday and correct me if I am wrong. Please.

MS. WUNNICKE: It's not -- to me I think staff first suggested that, but there are really three major elements. I come from a dry land part of the country where they use a lot of irrigation ditches and irrigation headgates and I have often wondered if there isn't some kind of -- on particularly sensitive areas, like the

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

hatcheries. If there isn't some kind of an automatic headgate across small inlets that could be in place. Forget booms. As I say, I'm not a technical person.

MR. PARKER: I think the Alaska Legislature's going to receive a lot of request from a lot of different places to spill response equipment to stockpile here, there and everywhere and I think, you know, between the two of you an excellent model for Fish and Game and DEC to start building, you know, the details. Response to that as you heard Fish and Game has tremendous resources in manpower and data bases to attack the problem and I think has the.....

MS. WUNNICKE: And, Mr. Chairman, on a very gross scale. Because it's done through what Tom Hawkins was talking about the area pawning process in response to a question from Mike Herz. Where you make those priority judgements. But, that's a very gross level. It's not sophisticated as you are suggesting.

MR. PARKER: John?

MR. HAVELOCK: I wanted to ask Dr. Lathrop, the comment of the difficulty of preparing for a rare event. And, I am wondering what the -- whether the institutional implications of that are not that you cluster rare events and you have your -- institutionally speaking, that you put the major responsibility in an agency or activity

where you cluster those rare events where indeed so they become either less rare or indeed not rare at all. So, that you have one agency that if you are doing earthquakes respond to as well as spill responses and so on. Because, I mean, let's face it. We are always having disasters here that you aggregate them. Or do you leave it to an agency which is the specialist in that particular type of disaster?

DR. LATHROP: That's a very astute point and we have been working on that. I attended a conference this summer where we talked about the advantages of a world wide emergency response system for neucular accidents. Because the way that you make a rare event less rare is you aggregate over a large period of time. With 3-mile Island the main emergency response agency was a Pennsylvania emergency management agency. I talked to the head of that and I was realizing that for him these things aren't rare events in the sense that he responds to about 20 floods a year. 20 floods and rail derailments and things like this. Which even involve evacuations. So, it makes a lot of sense to see if you can consolidate institutionally under one roof the management structure which have to do with a lot of the other emergencies which you do see. So, you get the expertise in the one place and a decor going within an organization.

Also, it helps a lot in keeping the funding of it. That's the other thing. In fact, the head of the Pennsylvania Emergency Management Agency told me we found when these big catastrophes come, we only have about six months, where politically we can ask for an appropriate budget and after six months it sort of goes dead. And, that's the point we should keep in mind here. It's been more than six months now since the Exxon Valdez and according to his rule of thumb we are running out of time with that political momentum.

MR. PARKER: In regard to your earlier comments on World War II radar you aren't having a problem into radar scopes from 1941 on with on night watches with manotnous regularity and waking up with lips swell inside the scope. We weren't able to really tackle that until we started the Sage System in 1953 where we could maintain alertness simply by simulating with the computers the necessary action to keep everybody alert. And, so you know, the focus is you train on ongoing traffic to whatever extent you can and use your simulation resources to maintain that necessary level of alertness. Because it's never going to go away. The whole radar thing right up to the Cuban Missile crisis we were still falling into our radar scopes on the mid washes. Everybody was very tired. And, I remember one instance where the B52 got

well into Siberia in airspace because they were all three of radar operators watching him were asleep. And, so you know, it brings back the whole question of redundancy. You can't build enough redundancy into the system. Because the failure of the, you know, the boredom and fatigue are always going to be the constants you have to deal with. We build up a fair number of insights in this a lot of which is hopefully being transferred into the marine system.

MR. HERZ: Couple of comments. One on this last pooling your emergency resources. It seems to me that that is risky because, for example, the NOAH's Haz-Mat team in Seattle, which responds to all oil and hazardous, major oil and hazardous materials events every year responds to something like 200 of those a year and they're almost use. Similarly, the Coast Guard strike teams, of which I think there are two, one Atlantic and one Pacific now, are pretty well utilized. So you have to very carefully decide if you're gonna try to design something that works for all emergencies, you're gonna need backups because if you're working in several different emergency dimensions or different kinds of emergencies, you may have your team, your primary teams out fighting one kind when another emerges so that really needs a lot of serious review.

Secondly, on the staging of equipment, I think one of the reasons that that hasn't come more quickly is that after this incident that I studied in San Francisco in 1985 -- the event occurred in '84. We released the report in '85. One of the things that it talked about was staging of boom and equipment at sensitive habitats. The oil spill coop was resistant to that idea because they would not be in control and they maintained that the locals would not maintain vigilance. They would drift off into, like watching the stream they would fall asleep.

My sense has always been that it's the locals who have the highest personal involvement, like the hatchery operators, and they are not going to fall asleep because their lives and livelihoods depend on their being able to deploy this equipment so that the staging idea, it seems to me, is the most sensitive one and combine that with doing an assessment of, and unfortunately you have to do some sort of prioritization so that you can deploy stuff. But that's a must I think.

And then finally, I wanted to make one quick comment on the boredom thing. It seems to me that the people who are your operators in your spill management center could do double duty in that they could be involved in prevention activities: vessel inspection, contingency plan review, running drills out in the field at the stage

equipment locations, visiting and assessing sensitive habitats so that they're the most familiar with how you actually deploy, what conditions, what you do in different seasons when currents or winds are different. It seems to me there are a variety of things that you can find for these people to do that are related to oil, but don't require them to sit and just do one boring thing all the time.

MR. PARKER: No. You see the nature of monitoring activities is that you do get locked into a control center and if you're gonna get them out of there you simply have to staff for it and spend more money.

MR. HERZ: Yeah, but if it's gonna be continuously manned, you rotate -- some agencies, somebody's gonna have to be responsible for these things that I mentioned like a review of contingency plans and calling drills and so on. And why not have it be these people so that they're keeping a hand in.

MR. PARKER: Yeah, John, then Esther.

MR. SUND: Well, I just wanted to throw some more stuff on the table here. One issue is whether we wanta just focus -- Tim keeps bringing this up, are we on a statewide basis or are we just on an ocean-wide basis? Are we gonna deal with inland, potential island spills along with potential ocean spills which get you between

Coast Guard and EPA type theories.

The other one is the old, financial irresponsible spiller routine that we have the beautiful example of Exxon here with billions of dollars, but let's take the example of the financially irresponsible spiller who does nothing and the government, either federal or state, has to take it over and then we're into this massive procurement mess that both the state and federal government seem to have in terms of getting anything done.

And then the third area I'd like to put on is the difference between the primary response and the long term response. We talked about the 24-hour, 48-hour, one week responder here who goes out and attacks it immediately. But then there's the long term issue of who attacks it over the next six months and that seems to be, at least in the history of this spill, different people. And I just, not that I have answers, I just put 'em on the table.

MR. PARKER: Well it goes back to Dr. Lathrop's you know, two points: concentration versus protecting sensitive areas. Obviously, one would want to do both. If you are going to do both, why you have to develop a system to do both, which would come on line, which may be the same system at some times, which comes on line as this system kind of was built by topsy during this spill would come on line in a more regularized fashion. Esther.

MS.WUNNICKE: Well, I'm just gonna respond to John in that one thing he talks about, of course, gets to that first item under what -- I regard that as immediate response, John, what's on the board now. There's a secondary level, as you say, which would be the clean up and restoration phase, which would require other elements. I regard that as immediate response and that gets to this whole question of public charge of the response rather than the shipper to your question of the irresponsible shipper.

MR. PARKER: Okay. Dr. Lathrop's in. I'd better go on.

DR. LATHROP: I had a response to Commissioner Herz's first point about the dangers of consolidating. That point well taken. The ideal situation is when you can consolidate your emergency management organization in such a way that things aren't such rare buds that he can maintain its budget. I mean, I hate to break things down to the dollar bottom line, but that does seem to be a real problem in keeping these things alive budgetarily from year to year. And if it were rolled into other emergency response duties, then perhaps they could be able to keep the budget alive.

MS. WUNNICKE: Question of Dr. Lathrop, if I may. Are you familiar, Doctor, with what's called the Incident

Command System that's used in major fire suppression on federal and state lands in most of the western states?

DR. LATHROP: No, I'm not.

MS WUNNICKE: It's an emergency system which has common elements and took years to develop and agreements between federal and state agencies. But, it is an immediate response system and it pulls people out of all different regular activities, but they know what their role is. They know what their function is and they respond in terms of communication, in terms of logistical support, all the things that are common reaction to all disasters. And we've been, certainly I've been thinking seriously that has a lot of merit for an immediate response system even for oil spills. It's not just to put out forest fires.

It was used in Seward at the invitation of the National Park Service because one of the major national parks in Alaska was threatened by the Exxon Valdez spill and they were called in and I think all the reports that we've gotten it was very successful, even though most of their experience is fire suppression.

MR. DOOLEY: Commissioner Wunnicke, to expand that Incident Command System. That was developed by counties in California to respond not just to wild fires but to a variety of accidents. It was later employed by the state

of California on a much more comprehensive basis and now it's a requirement that if you receive federal funds for your local fire department, at least the fire chief in that fire department has to be trained in ICS. It ends up being the key ingredient in spreading out those emergency responses by the various state emergency service response teams. That's how they expand those resources to respond to different localities with an administrative structure that knows the local resources and yet the cadre is there to respond to more than one incident at a time. I think it answers a little bit of what Commissioner Herz was bringing up as well.

MS. WUNNICKE: Just as a sideline, if Dr. Lathrop doesn't know it, Alyeska is adopting that Incident Command System for it's future response.

MR. PARKER: Okay. Tim Goodbody.

MR. GOODBODY: I had about two days to prepare this, but I'll pass this out. There's a couple of points that were interesting to me that parallels what I have heard here this morning and what our office in Washington, D.C. is about.

The first one (walked away from mikes)... has the biggest interest in dealing with the problem.

The second one was, of course, the procurement problem in buying and implementing new technologies. I

could tell a few horror stories. It could take up to 15 years for the Department of the Navy to find and actually secure fleetwide technology that could be used for lifesaving techniques.

What I would like to do if I can get your attention real quick before I say anything, every now and then I get the habit of wanting to drink a glass of water and sweeten it. Alaskan doesn't always taste that good. I just take my Sweet N Low and I sweeten it.....

(Laughter)

You can go ahead and turn to the first written page that introduces myself. The page prior to that refers to some overhead slides that I won't be using.

I'm Lt. Robert Goodbody from the Secretary of the Navy's Office for Safety and Survivability in Washington, D.C. I run a quick reaction program implementing Off The Shelf or Non-development Items aimed at enhancing the safety or survivability of operational units. Ships, Squadrons, aircraft).

The office was established in 1985 under then Secretary of the Navy John Lehman who recognized the need for the implementation of new technologies to enhance safety. The premise being that tomorrow is too late if we are losing personnel and equipment today. I put that in context I would obviously say that tomorrow is too late

if we are spilling oil today.

Quick reaction means enhanced safety. Enhanced safety obviously means enhanced mission capability and enhanced National Security.

There are no shortages of incidences in the fleet today which justifies the need for our organization. If you pay attention to the news, you'll notice that the Navy went to a 48 hour stand down due to various mishaps. Two weeks ago a classmate of mine flew himself into the carrier at Lexington. The USS Belknap, while undergoing, underway replenishment, refueling exercises, pulled the hose, spread fuel over it's superstructure, it burned to the waterline. The USS Stark and other ships in the Persian Gulf and that region -- it was hit by an (?) missile. The missile didn't explode. What happened? The unspent fuel from the rocket literally burned the aluminum superstructure.

The explosion aboard the Battleship Iowa claimed 47 dead. It's safe to say they had some new technology some of which I represent in implementing aboard many of these platforms that the damage or loss of life would have been lessened.

The types of technologies I am referring to typically deal with fire fighting technologies, fire retardants technology, hazardous materials han-

dling/control, aviation safety technologies, whether it be a certain navigation or night vision or air escape lighting devices. As a result of this we maintain a large data base on leading technology.

Well, how do we insure that we know we have leading technologies. Well, we have an operating budget that is aimed at buying and assessing these new technologies. This insures that we have the up to date technologies for our needs. We are strong believers in what we call operational assessments: vice laboratory testing. We have an open door to industry and other government agencies. They will bring their technology and we will send it to the fleet to be assessed.

We have a branch office or facility at the Norfolk, Virginia Naval Station which is set up to deal with most of the assessing. We have several ships and squadrons tasked to us to deliver a formal assessment. Part of this assessment process, not in all cases, but in many requires an application research. Once I have a technology, how do I best apply that technology to suit my needs.

Some time ago I received a call from Mr. Dennis Dooley, I believe you are the Technical Director for this Commission. Over the phone we came to the simple conclusion that both the Navy and the State of Alaska could

benefit from further discussion. When Mr. Dooley was in Washington, he visited my office and we talked about some of the newer technologies that the Navy was using for oil spill... fuel spill clean up and containment. The most encouraging of these seems to be in the area of micro-encapsulating polymers very similar to what you see here. (Glass)

These polymers have been through our assessment process. As a result the Navy is recognizing the great value of some of these polymers. I have included at the back of the report or the presentation that I passed out to you a message from the Aircraft Carrier Kennedy and a assessment from the Pacific Fleet talking about just these polymers. What do they tell you?

Well, some of the advantages are that once you have locked up the fuel it reduces the volatility of that fuel by 80%, it's a reduced fire hazard. It's rendered into a solid or semi-solid mass which floats and it's not going to spread. It's easy to pick up and not hazardous to the environment. And, they are instrumental in keeping the bilges of our ships clean. Obviously we deal with lots of fuels and other hazardous materials that get into the bilges of our ships. If we can use these polymers to remove the fuels it's not a problem anymore. We are not, for instance, pump these fuels into the ocean, which of

course, is a concern.

At the time of the Valdez spill it seemed readily apparent to me that the great success that the Navy has had with these polymers could be of great use in Alaska. I went out on a personal -- to try to get these polymers recognized.

My mission today, therefore, is to prove or at least discuss the concept of using these polymers as an alternative technology to reduce the effect of a large or small scale oil spills.

You've seen one of the polymers and this one attacks water. And, I am going to do a demonstration for you as fast as I can with -- this is water again and diesel fuel. And, I have here some various samples of fuels and I'll pass these around while I'm doing this, of what this polymers can do and they do it at a pretty quick rate.

If you don't like the smell of diesel, well.....

MR. PARKER: Alaskans are used to the smell of diesel.

LT. GOODBODY: Excuse me?

MR. PARKER: Alaskans are used to the smell of diesel.

LT. GOODBODY: Alaskans are used to this? This is #4 diesel fuel.

VIRGIL: You didn't bring that on the plane, did you?

LT. GOODBODY: Oh, absolutely.

(Laughter)

LT. GOODBODY: This particular polymer is a powder. Now, it comes in both liquid and powder form.

MS. WUNNICKE: What's your ratio of your sweetener to the volume of the liquid?

LT. GOODBODY: Well, I'll get into that after I have done this. To answer that question, in this with the case of diesel fuel, by weight it's about 30 to 1. 30 pounds of fuel to 1 pound of polymer.

MR. WALLIS: Have you told the Coast Guard about this.

MS. WUNNICKE: Yeah, (laugh).

LT. GOODBODY: I have told the Coast Guard about this. We do, like I said, we've worked with various agencies including the Coast Guard, the EPA, the Custom Service and, of course, the other armed services.

MR. HERZ: What was the Coast Guard reaction. I mean, were you.....

LT. GOODBODY: They were amazed.

MR. HERZ: But, I mean, were you.....

(Laughter)

LT. GOODBODY: They were amazed.

MR. WALLIS: When did you tell them about it? Were you out here during the spill?

LT. GOODBODY: I was not here during the spill.

MR. HERZ: Was this stuff available in quantities?

LT. GOODBODY: This stuff was available in quantities. Yeah. I was told by the manufacturer that this stuff could be shipped at the rate of 40 million gallons a month to the State of Alaska at the time of the spill.

This is your oil by the way.

MS. WUNNICKE: And it just appears to that and doesn't absorb the water?

LT. GOODBODY: It's a polymer. It

MR. WALLIS: What percent of the diesel did you just pick up?

LT. GOODBODY: Excuse me?

MR. WALLIS: What percent of the diesel did you just pick up?

MS. WUNNICKE: You want a drink of water?

LT. GOODBODY: I'm not going to drink the water. As it sets here it will turn into a more solid form over time. Like the samples that I have passed out.f

MR. WALLIS: But, did it pick up 80%? Something like that?

LT. GOODBODY: At least. At least.

MR. WALLIS: At least what?

LT. GOODBODY: At least 80%?

MR. HERZ: Does the bomber itself has any toxicity to.....

LT. GOODBODY: I'm told that he does not have any toxicity. It reacts with the fuel. Once you have solidified the fuel or encapsulated the fuel and removed it from the oceans, it's not toxic to anything except the guy that wants to pick it up and eat it. It's out of the ocean or it's out of your water source. It is not going to cause any harm. Another words, you don't have the out of sight out of mind problem.

MR. WALLIS: How about the disposal?

LT. GOODBODY: Excuse me?

MR. WALLIS: Disposal?

LT. GOODBODY: Disposal. It's still fuel. It's recapsulated fuel. You can chuck it away, bury, burn it. I wouldn't be surprised if you could take it and reprocess it back into fuel. I don't know the technical answer to that, but it wouldn't surprise me.

MR. PARKER: On a Kennedy Class Carrier, you know, having a major fuel leak, how would you apply it?

LT. GOODBODY: There is a -- the message says some examples of a carrier used. One of the incidents was

an A-6 intruder which is a bomber, a aircraft carrier bomber. A fuel cell was ruptured and fuel was leaking rapidly over a listing deck. Well, I don't have to tell you what kind of danger that is for fire hazard. I assume 50 gallons at least. If not hundreds of gallons were spilled in this case. The sailors, the operational users who had the most to lose took these polymers which they had on hand and simply spayed it on the leak and locked it up immediately. The whole clean up took less than an hour.

MR. PARKER: So, if you build your ships so that you had, just like you would with a fire disposal -- fire system, you could run polymers through, why you could.....

LT. GOODBODY: Yeah. Let me go over some of the perimeters of the technology as I see it. One, it always floats. No matter what, once you have locked it up it will float.

What does that mean? If you wanted to, if you had fuel that or crude whatever that had sunk to the bottom over a period of time, you could theorically induct this stuff to death, solidify the fuel at the bottom and it will float to the surface.

MR. WALLIS: Can I ask a question?

LT. GOODBODY: Yes, sir.s

MR. WALLIS: Crude oil, for instance. It evaporates very quickly. How soon do you have to spread that on to have it be effective?

LT. GOODBODY: The rate at which it reacts.

MR. WALLIS: But, after a certain time.....

LT. GOODBODY: I imagine that after a period of a week or so, once the crude has been turned into, what do you call it, hard foam, whatever.

MR. PARKER: But, higher viscosity, slower reaction?

LT. GOODBODY: Higher viscosity slows the reaction, yes. It doesn't stop it by any means and it is not going to take days to do it. This happened in micro seconds. It is going to happen in a period of minutes if you -- I assume if you have real cold temperatures of both the fuel and water. It is my understanding though that crude is carried aboard a ship at about 100F? Between 100 and 140F? That's certainly hotter than the diesel fuel that you see in front of you.

MR. HERZ: Was this used experimentally in the Valdez spill? Or was it apply at all?

LT. GOODBODY: That attempt was made. Now, Exxon was made aware of the technology. The EPA was made aware of the technology. I met with Jay Hare (ph) from the National Wildlife Federation. There were concerns as to

'hell, this a great technology, why don't we try it?' They were also concerned as well.

MR. WALLIS: Like what?

MS. WUNNICKE: Yeah, like what?

LT. GOODBODY: Well, the concern was who's going to pay to get it up there? Who's gonna pay to assess it? Who's going to authorize us to use these technologies?

MR. PARKER: Those are agency concerns?

LT. GOODBODY: Excuse me?

MR. PARKER: Those are agency concerns, or agency.....

LT. GOODBODY: I was under the impression from the Environmental Protection Agency that it wasn't a concern. It was, yes, a concern for the toxicity.

MR. HERZ: Had any toxicity testing been done on the materials before.....

LT. GOODBODY: I have a list that was put out by the EPA, I guess, in 1988, I don't have it with me. It had one of these polymers listed on it. Now, that doesn't mean that it was accrued for use.

MR. PARKER: Is a.....

LT. GOODBODY: But, it was listed with disbursants and other various.....

MR. PARKER: EPA'obviously approved it for use in U.S. waters by the U.S. Navy, because you've got it out

in the fleet.

LT. GOODBODY: I assume that's the case. But, we also have to go back and recognize that the Navy has certain national security concerns that at time may override that decision.

MR. PARKER: Well, why you -- this technology is being used fleet wide in the Navy, why not Alaska, is the one I think we ask.

LT. GOODBODY: I'm presenting that question to you, myself. I would like to see this technology -- and this is why, this is one of the primary reasons that I am here. The technology is being used fleetwide. It has been through my office, the Secretary of the Navy for safe and survivability, the formal assessment process. It has, as we discussed a procurement problem with the Navy for the Department of Defense. We have a bureaucracy that we call the Systems Committee. In this case it would be the Naval Sea Systems Committee. They are responsible for buying and testing new pieces of gear. Everything from T-shirts to F14 fighter aircraft. And, I said that this can take up to 15 years.

Well, when we are talking small dollars is this -- it has of very little importance to those that are involved in the Systems Committee. That's why our office was set up to get these technologies to the fleet today.

Not tomorrow.

MR. HERZ: Does the Navy -- does that process or procedure include any kind of toxicity evaluation?

LT. GOODBODY: It includes material safety data sheets. As any chemicals would.

MR. HERZ: But, does that involve specifics of any kind of testing protocol for Fish and Wildlife?

LT. GOODBODY: No, sir.

MR. DOOLEY: Commissioner Herz, to follow up on that question a little bit. This was one product. In the process of following this "rabbit trail" there are four or five of them that came up. Some of them have already gone through those toxicity tests. We have a tape of a couple we'd show during a break sometime, I don't want to interrupt this flow. What this whole area was to do, was we have heard repeatedly from Admirals, EPA and that, that technology hasn't advanced in 20 years. This puts the lie to that testimony. What it says is, that they were unaware that the technology had advanced.

MR. PARKER: If you fellow Commissioners want, I'll write Administration Riley a little note asking him some questions. I don't think we should write his local guy that we heard from yesterday, Mr. Union (?).

(Laughter)

MR. SUND: Well, it'll be the first time that

cost was ever a factor in this clean up.

MR. PARKER: Yeah.

LT. GOODBODY: Yeah, some ideas of that. It always flowed, it reacts with hydrocarbon's not water.

MS. HAYES: What about sea water?

LT. GOODBODY: I'm told that sea water acts as a catalyst. It's salt actually acts as a catalyst in the reaction process.

MS. HAYES: What about the marine life in the sea water?

LT. GOODBODY: It's locked up, polymer now is locked in the fuel and you remove it from the oceans, on the spot.

So, whether it's toxic or not, I'm told it's not toxic, but whether it's toxic or not you have to recognize the fact that you removed not only the fuel, but the polymer with the fuel in it out of the ocean.

MR. PARKER: Uh-huh.

LT. GOODBODY: You've removed the pollute. Now, we all know that crude oil is toxic as hell. Yes?

MS. WUNNICKE: Question. You say that's used fleet wide by the Navy.

LT. GOODBODY: Yes.

MS. WUNNICKE: Is it carried on every vessel?

LT. GOODBODY: It's carried on, not every vessel,

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

but most vessels. Every aircraft carrier in the Pacific Fleet and several on the Atlantic Coast have it. Several destroyers. And, I can get a list of these ships that have it. It's carried in liquid form and powder form. For our bilges we put the powder, similar to this, in a flow through sock. A large tea bag. And, the sailors came up with this. This is an application of research that they came up with. They literally took a sock full of this stuff about as big as a man's arm and hung it in the bilges. And, after a matter of minutes, they simply pulled it out.

MS. WUNNICKE: Doesn't it make sense that rather than looking at this as a clean-up thing after the event that it would make sense to recommend to the shipping industry that they carry it as a part of their equipment.

LT. GOODBODY: Absolutely. Absolutely.

MR. PARKER: Dump it in the tanks when it ruptures.

LT. GOODBODY: Absolutely. And, that's where the applications research comes in. As far as for containment of a spill.....

(inaudible speaker)

LT. GOODBODY: .....one of the ideas that Mr. Dooley and I came up with, well, one you can literally lock the fuel up within a tanker. You can turn the tanker

into "a tube of chapstick". It is not going to go anywhere at that point.

Two, if you do have a spill, you can have a reaction vessel with "x" number of gallons of this stuff on, deploy the liquid form through a firehose and attack the leading edge of that spill. It will form a natural boom.

MR. PARKER: Virg. Joe. You see anything wrong with that problem of introducing right into the tanks and turning the tanker into a chapstick?

VIRGIL: We were just discussing it. One, and we know the Secretary quite well and he has really done a tremendous job with this whole program. One of the things that we were looking at is that you would have a pump on board and you would drop that hose down and get this material right down to where the hose is in the tanker. To start from where the hole is rather than try to have it solidified down. So, you would have a hose on deck that would be equivalent to the depth of the tank and then you'd attempt to (inaudible) that down and hopefully that would get near the hole and then you'd just start pumping that stuff as fast as you can. With the idea that you would seal it up. You may not stop it all, like Lt. Goodbody says, but you sure as heck.....

MR. PARKER: Well, you could have another hose

on the outside getting it as it came out.

VIRGIL: Absolutely. And, they can freight it by aircraft... They are looking at this thing, I know, and Commissioner Herz was on that meeting. We look at this whole category as 'chemical non-disbursants'. So, they would put it on in a very similar fashion the way you put disbursants on. You could fly over, but it's our understanding that it isn't toxic. It seems to me that the next step is EPA be asked to evaluate and address all the questions that Commissioner Herz...

That's seems to me that that has to be done very quickly. Even though in DOT they are kind of exempt from some of those.

MR. HERZ: The most mysterious part of general presentation is that one would think that it would be in the best interest of the oil companies to facilitate this stuff being used.

LT. GOODBODY: I would think so.

MR. PARKER: They don't make it.

LT. GOODBODY: They don't make it, though. I think it's.....

MR. HERZ: Thank you, Mr. Chairman.

LT. GOODBODY: I assume that the dollar question is the issue in that case. The oil companies are producing the disbursants. They even got money invested in

selling disbursants.

MR. HERZ: Only one company that has.....

LT. GOODBODY: It's probably Exxon.

MR. HERZ: That's right.

MR. PARKER: Marilyn, do you have.....

MARILYN: I was just wondering how -- does the Navy have equipment for picking this stuff up out of the water, now? Or.....

LT. GOODBODY: This is where we are looking to help each other. The Navy and the State of Alaska. Now, this has never been used on a large scale demonstration. We are using with 100 gallons of fuel here and there. We have never used it on a scale of 1,000s. It would be neat to do a demonstration with say a barrel -- we have talked about this. A barrel of crude, say in a large tank and literally attack it with the liquid or powder form. Or both.

I do know that the recent spill in Norway that some of these polymers were brought up to the beach. Now, in Norway, I understand was Bunker No. 6 that was spilt. They took an "x" number of square yards, the beach and literally cleaned that part of the beach in a matter -- in a very short period of time. The report was that the local school kids were taking the solidified crude, forming soccer balls out of it and playing a game.

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

MR. SUND: Well, we have a lot of guys in this state that are very good at picking up things out of the ocean.

MR. DOOLEY: Some of the -- we mentioned that crude congealing and forming moose and so forth, some of the other tasks that Canada has tested and the U.S. Coast Guard participated in, over a year and half ago, involved two of those products in which one was used to degrade the moose back to an oil quality.

The other chemical used was similar to this or made a liquid out it and then they were able to obtain greater efficiencies out of the equipment, because they are pulling this oil into the equipment rather than capturing and encountering it. And, but, that equipment wasn't designed to handle moose. They, put the other chemical in the moose and they have some time studies on how quickly that would degrade back to an oily sheen and then the equipment could deal with it.

What it points out is there is several chemicals, some of which are vegetable based and it seems to be that institutionally if the Coast Guard didn't do the research on it, or EPA didn't do the research on it, they remain unaware of it's application. 'It's somebody else did it, I'm going to be unaware of it' and we are getting this technology transferred.

MR. WALLIS: How about rough waters?

LT. GOODBODY: It will work on rough water. Now, obviously the rough water is going to -- the rough water is going to increase the rate at which the spill flows. It has to be tried and proved.

MR. HERZ: If you have -- you don't have sufficient polymer to actually produce this chemical reaction, I mean, is it an all or none reaction, is it partial reaction?

LT. GOODBODY: Oh, no. The polymer itself will absorb, for instance, 30 times it's weight in the fuel. At which point it can't absorb anymore. So, you'll have a section that's been absorbed by 30 times it's weight, and then the rest of it will spill ---

MR. PARKER: Esther?

MS. WUNNICKE: Well, I was just wondering. It seems to me why this would be attractive to the shipping industry. Particularly you mentioned earlier that, I guess you were uncertain, whether it could then be reconverted into.....

LT. GOODBODY: I am uncertain of that. I suspect, though, that if can take oil from shale, we can probably take oil that's been turned into polymer and turn it back into oil.

MR. HERZ: Well, even we haven't, even if you

can't, from a point of view from everybody except the industry, everybody else is better off having this.....

LT. GOODBODY: Everybody is better off.....

MR. HERZ: .....congealed stuff.

MS. WUNNICKE: Oh, yeah. I agree. I'm just arguing for the enlightment of self-interest of the shipping industry.

MR. PARKER: Virgil?

VIRGIL: One of the things, Mr. Chairman, and I know, that Lt. Goodbody was looking at, also.

It's going to be like disbursants. And, I keep looking at Commissioner Herz when I mention disbursants, because he was on the NES committee. If there is going to be a certain limited amount that you have on that 30 going ratio, the thing that they were looking at, is freighting the leading edge and therefore it in itself would become a boom. Now, you lay that out into 50 miles, however much you have and it starts to, and correct me if I'm wrong, it starts to form a boom in itself so it pulls up the oil behind it.

Now, the clean up, the mechanical equipment would be coming behind for mechanical recovery formed up on the boom. Now, this is -- you know, R&d, we're not there yet, but, that's the type of things that they are talking about that maybe made some sense.

Now, the thing that would break that up is what Commissioner Wallis said, if you high sea waves, the only -- to break that boom. But, if it was very flat similar to what the Exxon Valdez was on that particular day, you could perhaps get it out and that boom would stay intact and then you could attack it from behind.

But, again, that part, you know, it is in an R&D stage.

MR. PARKER: To me the greatest attraction is being able to have a reasonable immediate response system on board the ship. You know.

LT. GOODBODY: Exactly. Those operational users, those men on board the tankers, those fishermen can have these polymers and they are very cheap. Even if I were to put a high price on them and we talked about this a little bit earlier. Even if I were to tell you that it cost $10.00 a pound for this powder, if I needed enough powder to solidify 70 million pounds of fuel, which is roughly what spilled during the Valdez Spill, it is going to cost me about $20 million to turn all of it into a solid.

MR. DOOLEY: The other one we were talking about earlier -- we've been dealing with the bush generally. One of the questions the Coast Guard came up with was well, the fishing industry itself isn't too clean in terms of it's (?), etc. If you start introducing products like

this for that kind of effort to separate hazardous substances from it's villages and other things as well as some of the standby equipment, all of a sudden those booms in front of the hatchery and that have an opportunity to capture oil and turn it into a quality which puts you into a Type A clean up instead of what we are calling a Type B treatment at substantially less costs.

MS. WUNNICKE: Very interesting.

MR. PARKER: Yeah. I think we can -- let's take a five minute break.

I want to thank you, Lt., for.....

LT. GOODBODY: Thank you.

MR. PARKER: Bringing us this. I think we can develop with what you have given us a very incisive reports.

(Off the record)

(On the record)

MR. PARKER: We'll get back underway and reconvene and Counsel, go ahead with what the Staff wants to tell us.

MR. HAVELOCK: I will refer to Marilyn on that.

MARILYN: What I have done in this draft everyone has before them, it is called oil Spill Response System, just lay out some of the basic elements that may be necessary to respond effectively to oil spills. There

are probably many more and as I listened to John Sund speak today, I realize long-term isn't even considered in the particular plan and it's got to be incorporated as we on. But, this some of the ideas we've pulled together over time.

And, I have I guess, 13 elements and there's probably more. I hope that's not an unlucky number. But, I'll go through them and then maybe describe some of them more fully.

The first one is a pre-established - pre-established State, Federal Local industry response plan. With an explicit division of labor and direct line of command within that plan.

Second is an interagency organization structure that will probably be chaired by the response office director. One our option will be to chair by that director and created by statute that will be for planning response to oil and hazardous substances releases. Reviewing and contingency plans and carrying out state drills. As we talk about the Regional Response Team and all the teams that we have at the Federal level, this I call for lack of better term, State Response Team, because I really don't think that there has been any kind of a state response team where the agencies, and I'm probably skipping over here, the different agencies, D&R, DEC, Fish

and Game, DES have been coordinated and planning for one event. Or any number of events.

The third is an incident command structure that is common to all agencies. I say structure because the incident command system we've heard very good testimony about and it's probably one of the best systems you could have. One of the problems is that all the agencies don't have that incident command structure. The same incident command structure. So, what we need in the State to do is make sure that all the agencies involved in an oil spill or hazardous substance response spill has that same structure. And, one of the problems, I think, with that is the Coast Guard has it's own command structure that they use and the State, the firefighting entities have this. DES has sort of a modified incident command system, but I think they would be, based on conversations I've had and Dennis has had with them, there will probably be willingness to look at changing. At least for particular areas like the oil hazardous substance.

And in that incident command structure I think first of all you need to have administrative procedure changes which allow funds to be spent without procurement delays. And, a system to utilize an agency like DES emergency services without declaration of an emergency. Right now at least for a catastrophic spill, DEC is the

main agency with responsibility of an oil spill. There has been a lot of talk about how much they use emergency services in this last spill. And, basically it seemed that what they did was set up a response structure as they responded to the spill, rather than having one in place.

DES offers logistics operations or DES through an incident command structure offers logistic operations finance and planning structures. And then I say here that however for small spills, DEC has to have adequate personnel to respond.

MS. WUNNICK: Marilyn, if I could interrupt. Couldn't that same personnel in DEC, if I understand the incident command system, that's responding to small spills, also be trained and ready to respond to catastrophic spills.....

MARILYN: Yeah, and I go on here.

MS. WUNNICKE: .....within the larger structure. Okay.

MARILYN: But, that's true.

The fourth element is the response planning that can be used for both oil and hazardous substances and possibly through the State emergency response commission which I can describe later.

Number five is sort a modification of what may have already passed this last legislative session.

Implementation of master and regional contingency plans for oceans on land and in land rivers spills. Contingency plans for different regions, Cook Inlet, Prince William Sound, Pipeline, North Slope, Arctic and offshore. One of the things that Senate Bill 261 does is set up master and regional contingency plans. These master and regional contingency plans are for spills greater than 100,000 barrels which if you translate that that's about 4.2 million gallons. Glacier Bay for example is 150,000 gallons. So, there's a very big gap and maybe not the kinds -- with passing this legislation last session,we may not have included response and funding methods for those spills that are, you know, 100,000 gallons or greater up to 4.2 million gallons. That debatable. Unclear but it might be a good idea to clarify that those resources can go towards smaller spills. That's what I have here. Implementation of regional response offices volunteers in depots for both catastrophic spills and non-catastrophic spills. Especially for onland spills which is a very small spill. Or in a river it could be very damages.

Mike Herz's point number six is protection of critical habitat area. I guess that's everybody's point. By making equipment depots accessible to these areas. Local citizen advisory groups included local, state and federal officials involved in reviewing regional contin-

gency plans. And, these could later -- these review groups could later be the center piece for multi agency coordinating committees which we saw develop as spills developed.

Number eight is one pre-designated state on-scene coordinator. Trained in ICS or whatever system. That is and one option is under Senate Bill 264, response office was created. The person who heads up that office could be that predesignated onscene coordinator. One other option is to have regional response officers. For example, the Kenai Office made for Cook Inlet spills. The Valdez Office for Prince William Sound spills. Where those regional offices would be chaired by or would be operated by the potential future onscene coordinator. The reason for that is because that onscene coordinator or that director has access to all of the information that is involved in the Contingency Planning, response planning, all the pieces of what is going to make a response happen. I guess under this last spill, Bill Lamaroe (ph), who is the Southcentral Environment Quality Director was the designated onscene coordinator. I'm not sure how much he really knew about the Alyeska Contingency Plans or about critical habitat areas in Prince William Sound. It's like pulling these people in that are the local -- that are coordinators for the local areas, they could also be the

coordinator for the spill when it happens. One of the things that Walt points out is that you can elevate these predesignated onscene coordinators to have a level when the spill occurs so that that person isn't over run by all of the high level officials who want to be involved in a spill response.

Number nine is computer access of all tanker contingency plans at locations near terminals that can be easily reviewed by DEC officials. And, also on that computer, obviously, you could have elements of the Contingency plan. Maybe, you know, the environmentally sensitive areas, etc., summarized so that you know the critical pieces.

MS. HAYES: Marilyn, I would just like to encourage you to look at John Lathrops presentation this morning in terms of that computer access. I suspect that five years from now we will have micros instead of paper copies for Contingency Plans using University of Alaska for data and currents and stuff like that.

MR. PARKER: One thing on number eight, Marilyn, before we leave that. I think the role of the onscene coordinator, if he was to occupy the same role as the director of emergency services, with direct access, I think that the -- is that coherent? Do you have to have more than that or would that be enough?

MARILYN: I'm not sure what you are saying.

MR. PARKER: Well, the director of emergency services when there is a flood or other natural hazard and he goes into action, it requires all his emergency powers. I was visualizing the samething for the state onscene coordinator.

MARILYN: Right.

MR. PARKER: In the state of Washington they use the Governors Commission, as they call it. I'm not sure we want to do that here.

MARILYN: Right. And the way I see that combining with emergency services and I spent some time with Dennis, actually, over with Mr. Martin and we learned alot about the way emergency services works with the firefighters. Basically, there is a fire response system set up in Division of Forestry. That's yearly activated. Where normal firefighting takes place. And then, at the point where the fire's affecting local towns or communities, you have then emergency services to come in to provide the logistics, all the operations, the finance, the planning aspects of it. So, what I did was take that one step further and go talk to Elmer Heard who is the director of the firefighting, I don't know what his division's called, and talked to him about that and he thought, too, that the state needs, the DEC or whoever the

organization is that deals with response and right now it is DEC, needs to -- This is what he said. When you talk about the incident command system everyone thinks that that means you are going to have a commander come in and tell you what to do and so everyone is very sensitive and worried about that. But, in actuality what you do is you have people who come in who can set up a whole structure using teams from in the state and outside the state who know how to follow similar terminology and respond. And, you can still keep the official who are knowledgeable in the technical clean up and response areas running the show but you have all of these people doing all the operational things that are tying up their time where they could be making decisions about you know where the critical habitat area.

MS. WUNNICKE: Mr. Chairman, one other thing you mentioned earlier was procurement delay. One of the things that recommends incident command system is that there isn't any procurement delay. They are spending someone else's money, that's true. And they are later reimbursed for it, but they have no procurement delay. And I think that's a major point.

MARILYN: Right. And to follow up on that we have the oil and hazardous substance release response fund and that fund has money in it. Which if there wasn't

a declaration of emergencies, people could have access to that fund as their funding mechanism.

MR. PARKER: Does the ICS system that operate on state procurement the same way it does on federal procurement? Is there any statutes to cut through that? I'm not aware of it.

MARILYN: I don't know.

MR. DOOLEY: As I understand it, when DES was involved in this one it didn't have the Governor's declaration, yet. There was "emergency existing". He used the prudent man task saying the Governor's not available to give me permission. I'm going to extend and if I'm not correct, I'm going to lose my job. But, the prudent man says we need to respond and it felt comfortable, the Governor would back him up on that and make the declaration. That's how it worked on the Exxon Valdez incident.

MR. PARKER: Well, I used to have to use the prudent man every once and a while and it always made me pretty goosey.

MR. DOOLEY: But, there is a declaration process before the DES starts extending all these funds to -- with legality.

MS. WUNNICKE: But, well, in terms of the incident command system as it's used in fire suppression,

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

you don't go through state (inaudible)

MARILYN: No, we don't.

MS. WUNNICKE: That, that.....

MR. PARKER: You can't expend State funds without going through the.....

MS. WUNNICKE: Well, if there is a fire suppression.....

MARILYN: Fire suppressant funds is the funds used.

MS. WUNNICKE: .....fund already established.

MR. PARKER: Okay.

MS. WUNNICKE: So, that man goes out with purchase orders in his hand, he doesn't have to go to.....

MR. PARKER: Okay.

MARILYN: Well, part of this whole idea of having this interagency state response team is that DES and DEC are communicating ahead of time. They are holding drills. As they may drill the industry they are drilling the state response plan. And, they can know exactly when DES is involved and they know exactly when they and where they can provide those services. But, the declaration of emergency is something that the Commission may want to look at because for hazardous substance release DES is provided the authority to go in and respond. But, they way they respond there's only one person in DES that has

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

training in hazardous substances. They don't really have anyone trained in oil spills, because it's been originally under DEC. But, I think when you put that authority there DES is not saying that they are going to be the responders and be able to carry out the whole spill. They are going to follow the lead of those agencies. Like they do follow the lead of DNR and in a fire they follow the lead of DEC and Fish and Game probably. And that's the beauty of that interagency organization structure. And, I guess it's amazing that it wasn't in place to start with, but that would help improve alot.

One of the things Commissioner Hayes talked about is the ability of the State to actually respond to the first I think 72 hours.

MS. HAYES: That's what all the people, many of the people have come up and talked to us about.

MARILYN: Right. I put 72, so I was glad I picked the right number. But, I guess this whole incident command structure and interagency organization I see as overseeing the industry's response to the spill, but if in fact we fill that in the case of a responsible party that's unable to respond that we really do need to have adequate resources for that first 72 hours. That's probably going to be, you know, we are going to have the resources to do that. And that's a lot of resources.

Number 11 is contingency plans must include waste disposal and bird and animal rescue and probably several other things that they should include that they are not very specific on.

Number 12 is Zing Potters Emergency Resource Mobilization for Oil Spill Emergency should be included. The ability to utilize other person's equipment if necessary in an emergency.

MR. PARKER: Could we just translate the statutes then to exist for emergency response in DES? Are they adequate? Anybody had the chance to check those yet?

MR. HERZ: Say that again, Walt.

MR. PARKER: The Department of Emergency Services must have the authority in an emergency to commandeer, don't they?

MARILYN: I haven't checked into that.

MR. DOOLEY: I haven't checked that, either, Walt.

MARILYN: Zing, might have, though. I haven't read his report.

MR. HERZ: Mr. Chairman, I'm not clear on what you mean on Number 12. Who is -- this would be state owned and controlled equipment? Or, I mean.....

MARILYN: No, this is -- in Zing Potters, which is part of the Sea Grant which would help clarify

all of those questions, although we have to determine how it works at the state level, I think he mostly, help me, here. If we were going to utilize, let say, the equipment of Alyeska, if someone else, if there was a spill, by some other party or the state or anyone and we needed to use Alyeska's equipment, it would give a message for saying we need to use this, give the state the authority to use it and also have a predesignate, not agreement, but a process of how to use that equipment.

MR. HERZ: You are explicitly talking about mobilization of equipment that is not the State's equipment.

MARILYN: Right.

MR. HERZ: Okay. That's what wasn't clear.f

MARILYN: For State's respond.

MR. HERZ: Well, would that include federal equipment? Coast Guard, Strike Force, what.....

MR. PARKER: I don't think there's anyway we can stretch.....

MARILYN: It's hard to know what the legalities are. Part of this is taking away liability when you do commandeer that equipment, those people aren't liable.

MR. HAVELOCK: We can do that by agreement. But, you can't do that by statutory authority.

MR. GOODBODY: Just to interject the National Guard and the equipment that they have, I told you, I mentioned this last night at dinner. The International Environment as it is going to make the necessity for federal (inaudible) ...to justify the need for money for equipment. War fighting machines, I might say and I would say that it wouldn't be that hard to stretch that to the National Guard to have a piece time mission.

MR. HERZ : What's the relationship between the National Guard and federal equipment? I mean, do they have total access to federal equipment.

MR. GOODBODY: Yeah, the National Guard during wartime situation falls under federal agency.

MR. HERZ: That's in the absence of wartime situation would they have access to other federal equipment? I mean, I'm still concerned about how you do this?

MR. GOODBODY: That remains to be seen, but I would suspect that the environment of the National Guard would say that perhaps we can stretch that to mean that yes, state or national emergencies that federal equipment can be commandeered by an individual state such as Alaska.

MR. PARKER: Yeah, as Counsel says, you need some kind of prior agreement probably on that, but, yeah.

MARILYN: I'm not very familiar with this area. It's something we need to do more research in.

PARALEGAL PLUS
Law Office Support
2509 Eide, Suite 5
Anchorage, AK 99503
(907) 272-2779

Harry just told me that Zing Potters' report deals mostly with private equipment. So.....

HARRY: The whole concept of mobilization centered on the private parties. And centering on two types of private parties. Both the expected negligent party, those who are responsible at least whether they are negligent or not, those who are responsible who's oil or who's contaminate pollute whatever it may be, while there is a toxic substance or oil. Emergency requisition of their resources and then the requisition of third party services and resources as well. The fishermen or the hotel owner and this type of thing to set up a command. The jest of the majority of his analysis deals with immunizing third parties for potential liabilities and protecting them and then also the requisition contrary to their own voluntary wishes.

MS. WUNNICKE: Compensation?

HARRY: In compensation. The quick take type of requisitioning an appropriate compensation. The party who is responsible it's much less of a problem. Emergency requisition.

MR. PARKER: Two outstanding examples of that in Alaska history deal in (?) the pipeline. The recent oil spill in which Exxon and the press and the federal agencies, you know, locked up all the hotel rooms which

probably worked out alright in the long run, but made it impossible to allocate those to other needs and back in the days when the pipeline was first started when the oil companies brought up all the telephone lines on the Arctic Coast making it impossible for federal or state agencies to have any communications or anybody else. And, you know, those are two that come immediately to mind, where powers like this could be exercised.

HARRY: And, in fact that's one of the three scenario that Zing Potter used in illustrating emergency requisiting power from his hotel in Valdez. He'll probably go with the yellow one, the bulldozer along the pipeline and then he had one more that I can't remember off hand. We tried to get different types of things. Equipment and services and people. Expertise. Requisiting people as well. That was the third one. And, he said as an anedote, (away from mike)...liability of third parties, he does not intend that to be something to steer people away from that strategy. You want to have the maximum protection available for the innocent parties who just happens to have something that you want in order to respond to an emergency. It's not meant to be a problem area, just an area that he wanted to flush out because it could....

MR. WALLIS: This is a tool that management can

use and it's being done now. And can be done. So, as far as what equipment they commandeer or where they commandeer it is irrelevant. That's mechanical. I think we get into too much detail that if there's a tool that we are going to give them, fine. Let's give them that tool and let them do what they want.

HARRY: I'd like to point out that that is not a tool that currently is necessarily available to Alaska.

MR. WALLIS: I understand, but it's still a tool. They need it let's give it to them.

MR. PARKER: Virgil?

VIRGIL: Mr. Chairman, I'm just thinking of something that the Commission may want to consider since Lt. Goodbody is here (out in audience and inaudible) ... We all know the best equipment we had up there was U.S. Navy equipment. Unfortunately it came out before testimony they weren't asked till seven days afterwards because the spill wasn't federalized, that type of thing. It would be nice if you had another spill that wasn't federalized, what do you do to call up Lt. Goodbody to get that Navy equipment right away? And, I think you have a golden opportunity here to do that with Secretary (inaudible)....

MR. PARKER: Important point when we look at further investigators -- you know, the amount of equipment

the Navy had in there compared to what other people had in there is very illuminating.

VIRGIL: And the sad part is when you project that if it would have been up there earlier, the chances of picking up, because we got that very, very unusual leather, we've had testimony -- (inaudible). And they were literally ready to go and nobody asked them because it wasn't federal.

MR. DOOLEY: We have one other example, too, in the Corp of Engineer grudges -- mobilize by the Commanding General of the Alaska Command. They weren't asked for by the Coast Guard, EPA or the State. Now, in his initiatives those were brought up here and they also proved to be extremely beneficial in the oil spill. But, that was an independent action taken without any consultation.

MR. PARKER: Mike?

MR. HERZ: I'm worried about, we are building in a provision here for emergency research mobilization and you are underscoring the need to do something with the 72 hours. In the number three when you talked about administrative procedures which alot of funds could be spent. It seems to me that those two have to be tied together, because the moment you activate this system you got to be able to spend money.

MARILYN: That's right.

MR. HERZ: And, I'm further concerned because I see, you note, that both 262 and 264, those funds can't be used unless it's a spill bigger than 4 million gallons.

MARILYN: Oh, no. Where the planning for those spills smaller than 100,000 barrels. The funds from the oil and hazards substance release response funds can be used if a responsible party is not responding. For example, we could just start responding with that money immediately if we need to. The problem....

MR. HERZ: Regardless of spill size?

MARILYN: Regardless of spill size. Yeah. The problem is the planning and the creating of the master and regional contingency plans and use of response corps and depots and all that for smaller than 100,000 barrels.

MR. PARKER: Maybe we should use on that -- have that bill amended to use criteria that if the spiller can't respond within 30 minutes why 470 funds start flowing to the spill?

MARILYN: I think they can. It's the Commissioner who makes that determination. So,

MR. PARKER: Well, I think the Commissioners need guidelines on that.

MARILYN: Right.

MR. WALLIS: Mr. Chairman, I think what we need to do, we are kind of going all over the place here and we

a trying but we don't know what we are building on. And, maybe we ought to get this thing out of the way and decide what organization are we talking about to accomplish what we want to do and what are we responding to?

MR. PARKER: I think we are coming to that right now.

MR. WALLIS: Well, you know, we are talking about doing a lot of things and I think we need to kind of get that out of the way and so we know what we are building on and put that they. Put our policy statements down and put our -- such as emergency procurement, commandeering, a lot of these things that - interstate compacts is another tool as to what we need to try to accomplish. But, I think we need to decide what organization we are talking about and what their role is. I have a hard time in trying to talk about responding to a spill and, you know, I know everybody has this in mind that the states' going to respond to the spill and we are going to send John Wayne out there and picture him with a sea otter and a bird in one arm and the firehose in the other washing down the beach. But, you know, it's the spiller's responsibility and I think what we are talking about here, you know, in assisting in impacts, but also the likelihood a irresponsible party or a financial non-responsible party doing something where we would have to do the initial

response we see it federalized or whatever.

And, but I think we need to talk about two different avenues here and we are trying to lump them all into one and trying to absorb it all. Do administration stuff, prevention stuff, institutional stuff and then clean up.

MS. WUNNICKE; I think it goes back to that first question that I said we need to make a decision on. We've heard a lot of testimony that it should not be the spiller responsible or.....

MR. WALLIS: That's right.

MS. WUNNICKE: .....not responsible. We need to either take a position that we are comfortable with the current situation where the spillers in charges unless it is federalized. If we are not comfortable with that, then we have to talk about what institution.....

MR. WALLIS: True, but not let's fool ourselves that if we are not comfortable with it that we are going to change something in pre and federal laws.

MR. PARKER: That's what the last two pages of the paper are all about.

MARILYN: I just want to clarify something maybe real quickly about that. I think there's two things going on here. When I'm talking about the organization structure that's for oversight. Not necessarily bringing

the resources in and doing a spill clean up. I think most of this is based on the industry going to provide that response. There is the one part about the first 72 hours. In the case there's a responsible party who cannot respond or the response is not taking place. The question is then do we need to have that back up or not that the State can actually provide those resources to respond. But, I want to make clear that all of these elements are based on the premise that the responsible parties' resources will be used with the state or the federal government depending on what the Commission chooses to oversee the clean up.

Could I finish or you could have more questions.

MR. HAVELOCK: Responding to Commissioner Walt's observations it seems that we went down these things and we basically talking about the -- every now and then you are talking about somebody else. Unless you are talking about major institutional changes, talking about some changes in the way DEC does business and the situation with other agencies and so on and that's the institution. If you accept that you are willing to live, you know (inaudible). I would assume that we are talking about a system -- the state will normally alaskanize oil spills. The federal may decide to preempt. Or the state may decide that this spill is so small and the response is so well in hand that they are going to leave it to the

spiller. I assume you will have a system that will put the state in charge. It's conspicuously clear for although we get in trouble when we go -- clear that that is the solution simply because there is not a significant federal presence on the upland and I'm sure that it would not be a lot of problem in getting cooperative agreements with EPA for the state to assume that. Similarly I think your likely to find that the Coast Guard with respect to the spill responds. You can recall the way we have separated these things up between saving the ship and the spill response and so on. The Coast Guard, even as they are given federal authority are going to defer to an Alaskanization if that occurs in all but the most ultimate kind of catastrophe where the state may initially instead of Alaskanizing the spill, will say this is so big, we want the United States to be responsible from day one. The loss of a total tanker or whatever where you are not prepared to... But, it would seem to me that the vast range in between are going to be Alaskanized spills and you are going to have -- let you decide on some different arrangements under existing arrangements DEC is the core agency.

MR. DOOLEY: DEC the way we talk about it, they bring expertise to it. What they bring in terms of expertise really is majoring and enforcement law of