

AOSC  
0174  
V.2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

# ALASKA OIL SPILL COMMISSION

December 4, 1989

Anchorage, Alaska

Volume II of II

## OIL SPILL COMMISSION MEMBERS

Walter B. Parker, Chairman

Esther C. Wunnicke, Vice-Chairman

Margaret J. Hayes

Michael J. Herz

John Sund

Timothy Wallis

Edward Wenk, Jr.

### PARALEGAL PLUS

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

1           MR. WENK: But I think there really are some findings  
2 pretty strong ones, that could be put in there vis-a-vie the pre-  
3 spill bit.

4           MR. SUND: Were we ready for it? And then the second  
5 question is, how did we act when it happened?

6           MR. WENK: That's right.

7           MR. HERZ: Also, I'd like to raise, for, I don't know  
8 whether it is appropriate to include it here or not, but it seems  
9 to me we have been led to believe that in most spills, the  
10 emphasis is placed on saving the cargo and the ship, and not on  
11 protecting the resources and I don't know whether there is a  
12 place in the findings to state that. But I think that's the  
13 important emphasis in the same way John Lathrop's notion of we  
14 should be proposing that the emphasis be placed on going to the  
15 resources rather than going to the ship, with our response  
16 capability. And I'd like to see the findings reflect whatever  
17 underpinnings we have for those recommendations.

18           MR. WALLIS: I'm wondering, Mr. Chairman, if we might  
19 be shooting ourselves in the foot with that one. If that's not  
20 really looked at, cause you're getting into an area of safety also  
21 and not just the containment aspect of it and we could be made  
22 to look a little bit silly if we don't handle that one just right.

23           MS. WUNNICKE: I think we have to recognize 'em as dual  
24 responsibilities and even from an environmental standpoint, you  
25 have to argue that saving the rest of the cargo from being spilled

1 was an environmental plus. It wasn't just saving the cargo for  
2 the value of the cargo, but by keeping it from being spilled.....

3 MR. WALLIS: It was self mitigating.

4 MS. WUNNICKE: .....it protected the environment.

5 MR. PARKER: Yeah. In coming up with means that satisfy  
6 both salvage and containment, such as we heard from Lt.  
7 Goodbody, you know, examining that and other options for doing  
8 both, it would seem to me to be the most practical way to  
9 proceed in these areas. One finding that was presented to me  
10 that Marilyn just brought up, approach what Ed and others  
11 brought up, oil spill response technology was not well  
12 understood, reviewed or approved before the calamity of Blight  
13 Reef, March 24th, which is certainly true. And of course, is still  
14 not, judging from what went on last week.

15 MS. WUNNICKE: Which goes to number 11 to some  
16 extent.

17 MR. PARKER: On the rest of these, accepting that they  
18 will be substantially re-written to reflect pre-spill and post-spill  
19 categories, in some cases, is there anything anybody sees in the  
20 rest of these.

21 MS. WUNNICKE: Mr. Chairman, I think only that one of  
22 the points we need to make in terms of the effective clean-up  
23 effort, and that is the social and economic effect on the local  
24 communities of the clean-up effort itself. I think that we've  
25 made a point of that and certainly Sharon's reports bear that out

1 and that needs to be a finding.

2 MR. WENK: Could I pick up on that point and suggested  
3 that it be broadened cause I think the facts would support this,  
4 that everyone of the institutions that had a responsibility either  
5 for prevention or contingency planning, clean up, and so on,  
6 failed to recognize the full range of stakeholders, of potentially  
7 impacted parties. And I think that that narrowness and myopia,  
8 whatever you wanta call it, again it's a mindset, led to certain  
9 premises which now we know were wrong. And that if we're  
10 gonna deal with the whole oil transportation system and all of  
11 it's ramifications as was said in one of these documents, from  
12 wellhead to refinery, we oughta deal with all the stakeholders.  
13 The only ones I think Exxon much cared about were the  
14 shareholders, but they're not the only stakeholders. I don't  
15 mean just Exxon, I mean....

16 MR. PARKER: Yeah, I think the.....

17 MR. WENK: And then I think that what you -- I mean, you  
18 opened by saying the communities and that's, I think that's  
19 embedded within this broader picture of total indifference or  
20 what or some -- I mean total neglect of the parties at risk when  
21 you're dealing with this whole system.

22 MR. SUND: Well I think that, Mr. Chairman, that kind of a  
23 finding has to come in that leads you into all these various  
24 recommendations that we have. You know, that leads you to be  
25 able to recommend a citizens advisory council be created.

1 Right? I mean some reason you have to have so say why do I --  
2 the basic fundamental reason is that all stakeholders in oil  
3 transportation system were not involved in the critical decisions  
4 regarding the risks they were exposed to.

5 Now, how are you gonna solve that? You're gonna solve  
6 that by -- there's a long litany of oil pollution Oversight Council,  
7 Regional Citizen Advisory Committees, port authority, you know,  
8 Marilyn's laid out a whole list of them in her December 3rd  
9 memo here. But, I would start out at the top with what Ed's  
10 recommendation is.

11 MS. HAYES: Mr. Chairman?

12 MR. PARKER: Yes.

13 MS. HAYES: John, I'm a little uncertain about the facts  
14 that would support number 11 about the last sentence, the latest  
15 technologies were not used for a variety of reasons including  
16 predominantly ignorance. And I'm not sure on whose -- I mean I  
17 might agree with you and I might not, depending on who's  
18 ignorance you are trying to target here and what the intent is. Is  
19 this a pleas for -- is this setting the stage for more research and  
20 development into technology or is it dissemination of things that  
21 we already know.? Is it testing by EPA in the state? I'm not  
22 sure what you're trying to do?

23 MR. HAVELOCK: I assume all of those things are  
24 necessary and the general thrust of it, is for improvement of  
25 technology transfer including research. Now I guess what I'm

1 going on is my memory of the test -- well let's say, partly has to  
2 do with the choices of the people that were in charge of various  
3 aspects of the spill and their uncertainty about the advice they  
4 were getting. I think that, you know, if you get somebody, an  
5 Otto Harrison or whatever, he's there. If you're getting advice  
6 from two people that is different, and a lot of it was conflicts of  
7 advice, or uncertainty of one side and more certainly of another  
8 and not having an understanding of, enough of and  
9 understanding of the technology to be able to make a judgment  
10 in which you'd have any confidence. With a result is that those  
11 judg -- those decisions tended not to be made in a timely fashion  
12 because they didn't know and they didn't have people who were  
13 really expert around and we didn't -- and they were discovering  
14 in the process o the spill that they didn't really have hard data  
15 on what these things were good for. So, that's what I meant by  
16 the ignorance is that both ignorance in terms of any testing of a  
17 commodity that came up and the availability of scientists on  
18 hand that were prepared to make a judgment based upon the  
19 information that was available.

20 MR. PARKER: What happened was that the scientists on  
21 hand, primarily the NOAA and the EPA scientists would not  
22 challenge Exxon's desire to restrict use of dispersants solely to  
23 Correxite (ph). And when bio-remediation came along late in the  
24 game, of course, bio-remediation is not truly either a dispersant  
25 or a clean up agent. It's kind of a rehabilitation agent, I guess, as

1 much as anything, but by the time bio-remediation worked, why  
2 you're well down the pike.

3 MR. DOOLEY: Well one reason the bio-remediation  
4 process was selected was they had already had an experience  
5 with it, as a prior experience and they wanted to study it further.

6 MS. HAYES: Well, I mean, the testimony that we had from  
7 EPA's administrator was the, Mr. Ewing, was that it was based on  
8 can't you do something requested by Washington. And well we'll  
9 figure out bio-remediation, is what he told us.....

10 MR. PARKER: And Exxon graciously agreed to that.

11 MS. HAYES: .....agreed to us.

12 MS. WUNNICKE: 'Cause Riley wanted that.

13 MARILYN: But if I could ask that, barring the fact that  
14 there was not a lot of equipment, etc. available, a lot of the  
15 decisions were in fact made based on mostly economic, and  
16 secondly environmental, potential environmental impact of that  
17 particular clean up technology.

18 MR. DOOLEY: We can document, as of this time, EPA does  
19 a minor bio-chemical assay on some chemicals and processes. It  
20 does not approve any of them. I mean, they have this list and  
21 they say to the on-scene coordinator, here's a list. Then, he has  
22 to arrange the testing program to utilize this. There's nothing  
23 approved by EPA. There is no testing and no description of  
24 efficacy in the use of any of these chemicals when that's  
25 prepared. And that was very apparent last week and they still

1 don't have one at this date, almost a year since then.

2 MR. HERZ: There is an approval process which is for  
3 biological damage. They have to go through a protocol in order  
4 to get on that approved list, which doesn't talk to the  
5 effectiveness of the product.

6 MR. DOOLEY: Excuse me. EPA very strongly took me to  
7 the woodshed last week. That is not an approval. That is only an  
8 assessment. They get on the list without an approval.

9 MR. HERZ: What's that list called?

10 MR. DOOLEY: It's called an assessment.

11 MR. HERZ: Was that from the local EPA?

12 MR. DOOLEY: The local EPA.

13 MR. HERZ: Was that from the Region or from  
14 Headquarters?

15 MR. DOOLEY: Well, that's Washington State, here and  
16 they're working with the state DEC know in trying to evaluate  
17 some of these proposals for next summer's clean up.

18 MR. HERZ: Cause when I was on.....

19 MR. DOOLEY: There is no such thing, according to EPA  
20 people at that presentation, that NOAA workshop of an approval  
21 sheet. It is an assessment sheet.

22 MR. HERZ: 'Cause when I was on the NRC dispersant  
23 review committee, my recollection is that what they referred to  
24 was an approved list that EPA, Washington, has. That Correxit  
25 and eight or ten other products are on and they referred to it as



1 an approved.....

2 MR. PARKER: That's where they led you down the garden  
3 path. The list is approved, but the things that are on it are only  
4 assessed.

5 MR. HERZ: Me thinks, double speak.

6 MR. PARKER: Well I think you -- I think we get  
7 victimized by that kind of double speak, because the last joint  
8 agency test that was conducted, where they actually tested these  
9 things was, I believe, in 1984 or earlier. 1984 certainly at the  
10 latest. Which was the time that the funds that were approved in  
11 the Carter Administration finally ran out for testing that kind of  
12 thing. Believe me, after the present, after the Reagan  
13 Administration came, why nothing was ever funded for that.

14 MR. DOOLEY: I think I can get a video-tape for you, Mike,  
15 on that presentation.

16 MR. HERZ: Well, I'll go back and check what I've been  
17 calling the approved list. Just as an aside, the state of California  
18 for the last 18 months of two years -- there was some legislation  
19 passed in 1986, which set up a state dispersant testing  
20 procedure and the state has been running since then it's testing  
21 procedure for, not for effectiveness, but rather for safety.

22 MR. DOOLEY: Toxicology.

23 MR. HERZ: Yeah.

24 MR. DOOLEY: Yeah. That's what's on the EPA list. It's a  
25 toxicology assessment. And it goes through several types of

1 marine life and it gives some sort of percentage of toxicology  
2 responsivities and nine or 10 different types of marine life.  
3 Generically, and you get your name on the list. That does not  
4 mean that's approved for use. It means you've been through the  
5 toxicology assessment.

6 MR. HERZ: But you can -- what it does mean is that you  
7 cannot get considered as a candidate to be approved for use by  
8 the RRT unless you have first gone through that protocol.

9 MR. DOOLEY: That's correct.

10 MR. HERZ: But my point about California was that  
11 independent of that, since unless you have pre-approval the  
12 State -- there must be concurrence by the state for the use of  
13 dispersants and therefore, the State has the right to do its own  
14 procedures and have its own approval process.

15 MR. DOOLEY: That's what we're going through now.  
16 That's right. And that's what the state of Alaska is going through  
17 now.

18 MS. WUNNICKE: Which was one of the frustrations of  
19 people in the aftermath of the Exxon Valdez. Remember  
20 Sansorb(ph) and the people that testified to us about that? They  
21 were never able to get approval for a test in Alaska waters. They  
22 went to Norway, after the big Norwegian spill a few weeks ago,  
23 or a month ago, and tested Sansorb (ph) on those Norwegian  
24 beaches at the same latitude, basically similar kind of shoreline  
25 to Alaska. And in the aftermath of that, besides its effectiveness

1 on the oil spill clean up, there's a major cruise line that requires  
2 Sansorb (ph) be carried on their cruise ships, just as the navy  
3 describes this coagula (ph) that was demonstrated to us to be  
4 carried on the navy ships.

5 MR. WENK: Mr. Chairman, I find this discussion  
6 interesting, but I wonder whether this isn't a level of detail that  
7 the Commission may want not to get into.

8 MR. PARKER: The same thing had crossed my mind,  
9 would be to get on.

10 MR. DOOLEY: I was trying to speak to the issue of  
11 whether or not the finding was the people operating an area of  
12 ignorance.

13 MR. WENK: Oh, fair enough.

14 MR. DOOLEY: I was speaking to exactly was speaking to --  
15 trying to speak to the issue that those people making decisions  
16 are indeed dealing with a field of ignorance.

17 MR. WENK: But I think you could say that in generic  
18 terms, and make.....

19 MR. DOOLEY: I think we had the body of that.....

20 MR. WENK: .....and make the point, but I would worry  
21 about our getting into.....

22 MR. PARKER: In line with that I think in the -- I hope  
23 that we're gonna have a great deal of information coming. The  
24 information that ECO is collecting from European sources on  
25 what the state-of-the-art is there and I'm hoping that we're

1 gonna have a good file of state-of-the-art information on what's  
2 available. How we'll be able to convey that to our successors,  
3 whether we'll just hand them the file or whether we'll be able to  
4 do a small, discreet document on that depends on the time and  
5 everything.

6 MR. HAVELOCK: I think we have enough on the scientific  
7 ignorance issue to do something that's acceptable. I wanta call  
8 your attention to the finding also indicates they ere not fully  
9 advised logistically. Now, that's likely to be a contested one in  
10 the sense that I think Exxon takes some pride in the parabola it  
11 shows in the way they went about mobilizing materials. But on  
12 the other hand, I suppose another way of looking at it is it  
13 should have been parabolic in the sense there should have been a  
14 -- the bells should have run in fire stations all over the place at  
15 the first time. It has to do with Ed's point about the need for  
16 instant mobilization, not parabolic. That a first layer of instant  
17 response where a lot of things started moving at once. Where  
18 also I think that the records will show some fairly specific  
19 failures; the lack of adequate knowledge of where things were.  
20 It's amazing, one can say that Exxon found what they did in the  
21 time that they did considering theat there was no information  
22 that was up to date and accessible. One example would be the  
23 soviet skimmer, which was, with a delay of a few days before that  
24 thing was brought in, was enough to make it -- actually, it was, in  
25 fact, useful, but had considerably reduced the effectiveness of

1 the use of that machine, which is probably the best piece of  
2 equipment that actually was available for cleaning up.

3 MR. HERZ: Didn't we have testimony though from Mr.  
4 Iorocy which said that the preceding two or three years that he  
5 had had people in Exxon put together a list of what was available  
6 world wide in terms of response capability and one of the  
7 reasons that they were able, in fact, to find and get moved to  
8 Alaska as much equipment as they did was because they had  
9 spent this period of time assembling that list?

10 MR. HAVELOCK: That's correct. He did testify. That's  
11 why I say it's contestable, because he could've said that we have a  
12 list and I guess my position would be that well, if he had his list,  
13 how come the de-mobilization wasn't quicker and, secondly,  
14 how come he missed the things that he missed.

15 MR. PARKER: And we also have testimony from several,  
16 Seward and others, that they were able to go out and get boom  
17 on their own faster than they could acquire it through the Exxon  
18 logistics system, like 24-hour response just by knowing who to  
19 call.

20 MR. WENK: Is there a point to be made somewhere along  
21 the line here about hand off from Alyeska to Exxon. I've always  
22 been a little confused as to what the pre-crisis treaty was  
23 between those two organization. And then what the insight to  
24 action was and it raises a question that, for example, did Alyeska  
25 have some kind of unwritten on the hand off and do they have

1 that same agreement with the other oil companies? This may be  
2 my own lack of information, Mr. Chairman. It may be some  
3 information that's been provided, but I'm still confused about  
4 what happened there and it has a lot to do with the points being  
5 discussed now in terms of Exxon's preparedness versus  
6 Alyeska's preparedness. Exxon's preparedness, in my  
7 recollection, is preparedness for something anywhere, but not  
8 specifically with regard to prince William Sound.

9 MR. PARKER: Did Al in his perusal of all the contingency  
10 come up with anything more insightful than what we know  
11 generally about that? The exact relationship between Alyeska  
12 and Exxon on contingency plans.

13 MR. HAVELOCK: Well, I think we know -- I guess answer  
14 one is I haven't heard anything from Al that would change what  
15 we heard in testimony here. But the testimony was from Alyeska  
16 that there was an existing, there was a hand off agreement and,  
17 in fact, things went according to the agreement. And in that  
18 respect you can say the state seems to have been somewhat  
19 adrift in not being as aware as it should have been, one, that that  
20 was the case, and, secondly, that the state should never have  
21 permitted that to be the case 'cause it was a way of handing off  
22 the disaster spill to Exxon, which should have been an Alyeska  
23 responsibility. And under the current regime, as Marilyn was  
24 just telling you, the responsibility of Prince William Sound is  
25 being restored to Alyeska, for the full magnitude of the spill.

1 MARILYN: No.

2 MR. HAVELOCK: No?

3 MARILYN: No, actually it's being -- it's just clarified that  
4 each vessel has to have a contingency. They may choose the  
5 terminal's contingency plan, but it has to be clearly stated that  
6 that is what they're using and how that's going to work.

7 MR. SUND: But, how far is Alyeska's plan going out into  
8 the Sound?

9 MARILYN: That's the question.

10 MS. WUNNICKE: Yeah, that's the dividing point.

11 MARILYN: That is the critical question, and that's what  
12 DEC is arguing with Alyeska right now. How far out of  
13 Hinchinbrook are those contingency plans from the terminal  
14 going to be useful?

15 MR. SUND: Well, if the tanker can use the terminal plan  
16 for its own, then the plan has to cover the requirements of area  
17 that the tanker should be required to have a plan.

18 MR. HERZ: That's a different question than I thought the  
19 more generic that we're asking is, what guides that hand off? Is  
20 there a document? Have we reviewed it? Is it a public  
21 document? Is it a gentleman's agreement?

22 MR. WENK: I don't think we've ever seen the document.

23 MR. SUND: We haven't seen it.

24 MARILYN: It was in the paper, that's all.

25 MR. HERZ: I mean, is -- do we know whether there is.....

1           MARILYN:     But we can request whatever those  
2 discussions are within DEC and Alyeska now. But that also  
3 doesn't cover Cook Inlet, for example, or other places in the  
4 state, so it is something that would be worth looking at.

5           MR. HAVELOCK: Well, I think -- isn't our principle going  
6 to be that, at least within Prince William Sound, that the  
7 responsibility to keep a capacity there lies in the terminal. And  
8 in Cook Inlet, it'll be a -- CIRI, or whatever, is gonna have to have  
9 that responsibility and people will sign up for it to pay there  
10 dues. But it's a regionally based response.

11          MR. PARKER: Who responds at Whittier then, in Prince  
12 William Sound.

13          MS. WUNNICKE: I think that was the percept -- excuse  
14 me.....

15          MR. HAVELOCK: Well....

16          MS. WUNNICKE: But that was the perception at the time  
17 of the Exxon Valdez that the Alyeska Plan applied to all of Prince  
18 William Sound. And yet, after the event, we were told that no,  
19 they didn't apply to the whole sound, but they only had  
20 responsibility of -- at most, through the narrows.

21          MR. HAVELOCK: For Narrow traffic.

22          MR. PARKER: Who responds at Cordova, you know.

23          MR. SUND: Who responds in Southeast Alaska?

24          MR. PARKER: But, you know, we're talking Prince William  
25 Sound, but that's why we have to think in terms of Prince



1 William Sound response plan in which the terminal covers its  
2 areas of concerns, but which any oil spills in other ports are  
3 covered by some kind of response plan, either based on the  
4 vessel, based on whatever.

5 MR. SUND: Well, Mr.....

6 MR. HERZ: It's my understanding that both the old and  
7 the current Alyeska plans have the entire Prince William Sound  
8 broken down in sections and how they're going to respond with  
9 what equipment, what they're going to deploy to protect what  
10 sensitive habitats throughout the Sound.

11 MR. PARKER: Only for their ships.

12 MR. HERZ: Not, oh?

13 MR. DOOLEY: Just for the ships, essentially where the  
14 bias is that plan currently is that it's taken the focus of  
15 transportation going into and out of Port Valdez. It doesn't not  
16 deal with the issue of Whittier.

17 MR. WENK: Mr. Chairman, I don't have the original  
18 legislation setting up the Commission in front of me, but my  
19 recollection is we're enjoined vis-a-vie findings to say something  
20 about who was responsible in the past. And so, all I'm suggesting  
21 is that this Alyeska Exxon connection that we've been discussing  
22 be looked at in terms of this fundamental question of what  
23 happened and why did it happen, pre-spill, or up to the spill.  
24 And that this question of how to protect Prince William Sound  
25 for the future is a legitimate subject for findings but that we

1 carefully separate the two.

2 MR. PARKER: Yeah. I agree and the way I've phrased that  
3 in my discussions with people, what we had happen at Valdez in  
4 spill response in real terms is we had three major players  
5 initially, on March the 24th, in place: Commander McCall, of  
6 Coast Guard, who'd been there a couple of years and knew his  
7 turf pretty well; we had Dan Long of DEC who'd been there for  
8 12 years and been in charge for seven years, who knew his turf  
9 backwards and forwards; and we had the Alyeska terminal  
10 manager, who's name escapes me, but we have no reason to  
11 expect didn't have some idea of what went on in his part of the  
12 patch; and within three days they were replaced by Admiral  
13 Nelson for the Coast Guard, Dennis Kelso for DEC and Frank  
14 Iorocy replacing the terminal manager, none of whom of the  
15 three had ever read any of the contingency plans affecting  
16 Prince William Sound, and none of whom had ever been in  
17 Prince William Sound before. So a system that results in  
18 something like that has to have some fundamental flaws built in  
19 to it.

20 MR. WENK: Absolutely, and I think that's the kind of  
21 thing that I believe it is appropriate for the Commission to deal  
22 with, because, in looking backwards we then have a chance of  
23 looking forward, saying how to keep that same kind of thing  
24 from happening again.

25 MR. PARKER: Uh, hum.

1           MARILYN: I just wanta clarify one thing. Dan Long wasn't  
2 designated, unfortunately, wasn't the designated on-scene  
3 coordinator. It was Bill Lamero.

4           MR. PARKER: He was the guy in charge when the oil hit.  
5 He was in charge of the DEC office.

6           MARILYN: Yeah, but there was a pre-designated person  
7 who was Bill Lamero.

8           MR. PARKER: Who was it?

9           MARILYN: Bill Lamero.....

10          MR. PARKER: Oh, yeah.

11          MARILYN: .....was the person who was the pre-  
12 designated.....

13          MR. WENK: Out of Anchorage.

14          MARILYN: Out of Anchorage, right, which is -- that's  
15 something something in itself that's interest.

16          MR. PARKER: Yeah. Did you find out why that was so?

17          MR. WENK: It fairly important, what you just said. It's  
18 mighty important.

19          MARILYN: Right. Yeah.

20          MR. PARKER: Yeah, why.....

21          MARILYN: It's very important. Because that person did --  
22 was the same as Danny Kelso. He didn't know what the  
23 contingency plan was.

24          MR. PARKER: Why was he the designated on-scene  
25 coordinator.....

1           MARILYN: That was just the pre-designated on-scene  
2 coordinator. I don't know why.

3           MR. PARKER: .....for a spill at Valdez.

4           MARILYN: He's the regional manager, that's right, of  
5 southcentral region, a director, whatever you call it.

6           MR. PARKER: The story sounds better the way I just told  
7 it, doesn't it.

8           MARILYN: I know, you were doing better.

9           MS. WUNNICKE: One of the questions that -- you know,  
10 we've listed a whole lot of questions in the early drafts from  
11 institutions working group. One of the questions was whether or  
12 not Alyeska notified the state of Alaska when that transfer --  
13 when the response was transferred to Exxon. You know, from  
14 midnight 'til nine something the next morning before Exxon  
15 assumed command. The assumption was that Alyeska was in  
16 charge of the response. And there was a question as to whether  
17 they even notified the state of Alaska on the transfer of that.

18           MS. HAYES: Uhm, Commissioner Wunnicke, if I  
19 remember the testimony right, it seems to me that that was  
20 something where the state thought it should be notified and the  
21 people from Alyeska and from Exxon both believed that it was  
22 written into the plans that they would automatically transfer as  
23 soon as the shipper was able to.

24           MS. WUNNICKE: I think, yeah, I think you're right.

25           MS. HAYES: And I think that was one of those places

1 where there's some difference of opinion.....

2 MS. WUNNICKE: Okay. So we did ask that question.

3 Okay.

4 MS. HAYES: .....in the testimony.

5 MR. PARKER: Okay. Anything more on those particular

6 findings, for now. I think we've got some interpretations here

7 of.....

8 MR. WALLIS: Are we correct about #10.

9 MR. HAVELOCK: Ignore the recommendations on this

10 sheet they've been superseded by the long list of

11 recommendations.

12 MR. PARKER: Okay.

13 MS. WUNNICKE: One other thing before you leave

14 findings. This is pretty much specific to the Exxon Valdez

15 event. Don't you need findings here that would support the

16 recommendations with respect to Cook Inlet in terms of.....

17 MR. HAVELOCK: Yes. I think, I thought that when you do

18 the recommendations, there and you go to different reasons

19 you're gonna back into it by asking me what findings there are

20 that support such an outrageous recommendation.

21 MS. WUNNICKE: So, we'll expand this list as we go

22 along?

23 MR. HAVELOCK: Oh, yes. 'Cause we're not done with it.

24 You'll come back into because you're gonna look at

25 recommendations and it'll raise the question of findings.

1 MS. WUNNICKE: You couldn't think of everything?  
2 MR. HAVELOCK: Well, I did, but I gotta leave something  
3 out.  
4 MR. PARKER: Tim.  
5 MR. WALLIS: Yeah, number 10 sounds like more an  
6 opinion than a finding. Am I right, or.....?  
7 MR. SUND: Just red the first sentence, don't read the  
8 rest of it.  
9 MR. HAVELOCK: It's a, like a lot of these findings, there -  
10 - it's a conclusionary finding. You're right.  
11 MR. SUND: Just read the first sentence and ignore the  
12 rest.  
13 MR. HAVELOCK: I guess what I'm getting at there in  
14 terms of the findings is a -- or I'm backing into this as a very  
15 generalized finding that support a series of recommendations  
16 which is that the State should, notwithstanding federal  
17 legislation, the state should be the primary response  
18 commander for oil spills in Alaska, not the Coast Guard. And if  
19 the feds want to come in and do it, I mean the President. It's  
20 out of our hands. But I think the assumptions should be that it's  
21 not the spiller, not the federal government, but the state is in  
22 charge. And so I back into that by saying, why is -- why do I --  
23 why is that a recommendation? And the reason is because it's  
24 fact there was more local knowledge, more local capability, me  
25 actual ability to respond, given that a state can control the

1 private resources. I mean, if you amend the law to allow the  
2 utilization of private resources through the requirements of the  
3 contingency plan developed by the private users and the state is  
4 in a far better position to respond. Otherwise, you're always  
5 gonna be having the admirals telling you, talking to you about the  
6 environment.

7 MS. WUNNICKE: Mr. Chairman, one great example of the  
8 value of knowing the territory, so to speak, and even the people  
9 who knew the territory were somewhat cause on this and that  
10 was the assumption that once -- if they could just get the oil out  
11 of Prince William Sound, it would disappear. You know, without  
12 knowing enough of the trajectory of the oil and the winds and  
13 the currents and the geographic configuration to be able to  
14 project that Seward was going to be affected or that English Bay  
15 or Port Graham or Kodiak and all the way down the line. I think  
16 that's a very good example there.

17 MR. WENK: I'm not sure whether this is the right time to  
18 get into this particular issue that John raises, but let me just  
19 flush it out a little bit, cause I wanta go back to another one. It  
20 has to do with, I think I heard the notion that the State assume  
21 the on-scene coordinator role. Now I would like just to bring to  
22 the Commissioner's attention the full consequences of that vis-a-  
23 vie the role of the -- or the capability of the Coast Guard to muster  
24 not only it's strike force capabilities, but the fact that it has  
25 access to federal capabilities of a tremendous richness. I'm

1 thinking of the navy. I'm thinking of the corp of Engineers. I'm  
2 thinking of some of the other capabilities that exist, even in the  
3 Forest Service, presumably in FIMA (ph), although I think all of  
4 are somewhat shaken in this regard, but maybe that'll change  
5 too. All I'm suggesting is, that I believe this issue really deserves  
6 some very careful attention in terms of, and I don't want to put it  
7 in pros and cons, but in terms of what are the consequence if  
8 you go one route versus the other. I lean toward something that  
9 was -- that I said earlier in the day that the state has the primary  
10 responsibility to protect it's citizens.

11 But it can do this in two different ways. One is to assume  
12 this responsibility and the other is to first assess the  
13 competence and capability that otherwise exists, ala federal  
14 government and Alyeska and in the southeast Alaska I think  
15 there's gotta be something else beside Alyeska. And still  
16 maintain that prominent role as a steward of the public interest.  
17 But's that's vastly different the on -- the OSC thing. All I'm doing  
18 is raising a question without really taking a strong position.

19 MR. HAVELOCK: Well let me -- one response to that  
20 seems to me is that the resource issues you raised should not be  
21 relevant under the incident Command System. That is, we're  
22 not talking about an either/or situation here. As I understood it  
23 from talking with the Alaska Adjutant General, the two parties  
24 are gonna muster their resources regardless of who the on-  
25 scene coordinator is. It's just -- and that both entities -- they're



1 all entities that are capable of bringing resources to the problem,  
2 would fit into the system and would bring their resources. My  
3 question is that who is the ultimate decision-making authority  
4 for purposes of making decisions about the allocation of those  
5 resources. And whether it's the Coast Guard or whether it's  
6 military affairs, they're happy to do their thing, as it is, but with -  
7 - under the direction of whoever. And in some senses, whoever  
8 is irrelevant.

9 MR. WENK: Well, but you said something quite important.  
10 Is there a memorandum of agreement that confirms just what  
11 you said that now exists, such that the, what is the term you use,  
12 commander in military affairs?

13 MR. HAVELOCK: Adjutant General.

14 MR. PARKER: Adjutant General.

15 MR. WENK: Adjutant General can, virtue of an existing  
16 memorandum of agreement, count on the.....

17 MR. HAVELOCK: Yes, that is true.

18 MR. WENK: ..... these federal resources?

19 MR. PARKER: Only for hazardous waste or.....

20 MR. HAVELOCK: We can't tap into EPA to the  
21 environmental funds. Correct. That's why.....

22 MR. PARKER: No, but how about the.....

23 MR. WENK: But how 'bout capabilities. I'm thinking about  
24 mustering the Coast Guard strike force.....

25 MR. PARKER: Yeah.

1           MR. WENK: .....the navy, this, that and the other. They  
2 can do that?

3           MR. PARKER: Here's the way I'd do that see the thing.....

4           MR. WENK: There is a memorandum of agreement.

5           MR. PARKER: Here's the way I'd see the thing structure,  
6 based on what Congress is doing now, what the state has already  
7 done, what we may recommend. Have the local on-scene  
8 coordinator designated for the area, whether that be Prince  
9 William Sound, Cook Inlet, whatever district we work out,  
10 working within the Incident Command System to draw on the  
11 local resources for immediate response. Have the state set up  
12 within a larger ICS structure to be capable of flowing those  
13 resources within the state into the system, as necessarily, and  
14 also, if we follow through with our recommendation on an  
15 interstate compact, that state also reaching out into the  
16 interstate compact to get 6th regional resources. Beyond that is  
17 the federal czar who will -- who we're gonna get from Congress  
18 without a doubt, who main responsibility, as I see it, is to ensure  
19 that those massive federal resources are timely mobilized and  
20 made available to the on-scene coordinator. And I think that's  
21 where the confusion exists with the Congress. They view their  
22 federal czar as kind of dashing off to be the on-scene coordinator  
23 and I see him purely as a logistical manager to ensure the flow of  
24 resources to the impacted area. And the -- but, you know, you're  
25 entirely right. The Navy and the Corp, is identified now, and is

1 identified in the information we've collected on Prince William  
2 Sound, where a good part of what was afloat out there, was there  
3 stuff. Most of the skimmers were navy skimmers.

4 MR. DOOLEY: The Corps of Engineers, incidentally was  
5 not requested by the Coast Guard on-scene coordinator. Those  
6 were requested by the military commander of the Alaska  
7 Command, independent. And as a matter of fact some of the  
8 scuttlebutt in DC is the Coast Guard's a little bit chagrin that  
9 someone took independent action outside their direction.

10 MR. WENK: Sounds normal, doesn't it. Anyway, to see if I  
11 understand this correctly, either in a -- is it gonna take this act  
12 of congress to make sure this happens?

13 MS. WUNNICKE: It needn't.

14 MR. PARKER: No, I think the Congress is gonna give us  
15 that federal authority anyway. That's pretty well in both bills. So  
16 we're gonna get that anyway. It's a question -- I think the  
17 question we have to answer, as a Commissioner, is how do we  
18 most effectively use that federal authority Congress is gonna give  
19 us to fit it into the interstate compact, and on down into the  
20 local on-scene coordinator.

21 MR. WENK: But the federal coordinator will give the state  
22 the over-riding authority, vis-a-vie the on-scene coordinator,  
23 with the promise of federal capability back up.

24 MR. PARKER: Yeah.

25 MR. WENK: Okay.

1 MR. PARKER: And I see no reason why that federal  
2 authority, why it can't be designated as being delegatable to the  
3 state with the state having the capability of designating it to  
4 the.....

5 MR. WENK: Well.

6 MR. PARKER: .....local authorities, the same way you do  
7 water quality, hazardous materials and everything else.

8 MR. WENK: Well, I'm satisfied on the point, but wouldn't  
9 it be good to have this written into the Commission report  
10 because I've got a few little signals that some lobbying's going on  
11 right now in preparation for the Conference Committee, you can  
12 imagine what kind, which is likely to radically change what both  
13 houses have passed. You might think that the Conference  
14 Committee is only gonna come up with lumber that's already  
15 been hammered into place and what I'm hearing is that there's  
16 some people in the system who essentially are -- no they're not  
17 saying we're starting all over again, but they're saying that the  
18 Conference Committee may feel in light of what it's learned that  
19 it's gonna change it's mind on some of these key provisions.

20 MR. PARKER: Yeah, I haven't picked those vibes up. have  
21 you Dennis or Marilyn?

22 MR. DOOLEY: Picked up some of it.

23 MR. PARKER: Hum?

24 MR. DOOLEY: Picked up some of it this morning.

25 MARILYN: In which areas, I'm curious?

1 MR. WENK: I can't tell you. I'll find out in the next few  
2 days. All I can know is something's going on.

3 MR. HAVELOCK: This, I might add, has some relevance to  
4 your scheduling issue, because I think we should have the -- our  
5 preliminary report in hand in January to take it to D.C.

6 MR. PARKER: Yeah, there's several key areas like this and  
7 this is a key one, an absolutely key one. There's gonna be other  
8 key areas in our discussion that we're, I think, going to be able  
9 to influence that conference committee, hopefully.

10 MR. WENK: Well, I think John's right about timing. The  
11 last I heard was that conference committee probably will not  
12 meet until the first week in February.

13 MR. PARKER: that'd be my guess. That's what I've heard.

14 MR. DOOLEY: The word I got is, today, is that the staff of  
15 those conferees is meeting through December and they're.....

16 MR. WENK: Oh, yeah.

17 MR. DOOLEY: .....going to try to deal with it in the middle  
18 of January as conferees.

19 MR. WENK: Well, except I don't think the Congress is  
20 gonna actually be in.....

21 MR. DOOLEY: Yeah.

22 MR. WENK: .....back until the third week in January.

23 MR. SUND: No, but those muddling, little, miniscule,  
24 little staffers will be there mucking up the world.

25 MR. DOOLEY: We all know what pictures the

1 unaccountable.....

2 MARILYN: True.

3 MR. PARKER: Staffers rule the Hill.

4 MR. WENK: Which fortunately is an exception here.

5 MR. PARKER: To have the ear of the staff is to have the

6 ear of the Congress.

7 MR. WENK: Well.....

8 MR. HAVELOCK: Did you have anything more on this

9 sheet.

10 MR. WENK: Well, on findings, just one or two quick

11 points.

12 MR. SUND: Can we go to recommendations and then

13 come back to findings.

14 MR. WENK: Let me just make a general point. John, I

15 lean -- I know this is premature and we're gonna discuss it

16 Wednesday, but I lean to your notion of maybe having an

17 Executive Summary available early January. And if so, it seems to

18 me these findings are crucial in terms not only what they say,

19 but how they say it. And I think they oughta be just punchy as

20 hell.

21 MR. SUND: I like punchy findings.

22 MR. PARKER: Tim.

23 MR. WALLIS: Yeah, I think we oughta say something about

24 what role the liability picture played in a decision-making

25 process early on.

1 MR. SUND: Early on?  
2 MR. WALLIS: Pardon?  
3 MR. SUND: Day one to now, it controls the decision-  
4 making process. Even today.  
5 MR. WALLIS: Well, that's true. But I mean from early on  
6 when it -- things were in such chaos. A lot of it, I think was  
7 because of liability.  
8 MR. SUND: I think Purcelli's interview of the governor  
9 brought that out fairly well - that hand out that you have there  
10 talks about -- those questions were right in the Governor's office  
11 from the moment the spill happened. Insanity reigns again.  
12 MR. HAVELOCK: Do you wanta amplify on that. I mean, is  
13 it more than just the Governor. I assume it's everybody.  
14 MS. WUNNICKE: I think the affected -- all the parties'  
15 responses -- the threat of liability and.....  
16 MR. HAVELOCK: How.  
17 MS. WUNNICKE: .....litigation. In.....  
18 MR. HERZ: The assumption of liability.  
19 MR. SUND: Should the state of Alaska have assumed  
20 responsibility of the spill or not? Argument: it might affect  
21 liability. Should the spill be federalized? Argument: it might  
22 affect liabil -- responsibility of Exxon.  
23 MS. WUNNICKE: Should we use volunteers?  
24 MR. SUND: Should we use volunteers who might be  
25 liable? And I think that Tim's got an excellent point. The

1 finding is -- actually the recommendation -- I'm going at it  
2 backwards. The recommendation is that the liability issues  
3 oughta be crystal clear from the beginning so they're not a factor  
4 in the decision-making, in either getting ready, in the  
5 preventative side, or in the response or clean up side. That's  
6 the -- gotta clear that issue off the deck. I'm real concerned  
7 now that it's affecting all the goddam management decisions that  
8 are going on.

9 MR. HAVELOCK: Does everybody agree with what John  
10 said?

11 Affirmative response by Commissioners.

12 MS. HAYES: Absolutely.

13 MR. HAVELOCK: Okay.

14 MR. SUND: Tim's point. I was just articulating.....

15 MR. HAVELOCK: Tim's point, your application.

16 MR. SUND: .....it for him.

17 MR. WALLIS: I'm not proud.

18 MR. PARKER: Okay, are we ready to go with institutions  
19 recommendations, preventions.

20 MR. SUND: A secret lawyer to talk about that.

21 MR. HAVELOCK: That is Marilyn's paper on them.

22 MR. PARKER: No, that's this one. This is a staff paper  
23 that they spent the weekend hammering out.

24 MR. HAVELOCK: Oh, okay.

25 MR. SUND: This is the one they wanted to start with at 9



1 o'clock this morning.

2 MS. WUNNICKE: Oh, it wouldn't do us any good.

3 MR. PARKER: Okay, we've got Prevention  
4 Recommendations to the United States. Number one to the  
5 Coast Guard.

6 MS. WUNNICKE: And we had already added regular  
7 tanker inspections to that, had we not?

8 MR. HAVELOCK: Well, what we didn't resolve was -- well,  
9 yes. So we added that, that they should by two -- by both DEC  
10 and the U.S DEV, right?

11 MR. HERZ: Excuse me, say that again.

12 MR. HAVELOCK: Both the Coast Guard and the DEC are  
13 going to.....

14 MR. DOOLEY: Provide adequate inspection.

15 MR. HAVELOCK: .....provide regulator tanker inspections.  
16 By regular I assume that means both periodic and spot.

17 MR. HERZ: Didn't we decide that that was already  
18 mandated and that (indiscernible) budgetary increase because  
19 that was in the existing regs.

20 MR. HAVELOCK: Not to the state it isn't.

21 MR. HERZ: No, no, no. But we're only talking Coast  
22 Guard here.

23 MR. DOOLEY: Earlier this morning you suggested that  
24 oughta be a recommendation.

25 MR. HERZ: right.

1 MR. DOOLEY: That there oughta be inspections, frequent  
2 inspections by DEC and US Coast Guard and I thought I heard  
3 the question that is added on this list following this morning's  
4 discussion.

5 MR. SUND: Well, the confusion.....

6 MR. HERZ: My point was, the point I was trying to make  
7 was that I thought that this was an enforcement problem on the  
8 Coast Guard side. That it was already mandated from what I  
9 understood. You said this morning that they're just only carrying  
10 it out with 15% of the vessels.

11 MR. SUND: Well, that's if -- we're under 1A?

12 MR. HERZ: Yeah.

13 MR. HAVELOCK: And whereas actually.....

14 MR. SUND: 1A says, you oughta give more money to the  
15 Coast Guard to do these -- the various missions they're assigned.  
16 It happens to be mentioned and by established a system of near  
17 miss reporting, but.....

18 MR. HERZ: But it should be just -- it should be protect  
19 safety and not just of navigation.

20 MR. WENK: Right.

21 MR. HERZ: It should be -- just delete the navigation, is  
22 that what you're saying?

23 MR. WENK: Well, actually we're talking about the safety of  
24 marine oil transportation. I mean that's the bounds of our study.

25 MR. WALLIS: I don't know if we should be making a

1 mission statement for the Coast Guard other than just saying that  
2 we should strengthen their budget.

3 MR. HAVELOCK: Well, the report that we got on that was  
4 of the confusion of missions from Mary Evans, which seemed to  
5 indicate that maybe we oughta go beyond that and to look at  
6 their performance and maybe some even -- some re-assignment.  
7 I -- in fact, in "B" here, you'll notice I engage in a minor  
8 provocation which we've not dealt with before, which is  
9 suggesting that the setting of crew levels not be a Coast Guard  
10 function, even though the enforcement of crew levels should be.  
11 That one got to me a little bit simply because we had testi -- the  
12 testimony that we got on that point was essentially the effect  
13 that the ship owners submit their crewing standards for vessels  
14 and that they are rubber stamped. There is no inspection of the  
15 vessel. There's no checking up on it under operating  
16 conditions, none of that. Just a -- presumably it's some guy on a  
17 desk in Washington.

18 M.R WENK: Well.....

19 MR. HAVELOCK: And I'm wondering if, therefore, is that  
20 -- is there somebody else in government that is a better entity to  
21 perform that task for the Coast Guard. Maybe you say no, it's just  
22 a funding issue.

23 MR. WENK: Well, it isn't just a funding issue. I think the  
24 funding is a symptom of something else. First of all, I haven't  
25 seen Mary Evan's report. She talks about a confusion of mission.

1 I'm not -- she uses that term and that's okay. But the problem,  
2 I'm not sure is confusion. It's a common disease of assigning  
3 more tasks than they're funds to implement. And this requires,  
4 therefore, an implicit, if not explicit, not explicit setting of  
5 priorities and marine oil transportation safety gets a very low  
6 priority. In fact, it almost disappears off the scope. How do we  
7 know that? Well we ask the question very directly, is there a  
8 line item in the Coast Guard budget? And the answer, am I  
9 correct, colleagues, it was not?

10 Affirmative responses.

11 MR. WENK: That itself is symbolic of how things stand.  
12 So, the bottom line of all this John, is of what I'm suggesting.....

13 MR. HAVELOCK: Well why wasn't, in all due respect, that  
14 tanker point was contradictory missions. It wasn't just a  
15 question of allocation of funding and she was putting much more  
16 emphasis on the Coast Guard view that their job is to enhance  
17 commerce's ability to move goods, as opposed to having a safety  
18 -- an unalloyed safety mission. The mixture of contradictory  
19 mission, as least as much as a budgetary prioritization..

20 MR. WENK: Uhh.

21 MR. SUND: I guess, maybe, on a -- we've got one.....

22 MR. WENK: I'd like to see your report. That doesn't  
23 square with my understanding.

24 MR. WALLIS: Maybe John we have to change it by  
25 requesting line item budgeting for the Coast Guard.

1 MR. PARKER: Yes, in this one. You didn't get this stuff.  
2 MS. HAYES: You didn't get the SeaGrant?  
3 MR. WENK: Yeah, I did. Is it in there?  
4 MS. HAYES: Well that's where it is, yeah.  
5 MR. SUND: That's quite possible a line item.....  
6 MR. WALLIS: Line item budget and so forth.  
7 MR. SUND: Yeah.  
8 MR. HAVELOCK: Well, program budgeting, actually you're  
9 talking. I mean they line item now. And I assume they got a line  
10 item that is Coast Guard, Southeast Alaska, pencils.  
11 MR. PARKER: If they do like most federal agencies, they  
12 program, then they line item for the benefit of the Congress. It's  
13 the Congress that doesn't like line item budget; doesn't like  
14 program budgeting.  
15 MR. DOOLEY: Well we look at specific cost elements like  
16 the vessel traffic system. In our instance, we worked on specific  
17 oil transportation. The Coast Guard mission is shipping safety.  
18 They don't make it specific oil transportation. They're talking  
19 about port congestion and port management.  
20 MR. PARKER: Yeah.  
21 MR. DOOLEY: So, I don't find it -- the fact that they don't  
22 have a line item saying oil transportation system -- they may have  
23 the same elements covered in a whole bunch of management  
24 systems.  
25 MR. PARKER: I know, but the fact that they do, you know,

1 they do -- do they have one for hazardous cargo?

2 MR. DOOLEY: I don't know.

3 MR. PARKER: I don't know. It's -- but Ed's right. They  
4 do put it far down the priority list. The other thing I don't  
5 understand in "A". Why do we identify a system of near miss  
6 reporting but leave out vessel monitoring systems and the other  
7 conditions of safety.

8 MR. SUND: I just wanted to bring that point up here. Can  
9 we just deal with "A" and leave "B" for a second here?

10 MR. PARKER: Yeah.

11 MR. SUND: That we have vessel inspection, we have  
12 navigation as two of our big wants here, I guess, for the Coast  
13 Guard to put in.

14 MR. HAVELOCK: Okay.

15 MR. SUND: Near miss reporting, I think came out of Ed's  
16 recommendations in his paper.

17 MR. WENK: It's sort of a lower level thing than -- I mean,  
18 I hope it's in there some place, but I'm not sure it deserves  
19 being up in that level of importance of that item, John.

20 MS. WUNNICKE: But don't we want to re-emphasize here  
21 in talking about institutions.

22 MR. SUND: This is prevention.

23 MS. WUNNICKE: I know. Some of those aspects of  
24 prevention -- well these are institutions having to do with  
25 prevention. Some of those aspects of prevention that we're

1 emphasizing in our other recommendations, like our radar or  
2 LORAN system, that kind of thing, shouldn't they be the  
3 specifics also here? Or is that too....

4 MR. HAVELOCK: Those are the -- they'll be in the  
5 technical listing of recommendations. I assume that's all already  
6 in. Okay. So the question is, do you have an institutional  
7 structure. Are you gonna change your institutional structure to  
8 reflect the monitoring system, or is the existing institutional  
9 arrangement that they've got there sufficient? I assume that  
10 what they've got there now is sufficient, given the equipment  
11 and a couple more people to run a monitoring system. Maybe  
12 that's wrong and they need to have a separate command. I mean  
13 there was some talk of privatization, and you know, hiring  
14 civilians to run a system.

15 MR. PARKER: Well, the key point is, as long as everybody  
16 understands what we write when we write this, what is meant  
17 by, you know, protecting the safety of navigation. What's  
18 included in that. So it doesn't fall through the cracks in the  
19 same -- because you know, if we misinterpret it, why someone  
20 else is gonna mis-interpret too.

21 MR. SUND: The -- saying navigation really doesn't.....

22 MS. WUNNICKE: Marine oil transportation.

23 MR. SUND: Yeah, I think you've gotta take -- 'cause when  
24 I was back at headquarters back there, right. There's marine  
25 safety, right? That's Admiral Sykes. You know, you talked about

1 marine safety with him. And then when you go see Admiral  
2 Nelson, you talk about navigation. And then if you want to talk  
3 about rules of the road, there's another Admiral down  
4 somewhere else that does that. But, the navigation guys are only  
5 in charge of maintaining the navigation system, not designing it.  
6 So making the decision whether you don't or don't have, right --  
7 I mean they've got very neat little compartments that they walk  
8 in. So I had a little bit of problem finding out who I wanted to  
9 talk about double bottoms and vessel monitoring systems. I got  
10 kinda running around through their building.

11 MR. WENK: Well....

12 MR. SUND: So I think when you go to write this you need  
13 to check it off with Virgil or somebody at, who's been around the  
14 system a little bit who understands their terminology.

15 MR. WENK: Okay, first of all, still on item "A", though I  
16 was perhaps author of the suggestion for the near miss reporting  
17 and still believe on it, it seems to me to be -- to deserve a  
18 different line and not weaken what I think is the intent of "A".  
19 So now, talking only about without the near misses.

20 MS. WUNNICKE: Okay. There you go.

21 MR. WENK: It seems to me that the crux of the matter  
22 here is not having to do with any re-definition of the mission of  
23 the Coast Guard in the first instance. I know Tim mentioned,  
24 raised this question. And it also doesn't mean getting in, I don't  
25 think appropriately, into the internal workings of the Coast



1 Guard because they're pretty archain (ph) and they're also  
2 transient depending upon who holds what job and so on, and can  
3 all be changed by internal administrative rules. It seems to me  
4 what's at stake here with regard, again, to recommendations on  
5 prevention is simply to say that the law of the land, you don't  
6 need new laws, requires the Coast Guard to pay attention to  
7 these following factors having to do with safe transportation of  
8 oil and that the budgets and administrative rules and priorities  
9 be established accordingly.

10 In other words, it seems to me the recommendation here  
11 is not to invent a new agency. It's not to even propose new  
12 legislation. It is to say that there already exists plenty of  
13 authority for the Coast Guard to operate with if they were doing  
14 their job, which they have not been doing.

15 MR. HAVELOCK: Well, can I -- let me respond to that if I  
16 may, as devil's advocate. We're talking about institutional change  
17 here. Now I think that its reasonable to have a perception that  
18 there was a widespread failure of Coast Guard oversight of the  
19 marine transportation system, not just having to do with budget  
20 but having to do with an attitude, a lot of other things. Now for  
21 everybody else you're saying, well, what we need to do is to  
22 create some incentive, some system here to make the institution  
23 more responsive. And yet, all your telling me -- what I'm  
24 hearing is the Coast Guard's a wonderful agency if only you'll give  
25 it some more money, it'll do everything right. And I don't think

1 that that's the case. Obviously I'm overstating what you've said.

2 MR. WENK: No.

3 MR. HAVELOCK: But, there's a hint to that there that you  
4 shouldn't -- it's too archain (ph). It is too old and marvelous an  
5 institution to monkey with and that all they really need is money.

6 MR. WENK: First of all, I think, John in playing devil's  
7 advocate. That permits you to think you're own thoughts about  
8 saying what they are, but I think you're right in forcing us to  
9 defend whatever statement we make. What I would come back  
10 to is the following.

11 There's a difference between the structure of an  
12 organization, of an institution, and it's behavior. The structure is  
13 essentially established by law and the mission is established by  
14 law. But how it behaves does depend upon attitudes, does  
15 depend upon archaic views of what is or isn't important, does  
16 depend upon the corporate culture and in this case not only  
17 corporate culture, but also the marine or the mariner culture.  
18 And various federal agencies have had to go through some major  
19 changes. And I'll give you one example. That's the Corp of  
20 Engineers after the National Environmental Policy Act was  
21 passed. They tried everything possible to avoid having to  
22 respond to that, for years. But they now, not only do it, but they  
23 know how to do it as well as anybody in the federal government.

24 MR. PARKER: Yeah, they make an industry of wet ones.

25 MR. WENK: Well. They've gotta stay in business, don't

1 they. They'll make a new industry. All I'm suggesting is the  
2 Coast Guard hasn't yet realized they're in the later part of the  
3 20th century in which the environment is a major factor. And  
4 so, it seems to me what this recommendation does -- we're  
5 talking about institutional behavior. The recommendation has  
6 the potential of highlighting the priority this, the Coast Guard  
7 should give to this element, which it is very clear they  
8 neglected. Now later on in your proposals, you talk about this  
9 oversight function in the report. And I think that's a case where  
10 by jove, you really do enforce this notion of accountability, of,  
11 again, just giving high visibility to what the Coast Guard did or  
12 didn't do. Most -- even people who are interested in marine  
13 affairs, very seldom track what the heck the Coast Guard does on  
14 safety. And yet, if you some kind of a highly visible reporting  
15 system, all those who are potentially impacted -- we come back  
16 again to these communities and the stakeholders and so on and  
17 if they know what the Coast Guard is or is not doing, there's a  
18 chance that something better will happen.

19 MR. PARKER: This is a tough one and how to state it  
20 exactly right. 'Cause sharpening by the financial strengthening  
21 of this mission -- what FAA went through the same thing in the  
22 mid-50's, the Coast is going through as a result of Exxon Valdez,  
23 after two big mid-airs, Grand Canyon and Manhattan, why the  
24 money flowed. New organizations were created and the money  
25 just flowed. There was money for everything and they bought a

1 lot of new radar, hired a lot of new controllers and they also  
2 increased their administration. A few minutes before the mid-  
3 airs a typical FAA administration to field ratio was 1:30. After 10  
4 years of living flush, it was about 30:70. So, you know, the point  
5 being that just financial is not the only way you sharpen and I  
6 think we just have to think a lot on exactly how we want to state  
7 this point to sharpen the Coast Guard up.

8 MS. WUNNICKE: One of the things that would be helpful  
9 and I think we may have mentioned before, and that is I thought  
10 John Sund's point was a good one and that is an organizational  
11 chart of the Coast Guard with its decision flow or over flow as it  
12 affects oil transport, and particularly as it affects it's role as co-  
13 chair of the regional response team and it's role as on-scene  
14 coordinator. In fact, all these major players I think we need to  
15 have as part of our exhibits, their organizational structure.

16 MR. WENK: Now, we're still talking prevention though,  
17 not on-scene coordinator.

18 MS. WUNNICKE: I know, I know, but I just thought about  
19 it.

20 MR. SUND: I keep coming back to what's really happened  
21 at the Exxon Valdez in all respects and I guess I call it the  
22 Laresche rule of government that, you know, you can write all  
23 this stuff for small and intermediate spills, you know, and the  
24 procedures for how to handle it, but when it comes down to the  
25 biggies, whoever's in charge, whoever's the Governor, whoever's

1 the President is gonna decided how they want to respond and  
2 they're gonna send out whomever they trust to respond. And  
3 that's the way the ballgame gonna come down.

4 MR. PARKER: But that, in itself is an indication of true  
5 weakness in government. Because, in an emergency.....

6 MR. SUND: I'll defer that to 'til we get to institutions.

7 MR. PARKER: .....the system should respond.

8 MR. WENK: But, let's come back to what went wrong.  
9 We're talking prevention, talking prevention and we're talking  
10 Coast Guard and we can go through a whole series of measures  
11 that have now been proposed to keep it from happening again,  
12 with the tug escorts and a better radar and the manning  
13 schedule and the this and that and the other. And everyone of  
14 these, the Coast Guard already had the responsibility to do  
15 something and they failed.

16 MR. PARKER: And, when you're talking prevention the  
17 system has gotta work. It may well be in catastrophies the hero  
18 in history syndrome will always come out, you know, and  
19 whoever the President's man of the moment is will run it. But  
20 when you're talking the day-to-day system, the system itself has  
21 gotta work.

22 MR. WENK: One last point about this mindset at the top  
23 of the Coast Guard, 'cause I've sat with the commandant of the  
24 Coast Guard, many years ago, many times. That guy loves to get a  
25 pat on the back from the White House. It's seldom he ever sees

1 the President, very seldom, but even a White House staffer can  
2 make him feel good. They give pats on the back for search and  
3 rescue missions, get high visibility and are appreciated. They  
4 were also getting pats on the back with regard to drug  
5 enforcement. You look at the number of times the press shows a  
6 picture of a Coast Guard cutter down in Florida interceding and  
7 boy the Coast Guard, I mean the White House loves that. I mean  
8 that's the daily media event. The Coast Guard intercepted --  
9 they don't get a daggone pat on the back from the White House  
10 for enforcing safety and that's part of the problem. They're  
11 human like anybody else and they love that pat on the back. They  
12 are more -- they have less self-confidence at the top, frankly, in  
13 dealing with bureaucratic in-fighting than almost any agency I  
14 know.

15 MR. HERZ: It's not just the pat on the back. The fact is  
16 that in 1979 at the end of the Carter Administration, the Coast  
17 Guard had 500 people across the country who had as their  
18 primary mission, pollution related activities.

19 MR. WENK: Okay.

20 MR. HERZ: Today, 1989, 10 years later, those 500 people  
21 are gone and the White House set the mission of the Coast Guard  
22 to be drug interdiction.

23 MR. WENK: Absolutely.

24 MR. HERZ: And the pollution mission has been totally set  
25 aside.

1 MR. WENK: Absolutely right.

2 MR. HERZ: So it's not just pats on the back.

3 MR. WENK: No, no, no, no.

4 MR. HERZ: It's set at the very top.

5 MR. WENK: It's set at the very top, without any questions.

6 But it's -- you're talking about the budget being set, I'm talking

7 about the other incentives -- the question was asked here, how

8 do you get the Coast Guard to do the right thing, given their

9 mission, and part of it is within their own discretion, within

10 their own discretion where they put their money, and they put it

11 on the drug interdiction.

12 MR. HERZ: But that wasn't the -- my point is that that

13 was not their discretion. There are two ways that it can go. The

14 executive can set it or Congress can intervene. Who's oversight,

15 is it Merchant Marine and Fisheries who is the oversight for

16 Coast guard Budget. Because that's the place if you've got

17 somebody in the White House who has said drug interdiction is

18 goal one, the only way that you can challenge that is from the

19 Congressional side.

20 MR. WENK: Merchant Marine and Fisheries has to do

21 with authority, but not appropriations. It's some appropriation.

22 MR. HERZ: So, it's OMB.

23 MR. WENK: Hum?

24 MR. HERZ: So, it's ultimately OMB?

25 MR. WENK: No, in the Congress, it's the appropriation

1 sub-committee that handles the Coast Guard budget.

2 MR. HERZ: But what happens when an appropriations  
3 sub-committee and OMB come crashing head-to-head. OMB is at  
4 an executive branch run entity. I guess what I'm raising is do we  
5 -- what does a recommendation coming from the State of  
6 Alaska.....

7 MR. WENK: The President proposes and the Congress  
8 disposes so the very first place these priorities are set for the  
9 Coast Guard is the White House, OMB, and it goes over then to  
10 the appropriations sub-committee and it has to be said that the  
11 Merchant Marine and Fisheries Committee in the House is the  
12 weakest of all House of Representatives Committee. So weak  
13 that it's been proposed for dissolution twice and just got saved  
14 by the skin of their teeth. Secondly, within the appropriations  
15 committee, the Coast Guard appropriations sub-committee is  
16 also very weak. And the end result is that it's very seldom that  
17 any thing over on the Congressional side, anybody on the  
18 Congressional side contests what OMB sends over unless it's  
19 building a new Coast Guard cutter in their district.

20 MR. WALLIS: John, do you have some alternate language  
21 for "A".

22 MR. HAVELOCK: Yeah, I think, I think in the context of  
23 the discussion, I could put a, just in-- what they're talking about  
24 is a -- as a recommendation, that is, phrase it in terms of  
25 budgetary priorities and change some of the findings to support



1 that. That in -- basically the problem with the Coast Guard is not  
2 institutional per se, but is one of prioritization caused by the  
3 decrease in -- I'm not sure that that exhausts -- I don't think  
4 that that actually really does explain why Coast Guard personnel  
5 have systematically, both before and after the accident until they  
6 were hit on the head a hammer, allowed vessels to depart from  
7 tanker lanes. I don't think it explains why they don't have any --  
8 exercise any oversight over crews and I don't know that it -- I  
9 guess you can't blame them for tanker design because at least at  
10 one time they did propose tanker design changes and you can  
11 blame that maybe on White House supported international  
12 tribunals.

13 MR. WENK: Well, part of the, part of the.....

14 MR. WALLIS: So, the answer is you think so and you'll  
15 wrap it up and run it by us.

16 MR. HAVELOCK: But I can do what the Commission has  
17 suggested and leave out those unanswered questions.

18 MR. PARKER: John?

19 MR. SUND: Well, I just, I like the way the list was going  
20 there. You say what did the Coast Guard -- what didn't the Coast  
21 Guard do that they could've done to prevent this accident from  
22 occurring. And then also looking down the road, maybe prevent  
23 a future type accident from occurring. Not a whole lot of it has  
24 to do with money. They could've ordered tug escorts; it didn't  
25 take any money out of their budget. They could've prevented the

1 tanker from leaving the tanker lanes; that didn't require any new  
2 money. They had the power to close the port for any number of  
3 reasons and they have, in fact, a few times; that didn't cost any  
4 more money. They could regulate the speed of the vessel within  
5 Prince William Sound and that doesn't cost anything.  
6 Monitoring of the tanker lanes does cost money and they did cut  
7 back their budget on monitoring and on equipment. Vessel  
8 inspections, although I don't know that it would've done  
9 anything to this accident, we've kind of targetted as a future  
10 cause; takes priorities in money. Manning levels of vessels; I'm  
11 not sure that costs anything more to do that.

12 MS. WUNNICKE: It doesn't cost them any.

13 MR. WENK: Manning competency, that is the certi-  
14 fication.....

15 MR. SUND: Right.

16 MR. WENK: .....of mariners is where they've retreated on  
17 the grounds that it's cheaper to have these true and false  
18 questions, multiple choice question to grade those rather than  
19 analysis.

20 MR. SUND: Yes. Well, certification dealing with testing  
21 and dealing with background checks, national drivers license  
22 stuff.....

23 MR. WENK: A little money, not much.

24 MR. SUND: .....those things may have had something to do  
25 with this accident 'cause they may have found Hazelwood

1 incompetent to be -- to retain his captain's papers. You know,  
2 on a five year renewal basis that might've come up. So I think  
3 there's a mission or a statement here to say there's a lot of  
4 things that Coast Guard could do to increase the safety of marine  
5 transportation of oil And there's a laundry list here. Some  
6 require either, mainly just allocation of funding they already  
7 have.

8 MR. WENK: Yep.

9 MR. SUND: Not much takes much new money. And I  
10 don't think it takes a new structure, as Ed pointed out, it just  
11 takes a new attitude of what they have.

12 MR. PARKER: I think you're right. It's a -- we need to do  
13 a little more talking and get the perception of former Coastees  
14 themselves. One of the things the Coast Guard, with it's military  
15 structure carrying out civil missions sometimes -- one thing  
16 about a military structure, the way the Coast Guard runs it, they  
17 bounce people from job to job, so nobody ever gets really good at  
18 his job; not the way in which excellence is portrayed in other  
19 organizations and.....

20 MR. WENK: Incidentally, the Canadian Coast Guard is a  
21 civilian organization, where people do stay in their jobs. It's  
22 vastly different.

23 MR. SUND: I would make a point that on monitoring  
24 tanker lanes, this whole thing, I don't think we've put to rest the  
25 fact that those monitoring stations should be Coast Guard or

1 should be port authority run. You brought that up earlier John,  
2 that you assumed that they were capable of doing that. I don't  
3 know that we, as a Commission, have decided on vessel  
4 monitoring systems per se. I assume we're gonna recommend it  
5 someplace. But also, running it, we haven't decided that.

6 MR. WENK: John Havelock, do you think we've, though,  
7 beaten this one, number one, to death.

8 MR. HAVELOCK: I -- as Commissioner Parker mentioned  
9 a couple of issues here, that looks like consensus. That is that  
10 there is in fact, that there is what I would call -- it's an  
11 institutional problem if you talk about moving personnel around  
12 and the lack of development of expertises on location jobs and  
13 the possibility of civilianizing the administration of some of these  
14 things. Is that something that you all agree is a desirable  
15 change?

16 MR. PARKER: It's the way, the way the rest of -- it's the  
17 way DOD handles similar functions. When they've got a function  
18 where they need an expert they civilianize it so they can keep  
19 him in place where he is truly expert and not move him through  
20 the normal chain of command.

21 MR. SUND: Well, the Coast Guard's done that pretty  
22 much. I know we have a big base in Ketchikan and anything  
23 that's not related to the ships is all run by the civilians. All the  
24 electronics, all the navigation electronic systems in Alaska are  
25 maintained in Ketchikan. All the buoy systems, all of that, all the

1 painters, carpenters, electricians, electronics peoples are all  
2 civilians; been working there for 20 years.

3 MR. HAVELCOK: How 'bout the regulatrick (ph) are they  
4 contract out to the state for regulatory functions?

5 MR. WENK: Well they're.....

6 MR. HAVELOCK: The stakeholder, local institution.

7 MR. WENK: That's a form of privatization, but it's been  
8 happening.

9 MR. SUND: Well they did away with all their stewards.

10 MR. WENK: That's right.

11 MR. SUND: All of their cooks and everything like that are  
12 all civilians on the bases.

13 MR. PARKER: Well, we might come on this when we get  
14 the state recommendation and print it back on this. 'Cause you  
15 know, it's one of the things Marilyn's about in reinforcing the  
16 state's ability to enforce and put it in a position where some of  
17 this could be contracted out under letter of agreement.

18 MR. WENK: John, I'd like to just come back briefly to that  
19 list of Commissioner Sund's just now -- item, item, item, item --  
20 it's seems to me that there's several places in your study where  
21 that itemization, in terms of what might have happened if; who  
22 was responsible, but didn't do it; and what our recommendations  
23 would do to make -- to do it, might dramatize the point.

24 MR. HAVELOCK: I recognize the formatting is an old  
25 theme in your paper.

1           MR. WENK: Yeah, but -- I didn't know it showed. But,  
2           anyway, but it comes back again to something that Mike Herz,  
3           and that is having to do with this order from the White House  
4           and the OMB and the power that they exert on the whole  
5           system. And I know I was emphasizing the sort of the invisible  
6           part, but there's both sides of it and this really is highly  
7           significant. This doesn't let the Coast Guard off the hook. It's  
8           simply being realistic about the environment in which they  
9           operate, which is not, to put it starkly, not in the national  
10          interest.

11          MR. HAVELOCK: Well, who ate the bee, I would suggest  
12          light a conversation that we strike the first sentence and just  
13          adapt the second sentence to reflect your finding.

14          MR. SUND: I think some of the manning requirement  
15          issues, in my mind, could be somewhat resolved if they'd let a  
16          public body be involved in the meeting process, rather than just  
17          between Coast Guard and the shipper. If it was somehow even  
18          put out to a public process of comment.....

19          MS. WUNNICKE: Public notice and comment.

20          MR. SUND: .....or something like that before they adopted  
21          it. I don't know if that works functionally, but it gets back to the  
22          stake holder issue that Ed brought up that.....

23          MR. PARKER: Well, it's the same thing on the US  
24          Delegation's IMO and so forth. All the stakeholders are  
25          represented there.

1 MR. WENK: You know who are.  
2 MR. PARKER: Yeah, only two.  
3 MR. SUND: I.....  
4 MR. PARKER: The Coast Guard and the industry, or the  
5 state department.  
6 MR. SUND: I like number "C" though.  
7 MS. HAYES: I do too.  
8 MR. SUND: You can leave "C" alone, just like it is.  
9 MR. PARKER: Yeah. Yeah, that'll give Congress something  
10 to chew on. The -- but, briefly getting back to "B", it's a  
11 substantial point and one is led to wonder, what is the role of  
12 OSHA in these crew standards and providing oversight. You  
13 know, fatigue is a function of safety, where did OSHA come in on  
14 this. And why shouldn't OSHA have a cut at these manning  
15 standards.  
16 MR. HAVELOCK: You want these -- to follow John's  
17 suggestions, presumably you can throw OSHA in there as one of  
18 the entities required to comment on manning levels.  
19 MR. PARKER: Well, don't rely on me as an expert on this.  
20 OSHA's an organization I don't know a great deal about, but  
21 one.....  
22 MR. SUND: What is the -- I'm not sure that OSHA has  
23 authority on board ships.  
24 MR. PARKER: I'm not -- don't either. I don't know why.  
25 MARILYN: They don't.

1 MR. HAVELOCK: They don't. At the present time, you're  
2 right. They don't.

3 MR. SUND: But they did have some influence in the clean  
4 up, though. I mean they could walk around -- I guess they had  
5 authority over the equipment on the barges, but not the barge  
6 themselves. That's what it was.

7 MR. PARKER: OSHA doesn't have authority over aircraft  
8 crews either, but it's a very different situation. You don't have  
9 the same kind of climate as you do in shipping industry.

10 MR. SUND: That'll get 'em excited. Recommend OSHA  
11 for a shipping maritime world. I'm not even sure I'd push that  
12 on my worst enemy.

13 MR. PARKER: I got a call for a break. We'll take a five  
14 minute break.

15 (Off the Record)

16 (On the Record)

17 MR. PARKER: We're ready to go with fill in the blank on  
18 EPA and NOAA.

19 MR. HAVELOCK: Well, I'm not sure Mr. Chairman, what  
20 you wanted to recommend on them. I mean there is, certainly  
21 there is a factual record of non-presence of an overstatement of  
22 what the EPA is intended to do that the American public is  
23 relying on presumably, because they read it in the statutes and  
24 they see it in the publicity, but the EPA is, at best, a paper tiger.  
25 And whether you wanta go beyond that finding to make specific



1 recommendations for EPA, I don't know.

2 With respect to NOAA, the only thing that has been  
3 discussed, as I remember it's sort of these, again, one of these  
4 strengthening recommendations with respect to their ability to  
5 gather update, meteorological information regarding sensitive  
6 areas or areas of oil transportation and we could put something  
7 like in it. It didn't strike me as a dynamite recommendation or  
8 sort of a first row recommendation.

9 MS. WUNNICKE: And to convey it to those who are  
10 making decisions. I mean, forget.....

11 MR. HAVELOCK: To bring that information in. To collect  
12 and provide.

13 MR. WENK: I had suggested NOAA as a neutral data  
14 collection agency for near miss reporting. Following the pattern  
15 that exists with aircraft near misses, FAA realized that few  
16 reports would come in to the agency that has regulatory  
17 authority, as FAA does, so that NASA is the neutral agency and  
18 the near miss reporting goes down to Ames Field, near San  
19 Francisco, and it's sanitized there, unless there's criminal  
20 negligence involved, so that when it's reported to FAA, they do  
21 not know enough details to find out who the transgressor might  
22 have been.

23 MR. PARKER: That's a good recommendation, It'd form a  
24 good link between the two of 'em and one of the advantages of  
25 near miss systems is it gets the operational people in the

1 business of defining what a near miss truly is.

2 MR. WENK: Right.

3 MR. PARKER: 'Cause you know, a lot of mariners confuse

4 cowboying with good seamanship. And gettin' out of that frame

5 of mind is.....

6 MR. WENK: Did you say aviators do that?

7 MR. PARKER: You know, one of the advantages of the

8 near miss.....

9 MR. WENK: Well, the.....

10 MR. PARKER: .....reporting was that it started putting

11 peer pressure on to.....

12 MR. WENK: But the same thing's going on in the waters.

13 MR. PARKER: Sure.

14 MR. WENK: A little bit lower speed, but it's still going on.

15 MS. WUNNICKE: He said mariners?

16 MR. SUND: yeah.

17 MR. WENK: Oh, he did say mariners. Oh, I'm sorry, I

18 thought he said aviators.

19 MR. PARKER: Yeah, they're -- anybody object to that one

20 for NOAA.

21 MS. WUNNICKE: No, that's a good one.

22 MR. WENK: Sound good to me.

23 MR. PARKER: The -- NOAA's role in the spill. I don't

24 know, they always seem to be standing shoulder-to-shoulder

25 with the industry and the Coast Guard against all the other

1 agencies in our hearing record. And I'm not exactly sure what  
2 the hell NOAA did do, pragmatically on the spill.

3 MR. SUND: They've got one guy that flies around the  
4 country, does TV interviews. I don't know what his name is.

5 MR. PARKER: Yeah, that's the guy I remember.

6 MR. WENK: Robinson, you mean.

7 MR. PARKER: If somebody could fill me in sometime, why  
8 I'd be appreciative.

9 MR. SUND: Well there -- what was their assigned role. I  
10 mean their assigned is to be as a scientific advisor.

11 MS. WUNNICKE: Scientific advisory to on-scene  
12 commander.

13 MARILYN: Scientific coordinator.

14 MR. SUND: To the federal on-scene coordinator?

15 MR. HAVELOCK: Right.

16 MARILYN: That's right.

17 MR. DOOLEY: (Indiscernible) current prognostication  
18 (indiscernible).

19 MR. WALLIS: Who was NOAA's man in Alaska?

20 MR. PARKER: John Robinson was one and Dave Kennedy  
21 was the other.

22 MR. WALLIS: Robinson was the guy that flew around.

23 MR. SUND: Well, NOAA has a big presence in Alaska in  
24 other branches.

25 MS. WUNNICKE: Yeah.,

1 MR. WENK: Robinson's based in Seattle.

2 MR. PARKER: He was the spill science advisor.

3 MR. SUND: Well how do you -- if there the -- back to our  
4 issue again of what were they supposed to have done, what could  
5 they have done differently that might have helped. They were  
6 supposed to be the science advisor to the on-scene coordinator.  
7 Did they do any damage or could they have done their job better;  
8 offered better advice? How would they have.....

9 MS. WUNNICKE: Well, one of the -- you know we were  
10 talking earlier about everybody not anticipating that once the oil  
11 left Prince William Sound that all the other shorelines might be  
12 affected. And I don't know this for a fact, but they should have  
13 had, based upon a lot of the studies that they did for the OCS  
14 program, a lot of projectory and wind and current and weather  
15 information that should have been shared with the on-scene  
16 coordinator so that they could predict that if it went out of  
17 Prince William Sound it was probably gonna effect Seward.

18 MR. SUND: Well, if we were to have another spill, what  
19 type of information would they be expected to give to the on-  
20 scene coordinator?

21 MR. PARKER: A little bit of background on.....

22 MR. \_\_\_\_: Weather forecast.

23 MR. PARKER: .....what Esther just said, though. The one  
24 who's spill projects were accurate, John Royer from the  
25 Institute of Marine Science, was hired by the Incident Command

1 Team. He was not hired by NOAA and NOAA, as I understand it,  
2 and I'm not absolutely certain on this, did not accept his  
3 particular recommendations. And according to the information  
4 in Sharon's document, the -- a lot of the people in the Sound  
5 claim that the information they were given by NOAA on spill  
6 projectories was inaccurate. So, that's the story as it's been  
7 revealed to me and what we've been given so far.

8 MR. DOOLEY: It was very traumatic in Seward where they  
9 said their own institute there gave them a better timeliness and  
10 prognostication of where the oil was gonna hit. NOAA was way  
11 off the mark.

12 MS. HAYES: In some of my meetings with people in the  
13 communities, NOAA apparently came in and provided  
14 information to people about the toxicity of oil-tainted fish and  
15 meat and things like that and they were generally regarded with  
16 a great deal of skepticism because of them being tainted by close  
17 association with the Coast Guard. And I don't know if Sharon  
18 picked up on any of that in her conversations with people or not,  
19 but it doesn't seem to be particularly an area of NOAA expertise.  
20 Is it? And if so, maybe that function would be better left to  
21 somebody else in the future.

22 MR. PARKER: Yeah, public health is the one who should  
23 have been advising on that.

24 MS. WUNNICKE: But in terms of prevention, too, there  
25 was the other area of the calving of Columbia Glacier and those

1 changes in Prince William Sound; scientific information that  
2 should have been known and maybe NOAA is the place to  
3 coordinate that kind of information. But, as I said, it is critical it  
4 be made known to the decision-makers and not just part of a  
5 study somewhere.

6 MR. WALLIS: What known?

7 MS. WUNNICKE: Well, in terms of ice hazards or whether  
8 hazards and so forth so that you could shut down the port or  
9 keep a tanker in port.

10 MR. SUND: Well, okay then, just going beyond that to  
11 some federal weather reporting, is there any evidence of  
12 inadequate or inaccurate weather reporting in the gulf that may  
13 or may not affect a shippers decision whether to proceed or not  
14 to proceed. I don't know that we've had testimony on that.

15 MR. WENK: Well, let me ask a question in this regard  
16 because the weather reporting in Puget Sound by NOAA is pretty  
17 poor. When we sailed down there in waters where I can contact  
18 the Canadian Coast Guard and weather service, I get far more  
19 accurate and up-to-the-minute reporting than I do from six hour  
20 forecasts by the U.S. NOAA. Data, incidentally, which are taken  
21 at land stations not even on the water way. And, for example,  
22 they have practically no information on fog formation when it's  
23 spotty, which is more times than not. I've suggested that they  
24 use ships, or even better, planes of opportunity that are flying  
25 over the area in spotting fog conditions. Then NOAA could put

1 into its forecasting. They have no capability to do this. What's  
2 more, they have cut down the number of manned stations so that  
3 almost everything they're getting down there is from automated  
4 recordings.

5 MR. DOOLEY: Here NOAA makes a connection in the  
6 morning and in the evening, but many of the stations collected  
7 from, are specifically have weather trained observers on them  
8 that are vessels. And, I don't know, it's collected about 5 o'clock  
9 in the morning and there's a report out about an hour, an hour  
10 and a half later and it's -- you know, these people have wet, dry  
11 bulbs on their ships as well as their barometers and the rest of it  
12 in order to get some weather information for forecasting the  
13 weather.

14 MR. WALLIS: Mr. Chairman, can we get a response to  
15 John's question? I've got the same concerns. You know, before  
16 we say anything about.....

17 MR. SUND: Do we have a manned light ship out in the  
18 Gulf somewhere, a weather ship or did they take that thing out  
19 of there.

20 MR. PARKER: Ocean Station Papa, I think it's long gone.

21 MR. SUND: Is it.

22 MR. PARKER: On the question as to whether we've got  
23 any beef's on the weather.

24 MR. WALLIS: Not only the weather, but is there anything  
25 that we know or don't know about NOAA that -- as to what they

1 did or didn't too to help with the spill.

2 MR. PARKER: The only comments I remember strongly  
3 on NOAA were primarily from Seward, which was generally in  
4 the same vein as Dennis said, the other agencies, the interior  
5 agencies, the interior federal agencies and state agencies felt  
6 that it was them vs. NOAA and the Coast Guard and the industry.  
7 That's how they viewed the setup down there and that same  
8 general theme was repeated in home. But as to -- mainly they  
9 didn't believe that -- you know, they claimed the information  
10 they were getting from NOAA was inaccurately or they were not  
11 getting any cooperation. It just seems to be almost totally  
12 disagreement as I remember at those particular hearings.

13 MR. SUND: In this section we're dealing with NOAA as a  
14 preventative entity. That would come under -- I assume there's  
15 a U.S. response under response back here. But that's what I was  
16 just trying to look at my.....

17 MR. PARKER: Well preventative in the sense of weather.  
18 We didn't get any beefs on weather from the fishermen and I  
19 guess that's the best tribute to the weather system I can come  
20 up with is that nobody beefed strongly about it. 'Cause the  
21 fisherman, that's one of the first things they'll come up with if  
22 the forecasts are cut off. So, maybe they just didn't hit it.

23 MR. HERZ: The other role, the other major role that  
24 NOAA has is providing the scientific support coordinator who is  
25 supposed to be an advisor to the Coast Guard on protection of



1 resources. Other than what we've heard from Dave Kennedy, I  
2 don't recall either anybody from DEC or the resources agency or  
3 fish and game having mentioned that input. And supposedly,  
4 they're supposed to be the experts that the Coast Guard makes  
5 it's operational decisions upon, based upon.

6 MR. WENK: Well, let me ask this question. We've all  
7 focused on the weather bureau side of NOAA, but they also,  
8 having been borne out of the fisheries end, are very heavy into  
9 this whole question of impact of oil on fisheries.

10 MR. HERZ: That's what this hazmat team that I was  
11 making reference to.....

12 MR. WENK: Right.

13 MR. HERZ: .....is the home of the scientific support  
14 coordinator is supposed to serve that function.

15 MR. WENK: And we haven't talked about that at all and  
16 the question is, from point of view of malfunction here, what is  
17 the information on whether NOAA was on the mark with regard  
18 to hazard.

19 MR. WALLIS: let me ask, John, in this deal that we're  
20 dealing with. Are we just asking that they just make a report, or,  
21 on other spills or what. Forgetting about this spill and we're  
22 gonna say, okay, NOAA should be doing this in future spills and  
23 providing this information. Is that what you're asking?

24 MR. HAVELOCK: I'm asking is there anything wrong with  
25 the institutional raiments by which NOAA is providing what

1 NOAA was supposed to provide, which is scientific information  
2 with respect to weather, charting, and whatever else it does.

3 MS. WUNNICKE: Faintin' (ph) effects.

4 MR. HAVELOCK: Thank you.

5 MR. WALLIS: And resource protection.

6 MR. HAVELOCK: I haven't heard any complaints in this  
7 one, although there have been complaints about NOAA with  
8 respect to Cook Inlet because you run into an uncharted rock,  
9 that's the NOAA.

10 MR. DOOLEY: But we have received those  
11 recommendations for re-charting Cook Inlet.

12 MR. HAVELOCK: Re-charting Cook Inlet is a specific  
13 regional thing. I don't -- I hadn't heard any institutional  
14 complaints about NOAA or I don't remember any.

15 MR. PARKER: Regarding EPA, in line with our findings  
16 back here on the quality of the science that's been brought to  
17 this, shouldn't we make a recommendation that either EPA  
18 budget or some research in this particularly -- no, that would  
19 come under response and we're under prevention. Do we pick  
20 it up under response later?

21 MS. HAYES: No, we don't, but we can. There's a big blank  
22 space there too.

23 MR. SUND: Response has the same blank too.

24 MR. PARKER: A big blank space there, I'll pick it up  
25 there, then. So on the -- but on the prevention side in EPA, I

1 don't guess there's nothing particular to say that I can think of,  
2 'cause they really come into only through role in advisants on  
3 dispersants and their chairmanship on the national contingency  
4 plan.

5 MR. SUND: I recommend, Mr. Chairman, in the report  
6 that EPA be given a title and about four or five of lines of blank  
7 paper be left under them and then you go to the next topic.

8 MR. PARKER: Alright.

9 MR. SUND: That'll be a reflection of their influence in  
10 this operation.

11 MR. PARKER: Now, in this next one.....

12 MR. SUND: That's a good graphic, yes.

13 MS. WUNNICKE: I don't think.

14 MR. PARKER: In this next one, we seem to have a  
15 constitutional.....

16 MR. SUND: I'll probably get my fish plant inspected now  
17 by EPA or something.

18 MR. PARKER: We have a constitutional problem in this  
19 next in that we've got the President and OTA together and  
20 separate branches there, boy.

21 MR. HAVELOCK: Well I threw everybody in because it's up  
22 to you. You just figure out where you want this function to be.  
23 But I gather that there is some sense that there should be an  
24 overall assessment body of marine transportation in America or  
25 at least oil and hazardous substance transportation, marine or

1 marine and upland, and that somebody ought to be producing a  
2 report thereby raising accountability for the overall function of  
3 the system. That is making it publicly visible. And I could have  
4 put CEQ in there too, 'cause we talked about CEQ. I understand  
5 that OTA is a Congressional body, not an executive body. OST is  
6 part of the office of the President or the Executive Office of the  
7 President. And, of course, I am well familiar with the views of  
8 Commissioner Wenk that there, that the President himself be  
9 charged with doing this report, although I think that there are  
10 devil's advocate or not so devil's advocate arguments to be made  
11 against it. That being the issuance of the report of the  
12 President.

13 MS. WUNNICKE: What would be wrong with requiring the  
14 CEQ to report to the President and the OTA to report to the  
15 Congress?

16 MR. HAVELOCK: What is wrong is simply a sense of  
17 supported -- to think by the record that the, over the last  
18 decade or more, the CEQ has been reduced in it's significance as  
19 a body reporting on the environment from some helson (ph)  
20 days back then to an institution of almost no significance today.  
21 Whether they could in fact do the job staff wise or whether  
22 anyone would care if they issued a report about anything under  
23 their present membership.

24 MR. PARKER: Well, our President says he wants to be an  
25 environmental president and who is his chairman at CEQ?

1 Nobody can tell you. Nobody, you know.....

2 MR. WENK: Disappeared without a trace.

3 MR. PARKER: But, in creating a new institution would  
4 suffer the same fate. There -- at least some consideration should  
5 be given to asking either the President or the Congress to re-  
6 invigorating the old. I don't, you know.....

7 MR. WENK: Well, coming -- I know it sounds like I only  
8 have one string in the boat, so I'll play it. It has to do with the  
9 role of the President, but I'd like, subject to devil's advocacy, to  
10 put forth two or three other points here on the role of the  
11 president.

12 Number one, we're talking about marine oil  
13 transportation, not just the environment. A lot of the corrective  
14 measures that we're talking about have to do with, not with CEQ,  
15 not with environmental agencies, just like we couldn't find much  
16 of a role for EPA vis-a-vie prevention. So, I think that's a reason  
17 why CEQ may not be the appropriate aide to the President any  
18 way. But be that as it may, looking for some way to signal that  
19 this is darn important. Now I'd like to suggest the opportunity  
20 the Commission has to make a point here of national  
21 significance. Because we've got 4,000 port calls a year of tankers  
22 in this country. We've got 60% of our national appetite for oil  
23 satisfied by imports. And it's gonna grow. And the hazards exist  
24 not only Prince William Sound, Cook Inlet, so, and so an so on,  
25 or even Puget Sound or Long Beach, it's Chesapeake Bay and it's

1 Delaware Bay and it's Narraganset Bay and it's so and so and so  
2 on. My own feeling is that it takes a crises such as happened  
3 here to provide the opportunity to do something of truly national  
4 significance and I think that this deserves the kind of symbolism  
5 represented by the role of the President.

6 Number two, he is the only person in charge of the  
7 agencies. OSTB is a staff agency. It cannot give direction to any  
8 agency to do "A", "B" or "C". Early in the Kennedy  
9 Administration a bill was passed by both houses of Congress to  
10 give OSTB's predecessor, which was then only OST, the role of  
11 chief of marine affairs. And Kennedy pocket vetoed it. I was  
12 then on the Kennedy staff and I was the only one in favor of not  
13 vetoing and I was wrong because the bill was defective and it's  
14 defective for the same reason this can't be done through OSTB.  
15 It is a staff agency have no line responsibility. It can't tell the  
16 Coast Guard, do this or that. It can't tell EPA to do this or that  
17 and the minute that it would try to do it, it would get it's fingers  
18 in the clothes dryer.

19 So, I come back again to feeling that the Commission has  
20 this opportunity. Let me just make one last point. The last  
21 version of S626 that I saw, and it may have been changed since  
22 then, gives this responsibility to the President. And that's no  
23 accident 'cause I've talked with the staff who voted in and it's for  
24 the same reason, I didn't know it 'til later, that I propose this.  
25 So there is a consistency there.

1 All I'm suggesting is that a lot of the things that I think  
2 the Commission wants to have happen demand this kind of top  
3 level atmospheric. Mike was referring earlier to the role of the  
4 White House in one thing or another. We've all known the role  
5 of the White House vis-a-vie double-hulls. We had Bush himself  
6 saying we're not going to federalize the spill. We had Johnson  
7 who took an initiative to get the first national contingency plan  
8 written. So, I think that Presidents have been involved and all  
9 I'm suggesting is that this may be a strength in terms of the  
10 things I think you want to do.

11 MR. PARKER: Let's try this one on. Get around the  
12 problem of OSTB, and the obvious problem of CEQ and get back  
13 with the line agencies, we ask the President to re-visit Skinner-  
14 Riley and asked the Secretary of -- have the President order the  
15 secretary of Transportation. We request the President to order  
16 the Secretary of Transportation, the EPA Administrator and Mr.  
17 Mossbacker (ph), who I guess is the Secretary of Commerce at  
18 the moment to report to him by, you know, January, 1991 with a  
19 plan for answering this whole laundry list of things that need to  
20 be done that will improve the marine oil transportation system  
21 and a plan which he can then deliver to the Congress.

22 MR. WENK: Let me see if I understand your proposition  
23 two. That the Commission would ask the President to ask these  
24 guys to do so and so and so and so.

25 MR. PARKER: Yeah. He can order 'em

1 MR. WENK: Hmmm.  
2 MR. PARKER: He can order 'em.  
3 MR. WENK: Well.  
4 MR. PARKER: Yeah.  
5 MR. WENK: Well, are you thinking of this as a one-shot  
6 report?  
7 MR. PARKER: This one would be. You know, in order to  
8 get around the problems that we do have, you know, it needs  
9 massive attention right now. The annual follow up which you  
10 suggested could be a part of it within the follow up with annual  
11 reports. 'Cause those are the three line agencies which have  
12 most of the problems within them which we're discussing.  
13 MR. WENK: Well, I can see -- I think a lot depends on  
14 how it's explicitly worded because I hear the fact that the  
15 Commission says the President should do so and so, to me is a  
16 significant thing. Just those few words. And if it's the President  
17 should ask his Secretary of Transportation and Secretary of  
18 Commerce and so on to deliver a report by such and such a date  
19 having to do with the health of the whole marine oil  
20 transportation system, you know, I think that could go a long  
21 way. I would still like to urge the annual report as well, and,  
22 incidentally, I know this is a Commission report and whoever  
23 puts this in the language back in Washington, D.C. may use other  
24 words, but I think that if we come back again to this notion of  
25 accountability, I don't have too much trouble with that. I think it



1 depends.....

2 MR. PARKER: No.

3 MR. WENK: .....upon the individual words.

4 MR. PARKER: I think the -- and you know, in the finding  
5 that justifies the need for the annual report and indeed a  
6 massive study right now, is you've got three departments, all of  
7 whom contain in them agencies that have an impact on this  
8 which, from our perceptive, show little ongoing working  
9 relationship except through the national contingency plan; little  
10 going on prevention, fair amount going on response because of  
11 the national contingency plan that was required by Congress and  
12 reports on water way safety and so forth. But, nothing dealing  
13 with prevention on an ongoing basis that's coordinated.

14 MR. WENK: Let me.....

15 MR. PARKER: That would require them to do an annual  
16 coordination of them to get their report out of this.

17 MR. WENK: I have no real problem with that. Let me just  
18 mention one other thing that was in my proposal that we haven't  
19 covered yet. So, let's say I agree with that. Now let's come back  
20 to this point.

21 How would you propose the -- now this is the Commission  
22 proposing so and so. But somebody has gotta act to get the  
23 President to do so and so. Are you gonna recommend that the  
24 Congress ask the President to do -- in other words, are you  
25 gonna put it in the form that the President be required by

1 federal legislation to do the things you want him to do. 'Cause if  
2 you say -- if you answer yes, then I'm happy with the whole thing.  
3 The President's not gonna do it simply because this Commission  
4 recommends it. In fact, the President's not gonna do it, I don't  
5 think, unless he's put on the spot by federal legislation.

6 MR. PARKER: Yeah, I see no reason, you know, if we  
7 could get a bill in to do that, I'd just as soon have Congress tell  
8 him to do it. Yeah. I agree with you that chances of George Bush  
9 paying a great deal of attention to anything coming out of the  
10 state of Alaska is about as remote as anything, so I sure don't  
11 know anybody in the White House anymore.

12 MR. WENK: He comes from an oil state, he says now.

13 MR. PARKER: You get the jist of all that.....

14 MR. HAVELOCK: Well, I.....

15 MARILYN: Could you summarize please.

16 MR. HAVELOCK: .....do we have an annualized report, do  
17 we also have sort of a special task for this year. Is it a repetitive  
18 thing?

19 MR. WENK: No, we've got -- we have two reports. One is  
20 this special report having to do with improving the safety of  
21 marine oil transportation systems, plus the annual report. We  
22 have the Congress or congressional legislation requiring the  
23 President or mandating or requesting the President, however  
24 you put it, to have his Secretary of Transportation, Secretary of  
25 Commerce and head of EPA prepare these.

1 MR. HAVELOCK: Right. Well, I guess you solved it. I'm  
2 not going to take any devil's advocacy position here.

3 MR. WENK: I think we oughta all of look at the final  
4 language, but I think this on the right track.

5 MR. PARKER: We've been looking for some way to  
6 approach the analysis of the whole marine system,  
7 transportation system excepting that we don't have the  
8 resources or the time to do it.

9 MR. WALLIS: What annual reports are you talking about.  
10 You mentioned annual.....

11 MR. HAVELOCK: A new one that's gonna be required.

12 MR. WALLIS: Pardon?

13 MR. HAVELOCK: The new annual report, from what I  
14 understand, is to be required of the joint report of the three  
15 cabinet officers relating potentially to their performance with  
16 respect and update with the respect to the initial report that  
17 they are going to issue on the circumstances of marine  
18 transportation of oil -- is it oil and hazardous substances or oil  
19 and gas?

20 MR. WALLIS: Okay.

21 MR. HAVELOCK: Okay.

22 MR. PARKER: Same as what you've got in here, it's just  
23 refining it.

24 MR. HAVELOCK: Yeah, it's not that.

25 MR. HERZ: Could you clarify what your intent was with

1 the number "A", Assessment of Current Risk and Safety Practices  
2 with Reference to National Energy Policy.

3 MR. WUNNICKE: Since there isn't one.

4 MR. HERZ: No?

5 MS. WUNNICKE: There's no national energy policy.

6 MR. HAVELOCK: Well, I, yeah -- There's supposed to be  
7 one. And I think there -- actually there may be a nominal one  
8 somewhere. If you look around, you might find a piece of paper.

9 MR. HERZ: Alright, but that wasn't my question.  
10 Assuming.....

11 MR. HAVELOCK: We're talking about.....

12 MR. HERZ: .....there is one.....

13 MR. HAVELOCK: .....relating it to the larger assessment  
14 issues that are involved in.....

15 MR. HERZ: OCS.

16 MR. HAVELOCK: .....alternative energy development, the  
17 environmental cost of using crude oil or gas or other fuel  
18 sources.

19 MR. WENK: Could I suggest as a matter of maintaining  
20 focus, that it simply be with an assessment of risk and safety  
21 practices referenced to maritime transportation of oil and bring  
22 the national energy policy as a separate item for this reason.  
23 One element of energy policy is conservation. And if  
24 conservation were practiced to reduce the national demand for  
25 oil which has to be imported it automatically would have an

1 effect on the volume of oil going through the ports, which has an  
2 effect then on the risk. The connection between maritime oil  
3 transportation and energy policy.

4 MR. PARKER: Yeah, the daily -- the graphs on that  
5 through the '80's are very instructive.

6 MR. DOOLEY: There -- I don't know the national energy  
7 policy as we say it. And it is not a fact it has to be imported. It's  
8 a matter of a variety of other decisions that are requiring that it  
9 be imported. But if you were to put, and the industry's made  
10 several presentations in terms of some states about the putting  
11 of foreign import tax on foreign imports would reduce foreign  
12 imports and increase domestic production, so having it tied to a  
13 national energy policy may well -- you tie yourself to a lot of  
14 other venues in terms of reducing pollution opportunities. And I  
15 just bring that up that that is not a fact that we have to continue  
16 to import more oil.

17 MR. PARKER: That's right.

18 MR. DOOLEY: And there or may not be this lazyfare (ph)  
19 energy policy.

20 MR. WENK: It turns out that if this country had put a  
21 barrel tax on the imports years ago, when they were first  
22 proposed back in 1973, we would've cut down importation a  
23 helluva a lot all these intervening 16 years.

24 MR. PARKER: Yeah.

25 MR. HAVELOCK: Before we get off it, let me make one

1 point. It sort of an adjustment of the point, my point again for  
2 Presidential reports. That is, all in deference, my experience is  
3 much narrower, but my experience with the production of  
4 report is that a good report that has a national impact is a  
5 combination, results from the combination of a constituency  
6 interest and a bureaucracy that has the capability of reducing  
7 that report. And what I'm -- what is missing in your formula, it  
8 seems to me is the constituency. Your stress is reports -- let's  
9 say I know how this report is -- I think I know how the reports  
10 gonna be generated, obviously, is that each of the Secretary's will  
11 delegate -- they'll write three separate reports and then  
12 somebody is gonna be given the job of putting them together  
13 into one report. I don't see the constituency in put in this thing  
14 and it's the constituency that then takes the report and uses it  
15 as a blunt instrument to carry forward the recommendations.  
16 And I -- so I'm missing the advantage -- this is the argument I  
17 would've used for giving it to a cabinet or a department or a  
18 division of department is that each of those departments has  
19 huge constituency links and they have links with the relevant  
20 committee of Congress that can pick it up and carry it also. I  
21 don't know where this thing is -- You know, you've got -- it  
22 seems to me you've isolated this from what I think of as the real  
23 power structure that makes reports become positive legislation.

24 MR. WENK: But I thought we said that the reports would  
25 be prepared by these three officers, which are the.....

1 MR. HAVELOCK: Yes.

2 MR. WENK: .....agencies that have these links to the  
3 constituencies that you referred to.

4 MR. PARKER: The constituencies, as perceived by the  
5 agencies right now, would probably be their classic ones. EPA  
6 would view their consistency, their constituents as -- in the  
7 1980's have obviously viewed them as the realtors and those who  
8 want to develop resources on public lands and so forth.  
9 Commerce would view its as the American Bureau of Shipping  
10 and others of similar ilk. And the Department of Transportation,  
11 similar. However, assuming that some new visions have been  
12 generated by this, the organization of coastal states would be just  
13 as proper a constituency for those people to consider. I mean,  
14 you know, we're trying to break out of eight years of slothful, of  
15 federal slothfulness here and a new.....

16 MR. WENK: But was it your -- I thought you were  
17 wondering who was gonna prepare the report and it isn't.....

18 MR. HAVELOCK: Well, I can see who's preparing it. I  
19 mean what I'm wondering is -- what I'm missing is linkages with  
20 the power structure to make something go. And that means the  
21 linkage primarily with the interested constituency, the  
22 environmental community or whoever. You may be, as the  
23 Chairman suggested, that the constituency link is the coastal --  
24 what were you saying, the coastal.....

25 MR. PARKER: Organization of Coastal States.

1 MR. HAVELOCK: Organization of Coastal States. And that  
2 that is the constituency that's gonna be on top of the three  
3 agencies to see what they're do and make comments on their  
4 report and so on.

5 MR. PARKER: That's a constituency that we once, you  
6 know, used very heavily and very effectively, both the Congress  
7 and the White House.

8 MR. WENK: But it's not.....

9 MR. PARKER: And it needs to be probably some re-  
10 vitalization.

11 MR. WENK: Yeah, but in the power structure, though, in  
12 all candor, it's not very strong constituency. But I think what  
13 you're driving for, if I hear you correctly that you haven't  
14 mentioned, is the environmental organizations.

15 MR. HAVELOCK: Right.

16 MR. PARKER: Weren't very strong either.

17 MS. WUNNICKE: But they wouldn't support EPA, so.

18 MR. HERZ: The only agency that's got credibility up near  
19 the president now, that could turn out the report -- that it has  
20 the capability, drawing on these three cabinet officers is OSTB.  
21 CEQ just does not have that credibility. OSTB outdoes  
22 temporarily. It did not until a new man was put in by Bush, it  
23 certainly didn't during the Reagan Administration. OSTB was a  
24 mouth piece for Star Wars.

25 MS. WUNNICKE: We're talking about the same people



1 who put together the Skinner report.

2 MR. HAVELOCK: That's right.

3 MS. WUNNICKE: Or the Skinner Riley report, excuse me.

4 MR. HAVELOCK: Yeah.

5 MS. WUNNICKE: But put together the.....

6 MR. PARKER: Or the Riley Skinner report.

7 MS. WUNNICKE: The Riley Skinner report, would put  
8 together this report. The one time report as well as the annual  
9 update.

10 AL: Excuse me, Mr. Chairman, perhaps if this report in  
11 draft form or final form were subject of public hearing in eight  
12 or 10 significant communities, a little bit of preparation you  
13 could even create a larger constituency if it were simply put  
14 together, published, issued and put on a bookshelf someplace.

15 MR. PARKER: Yeah, and that, I think, is a role that, you  
16 know, you could identify in bringing the states and the major  
17 ports that are affected into this. 'Cause there's a constituency  
18 that is overlooked because everybody views them as just part of  
19 the industry. But the ports themselves and their directors and  
20 their Boards of Commissions and what have you are hardly ever  
21 asked for their opinion. They're always approached as  
22 individuals and not enisties (ph), but.....

23 MR. HAVELOCK: Well, I like that Mr. Chairman.  
24 Furthermore if it'll link in with what the congress is creating in  
25 terms of it's regional oversight agency -- what's missing in the

1 Congressional Legislation is any linkage -- they sort of leave the  
2 regional things lying there and they don't have essential, they  
3 don't have a place to run to in Washington, so this maybe them a  
4 hook in the national policy.

5 MR. WENK: Trying to look ahead to this probably  
6 executive version coming out of the findings and  
7 recommendations early in January, and I can't quite believe  
8 you're thinking hearings between now and then are you?

9 MR. HAVELOCK: For what?

10 MR. WENK: What I thought Al was proposing.

11 MR. WENK: The report -- he's talking about.....

12 AL: I'm talking about three, whatever it is here on page  
13 one.

14 MR. WENK: He said while it was still being drafted.

15 AL: The present -- the report?

16 MR. HAVELOCK: He's not talking about our report. He's  
17 talking the report that we are telling the President to produce.

18 MR. WENK: Oh, oh, oh, oh, oh.

19 MS. WUNNICKE: I think that's a good idea.

20 MR. HAVELOCK: And the President's report should go  
21 through, at the agency level, a hearing process or a comments  
22 process from the regional advisory boards, which the congress is  
23 establishing.

24 MR. WENK: I strongly support that. In the original  
25 proposal with regard to that report, there is a notion that it

1 should include independent audits to update previously  
2 conducted environmental impact analysis. The independent  
3 audit would have to be done by the community, or in the  
4 community, for with the EIS was prepared. I absolutely agree.  
5 No, I misunderstood. I thought you were talking about the  
6 Commission's report.

7 Anyway, let me just come back to one quick point John  
8 and that is your point about the need for constituency and I  
9 think all of our collected political instinct tells us that that's the  
10 way things happen if it's gonna happen at all. I think that there  
11 are a number of environmental communities that are already  
12 sensitized to the problem of oil spills. Now this Center for  
13 Maritime Conservation, the CNC, that turned out that big report;  
14 the Cousteau Society that's gonna be turning out a big film on  
15 Exxon Valdez, at least they hope on the anniversary date of  
16 March 24th; Sierra Club is turning out a book; a friend of yours,  
17 Esther, is writing. I've forgotten what his name, was. You  
18 introduced me to up here.

19 MR. PARKER: Art Davidson.

20 MS. WUNNICKE: Oh, Art Davidson?

21 MR. WENK: Yeah. The environmental defense fund is  
22 involved. So you've got a lot of national organizations who I  
23 think, collectively could be the action arm to respond to this  
24 report. I don't think we -- if they don't do it' nobody's gonna do  
25 it.

1 MR. WALLIS: Mr. Chairman. Let me just throw another  
2 no deal out here. On writing the report, I think the report  
3 oughta be written by the Coast Guard and submitted to Congress  
4 and the office of the President. If they're gonna write the  
5 report, there's gonna be a little pride of authorship there. I  
6 think they'll be more apt to enforce it. And if they're familiar  
7 with it. I just think this kind of report we're talking about is  
8 gonna be written and shelved.

9 MR. PARKER: Unless there's an outreach to really take it  
10 out, yeah.

11 MR. WALLIS: Well, yeah, that's a big if. I'm saying if it's  
12 the Coast Gaurd I think they'll be a little more action.

13 MR. PARKER: Hmmm. That's an interesting perspective.  
14 I remember if the Coast Guard ever took anything out before,  
15 other than going.....

16 MR. WALLIS: Give 'em a chance to prove themselves.

17 MR. SUND: Are we in agreement a report should drafted  
18 and we're just trying to figure out who should do it?

19 MR. PARKER: No, we've already figured that out to a  
20 certain degree. We just have Tim's.....

21 MS. WUNNICKE: We're just over-ruling Tim.

22 MR. PARKER: But we have two different opinions now  
23 and we'll.....

24 MR. DOOLEY: Was Mr. Wallis in the Coast Guard in his  
25 past life?

1 MR. WENK: How did it feel.

2 MR. WALLIS: Got sea sick.

3 MR. HAVELOCK: What would the instructions that were  
4 given with respect to the Skinner-Riley report.

5 MR. PARKER: What do you mean?

6 MR. HAVELOCK: That was a Presidentially mandated  
7 report, was it not?

8 MR. PARKER: Yeah.

9 MR. HAVELOCK: So, he wrote -- what did he do? He  
10 wrote three Commissioners and said do this or did he say.....

11 MR. PARKER: He just wrote two in this case. I threw in  
12 Mossbacker (ph) 'cause of NOAA. I just wanta see if NOAA has  
13 any real role in this. They're not gonna have role, it's a good  
14 time to drop 'em and put those things they do in some other  
15 agency.

16 MR. WENK: It's interesting, though, that comment, first  
17 of all it's an intriguing though Tim and your judgment of human  
18 nature seems to ring an authentic bell, but we go back to the  
19 other qualities of Coast Guard human nature. Two things, first of  
20 all they have the -- you notice the instruction for the skinner  
21 report did not go to the commandant of the Coast Guard.

22 MR. WALLIS: It's all right.

23 MR. WENK: Point number one -- well but there's a reason  
24 for this. Point number two, the Coast Guard has drafted a report  
25 having to do with prevention. I don't know you heard about this

1 from Admiral Sykes or not when you were there John, but it's  
2 based on a study by an inter-agency committee that they chaired  
3 and everybody threw in their two cents worth. They have 110  
4 proposals. They whittled this down to 45 and the questions is  
5 when are you gonna release. And Admiral Sykes answer was  
6 probably never.

7 MR. WALLIS: But, how many reports did the Coast Guard  
8 -- have they written and has been submitted to the President  
9 and Congress.

10 MR. WENK: Well, darn few.

11 MR. WALLIS: This'll give them incentive to do a darn goo  
12 job and to enforce 'em.

13 MR. WENK: Okay.

14 MR. SUND: on the theory of re-visiting these issues again,  
15 I suggest we.....

16 MR. PARKER: Okay, let's plow on. Number four,  
17 Presidential task force. We will re-visit this again. The pipeline  
18 safety, number four, page two.

19 MS. WUNNICKE: Oh, sorry, we just.....

20 MR. PARKER: Things are moving along on pipeline safety  
21 and that natural resources has upgraded pipeline safety to  
22 division status and has established a joint office with the BLM so  
23 there's been a lot happening in that area. Does anybody have any  
24 problem with us going ahead and supporting what Congress is  
25 proposing to do?

1           MARILYN: What is it.....

2           MR. PARKER: GAO is also getting into the pipeline  
3 inspection business, here very quickly. I guess they're starting  
4 to get their act together right now on doing a pipeline safety  
5 rept for the congress.

6           MARILYN: Mr. Chairman. Number four, I think it comes  
7 directly out of the House version of the -- that's HR 1465 which  
8 talks about George Millers Presidential Task Force for the  
9 pipeline. That's I think where that comes from. But underneath  
10 it, as far as the state counter-part that's a whole separate  
11 discussion when we get to the state level.

12           MS. WUNNICKE: But we're still talking federal, aren't  
13 we?

14           MARILYN: Federal right.

15           MR. PARKER: Yeah. Dennis.

16           MR. DOOLEY: But I think there's also a role - it would be  
17 on a pipeline safety remember for the Alaska Pipeline. And that  
18 bill, I think is what we saw on the list.

19           MR. SUND: I just thought it was quite ironic that the  
20 projections needed to repair the pipeline to bring them back up  
21 a safety standards almost matched, dollar for dollar the tax  
22 they're gonna pay and the increased health that's coming dow.

23           MR. PARKER: Uh, hum I thought that was interesting too.  
24 Did everybody get a copy of that NDC report.....

25           MR. SUND: Easy come, easy go.

1 MR. PARKER: .....did all the commissioners get that?  
2 MR. HERZ: Of what?  
3 MS. WUNNICKE: Of what?  
4 MARILYN: I don't think so.  
5 MR. HAVELOCK: No, that hasn't been distributed yet.  
6 MS. WUNNICKE: What are you talking about? Speak up.  
7 MARILYN: What it is is the -- what we're talking about is  
8 what we call the MKK study which is a review, and someone  
9 more technical can help me, the corrosion along the pipeline --  
10 the study done by the pig that was done by the pipeline. It's very  
11 brief discussing real brief information from the industry,  
12 however from -- and was requested from Alyeska (indiscernible)  
13 and they have invited as the Commission to attend their  
14 presentation to the Department of Natural Resources, which I  
15 think is early next week, to attend the meeting when they make  
16 a presentation to DNR about the corrosion along the pipeline.  
17 Or, they have also offered to set up a separate presentation to us,  
18 if we would like.  
19 MR. PARKER: Essentially, I'd do the report for reviews,  
20 segment by segment of pipeline what the NKK paper report,  
21 which is a Japanese-made thing and it has a tremendous spike-  
22 in-attic (ph) in the past, as you might guess. Well, anybody wanta  
23 change that. Let's plow on to five, industry voluntary action to  
24 regulations.  
25 MS. WUNNICKE: Now, oh, okay.



1 MR. WENK: Excuse me, Mr. Chairman, which one are we  
2 on .

3 MR. PARKER: Five.

4 MR. WENK: Could I raise a question about another one  
5 and it seems to me to be functionally to come in here, but maybe  
6 it would be number six. And that has to do with something I  
7 believe which is already in the wind and that is that there be  
8 regional advisory committees, am I right about this, to deal with  
9 evaluating federal performance on prevention. What is it  
10 exactly?

11 MR. HAVELOCK: I don't think it's prevention. I think  
12 those regional bodies are bodies are response institutions, as I  
13 understand them.

14 MR. HERZ: What are they?

15 MR. SUND: They're in the federal legislation.

16 MR. PARKER: I don't think they were supposed to do  
17 response, I think they're.....

18 MARILYN: That's right.

19 MR. SUND: It's on page three, which is actually page  
20 eight or nine or something. It's under response. We're coming.

21 MR. HAVELOCK: Yeah, page three of response under  
22 Prince William Sound is where I've got that one tucked in.

23 MARILYN: However, the citizen advisory committees are  
24 there not only to provide input on response, but also on  
25 regulation, oversight and those kinds of prevention.

1 MR. WENK: Dealing with prevention.

2 MARILYN: Yes. And we did discuss this yesterday because  
3 there is certain -- if you look at the state in a regional fashion you  
4 have areas where already Cook Inlet and Prince William Sound  
5 create -- structures are being created for citizen advisory  
6 committees that are federal in nature.

7 MR. WENK: You see, my only point is that functionally  
8 apparently it's gonna happen, but as this gets organized that  
9 oughta show up under prevention.

10 MARILYN: I, yeah.

11 MR. HAVELOCK: Yeah, I have no problem with that. We'll  
12 tuck it in here as a.....

13 MARILYN: And the only thing I would add is that we  
14 wanta make sure it funnels into our state process as well as the  
15 federal processes.

16 MS. WUNNICKE: There are two others, if we're talking  
17 about recommendations at the national level, that we mentioned  
18 earlier and this pre-supposes our report in advance of Congress'  
19 conference committee.

20 MR. HAVELOCK: Yeah.

21 MS. WUNNICKE: One would be that state, that federal  
22 mandates not preempt state requirements.

23 MR. HAVELOCK: right.

24 MS. WUNNICKE: The other would be to change, if you all  
25 agree, the presumption that the shipper is in.....

1           MARILYN: Would be response.

2           MS. WUNNICKE: .....charge, and here we get into response

3 rather than prevention, but just so we don't overlook those in

4 our national recommendations.

5           MR. HAVELOCK: Yeah.

6           MARILYN: Preemption (indiscernible)

7           MR. WENK: John, I think for what's worth.....

8           MS. WUNNICKE: Certainly the one of preemption should

9 be here.

10          MR. WENK: When you re-do the findings you may wanta

11 make sure there is a finding that justified some of things that we

12 agreed upon here on federal role.

13          MR. HAVELOCK: I think I have a no preemption

14 recommendation -- finding in here somewhere, but the hour is

15 getting late and I don't remember where it is.

16          MR. PARKER: Well we have the industry voluntary actions

17 a regulation before us. And, does any body have any quarrel with

18 the four areas that are defined under those.

19          MR. WENK: Could somebody explained that "A". I guess

20 that's kind of new to me.

21          MR. HAVELOCK: The provision with -- in I guess, see,

22 who was it, Mr. Dooley, maybe was looking around and it was you

23 Marilyn said, at where the exact congressional involvement

24 comes in the insurance business. And the way they are involved

25 is that they exempt national marine insurance from anti-trust

1 regulation and in doing so they impose a certain number of  
2 requirements, none of which are too demanding. So there was a  
3 location, a handle for putting in a provision which would require  
4 that certain items be considered insurance arrangements  
5 without setting up a whole new edifice for federal involvement in  
6 dictating private insurance terms. Because, the reason it's  
7 phrased the way it is we've found in the antitrust exemption a  
8 place, a handle for federal law in mandating such a requirement.

9 MR. SUND: Isn't all insurance exempt from the anti-trust  
10 and the estimate of (indiscernible), isn't it?

11 MR. HAVELOCK: It's in the McCarren, but there's a  
12 separate provision relating to.....

13 MR. DOOLEY: Marines

14 MR. HAVELOCK: .....merchant marine or offshore.

15 MR. SUND: There is some interest in this. One of the  
16 staff guys I talked to when I was back there was trying to get into  
17 the insurance issue and I'll get his name out of my notes  
18 someplace.

19 MR. DOOLEY: I can provide a discussion on the McCarren  
20 act and also in this one tomorrow.

21 MR. SUND: Don't need 'em. I've had years and years of  
22 discussions on the McCarren Act. More years than I care to ever  
23 have again.

24 MR. PARKER: I haven't.

25 MR. DOOLEY: But there was some concern about, earlier

1 expressed, on how can we make it pay to not pollute.

2 MS. WUNNICKE: Uh, hum.

3 MR. PARKER: Uh, hum, yeah.

4 MR. DOOLEY: And this was one of the few vehicles we  
5 could find that would allow that opportunity.

6 MR. PARKER: This is kind of what the state was trying to  
7 do in SB406 at the federal level.

8 MR. HAVELOCK: Right.

9 MS. WUNNICKE: I think that should be made more clear  
10 in this recommendations, that that's what we're really  
11 proposing. And I think the heading should be something  
12 different. That industry voluntary actions, if you're gonna be.....

13 MR HAVELOCK: Well, that'll disappear. This is just to  
14 inform you where we are on the map here.

15 MS. WUNNICKE: Oh, okay.

16 MR. PARKER: Yeah. It says industry and it says the  
17 Congress, the Congress, the Congress.

18 MS. WUNNICKE: Shall require, shall require, shall  
19 require.

20 MR. HAVELOCK: Well, the truth is, as I've said, I'm not  
21 sure the industry's gonna do a whole lot without the  
22 Congressional encouragement.

23 MR. SUND: Well that's your basic assumption. We started  
24 on that one this morning.

25 MR. HERZ: What's the intent of the licensing of corporate

1 environmental safety officers. Who's gonna do that and what do  
2 those people do.

3 MR. HAVELOCK: Okay, this sort of relates to something  
4 that you've discussed a number of times which is the -- I guess  
5 it's the corporate climate issue. And how do you get a handle on,  
6 you know, the attitudes of people that work with these  
7 corporations with respect to safety and such issues. And we do  
8 have a -- one of the ways we do it is through professional  
9 licensing. We've got all kinds of -- you know, lawyers have to  
10 worry about their tickets and engineers have to worry about  
11 design and so on. That's one of the ways the state makes sure  
12 that there is a independent responsibility to the public. A social  
13 responsibility of a profession to the general public. Now I'm glad  
14 you brought it up incidentally, 'cause this is -- it could be a real  
15 innovation if we recommended anything like. What we're  
16 suggesting is a professionalization in this area which would mean  
17 that people who are going to be, for example, in charge of some  
18 of these facilities, that they can't just throw in -- promote Joe  
19 Blow into that job without him meeting specific criteria,  
20 professional criteria, for employment. He cannot do it in Alaska  
21 without having passed an examination.....

22 MR. WENK: I'm gonna be a devil's advocate on this.

23 MR. HAVELOCK: .....which will no doubt include a  
24 familiarization with Alaska environmental laws. You can see the  
25 drift. What has the effect in some senses of localizing the

1 knowledge. That would be required. But they say -- it goes a  
2 step further than anybody's done yet.

3 MR. HERZ: This is the element three on page three of  
4 the -- no I'm sorry, "B".

5 MR. HAVELOCK: Page two.

6 MS. WUNNICKE: "B" on page two.

7 MR. HERZ: No, no, no, no. I know where the federal one  
8 is, I'm looking for the state, on the next page "B" in the middle  
9 of the page. That's the system that you're talking about  
10 considering for national application.

11 MR. HAVELOCK: Right

12 MR. HERZ: The middle of the page on page three.

13 MS. WUNNICKE: Or state licensing board, I see, under  
14 3B. Okay.

15 MR. HAVELOCK: Yeah. You have put a state licensing,  
16 safety board with it or put a board in DEC.

17 MR. SUND: Mr. Chairman, I.....

18 MS. WUNNICKE: I'm just imagining the fight over the  
19 criteria.

20 MR. SUND: .....guess I don't have real objection to the  
21 state doing it. I'm not real excited about asking the feds to do it.

22 MR. PARKER: Yeah.

23 MR. SUND: I guess that's where I kind of draw the line. I  
24 think there is some grounds here. I don't know if you call an  
25 environmental safety officer, but it might something on a pump

1 station operator or a terminal operator or you can get it down.  
2 But you've gotta have a license to do a whole bunch of stuff  
3 around this state now besides electricians and welders and  
4 plumbers and a lot of other people that were concerned that  
5 they have some degree of competence. It might give the state a  
6 little handle on it.

7 MR. PARKER: You don't have to have a license to run the  
8 big board in the Alyeska terminal, I don't think.

9 MR. WENK: No.

10 MR. HERZ: But I'm told by water quality people that one  
11 of the reasons that they think the self-monitoring system, self-  
12 reporting of monitoring by municipal treatment plant operators  
13 is that they have an engineering certification that they have to go  
14 through and if they falsify data, they jeopardize their ticket, so  
15 that it is a very powerful mechanism make that regulators deal  
16 for control.

17 MR. WENK: Mr. Chairman, may I be a devil's advocate on  
18 this one since.....

19 MR. HAVELOCK: We'll already -- let's knock it out of the  
20 national recommendation and consider it if you want to in the  
21 state context.

22 MR. SUND: No support for it here.

23 MR. WENK: Alright, no support. Thank you.

24 MS. WUNNICKE: I agree.

25 MR. WENK: Well, let me just make one general comment



1 that may apply to the state and that is.....

2 MR. SUND: Maybe we can wait 'til we get to state.

3 MR. WENK: .....if you're gonna think about licensing, you  
4 have to think about, you use the term, professional licensing,  
5 professional standards. And I don't think they exist today, in  
6 this way, in environmental safety.

7 MR. SUND: Oh, there's some stuff there in treatment  
8 plans.

9 MR. WENK: We're talking about the policy, we're not  
10 talking about the crane operators, I mean the equivalent of crane  
11 operators.

12 MR. SUND: No, that's where we're at.

13 MR. WENK: Well, I hope -- I thought we were talking  
14 policy?

15 MR. PARKER: We were also talking at the level of the  
16 Alyeska terminal manager, weren't we?

17 MR. HAVELOCK: That's what we're talking about is a  
18 terminal manager, pump station manager, those folks.

19 MR. WENK: Well, you mean under three.

20 MR. WALLIS: Talking about anybody loosing their jobs.

21 MARILYN: Yeah.

22 MR. HAVELOCK: Yeah, you loose your ticket, you loose  
23 your job. I think it would make 'em much more responsive to  
24 the state.

25 MS. WUNNICKE: Would this also get to your municipal

1 flushing of oil into the waters.

2 MR. SUND: You don't have that now.

3 MS. WUNNICKE: I mean to the guy in charge of that.

4 MR. SUND: You don't have that now, the way we do -- in

5 California we have -- that was the way I was just describing it.

6 MS. WUNNICKE: I don't think so.

7 MR. HAVELOCK: Well, I don't wanta -- I wasn't thinking

8 on taking on another constituency that might have feelings. I

9 figured it's enough to take on the oil pipeline folks on. So I

10 assume it would apply to Nikiski pipeline and so on as well as

11 the TAPS.

12 MR. WENK: Are we on 5C?

13 MR. SUND: Yeah.

14 MR. PARKER: We are?

15 MR. HERZ: With whom are you envisioning that annual

16 report being filed.

17 MR. HAVELOCK: I assume that per that the recent

18 discussion, we're talking about NOAA.

19 MR. PARKER: More like the EPA, wouldn't you say.

20 WENK: Well I -- could I raise the question about putting

21 some sting in it and having it filed with SEC?

22 MR. PARKER: Interesting.

23 MR. SUND: Make it part of your 10K report.

24 MR. WENK: That's right, part of a 10K report.

25 MR. DOOLEY: Much more readily available to the public.

1 MS. WUNNICKE: Yeah.

2 MR. PARKER: Why not.

3 MS. WUNNICKE: Things are flying awful high here.

4 MR. HAVELOCK: Well, one reason is the FDC is gonna be  
5 opposed to such a recommendation and I think that they could  
6 probably mount a fair argument that you're pushing their turf.

7 MR. SUND: We don't want 'em to do anything about it,  
8 just publish it.

9 MARILYN: They're a federal agency, right? They can tell  
10 'em what to do.

11 MR. HAVELOCK: Yeah, Congress can.

12 MR. WENK: What we're suggesting is that SEC take an  
13 interest in this question of social responsibility of corporations.

14 MR. HAVELOCK: This is environmental, this is spills and  
15 it's not broadly that. Even if it was broadly that environmental  
16 report.

17 MR. WENK: Well I'd like to -- I was just about to say, I'm  
18 gonna make a suggestion this be changed, or added to, I should  
19 say, so the annual report talks about prevention. Sorry I keep  
20 coming back to that, but I'd much rather see these corporations  
21 be given an incentive for prevention rather than simply post  
22 facto reporting their spills.

23 MR. HAVELOCK: Are you talking about "C" or are you in  
24 "C" at the moment.

25 MR. WENK: "C", I'm "C". Same report.

1 MR. SUND: But isn't the.....  
2 MARILYN: You mean violations.  
3 MR. SUND: .....incentive to prevent the -- because you  
4 have the hammer having to report your misses.  
5 MR. WALLIS: These are different reports.  
6 MR. WENK: Sure.  
7 MR. SUND: You can always.....  
8 MR. WENK: But give 'em the opportunity to brag a little  
9 bit.  
10 MR. SUND: Oh, they can do that -- they're good at that.  
11 MR. WENK: But not in the same context. Anyway.....  
12 MR. DOOLEY: In other words, Exxon's gonna tell us how  
13 much oil they prevented by being spilled by telling us how many  
14 quantities they carried all year and they only lost 11 million  
15 gallons. That's their prevention report.  
16 MR. WENK: Well, that might be their prevention report.  
17 I'd like to seem them come through and say what they've done  
18 in so far as their manning schedules, as far as training their  
19 crew, in other words, to deal with the other issues that we've  
20 raised, vis-a-viue the corporations. If we're gonna expect the  
21 corporations to respond to some of these safety requirements  
22 and I'm not sure there that's gonna show up. So far, I guess it  
23 doesn't show up any place under recommendations. It seems to  
24 me that if we're gonna have this study done that we referred to  
25 about improving the safety of the whole maritime oil

1 transportation system, this has gotta be done with a spirited  
2 cooperation by industry; spirited cooperation. And that means  
3 that here's gotta be some expectation that industry is not gonna  
4 do like they've done in the past and undercut every attempt say  
5 with the double-hull, everyone of these things. Then history's  
6 just gonna repeat itself.

7 MR. PARKER: I think gettin' you know, gettin' those  
8 elements in there on prevention so that, you know, if companies  
9 are reporting status quo and, you know, on a continuing basis,  
10 you can pick up on it. It's an important part of it, yeah.

11 MS. WUNNICKE: Don't you already have this report to the  
12 Coast Guard or did I misunderstand an earlier discussion that we  
13 had that the Coast Guard has reports of all of these near misses  
14 and.....

15 MR. PARKER: (Indiscernible - simultaneous talking)

16 MR. HAVELOCK: Well, I heard NOAA; that we were gonna  
17 report this stuff to NOAA.

18 MR. SUND: That was 10K, 'er near miss.

19 MR. PARKER: That's just reported on an individual spill  
20 basis.

21 MR. WALLIS: Well, didn't you say earlier on, when the  
22 Commission was first established that we talked about near  
23 misses and some agency already had that, all you had to do was  
24 buck it out?

25 MR. WENK: No, not for ships.

1 MR. WALLIS: Not for ships.  
2 MR. PARKER: FAA.  
3 MR. WALLIS: FAA has near misses, okay.  
4 MR. WENK: How do you handle "B"  
5 MR. WALLIS: Are we done with "C"?  
6 MS. WUNNICKE: I think I'd like to revisit "C" later. I'm  
7 uncomfortable with it and.....  
8 MR. SUND: Put "D" in the same box.  
9 MR. PARKER: This is a separate environmental  
10 importance.  
11 (Change of Tape)  
12 (Tape Number 89-12-4-3)  
13 MR. HAVELOCK: .....that with respect to "D" what I'm  
14 responding to Ed without doing an FDC necessarily is making it  
15 -- giving a handle to shareholders. Annual reports are supposed  
16 to provide accurate and true information about the condition of  
17 the corporation. If you have a requirement, or if voluntarily they  
18 provide information about their environmental performance, I  
19 expect actually some corporations already do this. I haven't -- I  
20 have no knowledge. But if they do, that information has a slight  
21 -- has to meet accounting standards, if you will, some sort of  
22 standard of propedy (ph). Otherwise, the Board of Directors is  
23 engaged in deceptive conduct with their shareholders. So,  
24 there is actually a little bit of -- it's not just only window  
25 dressing. It is also a handhold here for shareholders and that

1 was the point. The point of that subsection "D" is to remind  
2 shareholders that they have an interest in the corporate, in  
3 responsibility to corporations, not just the Board of Directors,  
4 and presumably you might get some action at a shareholders  
5 meeting as a result of a report and commenting on the annual  
6 report.

7 MR. PARKER: Marilyn.

8 MARILYN: I was just gonna note that the fellow from  
9 Exxon shareholders has been trying to find information out from  
10 us for their suit against Exxon because of their -- the  
11 shareholders are very unhappy with how Exxon got to Bligh Reef  
12 and how the oil spilled all over, all over Prince William Sound.  
13 So, I think it's interesting to note that they are very interested  
14 right now in the corporate activities of their board, where they  
15 weren't before, in the past.

16 MR. SUND: Would this take a state law.....

17 MR. PARKER: Now that's a real.....

18 MR. HERZ; Mr. Chairman.

19 MR. SUND: Would this take a change of state law to  
20 require this to be included in the annual report. Is that what  
21 this is?

22 MR. HAVELOCK: I'm sorry, what?

23 MR. SUND: You'd have to change state law to require this  
24 to be part of annual report.

25 MR. HAVELOCK: That's correct, although in the

1 requirement you can suggest it, but.....

2 MR. SUND: You can suggest, but I mean we could -- I  
3 mean in the State of Alaska, for all the little corporations we  
4 have here, whatever, you could change state law to require this a  
5 part of the annual stockholders' report.

6 MR. HAVELOCK: Sure. You wouldn't have to require it of  
7 corporation in the state. A corporation with net assets above a  
8 certain number or something to that nature.

9 MS. WUNNICKE: And it would be all corporations.

10 MR. HAVELOCK: It's -- you're talking about publicly held  
11 corporations, anyway. I'm not sure we could even reach privately  
12 held corporations.

13 MR. SUND: Or we would want to.

14 MR. WENK: But if you're dealing with Exxon, the state law  
15 you're referring to refers to that state in which it is located.

16 MR. SUND: Yeah.

17 MR. WALLIS: Mr. Chairman, the fact that Exxon wants  
18 information from us has nothing to do with shareholders.  
19 They're required to do it by law and put it in their audit section,  
20 'cause it has substantial, may have substantial impact on their  
21 finance. And if you wanta put this in an annual report, you're not  
22 doing nothing. Because a lot of corporation use their annual  
23 report also as a brochure.

24 MR. PARKER: Yep, they all do.

25 MR. HAVELOCK: That's right.



1 MR. WALLIS: And if has nothing to do with finances, it  
2 doesn't go in their audit, so they're not misleading the  
3 shareholders.

4 MR. SUND: A lot of times they can't tell the annual  
5 report from a new catalogue coming out.

6 MR. WENK: That's true, but, you know, so let's not kid  
7 ourselves on what we're doing.

8 MR. PARKER: Dow's got this great little picture of this  
9 nice grandpa with his grown granddaughter and she works for  
10 Dow and saving the family farm. Boy, it's a great relationship  
11 between Dow and the environment. They started playing that  
12 one after bultall (ph).

13 MR. SUND: I would suggest this is not a major factor and  
14 we don't spend a major lot amount of time on it.

15 MS. WUNNICKE: Yeah, well.

16 MR. PARKER: You wanta do it?

17 MR. SUND: Let's see where it comes out.

18 MS. WUNNICKE: You mean, the federal requirement.

19 MR. PARKER: Alright.

20 MR. SUND: See it shake out.

21 MR. HAVELOCK: Originally, I was proposing it as a  
22 recommendation directly to the industry that they ought to do it  
23 without being required to do so by law.

24 MS. WUNNICKE: That's what you mean by volunteer.

25 MR. HAVELOCK: That's what I mean by voluntary.

1 Industry voluntary action, because it's pointed we cannot  
2 control, for a multi-national corporation, we cannot control the  
3 content of their annual report. Although I think, not  
4 withstanding what Tim said, people start to some extent to  
5 believe their own hypocrisy. When it does go into annual  
6 reports, at least it's telling the shareholders that part of their  
7 responsibility is the environment; that you have to -- only the  
8 federal government could mandate that.

9 MR. SUND: Well, I think that's good enough, is just a  
10 comment.

11 MR. WENK: I would still like to come back and I know  
12 we're gonna re-visit this, but come back to requiring some kind  
13 of report to the federal government that has teeth in it and I  
14 can't figure out any other, but through the SEC. The annual  
15 reports that I've seen are the kind that Tim was describing and  
16 my impression is that since there is now recognized to be  
17 something called socially responsible investing, that some  
18 corporations are going out of their way already in their annual  
19 reports to flaunt this. I think -- I absolutely agree with your  
20 point and I don't think this will have any effect at all except give  
21 them another opportunity for puffery.

22 MS. WUNNICKE: You'd not be limiting this just to oil  
23 shippers?

24 MR. WENK: Well, I think in so far as the scope of this  
25 commission is concerned, oil and gas substances -- I would

1 include hazardous substances, but I think they -- the main thing  
2 to get before SEC it has to do with what's happened both with  
3 regard to prevention and with regard to incidents and accidents  
4 where there have been charges of negligence. I think that the  
5 public really oughta know this, that we get this in incidental  
6 reports when the newspapers pick it up, but I'd like to see --  
7 this is off the subject a little bit, but when Boeing turns out its  
8 annual report, by George I'd like to see some mention in there of  
9 the theft of the federal documents they used in order to increase  
10 their defense business. The guy that's on trial today, a doggone  
11 corporation oughta be held responsible and not just some lower  
12 life guy who's gonna go to jail.

13 MR. PARKER: Duane did that?

14 MR. WENK: You want me to lift the other companies that  
15 do it?

16 MR. SUND: List me one that doesn't. It's a shorter list.

17 MR. WENK: How much time do I have.

18 MR. PARKER: Okay, we've come to, I guess, State  
19 Agencies And/Or Statewide Functions at a public hearing  
20 scheduled at 4 o'clock, I understand. Is that correct?

21 MR. HAVELOCK: Yes, Mr. Chairman. I would recommend  
22 that you start tomorrow morning with state agencies and  
23 statewide functions to go today to.....

24 MR. PARKER: Okay.

25 MR. WALLIS: Do we have to clear off the table?

1 MR. PARKER: Hmm.

2 MR. WALLIS: Do we have to take our stuff with us.

3 MR. HAVELOCK: At the end of the day.

4 MS. WUNNICKE: If you want to be prepared for

5 tomorrow.

6 MR. WENK: We're gonna come back here tomorrow.

7 MR. WALLIS: Was somebody using these conference

8 tables, did you say, for public hearing?

9 MR. HAVELOCK: No, we're having a public hearing.

10 MR. WALLIS: Oh, we are.

11 MR. DOOLEY: We're having a public hearing now.

12 MR. WALLIS: Oh, okay. I'm sorry.

13 MR. PARKER: Oh, Mr. Johanson, Mayor Emeritus of

14 Cordova.

15 MS. WUNNICKE: Emeritus, sounds like a plant.

16 MR. JOHANSON: It's nice to be sort of on sabbatical,

17 whatever it might be.

18 MR. SUND: What are you gonna run for now? Oh I'm

19 sorry.

20 MR. JOHANSON: Chairman Parkers and Committee

21 members, it's nice to back and see you continue to pursue your

22 difficult task. And since last we met, I've made a few

23 observations that take me to the east coast and overseas,

24 partially funded by the city of Cordova with oil spill motivation,

25 basically.

1 I took with me the Channel 2 video tape on the oil spill  
2 and showed it to a few people, you know, on their home video  
3 machines. And their reactions were, by seeing that tape, it  
4 seemed to be much more information there and much more  
5 significant event than even they had seen on their local news  
6 during the course of the event. And this was the third and  
7 fourth, first and second week of October, to put it in a time  
8 frame. So, that seemed to be something that had a lot more  
9 detail than they had been seeing in their local news on the east  
10 coast in any case.

11 And then, from there, I took the oiled mayors trip to  
12 Brittany Coast of France. And I found that to be very valuable.  
13 This thing I guess that surprised me the most was how good  
14 everything looked there, 12 years after the fact. Now the areas  
15 which I saw were nice, white sandy beaches alongside roads  
16 with a lot of waves washing up on them. Where I didn't get out  
17 to was areas where there was -- a little more secluded, and I  
18 didn't get a chance to see. But frankly, I was a little surprised at  
19 how good those active areas did look.

20 Now the other thing that they made clear to us was that  
21 the success of recovering their shorelines was, to a large extent,  
22 based on the comprehensive program of gross contaminant  
23 recovery that they conducted using everything from shovels to  
24 buckets to sand scooping things to drag behind tractors and  
25 replacing sand and rock washing and tank trucks and things like

1 that. A lot of which -- I guess we didn't really see a whole lot of  
2 in the Sound.

3 Now, in the town of Breast, we saw a large warehouse.  
4 And I saw oil spill response equipment depots in France, in  
5 Shetlands and in Norway. And of the three which I did visit that  
6 one seemed to be the most comprehensive with the most  
7 equipment. They had well over a dozen skimmers in the year.  
8 They had pallet racked inside a huge warehouse with all kinds of  
9 equipment. Everything from bundled pick axes to generators  
10 and all sorts of things with a crew that manage it and monitored  
11 it and did preventive maintenance on all of it on a year round  
12 basis. And there still seems to be a good deal of bitterness by  
13 the people in the Brittany Coast area. They have a little different  
14 situation there in that they've not -- they've received essentially  
15 nothing from Amoco or any of the others, which we're familiar  
16 with. So that's a little different from us where a lot of the  
17 victims have received funding from Exxon now here. As a result,  
18 they have their society mixed. The ones who joined us on the  
19 trip in the Sound this summer which is over 12 years old. And I  
20 guess they don't feel their jobs done and evidently it's not in  
21 light of that dime on a dollar type settlement the courts came up  
22 with recently, which doesn't look good. They would like  
23 whatever support that we can offer them in terms of public  
24 awareness also, on their continuing efforts on the oil spill.

25 In the Shetlands I had a good visit up there to the

1 Salomvov (ph) terminal and my objective there was to see how it  
2 was operated in the light of the pending federal legislation here.  
3 And it seemed to me to be pretty good. One of the the things in  
4 meeting with the port captain there, it took a -- they have a  
5 helicopter and they go out on random surveillance flights of the  
6 tankers. And their tankers sometimes job or kind of drift a sea  
7 before they come into the port because their anchorage area's  
8 about eight hours. So if it looks like they're supposed to come in  
9 soon, they sort of wait a little bit about outside of the port area.

10 Now, when they do that, they take the helicopter and  
11 survey, on a random basis to see what's happening. Well it was a  
12 Friday afternoon and I was invited to go along with the  
13 compliance officer and they have a little radar in the helicopter  
14 and they identified three tankers. And the first one that we flew  
15 over had an oil sheen behind it. And they said, well that doesn't  
16 happen very often, maybe once every two or three months. And  
17 the officer reiterated several times that it was a very, very, very  
18 minor type of a sheen or situation and deduced that it was  
19 probably from some hydraulic oil that was leaching into some  
20 cooling water, discharge water. And he contacted the captain on  
21 the radar and told him that he was gonna repair it before he  
22 came into the port to load and so on. And it was nice for me to  
23 see that they in fact do utilize the system that they say they use  
24 there and to see it reported and then we came in to see that it  
25 was, in fact, reported.

1           The other thing we saw there was the inventory they have  
2 of all the tankers who call there. And that particular incident,  
3 on that ship, for example, would have been logged into their  
4 computer so they could check on it and they could find out later  
5 that that tanker had a discharge, for example. But what we  
6 found out though, was that a lot of ports do not share that  
7 information about the tankers between themselves. For example  
8 if there is a leak in, from one of these tankers in California, do  
9 they in fact advise Valdez that it had a leak down there and the  
10 nature of it before it comes up.

11           This particular tanker which I saw, flew over and found  
12 leaking there, although it was minor, I ran into it at a refinery  
13 about four days later in Norway. It evidently loaded in the  
14 Shetlands, unloaded elsewhere and was coming now to Norway  
15 to load. And it was the same ship. So I asked them, do you  
16 know the history on this ship, because I knew they recorded it  
17 in Shetland. Well, they didn't really, they weren't -- it didn't  
18 appear to be they were sharing that information. That's  
19 something that seems to be used and the report captain there  
20 was puzzled on how come it's not -- that information isn't shared  
21 like that.

22           And, so that -- so the visit there to Shetlands, though it  
23 was short, it seemed to be highly productive and it was a very  
24 cooperative group of people there and the system appeared to be  
25 working.



1           And then in Norway I offered some comments at the  
2 Offshore Oil and Fisheries Conference which was highly  
3 informative. One of the things that I found particularly  
4 interesting was that when the scientists in a laboratory take a  
5 cod fish, for example, and put it in a tank of water and then  
6 infuse a little oil in it, the cod fish's oxygen consumption rate  
7 increases as though he'd like to escape, but of course he's in a  
8 tank of water so he doesn't. And why that's of interest to me is  
9 because we see the disparity in Prince William Sound where we  
10 were expecting to have 46 million pink salmon this summer.  
11 We, in fact, caught about 20 or 25 and Southeast ended up with  
12 about 58 million. And the question is, was it to some extent  
13 because of the oil that those fish headed south, to try to avoid  
14 that oil? And that's some thing that would require.....

15           MR. SUND: Do you want some of them back?

16           MR. JOHANSON: Some of those pinks back?

17           MR. SUND: Yeah.

18           MR. JOHANSON: Well, let's talk about that later, I guess.  
19 And then, we were also fortunate to be there at the time when  
20 they had that Boxai (ph) bulk carrier wreck off the coast, so we  
21 took a car up there and went out with the state pollution control  
22 people and over flew that to take a look at it. And it was a very  
23 minor incident. As I recall now, it was maybe 1% of what the  
24 Exxon Valdez was in terms of oil spilling. But in terms of local  
25 media, it was a big event. And they were testing some different

1 products on the shorelines there and there were some products  
2 that at that point, they still were not testing, but different  
3 vendors wanted to test it. And we saw that here that there were  
4 a lot vendors knocking on doors who wanted to try their product  
5 by they were having trouble getting through to the system. And  
6 there would appear to be a little bit of that there too.

7 And then we, myself and a fellow from another fellow  
8 from Alaska, we went down to the testing lab, down at Horton,  
9 in Norway, outside of Oslo. And saw how they, in their practice  
10 room, test the concepts on boards. They have a board about the  
11 size of the center of this table here, with water painted on it and  
12 then they -- I don't know just exactly what they do, but they film  
13 what they do, testing different concepts of moving the oil and  
14 corraling it and using plastics boats and things like that. But  
15 they also do some offshore work using real oil.

16 Now we found it to be very interesting and informative.  
17 From the personal side, I still haven't seen any money from  
18 Exxon in terms of claims or anything like that, but we're still  
19 pursuing it based on our claim we turned in in June. If you have  
20 any question, I'll be glad to field them. Other than that it was a  
21 good trip.

22 MR. PARKER: John.

23 MR. SUND: What claim do you have still pending?

24 MR. JOHANSON: My fish company has a claim pending.

25 MR. SUND: Which one is that?

1 MR. JOHANSON: This is -- my company?  
2 MR. SUND: Yeah.  
3 MR. JOHANSON: Independent Cordova Alaska Fish  
4 Company, Inc.  
5 MR. SUND: On herring, or.....  
6 MR. JOHANSON: This is back in the kelp season, back in  
7 April and now we're going to develop the claim to include also  
8 the salmon season and the Tooksook Bay halibut seasons.  
9 MR. SUND: That's kind of interesting because earlier this  
10 morning, Esther was kind of leading us to somewhat be nice  
11 Exxon, the fact they've settled all these claims and were good  
12 guys.  
13 MS. WUNNICKE: I said they paid some money up front,  
14 which they didn't have to do.  
15 MR. SUND: Yeah, I just wondered, is there a substantial  
16 amount of claims still outstanding, or what is your.....  
17 MR. JOHANSON: I believe there are still a number of  
18 claims. I've heard of some that Exxon has settled, but frankly I  
19 was surprised to hear that they had. And that they had settled  
20 those, I see that there's a possibility that we'll get squared away  
21 to.  
22 MR. SUND: And they're eight months late, in fact.  
23 MR. JOHANSON; Well, eight months later, well -- yeah.  
24 Well, I turned it in June 10th. I wasn't able to focus on that 'til  
25 June. But it's been several months now. Hopefully we'll be able

1 to have a relatively quick and reasonable settlement at this point.

2 MR. SUND: What's the process you've gone through?

3 MR. JOHANSON: To this point?

4 MR. SUND: Yeah.

5 MR. JOHANSON: Well, to this point, I've worked it myself  
6 and now I've ended up having to hire the lawyers to help me.

7 MR. SUND: What do you see down the road? What are  
8 they telling you. I'm just curious as to what steps everybody's  
9 laid out to get to the end here.

10 MR. JOHANSON: well, we got to bring out the historical  
11 numbers of the past -- you see, this business is just two years old.  
12 It doesn't have a ten year track record or anything like that. We  
13 had to bring out the first couple of years and they had to bring  
14 out the documentation and then show the projections for this  
15 year and bring the taxes in and sit down, I guess. One of the  
16 things I'll be watching closely is how they handle the Tooksook  
17 Bay situation. It's been a couple months since I mentioned it,  
18 but what happened there was the gasoline barge that was  
19 supposed to bring the gasoline to village, didn't arrive in early  
20 June as it was supposed to. It didn't arrive until late July. In the  
21 meantime, the fishermen had no gasoline. And so, when the  
22 gasoline finally came the halibut had migrated back out so it  
23 could be caught by these small boats any more. And it's alleged  
24 that the reason the barge didn't arrive is because so much was  
25 drawn into the Sound. So that will be part of our claim. What

1 they said in the Daily News was, last summer, that they would be  
2 considering that type of a claim from that area on its individual  
3 merits. So, I can probably give you an update on that in a month  
4 or so. That's one component of it.

5 MR. PARKER: What impressed you most of what you  
6 heard at the conference in Norway?

7 MR. JOHANSON: Well, the fishes' reaction to the oil in  
8 terms of increased oxygen consumption. That really got my  
9 attention. And, um, that was what really stood out.

10 MS. HAYES: I realize you're a retired mayor.

11 MR. JOHANSON: You bet.

12 MS. HAYES: But have you been home, I mean, since your  
13 travelling, since you've been globe trotting.

14 MR. JOHANSON: Well, I stopped in just for a day or two  
15 about a month ago. I'll be back Wednesday.

16 MS. HAYES: How's the city, how's the city doing? I mean  
17 this is sort of the grey, black, dire times that everybody  
18 predicted. Did everybody leave town? Are there only the ones  
19 that decided to be morally upright and refuse Exxon money left  
20 in town. What's going on.

21 MR. JOHANSON: We'll see. I'll have to get back Margaret  
22 and see what's there. I've been gone for about two months with  
23 the exception of a couple days.

24 MR. PARKER: Esther, then Mike.

25 MS. WUNNICKE: In either Salomvøe (ph) or in Norway

1 did they have an inspection program of tankers? Was there any  
2 official inspection of the tankers when they were in port or how  
3 did they handle that?

4 MR. JOHANSON: As I understand it they have a program  
5 where they do inspect the tankers. And they measure for some  
6 sort of a gas and without getting -- without my notes I'm not sure  
7 what that gas was. But then, they do have the liberty of telling  
8 tankers to leave until they fix themselves, whether it's purging  
9 that gas out or whatever the defect, and then to come back and  
10 you can load after the fact. And they don't have to chance them  
11 off often, but they have done it. Furthermore, it becomes known  
12 by the tanker operators that they have to be in shape to come  
13 into that port, because they will be losing time and money if  
14 they're not. So they find that after the word is out and after the  
15 ports are managed in that fashion that there are less clunker  
16 tankers and deficient, defective tankers coming in. I heard that  
17 in two places.

18 MR. HERZ: In -- Dan Lawn was in the same place as you  
19 were, I don't know if it was the same time.

20 MR. JOHANSON: It was roughly time and also Admiral  
21 Changallini (ph). We ran into him in France.

22 MR. HERZ: The report that we saw, that Dan Lawn wrote,  
23 in reading that I was struck by the fact that there seemed to be  
24 an incredibly high level of professionalism, particularly Salomvoe  
25 (ph) and in Norway about the way they operate their facilities.

1 And I'm wondering if you had sense of whether that in fact -- did  
2 you get that feeling as well and contrasting it with the way in  
3 which the Coast Guard in the state operate here in terms of  
4 controlling or attempting to control the industry.

5 MR. JOHANSON: And I'll refrain from making comments  
6 on the local situation here. But it seemed to me, also that the  
7 Salomvøe (ph) seemed to be a pretty professional operation. I  
8 spent the better part of the time with the Captain, I think it was  
9 Sutherland, that had to check my notes also in charge of the  
10 control and managing the port there. And it was just a matter of  
11 fact that they appeared to be running it by the book and that's  
12 the way they were going to do it. They faxed out a roughly a 7-  
13 page set of rules and said here are the rules of this port before  
14 you come in. And you're gonna follow 'em. It seemed to be that  
15 at one of the warehouses, there was a stray glove or two laying  
16 around it and it caught my attention, but other than that it  
17 seemed good.

18 MR. PARKER: Did you get back in time to take up the  
19 NOAA clean up work shop here last week.

20 MR. JOHANSON: No sir, I missed that.

21 MR. PARKER: Well, thank you very much, Irwin, and it  
22 sounds like you got a lot done in a short time.

23 MR. JOHANSON; Well, it was, it was a busy trip and a  
24 productive trip and if I can offer any more assistance in you work  
25 I'd be glad to.

1 MR. PARKER: What did they say about their bogs there  
2 between Breast and Salomvoe. They -- those are the heavy  
3 impacted areas. Did they say whether those had come back or  
4 not?

5 MR. JOHANSON: Evidently there's still some areas that  
6 have recovery to do. And what they emphasized was the areas  
7 where there was a lot of waves and so on that did pretty well.  
8 But the key was -- the key seemed to be, you know, collecting  
9 the oil and carting it away. You could go in these warehouses  
10 and see bundles of pickaxes on pallets waiting to be shipped out  
11 on a moment's notice or whatever the case was. And it was a --  
12 it's important to see I think.

13 MR. HERZ: What about the return of the shellfish and  
14 fishing industry. I mean have those.....

15 MR. JOHANSON; When we were at the conference of the  
16 syndocot (ph) mix, the, what appeared to be some of the most  
17 vocal people in the general membership conference was the  
18 oyster farmers because they see the see the still beat sort of  
19 hanging out and not having recovered their losses, though  
20 they're, after the first three or four or five years, they were  
21 renewing their production, it seemed to be. Where with what  
22 we picked up in one place was that after the oil spill, some of  
23 the species were replaced by other species. And that's, I guess,  
24 a little different from ours where the fish are thawing and then  
25 come back.



1           MR. HERZ: What about the fish as opposed to shellfish  
2 impact.

3           MR. JOHANSON: We -- some -- evidently some of the fish,  
4 some of the local fish that were affected by the oil were chased  
5 off or whatever by the oil. And they didn't all come back to the  
6 extent they would've liked. But in the space that they left open,  
7 some other species came in and took their place.

8           MR. HAVELOCK: Oh, you were talking fish, not shellfish.

9           MR. JOHANSON: That's in France, in fish. Right. I  
10 believe the shellfish came back at least for the farmers. The  
11 farmers were producing. But I don't recall clearly enough  
12 exactly what the details were, therefore to base it.

13           MR. HAVELOCK: Have they done anything to establish a  
14 different type of compensation team. I'm considering their bad  
15 experience in Brittany with American courts. Are they thinking  
16 about a new way of handling compensation in the event of  
17 another spill?

18           MR. JOHANSON: The curious thing there is that they  
19 have since that Amoco Cadese spill, they've had several since.  
20 They have 'em on a pretty regular basis. And in that English  
21 Channel. And I don't recall exactly what their recovery method  
22 is.

23           MR HAVELOCK: How about compensation for people that  
24 are injured.

25           MR. JOHANSON: I don't recall that.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. HAVELOCK: There's no (indiscernible).

MR. JOHANSON: I don't recall that exactly what it is.

MR. DOOLEY: Did you have an opportunity to visit the Port of Lauderdale (ph).

MR. JOHANSON: No. Didn't go there. But off of Breast there where they have their vessel traffic control system, they had three large radars on that channel there and it's so much busier, of course, than the Valdez traffic lanes, but that seemed to be -- in fact, to the professionalism question, that seemed to be pretty professionally upgraded.

MR. PARKER: Okay, thanks Irwin.

MR. JOHANSON: Thank you Chairman Parker.

MR. PARKER: Charles McKee.

MR. MCKEE: First of all, I'd like to open up with a statement that I've really appreciated this opportunity with collective grace and intelligence that I've found in this hearing that it's been quite an experience, including the staff.

First of all, my names Charles McKee, for the record. I have with me at 1920 issue -- we're really big on books, so I brought this with me. It's a 1920 issue Going Ways in the Nation. And it talks about the Illinois constitution and the national constitution, Declaration of Independence, and of course I may bring to your attention my very first testimony at the Frontier Building. In reference to basically the preservation of public trust. And I've listened to discussion on jurisdiction a

1 great deal today and the question comes to my mind, who has it:  
2 the governed; why. Because we have certain inherited and  
3 inalienable rights. Among these are life liberty and the pursuit of  
4 happiness. To secure these rights and protection of property,  
5 governments are instituted that have true boundaries. And I  
6 bring emphasis to that. Now, the reason why I have -- I bring  
7 this special legislation that I have here, I haven't passed it out  
8 yet, to your attention. That is prohibited Illinois is because of  
9 jurisdiction instituted by the governed within the boundaries.  
10 And I'd like to point out that this state is not -- does not have  
11 any boundaries. It is a territorial situation.

12 And secondly, I have an affidavit here that I passed out to  
13 the United States Secretary of the Treasury. And the reason why  
14 I discussed my so called share of the oil well in the form of a  
15 dividend, with the Oil Spill Commission and that jurisdiction  
16 that I have conveyed with respect to last years dividend to the  
17 U.S. Treasury, is to place -- to implace an investigation for a  
18 complete remedy and their preservation of the public trust. And  
19 that's what we're all about.

20 MR. PARKER: Well, Charles, trust is what it's all about,  
21 but -- any questions. Thanks again, Charles.

22 MR. MCKEE: Uh, huh.

23 MR. PARKER: So, any Commissioners have any last words  
24 before we adjourn a little early for a change.

25 MR. WALLIS: Just a point of information. I see in the

1 state statutes that the state already has an authority to enter into  
2 compacts.

3 MR. PARKER: Uh, hum.

4 MR. WALLIS: I didn't know that.

5 MR. SUND: Good research.

6 MR. WALLIS: Huh.

7 MR. SUND: Original research, good.

8 MR. WALLIS: Don't embarrass me.

9 MR. PARKER: Okay, we'll see you all here at 9 o'clock  
10 tomorrow morning. We're recessed until then. Good day's work  
11 ladies and gentlemen.  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25