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ALASKA OIL SPILL COMMISSION

DECEMBER 5, 1989

ANCHORAGE, ALASKA

OIL SPILL COMMISSION MEMBERS

- Walter B. Parker, Chairman
- Esther C. Wunnicke, Vice-Chairman
- Margaret J. Hayes
- Michael J. Herz
- John Sund
- Timoth Wallis
- Edward Wenk, Jr.

VOLUME I OF II

1
2 MR. PARKER: Yesterday we went along into the
3 institution, on page two of the memo, institutions
4 recommendation on prevention we have got to state agencies
5 or statewide functions. That is read literally from the
6 paper.

7 MS. WUNNICKE: Mr. Chairman, could we just re-
8 visit the recommendation in terms of the major depart-
9 ments making an annual report. And, I was thinking about
10 what Commissioner Wallis said, had suggested yesterday and
11 none of us really responded to that. Would there be some
12 way, and I don't even know whether Tim would agree to this
13 or not, to be specific in that recommendation that the
14 department of transportation would require the copulation
15 of the information by the Coast Guard. Is there some way
16 to incorporate that in the general recommendation.

17 MR. HAVELOCK: Well, as I understand the
18 recommendation and I'm glad you brought it up cause it
19 probably should be discussed again, it will be... The
20 President is going to direct the Commissioners, the
21 Secretaries, and the directory of the Environmental
22 Protective Agency to prepare a report.

23 So, there is no necessity of inter-departmental
24 power because the President is exercising the power.
25 That's in the preparation of the initial report. Now

1 there is a question with respect to the follow up, and as
2 you an initial report which would be the setting of
3 objectives, and the assessment of the current circumstan-
4 ces of the carrying of oil by the sea. And the establish-
5 ment of goals. Then you have an annual follow up and a
6 suggestion was made that the follow up rather than being
7 done by pooling the three secretaries together again that
8 you use the initial report, status report, and the setting
9 of goals is the foundation. And, then you do an assess-
10 ment report annually from there after, and you do that
11 through the office of the presidency of the science of
12 technology policies.

13 That's the format at the moment in less you want
14 to propose some changes in it. But I don't think you need
15 to, the President is doing the directing, I don't think
16 you need to tell one secretary to tell another to cooper-
17 ate.

18 MS. WUNNICKE: No, I just guess what I was
19 asking was, in the direction from the President could the
20 direction be that specific to require that the reports
21 come from the Coast Guard. I mean

22 MR. HAVELOCK: Oh, within the department of
23 transportation

24 MS. WUNNICKE: Definitely, yes, I ... with that
25

1 MR. HAVELOCK: I suppose there at the

2 MR. WALLIS: Well, I'm not.....

3 MS. WUNNICKE: I'm just assuming that get a

4

5 MR. HAVELOCK: I don't know whether they're

6 drawing, whether they need to draw on other resources or

7 not. But I would assume that it's 90% Coast Guard, I

8 don't...

9 Who else in transportation, the national trans-

10 portation safety board, of course, might have some input.

11 Maybe there is another agency I'm not thinking of in

12 there.

13 MR. WALLIS: Well, Mr. Chairman, I'm not going

14 to argue this point. People think that by having the

15 report come out of the office of the Presidents going to

16 be meaningful, fine, I just don't think it's going to mean

17 anything and go anywhere. And I think.....

18 MR. HAVELOCK: Are you suggesting that the Coast

19 Guard

20 MR. WALLIS: And, I think if we're going to do

21 something you know move this report out of the office of

22 technical assessment just save and let the Coast Guard do

23 it period. And that be our recommendation.

24 MR. PARKER: I think the problem we are

25 attacking, that the whole maritime world, including the

1 transportation of oil is divided up among the departments
2 and the way congress has approached the problem since the
3 early seventies. Is to achieve a coordinated look as to
4 either give it to OTA or GAO or for the national academy
5 of sciences as a national science foundation be given the
6 task. Probably within ASF and NSF is that they rely a
7 lot on volunteer labor and they are somewhat limited on
8 what they can accomplish.

9 And, so what we do is stumble along from year to
10 year without any real oversight on what's going on in the
11 oceans, let our (inaudible) rely on the department of
12 state to do our coordinating in the international arena
13 and they don't know any more about oil transportation then
14 they know about fish, over the state ever since the two
15 people who knew anything about it, fish, died, so (in-
16 audible)

17 MR. WENK: Could I comment on Commissioner
18 Wallis's observations. First of all I have to report the
19 following sitting as I do, that when I'm speaking too long
20 he looks at his watch, now I was taught a long time ago to
21 be aware of such indications, but the worse one is when
22 somebody looks at there watch and shakes it. And I have
23 not seen him do that yet.

24 Anyway, Tim, I'm going to watch your watch. But I
25 was going to make the following comment. Your point about

1 whether and agencies responsive is a very important one,
2 I don't believe there's going to be a difference in
3 responsiveness between whether the assignments been given
4 to the secretary of transportation or the Coast Guard
5 within that department. The fact that it comes from the
6 President, at least in prior administrations, I can't
7 speak for this one, is taken pretty seriously, and I think
8 it is now in the fact that Riley and Skinner turned out,
9 I think, a fantastically good report in a relatively short
10 time. And only because the President asked for it but
11 whether on not these other things happen takes two steps.
12 The first is of course legislative initiative based on
13 this commissions recommendation.

14 But, the second is the congress's oversight. If
15 the congress does not hold, subsequently, hold the
16 executive branches feet to the fire, as has ... and
17 there's been obvious negligence in the past on this. A
18 lot of things we're talking about now that the Coast Guard
19 could have done the congress knew about and didn't act.
20 So I guess all I can say is somebodies got to keep the
21 congress alive on the issue.

22 MS. WUNNICKE: Mr. Chairman, I guess I heard
23 Tim somewhat differently, in that, I think through out
24 this, whether we're talking about private industry or
25 whether we're talking about government agencies, we're

1 seeking responsibility. I think, that one reason I wanted
2 to have it both ways and to be specific about the Coast
3 Guard was to place that responsibility so that by they're
4 own initiative they would respond and not be forced to do
5 everything that they had to do.

6 To give them the kind of pride that I think he was
7 talking about and the kind of feeling of responsibility
8 that they should have for this task and that was the way
9 I heard what Tim was saying. So I think it would do no
10 harm to be specific in the direction to the President so
11 that at least you lay that responsibility and give that
12 credit if it's a job well done.

13 MR. HERZ: Mr. Chairman, one of the concerns
14 that I would have with the Coast Guard having the prime
15 responsibility is that some of the items that they are
16 reporting on may reflect difficulties with they're own
17 responses to incidents and particularly because of the
18 revolving doors that we've talked about, I think that we
19 need somebody independent of the prime responder to
20 prepare that report.

21 MS. WUNNICKE: I guess I just don't want too
22 many shells under which to hide the pea that you try to
23 lay that responsibility as explicitly as we can in all of
24 our recommendations so that if somebody doesn't do they're
25 job they get summarized sores. In any of this that we're

1 talking about.

2 MR. WENK: Only a brief point here and that is
3 to separate in our own minds and maybe in the final
4 language two things. One has to do with the report and
5 that's what I thought Tim was first addressing. The other
6 though has to do with the Coast Guard zealous, more
7 zealously carrying out the existing mandate for maritime
8 safety, which they obviously haven't done and will
9 stonewall if they're asked to report on they're own.

10 So, re-stating that the Coast Guard has this
11 responsibility I think would be a very healthy thing to do
12 and that could... that's quite apart from the report.

13 MR. WALLIS: Well just a minute Ed, that's not
14 any different than Adam Corporations giving themselves a
15 report card.

16 MR. WENK: Well, but, in both cases the
17 question is one of public visibility, that's quite true,
18 incidently your, from point of view lets say casualty
19 reports from oil spills there's no other source I know but
20 the Coast Guard that's going to be able to produce that
21 information, you're going to have to depend on that.

22 MR. PARKER: Al.

23 Al: Would it help to include a provision for
24 performance reports on agencies in what it is you want
25 this report to contain.

1 MS. WUNNICKE: I think that would be a part of
2 it.

3 MR. WENK: Well, I thought that's what was
4 intended I haven't had a chance to read this.....

5 AL: It's not specified by agencies, you can't
6 tell exactly how it would be (inaudible) the existing
7 language here.

8 MR. PARKER: But, of course, that's GAOs role
9 in the world is to provide congress with performance
10 reports on agencies and congress itself usually, when they
11 come in with a good report you can count on some key
12 committee chairman usually whittling it down to where it's
13 relatively non effective.

14 So, you know that's the part of the system you're
15 attacking. You know, the overall effectiveness of the
16 federal structure and I... whether you go with Commiss-
17 ioner Wenk it asks, you know, traditionally, you know,
18 President is oversight by the congress is your strongest
19 possible position and all of the interventions that
20 congress has tried, GAO, OTA and so forth had some
21 effective but we still have the problem of functions
22 divided among departments and coordinating that still
23 exist also in the state government.

24 MR. WENK: Well, Mr. Chairman, I was just going
25 to say, and that this is what you're putting your finger

1 on, I think that's one reason the state has to, on its own
2 initiative play a very key role here.

3 MR. PARKER: Yeah, anything more on that at the
4 moment, are you thoroughly confused now council?

5 MR. HAVELOCK: Well, it still is unresolved and
6 maybe this is something that should be discussed later
7 because you'll note that one of the recommendations that
8 we have that's coming up is that should give a more
9 visible role for the core of engineers. There's a staff
10 sense that the core of engineers in cleanup functions is
11 probably a more appropriate agency to undertake that
12 activity then the Coast Guard at all.

13 In terms of resolving sort of this language at the
14 presidential level, I suppose you could ask the President
15 to instruct the secretary of transportation to prepare a
16 report with the support hub of other affected agencies.
17 Or language to that effect, I don't know whether that
18 bailed you out or whether that just adds to the confusion.

19 MR. PARKER: One of the lacking institutions we
20 have in the United States is the Crown Commission which
21 prepares a White Paper, that we've never used that
22 institution in the United States effectively the closest
23 we've done to it occasionally is the things like the
24 Warren report and so forth and you go back over the
25 history of the United States since World War II and try

1 to isolate those reports that have had true effect there
2 are not very many of them.

3 MR. HAVELOCK: I suppose you could use the term
4 White Paper, which is somewhat slangish, but's been used
5 in American government.

6 MR. PARKER: But that's, you know, that's what
7 we're fighting is the way the United States does its
8 business.

9 MR. WENK: Mr. Chairman, I was just going to,
10 this is the first time I've glanced at this new handout on
11 transferring responsibility for containment of cleanup
12 from the Coast Guard to the corp of engineers, did we
13 discuss that?

14 MR. WALLIS: Why don't we get through the state
15 agencies on prevention before we get to far.

16 MR. WENK: Oh I see, okay, this is for the next
17 recycle.

18 MR. PARKER: Alright, do you want us to use the
19 new paper on state agencies?

20 MR. HAVELOCK: No, that's only, only we get to
21 response.

22 MS. HAYES: Mr. Chairman?

23 MR. PARKER: Okay, we are using the old paper
24 on state agencies.

25 MS. HAYES: John, I just wanted to check that

1 somewhere in here, the gentlemen that came last time from
2 the Navy with his micro-encapsulating polymers, was quite
3 interesting in the sense of not only spill response but
4 almost prevention from the standpoint of having, is there
5 someplace in our recommendation about the interaction
6 between that Navy research arm and the Coast Guard that
7 hasn't, obviously hasn't been made yet, or at least people
8 from the Coast Guard weren't prepared to talk to us about
9 that seems to be quite alarming that was certainly obvious
10 that the Navy knew things that the Coast Guard didn't
11 about ways of keeping oil out of water and I'm interested
12 in whether we've got some direction to those two agencies
13 to be closer, to be working closer, more closely together.

14 MR. PARKER: You bring up a key point, that
15 ninety percent of the research done in the oceans is
16 funded through the office of Naval research. Which is a
17 bone in NOAAs nose that they've never been able to gnaw
18 on.

19 MS. HAYES: I think that.....

20 MR. PARKER: And seventy percent of that is
21 classified.

22 MS. HAYES: Many of us, I think, found it
23 shocking that something like that existed that we only
24 found about at this late in our investigations.

25 MS. WUNNICKE: And that its required on the

1 Navy vessels.....

2 MS. HAYES: And that its required on the Navy
3 vessels with all sorts of testimony about how groovy it
4 is.

5 MR. HAVELOCK: Well, you certainly, I assume
6 there is a consensus that we should make some comment
7 about better coordination of research and even use that as
8 an example.

9 MR. DOOLEY: There is a recommendation regard-
10 ing a research institute.....

11 MR. HAVELOCK: Well that's just local but it
12 doesn't suggest.....

13 MR. PARKER: This maybe one of those windows
14 a lot of us broke our pick on trying to open up ONR(ph)
15 research to more broader uses for the last thirty years
16 and you know it's a tough one but this is a good window of
17 opportunity to try again.

18 MR. WENK: On this very point that has been
19 raised about coordination there is explicit legislative
20 language directing the office of science and technology
21 policy to assist the President with exactly that purpose.
22 And it wouldn't hurt to remind.....

23 MS. WUNNICKE: Them that they have that duty.

24 MR. WENK: Them that they have that duty that
25 has been certainly in the last three administration

1 totally ignored. If fact originally there was setup
2 something called the federal council for science and
3 technology which was the inter agency group to do just
4 that, and then the name was change, that's not important,
5 but its essentially been abandoned. So that there is
6 already the mechanism to do this if only somebody will
7 ignite it.

8 MR. DOOLEY: Meg, the other point Lt. Goodbody
9 made was this wasn't necessarily Naval research as such.
10 That they were taking technology on the shelf and seeing
11 if they had application within the Navy structure.

12 MR. WENK: Well, but the point is one of
13 coordination and whether or not its research or already
14 done and I think Megs' point is one that could be restated
15 or underscored or something.

16 MR. PARKER: But, its one of the basic reasons
17 why the Brits or Norwegians are ahead of us in our seas.
18 When they get there research budgets out its the crown
19 that's disposing the research and the admiralty research
20 is much more closely tied with what the ministry of energy
21 and so forth is proposing out there, and I've never had
22 time to get into the nut and bolts of that and Mike
23 Williams of course is a good local source of explaining
24 more of that, but that's the basic reason is, the way the
25 government the way the government is structured as the

1 research flows attacks the problem much more directly.

2 MR. HAVELOCK: I guess you've reminded me that
3 we also, in fact I think that you told the governor
4 specifically, that we would provide some guidance with
5 respect to what I think of as vacuum packing of oil, which
6 is a sort of a prevention of... just like the polymers its
7 a prevention technique in the sense that you can use it to
8 really reduce any kind of initial escapement. But I'm not
9 sure what I'm going to be... the only thing I think I can
10 say about these is that these appear to be valid methods
11 that need further research and I don't know what I can say
12 beyond that unless you have some guidance.

13 MR. PARKER: The reason I said that its the
14 only thing you asked directly about, so I feel I should
15 turn you down.....

16 MR. HAVELOCK: Wait till he hears about the
17 polymer.

18 MS. HAYES: Wait till he sees the polymer.

19 MR. PARKER: Anyway.....

20 MS. WUNNICKE: We're pretty much in agreement
21 aren't we that we need to recommend a systematic research
22 not only in terms of containment and cleanup but in terms
23 of other technology.

24 MR. WENK: Well, even research on prevention.

25 MR. PARKER: Okay, do you want to proceed to

1 the stated now, with the assumption that we will be coming
2 back to that probably to a previous inspection tomorrow
3 for some fine tuning. People could search back in there
4 memories though as to what the truly effective report at
5 the federal level have been since World War II from
6 everybody's perception it will probably help cast a little
7 more light on this particular problem. Its silly enough,
8 we never did a report on Southeast Asia till five years
9 after it was over.

10 MR. HAVELOCK: Marilyn has reminded me that one
11 of the congressional proposals include a federal court
12 date committee on research and maybe our recommendation in
13 the regard ought to be that we get a seat on it.

14 MR. PARKER: Okay.

15 MARILYN: The house bill.

16 MR. PARKER: Okay, our first one on state agen-
17 cies. State pollution policy advisory commission. If I
18 remember our previous discussion our big decision here is
19 to whether we want to restrict based on our discussion,
20 the Council, myself, Marilyn, and Tim met with General
21 Shaffer the other morning in a wide ranging discussion
22 about anything, and one of the things that came up there
23 is the existing structure on hazardous waste that exist
24 in the state already in response to congressional mandate
25 with local committees through out the state and a state

1 commission already in place anybody correct me, Marilyn
2 correct me if I describe this wrong. State commission
3 already in place for hazardous waste.

4 The other thing that has come up in reviewing
5 Ralph Johnson's work where he emphasized some of the roles
6 of coastal management we have a very intensive, poorly
7 funded, but very wide range in structure in coastal zone
8 management in the state which has responsibilities in this
9 area too, and there again we have a state commission who
10 functions as a policy council. The policy council has
11 some roles in this to and that's generally the framework
12 within, which we work as we approach this particular
13 function. The a ...

14 I think the big decision is do you wish to
15 restrict it to a pollution policy advisory commission or
16 do you want a commission more structured to provide advise
17 on prevention also and have that more strongly stressed,
18 both prevention and tanker and hazardous waste traffic,
19 other hazardous waste, other hazardous cargo traffic.....

20 MS. WUNNICKE: (inaudible) hazard waste does sure
21 complicate it.

22 MR. PARKER: Yes.

23 UNIDENTIFIED SPEAKER: It does?

24 MR. PARKER: Well, it does in the sense that you
25 have the existing system you must deal with. Or whether

1 you want to and you can also have a commission which will
2 provide oversight on the rapidly developing events on the
3 pipeline.

4 MR. HERZ: This entity as conceived here is a
5 policy oversight in advise only, is that correct?

6 MR. PARKER: No, operational authority, yes.

7 MR. HERZ: And did you purposely, is there a
8 reason that it purposely does not specify what agencies
9 and who the representatives.....

10 MS. WUNNICKE: I think it should specify the
11 agencies.

12 MR. PARKER: Could we have discussed it in that
13 vein as it was presented to us by staff, I think they
14 chose to leave that open for our input.

15 MR. WENK: Mr. Chairman, just as a matter of
16 our own process, I'm going on the assumption that every
17 recommendation we make such as this one has behind it two
18 things. One is a finding, a need. But secondly, evidence
19 that it's absence if your talking organization, is a
20 demonstrable gap in governmental function or whatever.
21 With that premise could I ask the question what function
22 is visualized here and I don't ask this question in any
23 opposition to it, please understand, but I'm just...

24 Almost quite the contrary, but what function is it
25 that's been visualized that led to this recommendation.

1 In other words what is the evidence out there that
2 something's gone wrong that deserves this type of remedy?

3 MR. HAVELOCK: Well the ... Do you want me to
4 answer that or do you want to?

5 MS. WUNNICKE: We all have.....

6 MR. HAVELOCK: You're all ready to go. Actually
7 this is a good exercise because I do... One of the things
8 that I was hoping would happen from this is that the
9 Commissioners would identify the sort of the broad
10 statement findings that are supporting these things. So
11 I want to here your answers not my own.

12 MS. WUNNICKE: Let me just restate what I think
13 was stated on the last day of the last meeting

14 MR. WENK: Yes, I missed that day I'm just
15 beginning to read through the minutes.

16 MS. WUNNICKE: Which it's really unfortunate
17 that it wasn't possible for you to be here but let me just
18 state it as simply as I can. The basic of premise is
19 behind the recommendations of what I regarded as the
20 elements of institutional change, was that you needed a
21 watchdog entity at the local level and at the state level
22 and beyond the state level to keep up the kind of atten-
23 tion that is now focused on this kind of event.

24 MR. WENK: And which was missing previously.

25 MS. WUNNICKE: And this, the local level, we

1 need to discuss those watchdog functions at the local
2 level because they are being approached by the congress,
3 they are being approached by Alyeska and they're advisory
4 committees, and everybody seems to want appoint some local
5 representation.

6 It seems to me that one of the problems here, and
7 I'm getting a little ahead of myself, my concern would be
8 that they're going to stumble all over one another and not
9 be effective and that somehow we're going to have to think
10 of an umbrella entity and that I think what Walt mentioned
11 the Coastal Zone Management Program as perhaps an umbrella
12 under which all those local watchdogs could sit. But in
13 the middle then is a state wide one and that's what I see
14 very simply as the main function of this council or
15 commission or whatever you want to call us. To ask the
16 questions and to hold everybody's feet to the fire and to
17 be the visible body that keeps that kind of pressure on
18 then beyond that is your interstate compact.

19 MR. WALLIS: Well, real swiftly. I'm taking all
20 the words here literally and when it says policy advisory
21

22 MS. WUNNICKE: Those are not my words.

23 MR. WALLIS: Okay, all I'm... I mean I infer
24 from that as something a little different from this
25 watchdog monitoring function which I'm very much in tune

1 with, especially putting it up to the level of the
2 Governor and I think that we ... I think that there is
3 ample reason that all the agencies involved to do this.
4 But all I'm suggesting is that what you're suggesting in
5 terms of the watchdog function isn't policy advice.

6 MS. WUNNICKE: What we've called it something
7 the (inaudible) just talked about at the last meeting an
8 oil solution council, and it didn't have advisory and it
9 didn't have hazardous waste and it didn't have a lot of
10 things in it that now in this recommendation.

11 MR. WENK: Understood, Thanks very much.

12 MR. PARKER: Tim.

13 MR. WALLIS: Mr. Chairman, I guess in terms of
14 looking at this is ... I kind of look at it as expansion
15 of state government. I forget how many commissions and
16 what else we have on our books now. Several hundred I
17 believe and I don't know what the cost is to the state,
18 but it's quite a bit. Again, you know these things can be
19 done where it's already being done, or supposed to be done
20 within existing agencies. I think that we ought to tell
21 them to do it rather than to create something else.

22 MS. WUNNICKE: Mr. Chairman, I'd just like to
23 say, that in addition to having agency representation and
24 we did specify as an agency. I thought it would be
25 important to have representation on this council of

1 Alyeska for example, or of a major shipper in Cook Inlet
2 or representatives from local, what do you call them,
3 stake holders, fishermen. And representatives from the
4 local groups so that the council would be, would not just
5 be a combination of state agencies. I agree with you that
6 that can be done throughout the office of the governor in
7 terms of coordinating state agencies.

8 MR. PARKER: Did you want to say something?

9 MS. HAYES: I was just going to point out that
10 one of the things that led me to believe that there was a
11 need for something that isn't happening right now was the
12 testimony from DNR about what they do with there pipeline
13 surveillance reports. It just wasn't clear to me that
14 they pass them on to DEC, or that's there's much follow up
15 on them or that, or on what basis they're making those
16 inspections. I'm not sure for instance that they get out
17 of the pick-up truck or out of the plane or whatever it is
18 that they're using for transportation on it, and that
19 example is something that I think that if they were, if
20 fish and game and DEC is representative of interest groups
21 and stake holders that are worried about the integrity of
22 that line there might be more attention paid to it. And
23 so that's one place that I can ...

24 From the testimony that came up that I think that
25 we need something more than what we've got.

1 MS. WUNNICKE: Ralph

2 UNIDENTIFIED SPEAKER: Well aren't those
3 management problems rather than.....

4 MR. SUND: It seems to me that we're tackling
5 two different issues here. One, we made a finding yester-
6 day that all the stakeholders in the oil transport system
7 were not involved in the critical decisions regarding the
8 risks that they are exposed to. Okay that was kind of a
9 basic underline finding. That and was to lead to the
10 background to support the regional citizen advisory
11 committee that are in the federal legislation, the
12 creation of the port authority and there was an oil
13 pollution oversight council you know, so that gets to Ed's
14 point what's the finding behind this is that all stake
15 holders aren't in the ballgame.

16 But, I think that the second part of it is that
17 the finding that in the last ten or twelve years there's
18 been a slacking off you might say of attention to the
19 safety features, prevention features that were in place
20 when we started Alyeska. So the question is did the
21 finding become on that we had a good system and we all
22 kind of lost track of it from the state, and the federal
23 and local and industry point of view. So how do you re-
24 establish that heightened degree of scrutiny so to speak
25 over the long haul.

1 So, the finding is that there was a lack of
2 interest of oversight. The recommendation is that we put
3 institutionalize a methodology that allows ongoing
4 scrutiny of the system which requires players and requires
5 information and we've been arguing about the information
6 coming through reports for quite a long time now. And
7 this here seems to get to what did the institutions,
8 institutionalize in a role for these individuals.

9 So, I kind of segregated a little bit and I'm not
10 sure how that all gets wrapped into one if the point here
11 is if the state pollution policy advisory commission is
12 the umbrella that's over the top of all of these ad-
13 visories commissions that are out in the field.

14 MS. WUNNICKE: Not necessarily. I think there
15 should be representation from some of those local field
16 bodies on this council. But it's a way of guarding
17 against complacency

18 MR. SUND: Well the best

19 MS. WUNNICKE: Which I think we can certainly
20 make a finding that complacency of the regulators of the
21 citizens of the shippers themselves was a prelude to this
22

23 MR. SUND: The best example of that system we
24 have in this state is the fish and game advisory councils.
25 We kind of ran into the same problem there where people

1 all over the state were not feeling they were having there
2 input into the board of fish and the board of game so we
3 divided the two boards and they still didn't have there
4 inputs so we created, I think we have eighty-three of them
5 now in the state.

6 MR. PARKER: Plus the six or seven regional.

7 MR. SUND: Well, there's eighty-three fish game
8 advisory councils at the local level and then I think that
9 there's a regional syntheses above that and that goes to
10 the board. On some lesser degree I guess I kind of see
11 this aiming that same way. You've got some community
12 councils that are some community effort, but you're going
13 to have them scattered all over the place in which you
14 know, who do they even talk to or how do they effect
15 policy.

16 MR. PARKER: It doesn't matter, since you
17 brought up fish and game system, having been a part of
18 that system up to (inaudible) the present one which didn't
19 get all I want it doesn't work. Because the only thing
20 that counts is what the state board does. You know the
21 local advisory committees are a little more so then the
22 formal ... It gives you a little more status then the
23 citizen off the street but not enough more to make it your
24 while to be on one.

25 MS. WUNNICKE: It would seem to me that one of

1 the functions of this, and I'm going to call it council
2 cause I really, but anyway, one of this body, whatever we
3 name this body, would be an annual report to the Governor,
4 so this is youR state wide, what everybody's trying to get
5 at nation wide, this is your state wide body.

6 But I think it should not just be an umbrella for
7 the local stake holders I think that's an important part
8 of this but I think it should have membership on it of the
9 agencies and the major agency players but it should have
10 membership on it of the shippers to. Or someone like
11 Alyeska or someone like a shipper out of Cook Inlet.
12 Because what you want them to be able to do is to sit
13 around the table and say "Hey Joe" you know how come your
14 not shaped up here how come

15 MR. SUND: Let me play the Havelock Devils
16 Advocate role here then. In terms of prevention which
17 we're talking about here and the element of prevention
18 that we have identified which has to do with manning of
19 crews, vessel inspection, speed within Prince William
20 Sound, staying in traffic lanes that odd ends and items
21 thing that Mike Williams in one fail swoop at DP just
22 instituted overnight. How do you envision this advisory
23 council effecting any one of those policies.

24 MS. WUNNICKE: Well supposing that ten years
25 from now (inaudible) has happened between 1977 and 1989.

1 There is a demolition of that (inaudible). And you find
2 out that there are ships that are staying in the lanes and
3 you find out that there are shippers that are being
4 allowed to come in without the pilots. At least you have
5 this body watching these activities and as I take claim to
6 having a watchdog function.

7 MR. WALLIS: Mr. Chairman.

8 MR. PARKER: Tim.

9 MR. WALLIS: Mr. Chairman, I think everything
10 that we talked about and what should be done and what
11 hasn't been done. I really think, you know, its all a
12 management problem, and I'm just a little bit leery about
13 creating new commissions I guess for the sake of creating
14 something. It seems like every time that a body really
15 doesn't know what to do or there is some lack of something
16 or another you create a commission a committee a task
17 force or something else to deal with it, with the thought
18 that we've done something. I just think that really its
19 a management problem and we just ought to deal with it
20 from that point.

21 MR. HERZ: It's more than a management function
22 that's needed here. I think that one of the problems with
23 this recommendation is that there are no duties specified,
24 it's to general. If we can specify some jobs that get us
25 the types of things that John was looking for, that would

1 mean that this body would have a review capacity that
2 would review contingency plans. That would review, it
3 would have some sort of review and oversight function with
4 specific justification or recommendations coming from
5 agencies, coming from the industry, but as it stands here
6 just to advise is too general

7 MS. WUNNICKE: I don't like the word advisory
8 either but then your getting into something like an
9 authority, and we didn't discuss that thoroughly but you
10 get, then you do create a new agency and new authority,
11 and that is something to talk about. But as I envision
12 this council it would be, just as I had mentioned yester-
13 day, the Coast Guard sent in there letter to Alyeska most
14 recently, in the present climate we have no alternatives
15 but to require that ships not leave the port if they have
16 cracks in there hulls. In the present climate. I see
17 this as

18 MR. PARKER: It would be nice to (inaudible) as
19 a bureaucrat most ...

20 MS. WUNNICKE:as the spokes body, as the
21 focal point to keep the climate one of vigilance rather
22 than one of complacency. And I don't think it has to have
23 although I would have no objections to an authority as
24 such, but I don't think it has to have operational
25 functions of any kind. I think what

1 MR. HERZ: I wasn't suggesting operational, I
2 was suggesting oversight.

3 MS. WUNNICKE: I think that it would be wise to
4 specify specified duties, but if it does no more than make
5 an annual report on the state of oil transport in Alaska.

6 MR. PARKER: Meg, then Dennis, then John.

7 MS. HAYES: Last night I was given one of the
8 jobs to go through my notes and try to collect quotes from
9 the public meetings that we had from the public for the
10 report, and one of the quotes that I picked up again was,
11 people take care of the things that they love

12 MS. WUNNICKE: That's my thought for the day,
13 for thy treasure is there also bumps that thy heart beat.

14 MS. HAYES: Yeah, sort of the same. And one of
15 the things, and I think what Commissioner Wunnicke I think
16 what your looking at is that the, as we heard from so many
17 of the towns and villages is that people care about what's
18 close to them and that they will keep alive this interest
19 in the ongoing problems that the bureaucrats, as they come
20 and go, and shift, and change may not have time for or may
21 not have the energy for.

22 But my question is who is on the Coastal Policy
23 Council that would be different from this. And, is this
24 something that we can fold into the existing coastal
25 management program with, as additional duties of something

1 that already exist. And because it seems to me that we're
2 already talking about the same people, I mean, they're the
3 people who care about what happens in there coastal
4 districts. I

5 MS. WUNNICKE: There not going to have a lot to
6 say about a pipeline.

7 MS. HAYES: Well that's true.

8 MR. PARKER: Dennis.

9 MR. DOOLEY: It's true Commissioner Wallis, one
10 of the things that did come through this hearing was sort
11 of a sense that the citizen should be involved in review-
12 ing the bureaucrat. Distinctions and actions similar to
13 what, and I think in response to a large, that's almost
14 unanimous and (inaudible) almost every form we have for
15 public hearings.

16 I want to say I think that something like this
17 will be in response to that public testimony. The other
18 one is I sat on the Costal Policy Council for three years
19 and my experience on that is that that is not the forum
20 for this kind of a thing.

21 MS. WUNNICKE: I just can't

22 MR. WENK: Mr. Chairman.

23 MR. PARKER: John and then Ed.

24 MR. HAVELOCK: One thing that I wanted to note
25 is the point made is to the scope what we're talking about

1 here, that it does include, this is for the whole trans-
2 portation system and that one of the points you've been
3 making was that there is nobody looking at the overall
4 system. One of the stakeholders that you haven't men-
5 tioned it seems to me critical stakeholders are the people
6 of the Doyon (ph) region and of the Arctic Slope region,
7 who at the moment have very little direct input into the
8 management of these systems that so profoundly effect
9 there areas. And, where you could get spills coming off
10 that pipeline or out of the gathering field that would
11 profoundly effect there well being, and I don't think
12 maybe there is an adequate existing system for those folks
13 to control. The managers of these systems that I'm not
14 aware of if that's the case.

15 And, secondly to get rid of the red herring I
16 don't think the hazard waste council, whatever it's
17 called, as I remember it, is set up as Alan has reminded
18 me this morning, under federal law, and it is basically
19 part of the emergency response system, it's an operational
20 focus, so it doesn't really have anything to do in a big
21 way with what we're talking about, its very peripheral.

22 Thirdly, I've, although your calling it a council
23 or commission or whatever, I assume your talking about
24 actually suggested, exercising some executive power in
25 relation to this, I assume you are going to have a full

1 time executive director to this if you don't, your not
2 going to have a lot of teeth to it. That person is going
3 to exercise with a lot of influence with respect to the
4 negotiations with other states on both prevention and
5 response features as well as providing a voice for this
6 overall management.

7 And let me, I wanted to emphasize that at a point
8 there is at the moment no spokesperson for policy effect-
9 ing the whole system in the government. It is divided up
10 between no ... conspicuously, DNR and DEC, but there are
11 other agencies too. And of course its also a split
12 between those agencies and the federal government. And
13 there is nobody looking at the congruence, the federal and
14 state policy and how you might pull them together to make,
15 I assume that the recommendations with respect to changes
16 in the Coast Guard procedures and the likes would come out
17 of this council.

18 So you, seem to be looking at an overall and
19 quite powerful council with an oversight over the whole
20 system.

21 MR. PARKER: Holding up briefly on Councils
22 remarks right now when anything major comes up the only
23 people who are going to talk to it is the Commissioner of
24 concern the Governor himself the Chairman of the Oil and
25 Gas Committee or the legislative leadership. And they're

1 all going to be talking to it from there particular point.
2 They may or may not talk to each other before they launch
3 off with differing statements and after listening to
4 Marilyn and Mike Harmond as to what went on last year and
5 the suppositions on which some of the decisions were made
6 in the earlier legislation, you know, and the very
7 barebones information on which some of the major decisions
8 were made in the legislation last year why, it does tend
9 to make ones blood run a little cold to think of us
10 launching forward and making our next set of decisions
11 based on the same kind of incoherent framework that exists
12 now. Ed?

13 MR. WENK: I think our council has helped in
14 explaining a justification for this function and I would
15 like to elaborate a little bit. First with this charac-
16 terization and I know what reaction this may create. That
17 this is an interagency policy planning and coordinating
18 body for the governor.

19 Now let me quote something about interagency
20 bodies from a book here. "Interagency committees as a
21 general institutional class have no admirers and few
22 defenders. Said one senior official such committees
23 blanket the executive branch to give it an embombed
24 atmosphere. Committees compose a rather lonely melancholy
25 men (sorry that it's sexist) who have been assigned a

1 responsibility but no authority tend to seek there own
2 kind, they there upon coagulate into a sort of gluttonous
3 mass."

4 Nevertheless it says "in this case the President
5 must gain some victory over departmentalist and this is
6 only possible through mediation and persuasion by some
7 interagency body assuming that the president has the will
8 the stamina and the competence to stimulate a sense of
9 community and suppress parochial interest." That applied
10 to a federal body, my impression is that this all started
11 from a finding which was implicated but I'll make ex-
12 plicit, and that is the state of Alaska has a clear role
13 in accident prevention.

14 And on the basis of that finding and as John Sund
15 so eloquently pointed out earlier, it's failure in the
16 past. It strikes me that what is suggested here is both
17 functionally clear and symbolic that the governors in
18 charge and he's going to have some muscle to help him do
19 this on a continuous basis. Remember if you will when
20 Laroush was here as a witness and he was asked who was in
21 charge from the first minute and his answer was the
22 governor was in charge from the first minute. I don't
23 think the governor knew that but that's beside the point.
24 The fact of the matter is that all of the emergency
25 management procedures, that I know of, put the governor in

1 charge instantly. The crux of the matter is he can't do
2 it unless he has this kind of assistance. I think this
3 would take authority, a new authority, but I think I know
4 that all of us are a little skiddish about adding one more
5 thing, but on the other hand it's clear that the state
6 didn't follow through the powerful and potentially
7 effective initiatives of the early seventies and this is
8 a way of restating the state intends to do something about
9 it. It doesn't go into chapter and verse it says here is
10 the way to do it.

11 MR. WALLIS: Mr. Chairman I'm not going to fall
12 on my sword over this one, but

13 MR. WENK: I didn't think he brought his sword
14 with him.

15 MS. WUNNICKE: Just his watch.

16 MR. WENK: Just his watch.

17 MR. WALLIS: If I can make a suggestion we have
18 quite a few things that we are trying to create here and
19 maybe we ought to review all of them and come back and see
20 which one we want to pick. If we are going to pick one,
21 two, or all of them or whatever. And how much money is
22 this going to cost the state.

23 MR. PARKER: I think that's wise I

24 MS. WUNNICKE: I think that should be true of
25 all of our recommendations.

1 MR. PARKER: Marilyn wanted to say something and
2 then John, then Al, and then we'll leave it.

3 MARILYN: Well, I was going to get into more
4 detail so I'll just wait until we get into the detail of
5 this advisory committee again, whatever it is.

6 MR. SUND: I want to follow up on, I think Ed's
7 made a very clear finding that I haven't always stated and
8 that is the state does have a clear role in accident
9 prevention, and that should complete all the discussion.
10 I also have a finding of my own, and I don't know if you
11 all agree with this, but I expressed yesterday that the
12 state must have the willingness to invest in management of
13 it's resources. And, I don't have a problem coming in and
14 telling the state they have to spend more money managing
15 there resources, I think it's inadequate now.

16 But I don't think you can get from here to where
17 we ought to be without either more money or a reallocation
18 of existing money. I don't think you can state that we
19 want to be involved in preventing. Preventing accidents
20 is another way of saying protecting your habitat or your
21 environment from ecological damage. I don't think you can
22 come in, it's not a zero sum game. We're not going to
23 come in with a zero on this thing, I don't know what the
24 numbers going to be, but it's not a zero.

25 I think what we're talking about here is basical-

1 ly, how do effect public policy, and mechanisms to do so.
2 And the public policy I think we're trying to effect is
3 complacency, that's there lack of public policy and
4 budget. And budget allocation ... both in two terms,
5 allocation of total dollars and then division of the
6 allocation of money and I think you do that, in this
7 state, through an informed citizenry and you can do that,
8 you know one or two people in this state make one hell of
9 a lot of difference if they want to put their mind to it,
10 and if you don't think so go down to legislature and get
11 a very committed person on your case and they can do
12 things.

13 But, I think you also do it through an organized
14 voice and I think that's what this whole policy council is
15 trying to do. Take an organized, give the an informed
16 citizenry or a citizenry some information so that they can
17 become informed and then help organize their voice to
18 become an ongoing presence down stream which will counter-
19 act the complacency issues and also will effect public
20 policy regarding budget. You can have all these councils
21 in the world but if you don't fund them to do something
22 then that's gone. So I mean that's where the constant
23 thorn has to come from.

24 MS. WUNNICKE: Mr. Chairman, I just wanted to
25 remark, if its just to be an interagency council I don't

1 think it would achieve it's purpose, it has to have
2 additional membership besides the agencies in terms of the
3 people who are either affected parties or affecting
4 parties

5 MR. SUND: There's a lot of other items coming
6 up here and I agree with Tim, maybe that we look at other
7 items from the beginning, but I think that effecting
8 policy dealing with prevention, a lot of it's on the
9 federal level and a lot of it's on the interstate level
10 which has to come out of the governors office.

11 The legislature doesn't have the authority to do
12 their ... and I think the governor has to feel a commit-
13 ment or be committed to invest the executive time it takes
14 to work with interstate compacts and work with trying to
15 effect federal policies and Coast Guard policy on a lot of
16 these prevention issues so it won't happen.

17 That kind of gets me to the point this has to be
18 in the governors office and he has to commit a person or
19 a body on the interstate and we have inter government
20 reports, I understand that but I'm not sure what there
21 total role is. I just wanted to say that's the framework
22 I see coming out of this and I see this position having
23 several responsibilities, Mike was trying to get into
24 them. I think maybe as we go through this discussion a
25 few responsibilities will fall out of this situations.

1 MR. PARKER: Al.

2 MR. DOOLEY: Mr. Chairman, I agree with what
3 appears to be the consensus viewed that we need some form
4 of transcendent organization to pull things together and
5 move them forward. It seems that the way it's set up
6 right now though, it's incomplete and will be ineffective,
7 the main reason is that while the creation of this sort of
8 policy advisory council creates a responsibility it
9 provides no authority.

10 And. when you set up responsibility with no
11 authority you've got nothing, you've got people who talk
12 to each other perhaps make each other happy and publish a
13 report. Their influence is limited, if this body had
14 perhaps regulatory authority or some other force that it
15 could exert beyond words you would have something that
16 more people would pay attention to because it can change
17 the course of the boat in the water instead of merely
18 talking to the captain.

19 MR. PARKER: That's a real problem.

20 MS. WUNNICKE: Yes, but Alaska's governmental
21 system with a strong governor, it seems to me, that the
22 authority is the governor.

23 MR. PARKER: Yes.

24 MR. DOOLEY: Board of fish and game is a regula-
25 tory authority.

1 MR. PARKER: Our last discussions, since the
2 last meeting on this when we (inaudible) the idea of the
3 department of oil and gas I think laid out a lot of the
4 problems and ... in investing this body with regulatory
5 powers, you, if your going to give it regulatory powers
6 you either create new ones or you take them away from
7 somebody who's doing it already. John.

8 MR. HAVELOCK: They (inaudible) many flowers
9 bloom within staff, I don't agree with Mr. Dasiack, I
10 think that our job is to reinforce the existing regulatory
11 authority of the existing line agency and I don't want
12 this type of policy council to get itself involved in the
13 adoption of regulations, it can propose them and be the
14 final proposer of federal regulations through the governor
15 to the Coast Guard etc. etc.

16 But I don't think it necessary and I don't see any
17 new authority that has occurred to me in these lists, you
18 immediately say well this belongs within the bailiwicks
19 (?) of DNR or DEC and or the Coast Guard, and you sort of
20 allocate it to them, so I don't, I just don't agree that
21 you need to be able to do that.

22 You do need to have the power to compel people to
23 come talk to you so I suppose you're talking about the
24 authority to issue subpoenas but words like watches can be
25 more powerful then the sword.

1 MR. WENK: Mr. Chairman, at an appropriate time
2 I'd be glad to, and I think this will differ, give a
3 list of functions of such a body that I'm getting from
4 another similar body that I think applies here, if that
5 will be useful, but it's in the nature of what the
6 councils just been suggesting as an advisory, policy
7 planning coordinating body not one that does have any
8 authority to regulate.

9 MR. PARKER: Okay, that would be most helpful.
10 Okay do you want to take a short break before we move to
11 DEC or do you want to plow on?

12 MS. HAYES: I vote for a break.

13 (Off the Record)

14 (On the Record)

15 MR. PARKER: Okay, we take up the Department of
16 Environmental Conservation and the first recommendation is
17 recommending that the department be reactivate and get
18 it's advisory committee funded which I gather still exists
19 in statutes, does it not?

20 MARILYN: Yes it does.

21 MR. PARKER: The history of that is that it
22 began when the department was founded in 1972 but for
23 those of us who were present at the birth of that depart-
24 ment it was intended to be the environmental watchdog for
25 the state to insure that nothing bad ever happened and the

1 department wiped it out in its budget around 1980 or there
2 abouts and it hasn't been heard of since.

3 MS. HAYES: What are it's duties?

4 MS. WUNNICKE: Statutory.

5 MARILYN: What's that?

6 MS. HAYES: What are the duties of the Environ-
7 mental Conservation Advisory Commission? Whoever they are.

8 MARILYN: I'm quickly trying to find it here.
9 It's not in title 46, that's why, if it was in title 46 I
10 would have ... its not listed.

11 MR. DOOLEY: While she's looking, some of the
12 literature that dealt with the environmental issue and the
13 politics of environmental agencies and that. Almost, some
14 of the scholarship that reviewed these in international
15 (inaudible) where we've been threaten, the United States,
16 that almost uniformly there's some problems that exist
17 with the creation.

18 This environmental watchdog soon becomes a part of
19 this dewlapped mess. It becomes a part of the bureaucracy
20 and will become part of the problem unless there is a
21 citizens oversight committee in order to make sure that
22 since it's independence it was maintained. And that was,
23 that finding within the scholarship was pretty well, was
24 in two or three different papers by different authors.

25 MR. HERZ: Does the advisory committee contain

1 public members now?

2 MARILYN: Yes.

3 MR. PARKER: It was all public members, as I
4 remember it. Lets see. Mike did you have a comment.

5 MICHAEL HARMOND: I have some general comments,
6 I don't know if this is the appropriate time that I would
7 like to make.

8 MR. PARKER: Do we have a mike.

9 UNIDENTIFIED SPEAKER: Yes we have a mike here.

10 MICHAEL HARMOND: I mean if you want to wait I
11 can do it later.

12 MR. PARKER: No, come on up and ... Mikes been
13 working a lot with DEC and these events.

14 MICHAEL HARMOND: I'm Michael Harmond for the
15 record, I work for the Oil Spill Coordinating Office, I'm
16 a friend of the Commission. I've been looking at your
17 materials here today from the perspective if I was going
18 into the legislature and having, and advocating for these
19 things and I would like to make a couple of comments in
20 that regard.

21 One is that for each recommendation that according
22 to, in line with what Commissioner Wenk and Commissioner
23 Sund have been talking about we have, you have a strong
24 problem statement that you clearly define what's broken
25 that you want to fix, and especially for recommendations

1 where you start talking about starting new government
2 institutions.

3 I think that Commissioner Wallis hit, the reaction
4 your going to get from the legislature when you go in and
5 talk about creating a new commission, unless you can
6 really identify what that new commission is going to do,
7 or council is going to do, and why it's different, why it
8 will be different than all the other hundreds of commis-
9 sions we have, your not going to be very successful. In
10 that regard a clear explanation of how and why the
11 commission reached its recommendation. What were the
12 options you considered to fix what was broken and why did
13 you hit on that one that you did.

14 And, then for each recommendation a real strong
15 cost figure, what your saying this would cost. The
16 legislature is commissioned to (inaudible), look at this
17 commission. We started out with people that really look
18 at this commission, what it would cost, came up with a
19 figure of about a million or so dollars, and that was
20 never really, that was the house resources committee was
21 the only committee that really looked at this commission
22

23 MR. PARKER: It was a million seven at the first
24 budget, yes.

25 MICHAEL HARMOND: a million seven right,

1 and we know what the real work of this commission cost, it
2 was substantially more than what was eventually provided
3 for.

4 MR. PARKER: That got knocked down to four
5 hundred thousand then we got it up to nine hundred
6 thousand.

7 MICHAEL HARMOND: It's incumbent upon the
8 commission to say, I think, for each recommendation what
9 you say the cost of that recommendation is going to be.
10 And if you've got this oversight and you might consider
11 doing away with some entities, for example the DEC
12 advisory committee, instead of activating and funded it,
13 it seems to me that the policy advisory commission that if
14 your serious about that that those functions are probably
15 similar and you should recommend, maybe the recommen-
16 dation should be to get rid of the DEC committee.

17 I think you'll be a whole lot better on in the
18 legislature if you recommend new entities if you recommend
19 deleting some as well. And if your recommendations, if
20 you can't come up with the specific recommendation you
21 should probably consider that it's not a good recommenda-
22 tion to leave it out. Words like a, and I understand that
23 this is going to be, that your now in the process of
24 refining these things, but words like enhance, strengthen
25 are not recommendations, that's not a recommendation, that

1 doesn't tell anybody what to do, so from the perspective
2 of getting your recommendations passed by the legislature
3 and getting them to act on them I would just urge you to
4 be as specific as you can with what you want to do as why
5 you want to do it and what's broken, and what's broken
6 that your trying to fix.

7 And with good strong documentation of the problem
8 and what it is and examples of that problem that you
9 discovered during the course of your work this year and
10 make those just part of those recommendations. If
11 somebody sits down at a decision maker in the legislature
12 he can see and understand and agree with you that there's
13 something broken that needs to be fixed. Those are my
14 general comments especially in the DEC advisory committee,
15 this thing has never done anything and if you think this
16 other entity is a good idea it can be made more effective
17 than all the other commissions that we've had that haven't
18 been effective, and I think Commissioner Sund has hit on
19 the answer to that there has got to be grass root support
20 for this.

21 There has to be other entities out there on the
22 local level that if the governor makes bad appointments to
23 this commission or that the commission isn't given money
24 that they will yell about it.

25 MR. PARKER: John.

1 MR. SUND: Yeah, I agree with Mike, and you
2 weren't with us yesterday but the example came up with
3 what did we expect with corporate behavior is there some
4 rational basis to expect cooperations would act with any
5 social conscience or act to do anything above the minimum
6 requirements of regulatory law, and Mr. Havelock and I got
7 into a little devil advocates role, he said that there is
8 no reason to expect cooperations to act other than
9 cooperations and do in there best interest and my histori-
10 cal look at that is that there historical best interest is
11 to maximize the bottom line.

12 And, you can use whatever justifications you want,
13 sometimes that means spending a lot on public service,
14 sometimes that means going, you know, whatever they
15 determine in their minds to go there.

16 But the question in the state of Alaska is the way
17 you maximize corporate behavior in Alaska is to diminish
18 regulatory authority over your entity, and we've seen that
19 time and again in the oil industry, just will do a lot
20 better with less regulations and a lot better with less
21 oversight of our activities.

22 And I think that's history when we trace out the
23 history of budgets and DEC activities and DNR activities,
24 it's pretty plain to see that. So I think that that's
25 where it is broken. The question is how do you propose

1 something that may fix that. I guess I came up, the only
2 thing I put on the table is an active citizen advisory
3 system, that has it's risk holders it's stake holders
4 interest ie. damage to my local environment or ecology or
5 maybe damage to my way of doing business which is fishing,
6 and put them in place.

7 To get some counter (inaudible) force in this mess
8 down there were we make decisions called Juneau. Between
9 the prevailing parties so ... I just don't know that I
10 have the real authority to put the cost numbers on it. I
11 think I might be able to define the problem and define the
12 solution, rationalize the solution, but I don't know maybe
13 we could get some help from people to define the cost.

14 MICHAEL HARMOND: I recognize that's a problem
15 but I also have a pretty good feel what the response of
16 the legislature is when you go before them with these
17 recommendations that's the first thing they are going to
18 say. In the declining budget years we can't afford all
19 this stuff with the money we've got now, and so I think
20 from a pragmatic tactical point of view that's an issue
21 that your going to have to confront in some way.

22 MR. PARKER: How about suggesting some re-
23 allocation of resources.

24 MICHAEL HARMOND: Well, I think that would be
25 very helpful, that's the other question that I would ask.

1 Okay you want this what would you say that we've got this
2 x amount pot here that's declining, where are we going to
3 take, what do you think we should take money from to put
4 in.

5 MR. PARKER: I think that

6 MICHAEL HARMOND: It's a long list.

7 MR. SUND: Mr. Chairman, I think that's a trap
8 that this commission should not fall into

9 MR. PARKER: Absolutely.

10 MR. SUND: I think it's one of the
11 findings we have is there has not been enough of adequate
12 amount of state resources ie. money allocated to the
13 management of it's resources. And you can either find it
14 with new money or you can take a look at old money.
15 That's not my job, my job is to tell you that you screwed
16 up in the last ten years and here's how you have to go
17 around to fix it.

18 And, maybe your right. Maybe it's my job to sit
19 in this commission to put a number on the fix cost. I'm
20 not ... I'm a little apprehensive about that, it says,
21 okay, for four million dollars to install a system in here
22 your going to decrease the odds of an Exxon Valdez type
23 accident from one in ten years to one in twenty-five
24 years. I'm not sure I feel real comfortable, and the guy
25 says why don't we spend two and a half million what do I

1 get one in fifteen. I don't know what

2 MICHAEL HARMOND: Well absent that then I think
3 it even argues more strongly for very strong problem
4 statements and on what the problem is and documenting the
5 problem and then the pressure builds on the legislature
6 and everybody agrees that is definitely a problem. And
7 there are not going to be any arguments about it, that
8 that's a problem. And then the (inaudible) is on the
9 legislature to find the resources to solve the problem
10 along the lines of your recommendation. Thank you, Mr.
11 Chairman.

12 MR. WENK: Just a footnote and speaking as an
13 outsider I appreciate what you've said and it applies to
14 other state legislatures as well but I think that we have
15 to recognize that there was a compound failure that led to
16 this situation. Exxon failed, Alyeska failed, the Coast
17 Guard failed and the state of Alaska failed, and if the
18 state of Alaska's legislatures are not willing to look
19 squarely at the truth no amount of rationalizing with them
20 in terms of how (inaudible) it's going to cost us to do
21 the job.

22 I'm in tune with Commissioner Sund on this in
23 terms of saying, absolutely cannot fix this without money.
24 It isn't just a matter of just setting up a policy
25 planning coordinating council, this state is going to have

1 to get some real expertise up here to deal with preven-
2 tion, and I mean real expertise, it does not exist, in the
3 state government at the present time is going to have to
4 pay for it. Otherwise, forget it.

5 MR. PARKER: The one thing in building our
6 record, as the record gets higher, is the true incoherence
7 of the system comes blazing out stronger and stronger.
8 Hopefully we are going to be able to get that incoherence
9 down from a stack like this to a stack of paper like this.
10 Just reading through the chronologies of all of the
11 organizations concerned with this why this system was
12 about as bad as any that has come across my purview in the
13 last forty years.

14 MS. WUNNICKE: (inaudible) to regulators and
15 public policy makers as well as to the oil industry and
16 the shipping industry.

17 MR. PARKER: The whole works you know, gaze by
18 the door and nothings happening so lets sail on.

19 MR. WENK: I think that Mike made one really
20 important point that I think we all heard and maybe we
21 need to hear it several times, and that is this report has
22 got to be persuasive, it's got to make it's case.

23 MICHAEL HARMOND: But you look at the resources
24 that DEC and the agencies have applied to this event since
25 it's happened. It's been an incredible amount of money

1 out there. You can't ... I think Sund has made the
2 argument that the amount of money that has been expended
3 is not comensurate with the results that the state has
4 achieved out there just in the response. For a variety of
5 reasons, most of them for management related. It goes
6 back to what Commissioner Wallis was saying that you can't
7 come up with recommendations to force people to become
8 competent. I don't know how you deal with some of those
9 problems, I order you to be competent.

10 MR. PARKER: You go back to the times when the
11 government was competent and examine it's why.

12 MR. SUND: Mike is anybody making a list by
13 agency by projects or activities the agencies were
14 planning to accomplish this year that are not accomplished
15 because of the attention that was put on the oil spill.

16 MICHAEL HARMOND: I just ... Essentially I just
17 asked them, we just asked them to do that.

18 MR. SUND: Because I know that I've had discus-
19 sions with the DEC fish inspectors that have come to our
20 plant and there are a lot of things that we are trying to
21 do that there is a federal mandate mandatory seafood
22 inspection bill coming through congress and a lot of
23 things they wanted to put in place that they had on their
24 lists of projects for this year that just got shoved off
25 for maybe not just one year but maybe two to three years

1 because of this.

2 MICHAEL HARMOND: We just sent out a memo, well
3 we can't send out directives so we don't do that, but we
4 have sent out a request to all the agencies to prepare a
5 little "what I did on my summer vacation" report to us
6 outlining, breaking down the event into immediate summer,
7 winter and what they want to do next year and then one of
8 the subsets to that is asking them what activities had
9 they scheduled that they had to give up because of their
10 allocation of resources to this.

11 MR. SUND: I'd be real interested in seeing the
12 (inaudible).

13 MR. PARKER: Mike.

14 MR. HERZ: The most disturbing thing that I hear
15 in what you're saying Mike is that it's back to business
16 as usual the window of opportunity is closed that this
17 could be a highway bill on an oversight commission for
18 safer highways, I guess I have been laboring under the
19 misconception that there was a constituency both in the
20 state and in the legislature who were prepared to streng-
21 then the system that I think we will, with the report
22 demonstrate very clearly very seriously, (inaudible) had
23 improper oversight if any at all, was designed to fail,
24 but your suggesting is that the atmosphere is no longer
25 there and that constituency isn't there and that's really

1 disturbing.

2 MICHAEL HARMOND: No, I'm not saying that, what
3 I'm saying is that your going to have prove your case in
4 the Alaska state legislature, we've got some real short
5 people in the Alaska state legislature I think and they're
6 going to require you to prove your case, they're not going
7 to take it, when you have a recommendation to create a
8 state pollution advisory commission they're going to ask
9 a lot of very critical questions on that based on their
10 experience with other commissions in the past.

11 And your going to have to explain to them and sell
12 that idea to them based on a factual case of something's
13 broken, that this is going to fix it and it's going to fix
14 it in a way that other commissions haven't fixed things in
15 the past.

16 MR. PARKER: I think you've opened the jar in to
17 which this is approached and turning it back on the
18 legislature who sat there and provided the oversight which
19 allowed the system to happen who allowed DEC to come in
20 and not fund this advisory committee which had been set up
21 by a previous legislature to achieve certain goals you
22 just recite that history back to them, because you know,
23 in my dealings with them why the first thing you have to
24 do with the legislators is be rudely honest with them
25 especially about their past record. And what they failed

1 to do in past legislatures to achieve their goals, you
2 know that is ... and you know if you don't why you leave
3 them free to roam with the fantasies that have led them
4 down this particular path. Dennis.

5 MR. DOOLEY: Mike, one of your statements indi-
6 cated that an acknowledgement that with Commissioner
7 Wallis is that you can't command competence. What has
8 this administration done to insure competence since the
9 incident. If there's an acknowledgement that there is
10 some lack of competence

11 MICHAEL HARMOND: Don't ask me that. I'm not
12 going to answer that.

13 MR. HERZ: Let me throw out an idea that doesn't
14 head in this discussion, because combined with what
15 Commissioner Sund said about the only oversight that will
16 really do something and make sure that the peoples feet
17 are kept to the fire the people that out of invested
18 interest other than the concern that they're resources as
19 a public body, I've been thinking about the perpetuation
20 of an Alaska Oil Spill Commission, which the make up of
21 this commission is such that a lot of independent people
22 none of whom have any readily identifiable constituencies
23 that they are representing and I think the facts that will
24 come out of this report will justify the fact that they're
25 aren't any people who are on this commission to perform a

1 coverup.

2 And I'm wondering about a body such as this one
3 which could perform the oversight functions. There may be
4 a need for an interagency coordination body of some sort
5 but maybe it shouldn't be the one that is saddled with the
6 oversight responsibilities and that the oversight respon-
7 sibility should come from an entity that is totally
8 independent of the bureaucracy and only represents the
9 other stake holders if you will.

10 MR. PARKER: Tim.

11 MR. WALLIS: Thank you Mike, I can see why you
12 don't want to say what you said just now. I think, you
13 know, what Mike says is true. I assume that at one time
14 I mentioned that the oil spill commission had a lot of
15 work to do and that we weren't going to be able to ac-
16 complish it all and maybe we should extend, recommend an
17 extension, and I assume that basically that the extension
18 was going to be this state pollution policy council, in
19 essence. And then we have now a DEC advisory group and
20 then other things on down, maybe we should go ahead and
21 continue that, what Mike said and mine.

22 MICHAEL HARMOND: Commissioner Herz, I think the
23 Commission has a real opportunity, I know a lot of key
24 members of the legislatures that are waiting for the
25 Commissions recommendation, and that are depending on the

1 Commission to ... to define the debate. If they don't
2 want ... I think that there is some reluctance on some
3 legislatures to try to come out now and redefine the
4 debate. This next year on this issue, and their wanting
5 the Commission to do that. All I was saying was to define
6 that debate and to get where you want to go, your not
7 going to be able to get away with a lot of general vague
8 recommendations.

9 MR. PARKER: John.

10 MR. HAVELOCK: I agree with everything with what
11 Mike said. It's all good sound advice and as far as I'm
12 concerned that is the approach we have to take in our work
13 plan and our approach to this project. So I think that's
14 taken as a given. I can't help though remarking on the,
15 you know there is a comment about the skepticism of the
16 legislature to commission which I'm well familiar with
17 having been on many as well as an executive officer and
18 I'd like ...

19 One of the things about commissions is that they
20 are made up of independent citizens and from the point of
21 view of the legislature as I've discovered they are, one
22 a nuisance, and two they tend to interfere with or the
23 functions which legislatures think are really their own.
24 You've got these commissions out there doing things that
25 really belong to the legislature, so there's a built in

1 byes, I'm saying, against commissions and citizen involve-
2 ment, because who are the representatives of citizens,
3 it's the legislatures. And they are not all that nuts
4 about other organizations that represent citizens. So I
5 think you ... that's a natural resistance at any rate that
6 you are going to have to overcome.

7 Now with respect to the budget of our particular
8 proposals, the commission or council being proposed here
9 is a very small item and we will cost it out in ...
10 because you know your looking at the commission itself and
11 your looking at a staff of maybe a director and an
12 assistant. So it's not an overwhelming budget item, the
13 real cost that are involved are, one your recommendations
14 with respect to the budgets of existing entities and in
15 that case Mr. Harmond's observations are well taken, it's
16 going to be very hard to make any kind of a magnitude
17 increase in any of the budgets of the existing line
18 agencies. It'll be all that can be done to hang on and to
19 as much as we got pumped in last year. That's just one of
20 the realities but what it says in terms of the recommenda-
21 tion when your addressing environmental problems, that you
22 have to prioritize the expenditures. Which is to say the
23 legislatures can't stand to look at more money going into
24 the state budget. You could not have a budget for state
25 escort vessels for example, but the legislature will with

1 relative passivity, at least in comparison, will sit there
2 and allow you to adopt a regulation that will require
3 Alyeska to spend a hundred million or two hundred million
4 dollars.

5 And there is a sensitivity of course to the impact
6 on the well had price which has been mentioned by this
7 commission before. But that's indirect and it doesn't,
8 it's not reflected in the political pressures that a
9 legislature faces at looking at direct budget expendi-
10 tures. So we do have to address that. Now just before
11 Commissioner Harmond sat down I was going to point out to
12 you that you did have an alternative recommendation with
13 respect to this advisory committee. Which is you will
14 abolish, I mean it's either there or it's not there, and
15 the reason it's down there is that partly because, even
16 mostly because, I wanted you to look at an advisory
17 committee that had been there and which failed one way or
18 another.

19 Commissioner Parker you suggested that the reason
20 it disappeared was the fact that the agency the itself had
21 done it in at the agency level rather than the governor,
22 which would be an interesting

23 MR. PARKER: That was a simplistic one.

24 MR. HAVELOCK: as opposed to the governor
25 excising it at a higher level.

1 MR. PARKER: The reason why it disappeared is
2 that it never built any constituency. The environmental
3 groups in the state simply didn't use it so when the
4 commissioner was in a budget crunch why here was this
5 thing that nobody ever heard anything about, nobody was
6 ever yelling at him about.

7 MR. HAVELOCK: You could think about, one of
8 the speculative findings is would this still, would this
9 decline have occurred if the commission had in fact been
10 there all along. And I don't know if you whether you want
11 to bite into that one or just let it float. But with the
12 establishment of this commission the scope of what this
13 other commission would do is very substantially narrowed.
14 Which sort of brings up the issue that the problem of DEC
15 that they take care of in this small barn is a bunch of,
16 two hundred chickens and a three year old wolf, and how do
17 they manage those responsibilities. So were taken the
18 wolf out of the chicken shed the question is do you want
19 an advisory committee left to provide pressure or advice
20 or whatever to the DEC with respect to all that chicken
21 stuff that's left.

22 MR. PARKER: Handle what the chickens leave,
23 yea.

24 MR. HAVELOCK: But, I guess if I ... From a
25 tactical point of view there's a lot of merit to recom-

1 mending that it be abolished, even if the words some
2 residual functions and watching over the chickens that you
3 can theoretically address.

4 MR. PARKER: Did you find it's

5 MARILYN: It's in title forty-four, state
6 government, it's an environmental advisory board it has
7 something like, "one of the members of the board first
8 appointed by the governor, three shall be appointed for a
9 term of one year, three for a term of two years, and two
10 for a term for three years." I don't know what the total
11 amount is, but what there function is, is to advise the
12 commissioner of environmental conservation in the review
13 and appraisal of programs and activities of state depart-
14 ments and agencies in light of policies set out in forty-
15 six. Serve as a forum for the exchange in views, con-
16 cerns, ideas, information and recommendations relating to
17 the quality of the environment. Recommend to the commis-
18 sioner the persons who by virtue of outstanding achieve-
19 ment in the field of environment or conservation merit a
20 certificate of achievement from the commissioner. And it
21 says "the board shall exercise and perform such other
22 functions as may be requested by the commissioner", but
23 what I'd like to point out, I guess, is a few things. One
24 of which is that this board does not just advise DEC on
25 oil transportation nor just oil. I mean it's air quality,

1 water quality, mining, you know issues that are happening
2 all over the state.

3 So when you consider abolishing it, I guess what
4 I would say is, that the function of this advisory board
5 is a little different than the function of, not different,
6 just more broad, I guess, than maybe the board that we're
7 talking about.

8 MR. PARKER: But we have other groups also who
9 have evolved because this board wasn't there to provide
10 that advice, we have groups that watch air quality, and
11 one for classier mining, and we have one for hazardous
12 waste, (inaudible).

13 MARILYN: Yes, I think that's true but there's
14 not, I mean no, there's really not a board for hazard
15 waste. There is a board a commission, or a committee for
16 response. There is not a committee to help present, what
17 are the hazardous waste sites around the state, for
18 example. Or what are the priorities, or what are the
19 concerns. It deals with how they respond to a refinery on
20 fire. If I could just finish here for a moment, the other
21 thing that this does is in this is the question we've been
22 talking about, and I think Commissioner Wenk's been
23 talking about. Where is the information flowing to and at
24 what level of government.

25 But, I guess what I would argue is that you need

1 both, I think you need the oversight committee at the
2 level of the governor, but you also need those stake
3 holders which are very interested by example to keep this
4 or to re-enliven this board, because you need pushing
5 these bureaucrats, that Dennis refers to at our level.
6 Especially those, and the reason I say that is because,
7 there is a lot of pressure on the DEC commissioner and the
8 regulators to not do there jobs. There's a lot more
9 pressure for those people to be to be less regulatory in
10 nature than there is for them to be more regulatory in
11 nature. And to get them to do enforcements and to issue
12 fines and etc. People are generally opposed to those
13 ideas rather than being in favor of them.

14 So the more pressure you can bring to bear by the
15 stake holders and by the interested people to get these
16 regulators to do their jobs at the most important levels,
17 for example, in making sure the industry is ready to
18 respond to an oil spill, I think the better off you are.
19 Yes this failed because exactly what Commissioner Parker
20 said, you had a lot of work that had to be done by this
21 regulatory agency and an advisory board just wasn't one of
22 the highest priorities. It was more important to have
23 someone inspecting restaurants in Cordova.

24 MR. HAVELOCK: If I may ... From Marilyn reading
25 the statue it becomes apparent to me immediately why this

1 thing disappeared, because lets look at who is naturally
2 appointed to a council like that. You appoint people who
3 have an interest in the performance of the DEC. It does
4 not mean that you appoint a lot of people that a ... it's
5 not a panel of greenies, this is a panel of fish proces-
6 sors, and miners, and so on, you just run down the cycle.
7 So from the point of view from the agency, this is a group
8 that is there to prevent the agency from doing what the
9 agency thinks it ought to do.

10 I think that confirms in my mind what the chairman
11 was saying about where the impedance came from getting rid
12 of this council, surely it came from the agency itself.

13 MR. PARKER: Yeah, I heard ... The first group
14 that was appointed, as I remember, which was a group of
15 greeny philosophers like Bob Weave (ph) and etc. But I
16 think I don't have the foggiest notion who the last
17 members of it were. And I doubt if anyone else does
18 either, by that time long since it lost it's effective-
19 ness.

20 Ed, then Tim.

21 MR. WENK: Very quickly. This is the very first
22 recommendation that comes under the DEC category which in
23 turn is on its recommendation related to institutions
24 these are the prevention and it strikes me that to lead
25 off by discussing an advisory committee is to lead off

1 almost the weakest point you can make. I'm not sure what
2 the strongest point is, this recommendation, but let me
3 just recall a little history. The commissions familiar
4 with all this so all I'm doing is throwing it together
5 again.

6 Number one there was attention to prevention
7 historically, and the state lost it. Number two, the
8 state hasn't on it's own recovered it in a very sig-
9 nificant way. Remember if you will the last time Dennis
10 Kelso appeared here and also Laroush. The question was
11 asked of them, now, this is six months after the spill or
12 whatever, what are you doing about the question of
13 prevention and both of them answered we are beginning to
14 look at it and that's not a very convincing statement
15 beginning to look at it. Because if it comes back once
16 more in terms of authority etc, etc.

17 Bottom line of all this is, does this commission
18 have something to say to DEC in the first interest in
19 regard to a finding of their not having looked at preven-
20 tion. And secondly, with regard to them having a major
21 role, because again, if we're talking prevention now and
22 were not talking response etc. etc. if there is a role to
23 be played here it seems to me, under DEC, the first thing
24 this commission needs to do is to think through whether it
25 is going to assign some ... or to fix something that's

1 broken and DEC these are being prevention. And I haven't
2 heard that expressed very clearly.

3 MR. PARKER: Tim.

4 MR. WALLIS: Yeah, I agree with Commissioner
5 Wenk.

6 Also you know, trying to move down the list a
7 little bit, I'll let somebody else respond to that but I
8 was just going to go down and have somebody explain item
9 C to me but I'll let that one go until after we get done
10 with A.

11 MR. PARKER: What I think might be a good idea
12 to, Ed's right in that we probably need to define more
13 clearly what we want to do in prevention before we
14 finalize any consideration on the advisory committee.

15 MR. HERZ: We're following up on Commissioner
16 Wenk's suggestion it seems to me and having heard what
17 Mike Harmond said about strengthening and words like that
18 not being terribly useful if you look at item B the powers
19 of DEC it seems to me that that is a pretty explicate kind
20 of recommendation, a couple of additions I would like to
21 see added to that item, but I think, I'm not sure what
22 we're going to use as the finding to support that, I think
23 that there is plenty of information there but I haven't
24 heard it threaded together in a way that clearly indicates
25 that the DEC did not have the power or the authority, of

1 if they had, it may have been that they didn't choose to
2 exercise inception.

3 But I think that that's a very important recommen-
4 dation, I would like to have grills added that I'm
5 surprised that it wasn't in there, was there a reason that
6 unanswered grills and only inspections were covered in
7 item B.

8 MR. HAVELOCK: There was a reason in that
9 Marilyn had, was doing a memo on, with a lot of specifics
10 about powers and this was just sort of a big ... I guess
11 there's a question which ones are going to be important,
12 which ones you're going to put in to your executive
13 summary as opposed to your general report.

14 Marilyn has a significant list of recommendations,
15 of course a lot of them relate to response rather than to
16 prevention and such and the format here is we're trying to
17 focus on prevention which I hope to do and not go into
18 response until we get to response.

19 MR. PARKER: Well, I think that this is a
20 absolutely key recommendation and has one of the ad-
21 vantages of, you know, not having substantial additional
22 budget implications, it may require a reallocation of
23 resources within the department, but it does, you know, I
24 think the findings or certainly the record is clear that
25 a good part of that record was provided to you in the

1 extensive interview last night. If we ...

2 Also I wouldn't have any problems coming up out of
3 the record we've established so far, with substantiation.
4 John.

5 MR. SUND: Well, I'd like to just look at the,
6 kind of the list of things we've done on prevention and
7 see what fits in the DEC, I think tanker inspections at
8 the port ought to be add to the DEC powers.

9 MR. HAVELOCK: Is that a DEC or is that going to
10 be with your port authority.

11 MR. SUND: Well, I wasn't really going to
12 distinguish right at this moment, I just wanted to put it
13 on the table, the port authority hasn't been established
14 yet and the DEC is in existence so start with what exists.

15 MR. HAVELOCK: Well, my observation on it, I
16 don't know anyone in DEC, they exist as an institution,
17 but I don't know anybody in DEC that knows a lot about
18 tanker construction.

19 MR. SUND: That brings up the point that Ed
20 brought up earlier, that if the state wants to get
21 involved in prevention it has to bring some new expertise
22 to the state that doesn't exist right now. You know it's
23 the prevention type role that we're talking about and the
24 list of things are, you know we've kind of been through
25 them, tug escorts, maybe a closing of the port because of

1 weather or ice conditions.

2 MR. PARKER: That prevention expertise did
3 exist, we established that in DEC at the beginning, both
4 in headquarters and the field office.

5 MR. SUND: Well, maybe the issue here is to put
6 it down. I don't really have a good feeling for where it
7 goes. I'm just trying to go through the list for things
8 that we've determined that go on prevention type things
9 that I think could be done by the state. You have to come
10 down and say what specific things do we think the state
11 could do to enhance prevention.

12 I think that vessel inspections for strength, or
13 stability, or structural issues on vessels is one of
14 those. I think in control of the port, in access to the
15 port, because of weather or other issues and, I'm just
16 going through my list here I don't see a lot of other
17 ones.

18 MR. WENK: Mr. Chairman, I could add to that
19 list one or two things that

20 MR. PARKER: Go ahead.

21 MR. WENK:are appropriate now. I'm not
22 sure who inspects these vessels coming in and out for
23 example that they're radar is operating and is calibrated,
24 that they're radios are operating and are calibrated.
25 Anyone who looks over the ship log to find out what

1 mechanical malfunctions occurred on route up here and
2 deserve repair before they leave.

3 There's a whole host of things that fit your
4 category that somebody representing the state could very
5 well exercise and it comes back, it seems to me, a major
6 finding that we've enunciated before and that is the state
7 has a role in accident prevention and if there is agree-
8 ment on that as a function, then the question is who would
9 do it. And I think there is agreement that this shouldn't
10 be spread around among ten agencies, and if DEC is the
11 agency, and here my, I really don't have enough background
12 in state functions to have any view at all, but as you
13 were saying Mr. Chairman that the DEC had such a function
14 twelve or fifteen years ago I'm not sure whether by
15 legislation or whatever, but if indeed it does then I can
16 imagine that being a major recommendation under the
17 category of prevention, under the category of DEC. There
18 ought to be someplace

19 MR. PARKER: Something that is in the record,
20 that we have in the record now, as to how the system works
21 now and who enforces it, the pilot got on the tanker in
22 the Katchamat Anchorage last month and the gyro wasn't
23 working so he told the captain he wouldn't take him up to
24 Nikiski until the gyro was fixed. The captain called his
25 agent in Anchorage and the agent called the Coast Guard

1 and the Coast Guard gave him a waiver to proceed to
2 Nikiski without the gyro being fixed.

3 You know, there is a need for some former form of
4 intervention on the state in these particular areas and
5 since the pilots are licensed by the state why giving them
6 the ability to back up there authorities is another means
7 of approaching the sort of inspections you were talking
8 about, cause that's the thing that a pilot normally does,
9 at least on the bridge equipment.

10 MR. HERZ: Does it make sense that, to have
11 someone who is a marine engineer type person, if in fact
12 you can set up this authority, it seems to me that it
13 makes more sense to have someone with that kind of
14 expertise in that authority rather than in DEC because
15 that whole authority can be made up people with a profes-
16 sional mariner and maritime background as opposed to
17 resources background.

18 MR. SUND: Well, what I'm coming down, after
19 listening to Mike talk a little bit today here, is that I
20 think we need to identify the function, the job that needs
21 to be performed, and then you come into the issue that we
22 may recommend here it goes but here's the other option.
23 Okay legislature you've got, here's the function that we
24 think needs to be done here's why it's broken, here's what
25 we think we can get out of it.

1 Now, you've got a couple of choices you can stick
2 it in DEC you can create this port authority over here and
3 put all these things in this port authority, but we're
4 saying that the common thing there is that these jobs need
5 to get done. The state needs to get involved in preven-
6 tion here's how it does it and here's a couple of options
7 where you can go. And it's also a (inaudible) the
8 checklist that Harmond laid out, I think that it kind of
9 covered that checklist.

10 MR. PARKER: One of the beefs that they came up
11 with, you know, in regard to your comment was that in the
12 later years of the DEC inspections when they were still
13 going on board the tankers. The masters and the pilots
14 both playing with the DEC people didn't know which the
15 pointy ends, which end of the ship went forward. And
16 that, you know, is something which they said, and people
17 were not hired because of there expertise, all of them
18 weren't hired because of there expertise in the maritime
19 affairs. So it's something if your going to do it you
20 want to make sure that you write the job description right
21 this time. Dennis.

22 MR. DOOLEY: When Senate Bill 406 did pass DEC
23 particularly went out and recruited kind of (inaudible) he
24 was an ex-Coast Guard inspector of tankers and that was
25 how they recruited that expertise in that department. The

1 point is though that he (inaudible) manager the worker
2 end. And he ends up being the paper tiger in that they
3 have the expertise sitting in Juneau and he was reviewing
4 paper reports rather than actually inspecting vessels.

5 MARILYN: If I could just add to what Dennis was
6 just saying, senate bill 406 also provided a fund of money
7 to provide specifically prevention and when the other
8 aspects of the bill were found to be invalid both by the
9 courts and by the attorney generals office, the things
10 that went away with that bill weren't all preempted by
11 federal law, but just by default they went away because
12 there was no funding for it.

13 MR. WENK: Are you saying that they're still on
14 the books?

15 MARILYN: Well, I'm looking at the books right
16 now and what is in the books about inspections of tankers
17 is this: "under removal of oil discharges that fall, which
18 makes it a little bit murky, but it's under E, the
19 department shall enter into negotiations for memorandum of
20 understanding of cooperative agreements that the United
21 States Coast Guard, for several things, coordinating
22 effective spill response, for providing proper review of
23 oil discharge contingency plans and then additionally it
24 provides for cooperative inspections of oil terminal
25 facilities by the department of the United States, and the

1 United States Coast Guard."

2 On the next page it speaks about inspections and
3 it says "oil terminal facilities, off shore exploration
4 and production facilities, tanks, vessels and oil barges
5 are subject for an inspection by the department." So
6 there is some authority, it may be a little murky, but I
7 think that most of it has to do with exactly what Dennis
8 was saying, that a lack of resources, lack of technical
9 expertise and the whole pedestal of (inaudible) is going
10 away.

11 MR. PARKER: Marilyn, as I interpret it the
12 problem is never been that the authority never existed in
13 the department, it was the fact that the authority of the
14 individuals in the department was not strong enough. In
15 other words it wasn't defined strong enough so that they
16 in effect had badge authority in the was that fish and
17 game enforcement officers have. That is I think the loop
18 that we need to sew up, so when he flashes his I.D. it has
19 the same credibility to the Alyeska rent a cops as the
20 authority of the State Trooper.

21 MR. WALLIS: Before we get into discussing
22 specific duties, maybe we ought to continue down so we can
23 kind of get our arm around everything and find out exactly
24 what we're talking about here.

25 MR. PARKER: Okay anything more on ... Al.

1 Al: I'm sorry, I'm sure you all know this but
2 seems like it needs to be said again in relation to the
3 DEC jobs that are being discussed. Based on my review of
4 the DEC on of the most prominent causes for failure was
5 inadequate resources, they didn't have the money, they
6 didn't have the people.

7 And I think to make these recommendations work
8 there has to be some indication that sufficient staffing
9 and funding is provided. Because you can think of the
10 general statements and they sound good, but if you have
11 one man to do five jobs he turns into Bill (inaudible) and
12 is overwhelmed. It never works.

13 MR. PARKER: You have, how many sailings a day
14 from Valdez now, three?

15 MR. DOOLEY: Approximately three.

16 MR. PARKER: And, so if you have to do three
17 tankers a day that's a lot of workload, (inaudible).

18 AL: And there are other tankers too.

19 MS. WUNNICKE: Before we leave DEC and we're
20 talking about the powers of the DEC. The DEC of the state,
21 through DEC emergency powers mandated most of the things
22 that are now going on in Prince William Sound in terms of
23 escort vessels and the tugs and even at one time daylight
24 shipping hours, and all of those requirements were under
25 emergency order of the Department of Environmental Conser-

1 vation.

2 As I understand it, I remember asking Commis-
3 sioner Cowsol (?) when we were in Soldotna didn't have
4 similar power to mandate that kind of prevention activity
5 in (inaudible) and he said that he did. Now is that true,
6 if that's true or if it's not true, then it seems to me
7 that when your talking about powers of the DEC then you
8 need to talk about that kind of power. I have always
9 thought quite honestly that the powers that put me to
10 effect all of those requirements was the power of the
11 state to close down if necessary, to close down the
12 terminal.

13 MR. HERZ: But, don't your facilities and other
14 places like Cook Inlet terminals have operating permits
15 from some state agencies? So there you have your letter,
16 if you've got that permitting authority, you have the
17 authority to control what goes on and what is required,
18 you've done that.

19 MS. WUNNICKE: But, I don't think that that
20 permitting authority is from the department of (in-
21 audible).

22 MR. HERZ: But, it is with the state.

23 MR. WENK: What department is it with?

24 MS. WUNNICKE: If it's (inaudible) it would be
25 DNI wouldn't it?

1 MR. PARKER: Well, there's land permits but I
2 think the operating permits are with the DEC.
3 MS. WUNNICKE: Are they?
4 MR. DOOLEY: The Cook Inlet (inaudible).
5 MS. WUNNICKE: But, if that's the case and that
6 power does exist then that seems to me the kind of power
7 that you want to
8 MR. PARKER: Like I said I think that
9 MS. WUNNICKE: in terms of prevention.
10 MR. PARKER: I think that there is plenty
11 of power in the stats and plenty of authority in the
12 statutes to enforce it ... and it's inability to enforce
13 is the problem because for some reason a DEC inspector has
14 enough clout to get into the kitchen without the chef
15 threatening you with the knife and to do his job, although
16 I think they run into a lot of that, but he doesn't have
17 enough clout to get by the gate of Alyeska to do his or
18 her job effectively. We ran into the same thing at fish
19 and game of course
20 MR. HERZ: To follow up on Al's comment about
21 budgets for the DEC. There never were people that were
22 available, I mean that has not been a change in the
23 internal use of funds in the DEC, such that there use to
24 be inspectors that were ensuring safety of various
25 (inaudible) in terminals or on vessels at some point in

1 the past and that has changed or can you document a
2 finding

3 AL: I can

4 MR. HERZ: which shows a change

5 AL: I can give you broad impressions and it
6 will fine tune over time depending on the circumstances.
7 My broadest impression is that there has never been
8 adequate funding. They come closer to it at some times
9 than others. Personnel are spread, redistributed,
10 departments and divisions are reorganized, tasks are
11 diluted or added to and it moves like complex currents in
12 a river or something, it shifts on you.

13 But the overall impression is that there has never
14 been enough money or there has never been enough

15 MR. PARKER: But there were four people to do
16 this job alone from 1977 to 1980. Those four people were
17 abolished when the contingency, when the costal contingen-
18 cy fund was struck down and were never refunded out of the
19 general fund because legislative priorities changed
20 dramatically in 1980 and the perception of the Alaska
21 legislature toward the oil industry as a whole changed
22 dramatically in 1980 and that's the story.

23 MR. WENK: Mr. Chairman, I have a suggestion in
24 terms of how to proceed at this point because I see how
25 many more pages of the councils draft we have not yet

1 explored, the suggestion is as follows.

2 Number one, make sure that the history that has
3 just been recorded is somehow reflected in the report, in
4 terms of what was done up to a certain time but then the
5 gap that occurred and the role for that gap in facilitat-
6 ing that accident, not causing, but facilitating. But
7 secondly, that the commission adopt a few general prin-
8 cipals these of the role of the state the prevention and
9 leave to the staff to flush this out taking note of
10 existing legislation that may still be on the books, or,
11 and need reinvigorating, or something new stated.

12 But, I don't believe we can write legislation here
13 and I was just going to suggest that we take a position,
14 so to speak, as much as I recycle, I'm afraid we're going
15 to run out of time without reiterating this. I think we
16 ought to take a position on a finding and a recommendation
17 in as few words as possible and leave this up to the staff
18 to flush out.

19 MR. PARKER: Okay, on B then is there anything
20 further anybody, is there any strong disagreement with
21 continuing, with the staff continuing with B to develop
22 that and for those of you need more immediate information
23 we all have Marilyn's memo which goes into this particular
24 area in detail with it's recommendations.

25 MR. WALLIS: Are we talking about 2B now.

1 MR. PARKER: Yeah.

2 MR. WENK: Would it be used for ... excuse me.

3 MR. WALLIS: With, the question is including the
4 power to levy substantial summary, could you explain that
5 to me.

6 MR. PARKER: Marilyn.

7 MARILYN: Could somebody clarify

8 MR. HAVELOCK: It's a substantial

9 MARILYN:what summary

10 MR. HAVELOCK: summary civil find. The
11 summaries the modifier. And what we're ... What's being
12 addressed there is this problem that was requested in what
13 a couple of the commissioner were saying about the
14 authority the DEC had. The DEC has the authority to close
15 down the terminal, isn't that wonderful. They can't do it
16 of course so they are, they effectively have no authority
17 to punish people for doing the merited things or to
18 provide disincentives for doing a whole lot of things that
19 don't warrant closing down the terminal.

20 So the point is you need to have them able, like
21 ocean inspectors, and the likes to go in and find pro-
22 blems, and not to run them through the criminal process,
23 but to give them a civil penalty on a summary basis, I
24 mean when those, when Mr. Long goes over and the guards
25 bar the door and won't let him in, that that's a violation

1 and that there is an administrative penalty that is levied
2 instantly of one thousand bucks or five hundred bucks or
3 whatever it is for doing that, or make it ten, whatever
4 you want.

5 But to create a series of incentives for the
6 industry to cooperate in the whole lot of this small
7 thing. So that's what summary is talking about a summary
8 procedure as opposed to having to go and ask the depart-
9 ment of law to file a complaint, which has thirty days to
10 answer and eventually gets washed out.

11 MR. WALLIS: I guess Mr. Chairman, continuing
12 on, is in dealing with inspectors, and I've dealt with a
13 lot of them on construction jobs, including the Corps of
14 Engineers, is that you get some real turds there.

15 MR. HAVELOCK: Do we quote you on that in the
16 report?

17 MR. WALLIS: Yes, also I'd like to make it
18 stronger.

19 MR. HAVELOCK: Alright, any one of those.

20 MR. WALLIS: You know, this would work ideally
21 if you had an ideal person doing it, and I've also dealt
22 with IRS quite a bit to and seen there powers. I'm just
23 worrying about the abuse, I guess, of that, and I assume
24 other people would look at that to, and I'm wondering if
25 there is someway where we could kind of put some type of

1 safeguard in there where on the abuse, where there won't
2 be that suspect of abuse.

3 MR. PARKER: You know in comparing things, the
4 way I look at it is the enforcement powers are, you know,
5 similar to animal training and the way in which you
6 approach the training of a forty pound dog is very
7 different in the way in which you approach the training of
8 an elephant. If you've ever watched them hoots train
9 elephants, why they get the attention of the elephant in
10 some fairly dramatic way and that's how I view the basic
11 difference here, and the kind of construction companies
12 your talking about are very much forty pound dogs compared
13 to the monolith that is represented by Alyeska and the
14 terminal and the pipeline. John.

15 MR. SUND: Well does the inspection authority
16 now have skinny, I mean, they show up, I just sent the
17 fire marshall down last week right, and I happen to know
18 him, he walks in and said, you know a lot of people don't
19 like me and think I'm a real BS and, but we can either go
20 on with this or I can go down and get a state trooper and
21 get a warrant and come back. You know, I mean, it would
22 take him about thirty minutes I think to come back. I
23 mean, you know, some people like him to go through those
24 steps to come back and some people don't. Some companies
25 have a policy

1 MR. PARKER: That's the way I used to do

2 MR. SUND: to do it and I'm just wonder-

3 ing does DEC, does that guy have the authority to go

4 through these formalized steps that take about thirty or

5 forty minutes to walk over to the court and get an

6 entrance, or I don't know what is it called.

7 MARILYN: It's a warrant.

8 MR. SUND: Is it a warrant or a subpoena, It's

9 not a subpoena is it?

10 MARILYN: It's a warrant.

11 MR. SUND: Well that's what I used to do, it

12 was always my door opener at the terminal, I'd just say

13 "I'm here from the state of Alaska and if you don't deal

14 with me then I'm going to go get a trooper."

15 MS. WUNNICKE: But Marilyn

16 MARILYN: But, the problem is

17 MR. SUND: But does that power currently exist in

18 the DEC statutes.

19 MARILYN: Yes, you can go get a warrant, and

20 there might be someone here more able to answer that than

21 I am, but the problem is that Alyeska can hold you up at

22 the door and tell you to go get a warrant, and you come

23 back an hour and a half later or a day later, things

24 change that might have been a problem when the inspector

25 was there at the door.

1 MR. SUND: Well it's the Chairmans' training
2 dog routine, you get the warrant ahead of time, you just
3 assume they're going to say no and bring it with you and
4 then you just keep on going, you don't have to lose a
5 step.

6 MS. WUNNICKE: It's even more fundamental than
7 that, what are you trying to accomplish here, are you
8 trying to accomplish a safe situation or are you just
9 trying to penalize somebody.

10 MR. SUND: But I just wonder if the power
11 doesn't already exist in the statutes.

12 MR. HAVELOCK: The powers that do exist, the
13 DEC has substantial complaints that they haven't worked.
14 That's the whole thing about Dan Long, is they kept him
15 out. And no doubt he was an unpleasant person.

16 MR. DOOLEY: And

17 MR. SUND: In there point of view.

18 MR. HAVELOCK: Yes, in there point of view.

19 MR. DOOLEY: and Mr. Long was there when
20 his, as a DEC employee, when his supervisor, Mr. Baylor,
21 used these procedures to get on board the vessels. They
22 made the news all over the state. DEC is using troopers
23 to inspect vessels. I mean it was during that first year
24 when Mr. Long was the second ... I'm just saying that that
25 procedure has been used by DEC. That DEC is employing to

1 some degree that philosophy.

2 MR. PARKER: What I think maybe we are saying,
3 is that maybe we need to dig a little deeper here.

4 MS. WUNNICKE: Marilyn Hyman has given you a
5 lot of specifics to support the kind of recommendations
6 that the council is talking about. But I would have some
7 problems with some of those, I think there are dangers
8 that Tim is flagging, whether or not the state should be
9 able to make inspections without a warrant. For those who
10 sow seeds at hands.

11 MR. HAVELOCK: Well the usual protection is
12 that you do not for civil warrants, as Commissioner Sund
13 has stated, there are a lot of folks that have summary
14 warrant power, ocean (inaudible) fire, there are a lot of
15 these things, the thing is you cannot go in and as a
16 result of that levy a criminal penalty. If you want to go
17 in and lay about you with misdermeaners, then you've got
18 to get a warrant first.

19 So it seems to me that's the basic protection you
20 get, with those civic provisions. I might add in Valdez,
21 I've been involved with my tasks in getting civil war-
22 rants, it's not as easy as being stated, maybe it is in
23 Ketchikan, you go to the gate, it means a days delay, you
24 go to the gate you got to go back you got to get a
25 warrant, you have a minimum of a day assuming the district

1 judge that issues that, I guess there is now one superior,
2 but there is only one judge I think now in Valdez. If
3 he's out fishing, you're nowhere.

4 MR. PARKER: I think that if we investigate,
5 during Randy's day when he was using the troopers, we
6 probably had twice as many troopers in Valdez.

7 MARILYN: And then I guess what I want to add,
8 compounding that with the fact that an individual has five
9 other inspections and various other things to do they
10 might just decide it's not worth it to go through the
11 hassle of getting a warrant when I have to go inspect a
12 restaurant and go inspect another facility, etc. There's
13 just, there's only so many hours in the day that these
14 people can do when there's only one individual.

15 MR. PARKER: I guess where it comes down to me.
16 Is if we can give fish and game enforcement officials the
17 power to enforce the casual citizen out in recreation, and
18 the power to enforce right on the spot, and to wreck there
19 way. I have no problem in giving DEC inspectors the power
20 to do this against major corporations who are far better
21 able to take care of themselves than the citizens out on
22 the streams.

23 MR. HAVELOCK: Mr. Chairman, we did have, a
24 suggestion was made earlier that people reviewed this
25 list, I didn't, we are still talking institutions and what

1 we are doing is we've gone into a whole lot of subsequent
2 discussions and I would like to review Marilyn's list and
3 I'm not, this has been a worthwhile debate about the
4 summary thing, but I'm thinking at this point about
5 institutional arrangements and if you want to take shots
6 at specific contents than I would prefer that it be done
7 later.

8 MS. WUNNICKE: Mr. Chairman, while we're
9 talking about institutional arrangements, I would like to
10 have back from the DEC a report on how they are configur-
11 ing and intending to use the new division and the money
12 that was given to them by the last legislature.

13 MR. WENK: New division on what?

14 MARILYN: The oil spill response office,
15 within limited

16 MS. WUNNICKE: An oil spill response office
17 within the department.

18 MR. WENK: We're talking prevention here

19 MS. WUNNICKE: I'm always doing that.

20 MR. WENK: No, but fair enough

21 MS. WUNNICKE: Your talking about the agency.

22 MR. WENK: Mr. Chairman, I'd like to resinate
23 a little bit with the councils comment, but what Commis-
24 sioner Wunnicke just said now, it seems to me, is highly
25 significant, I had forgotten about the action the legisla-

1 ture via these response. It seems to me what we're
2 talking about now is action by the legislature (inaudible)
3 DEC and prevention. And it strikes me as an institutional
4 matter, the commission has got to take a position, and it
5 seems to me that we have danced around this for a couple
6 of hours now, it's got to take a position on the role of
7 the state in prevention and who's going to do it.

8 And if it's DEC then I think we ought to come down
9 and say it, subject to all kinds of arbitration by staff,
10 but, all I'm proposing is that there's a model here if the
11 state did do this visa-vi response, do we want a parallel
12 initiative by the legislature on prevention. It's as
13 simple, I shouldn't say it's as simple as that. But I
14 think it's that straightforward.

15 MS. WUNNICKE: My only point is whether it's
16 necessary. Whether that power and that authority already
17 exist.

18 MARILYN: I guess what I would say is that I've
19 heard cries from the agency that they don't feel that they
20 have as much authority when it comes to prevention as they
21 would like. Part of it has to do with the sentence on 406
22 and the past legal findings.

23 But I think that, I don't think it would harm
24 anything to clearly state that statutorily that the
25 department has that authority or you could state it in the

1 funds, the 470 fund. Therefore there's funding behind
2 that prevention authority as well.

3 MR. WENK: Given the fact that that legislation
4 has been permitted to lapse, I wonder if there isn't
5 virtue in, sort of ignoring it, and not getting into this
6 question as to what's fuzzy and what's not fuzzy and so
7 on, but, and at this stage since we said we're not writing
8 legislation anyway, for the commission simply to say what
9 our intent is and then let somebody else fill in the fine
10 print.

11 MR. PARKER: Okay, John did you a

12 MR. HAVELOCK: Well I was moving on to C in a
13 sense that Commission Wallis was so curious about. I felt
14 that the reason

15 MR. WALLIS: Excuse me I wasn't (inaudible) I
16 was just curious.

17 MR. HAVELOCK:the reason it was blank is
18 that I didn't feel it would've done the job, in those
19 recommendations in particular and I think what Commis-
20 sioner Wunnicke was addressing is the part of it is what
21 do you do about there fiscal situation, there budget and
22 so on, and one thing I want to suggest here is to renew
23 the suggestion I made before, in order to get budget for
24 these functions you have to move them off budget.

25 And one of the things that had struck me, and

1 maybe Mr. Harmond has something to say on this, about the
2 money that has been now spent, is that there is a whole
3 lot of money is being spent off the budget that could be
4 forced on to the private side. That is DEC is, and we
5 heard testimony here, is inundated with reviewing contin-
6 gency, endless review of contingency plans. It seems to
7 me that the process of reviewing contingency plans should
8 be a part of the plan that has finally given to the
9 department. That is the department should require that a
10 contingency plan have been received peer review from a
11 contractor approved by DEC and skip having a whole lot of
12 DEC (inaudible) on direct budget, pouring over these
13 things because your talking about millions of dollars of
14 expense and that could be shifted out to, and make the
15 burden be where it ought to be on the carriage. That's
16 just one suggestion on the budget item, maybe to reduce
17 budget for that matter. I don't think, the state obvious-
18 ly can't go on at the budget levels that were done this
19 last year on spending millions of dollars to review
20 contingency plans.

21 MR. PARKER: Is that C?

22 MR. HAVELOCK: That's a throw away from C.

23 MS. WUNNICKE: Well another part of C to and
24 that's something that is, not every solution costs money,
25 some solutions save money. I think a lot of the problem

1 is a management problem that can be addressed to solutions
2 that don't cost money that may in effect save money in
3 terms of delegation of authority and responsibility, and
4 the configuration of the agency itself.

5 MR. PARKER: What's an example of privatization
6 similar to what she just described it's a news flash.

7 MR. DOOLEY: DEC I think now requires that when
8 your getting your well and septic and water sewage system
9 in, that it be reviewed by a certified engineer, to come
10 in.

11 MR. PARKER: Okay.

12 MR. SUND: I would not ... Another one in major
13 building projects, like I don't know in Ketchikan or
14 someplace, you have to submit your building plans and
15 stuff to the city building inspector for review, but the
16 building inspector is not qualified as an engineer or
17 whatever to actually say these plans meet the code on
18 major buildings, so what they do is they send it out or
19 hire it out, they will offer to send it off to somebody
20 else another agency somewhere in the federal, the United
21 States or the option is you can take your plans to an
22 independent person who has the authority or the expertise
23 to do it and get those people to go through and stamp it,
24 you have to pay the cost.

25 MR. PARKER: Well, we would have to establish

1 a level of contractor who has the same kind of credentials
2 as a PE or anybody who, that they can draw the line if he
3 makes a goof.

4 MR. DOOLEY: Well, what credentials do we
5 require now of the DEC employees that review it?

6 MR. PARKER: Yeah. Well even if

7 AL: Isn't there a level of expertise and
8 refinement that your abandoning when you ship to a
9 contractor? If you've got the inspector that lives in the
10 town, talks to the people, visits the terminal regularly.
11 If you've got the fish and game management people who deal
12 with the fisherman and know very intimately the area that
13 are up for closures and that, and you would move them out
14 of the review process and hired a contractor instead who,
15 does what, comes into town and talks to the fish and game
16 people, talks to the DEC guy and takes a tour of the
17 plant.

18 I'm not sure that we haven't lost the level of
19 quality by contracting out.

20 MR. DOOLEY: There's one other thing if we get
21 back to the concept again of a regional response plan,
22 some of these concerns were gone about in terms of
23 contingency plans then there would be a lot more sites
24 specific in that response time takes care of that overview
25 that your talking about.

1 MR. SUND: The state of Alaska is or is not
2 willing to invest in the protection of it's citizens in
3 the ecology, in the environment of it's properties.
4 Either we have the ability to manage the land and the
5 property and the people or we don't. And we have the
6 willingness to do it or we don't. It's a tough question
7 and the legislature in the last ten years have dodged it
8 and gone the other way. Now I don't know if the (i-
9 naudible) have taken the chance.

10 MR. PARKER: Okay. Let's go on to stronger
11 regulation of the industry. Number one, a continuation or
12 an expansion of the recovery from the spiller program
13 that's already under way in an attempt to fine tune and
14 broaden it. Mainly to take care of the municipalities who
15 got left out of the process.

16 MS. HAYES: I just want to get a point of
17 clarification that sounds as though the state is and
18 number three the way it's worded to me it sounds as though
19 the state is collecting more than it's expenses, it also
20 having collecting the expenses occurred by other people as
21 well. That the shipper is paying out twice for sub-
22 divisions and private parties, is that the intent?

23 MR. HAVELOCK: No you wouldn't pay it twice.

24 MR. PARKER: You, would the state act more as
25 agent for

1 MR. HAVELOCK: I would, yeah, I was thinking in
2 the context of writing this I was thinking of the sub-
3 division of the state and that it would be more useful to
4 pool these things, it's better to have one collector than
5 a hundred and fifty lawyers out there representing
6 individual claims.

7 MR. PARKER: Tim.

8 MR. WALLIS: Maybe this might be a good place
9 to put what I had in mind here, and that was that the
10 shippers name the state as its beneficiary to it's
11 insurance.

12 MR. SUND: You want to be a co-insurer on the
13 writer on the insurance coverage.

14 MR. WALLIS: No.

15 MR. SUND: Just the beneficiary.

16 MR. HAVELOCK: Is the state of Alaska is, or who
17 is to be named beneficiary.

18 MR. WALLIS: The state of Alaska.

19 MR. HAVELOCK: The state.

20 MR. DOOLEY: Let's start without parallel on
21 major construction projects in the state, like the city of
22 Seward on the ship lift dock that there is no mission to
23 ensure it's required that the contractor and the city of
24 Seward named as it's beneficiary.

25 MR. PARKER: Well, who is the beneficiary now

1 other than the company?

2 MR. HAVELOCK: That's it.

3 MR. PARKER: That's an interesting

4 MR. SUND: That's very interesting.

5 MS. WUNNICKE: But, it leads to all kinds of

6 thoughts.

7 MR. SUND: It doesn't need much thought at all

8

9 MR. PARKER: No.

10 MR. SUND:it's a pretty good idea. I

11 would suggest that we write it down and that we move and

12 go to lunch.

13 MS. WUNNICKE: We can talk about it over lunch.

14 MR. SUND: No I, we.

15 MR. HAVELOCK: What is the problem that it

16 addresses Commissioner Wallis so I can put it in the

17 finding here to support it.

18 MR. WALLIS: I'll think about it over lunch.

19 MS. WUNNICKE: Well, it would save on all those

20 lawyers.

21 MR. SUND: It saves a lot of lawsuits in the

22 fact that it's a threshold for payouts, what threshold

23 will the company use to pay the industry or the carrier or

24 the shipper on it's policy. And whatever that threshold

25 is becomes the threshold that proves, that the state gets

1 paid, you wouldn't have to go to court anymore.

2 MR. PARKER: It would at least have the effect
3 of moving lawyers and the other insurers out of the
4 Napoleonic era and getting them in contact with what's
5 really going on out here.

6 MS. WUNNICKE: May I say something philosophi-
7 cal. I, it has to do with insurance. I think that what,
8 what we're all about is trying to make a responsible
9 transport and regulatory system to deal with this problem.
10 And one thing I think, and we have a whole generation, or
11 two generations of people in our country who do not take
12 responsibility for their own actions simply because of
13 insurance.

14 Because somehow that is removed from them, and
15 they don't feel any responsibility for what they do and
16 they, and it also gives rise to a lot of litigations
17 because that insurance exists. This just runs counter to
18 everything that I think we're trying to accomplish in
19 terms of making people responsible for what they do. I
20 can also see a wild scenario where when the state in bad
21 budget trouble they go out and create an oil spill.

22 MR. SUND: That wild scenario has already been
23 created by the Anchorage Chamber of Commerce.

24 MR. PARKER: Ed.

25 MR. WENK: Very quickly I think that Ms.

1 Wunnicke is talking about this third party payment
2 business which decreases responsibility on the part of the
3 involved parties, and I understand that, but at the same
4 time I see some virtues here, in fact if this theme was
5 carried on step further, not just making the state
6 beneficiary, but requiring some minimum protection so that
7 it's not just trivial. This comes down to the next point
8 and that is making it a requirement that the premiums for
9 insurance somehow or other reflect the safety practices of
10 the shipper.

11 Now here's a case where in so many other in-
12 dustrial situations there are real premium incentives for
13 safety. And it is true that the napoleonic insurers do
14 look to some degree in broad picture to the safety record
15 but they, for example, to the best of my knowledge, do
16 this on the basis of past claims, rather than ever
17 themselves, like they do in a factory, come in and say
18 this is an unsafe situation and we're going to boost your
19 premiums if you don't fix it. They never come on board a
20 ship, and they haven't taken any interest clearly in all
21 these things that John Sunds been enumerating in terms of
22 how to improve safety, and we must have about twelve of
23 them now.

24 If there was some way to build that into it I
25 think it would meet both points, in other words, to use

1 the insurance lever as a way to make the shipper more
2 responsible for safety.

3 MS. WUNNICKE: Okay.

4 AL: I'm not so sure commissioner that we have
5 to do that explicitly because I think that Tim's sugges-
6 tion is ingenious in that he creates a negative incentive
7 for safety. The payment will not go to the shipper, the
8 payment will go to the state if there's an accident. So
9 the shippers out the money, the insurance company is out
10 the money. The insurance company becomes more motivated
11 the shipper becomes more motivated, you have a ship which
12 is in better condition because it's going to lose. It
13 essentially doesn't have the payment coverage, the
14 compensation for it. And I think the incentive will
15 exist, to improve the safety of your shipping, because you
16 don't want to have anything go wrong.

17 MR. WENK: Provided you

18 AL: The safety net has been removed, because
19 of the beneficiary.

20 MR. WENK: but provided there's enough
21 insurance coverage.

22 MR. SUND: He'd just buy another policy.

23 AL: The plore that you're suggesting is
24 correct.

25 MR. PARKER: I think

1 MR. SUND: Lunchtime.

2 MR. PARKER: Yeah, we're looking at a combina-

3 tion of the two here though really, and requiring the

4 shipper to insure not only to recover his vessel but also

5 to ... For those costs which may be brought against his

6 otherwise, which I doubt or Exxon's four hundred million.

7 MR. WALLIS: Well we heard that the one company

8 is now having their contract carriers insure for a billion

9 dollars.

10 MR. PARKER: Yeah.

11 MR. DOOLEY: There

12 MR. SUND: I move for lunch.

13 MR. PARKER: Go ahead Dennis and then we will

14 break for lunch.

15 MR. DOOLEY: There is some problems with, if

16 you name on the insurance companies, on the construction

17 claims when we've gone after insurance, in this state for

18 the amount you write it for, if your claim is bigger then

19 the amount and you have, then the insurance company will

20 come to you and say, okay, our limit is four hundred

21 million dollars, you have the choice to accept it or not.

22 Then if you don't accept it and you wish to go to court

23 for a greater claim then your not going to get up to that

24 ceiling.

25 There is a dual burden there on how you collect

1 and in this case the four hundred million dollar cap may
2 have been in place rather than the one and a half billion
3 dollar liability. There is a true (inaudible) a little
4 more complicated in terms of collection.

5 MR. WALLIS: It works the other way to on the
6 insurance companies. Who ever did the (inaudible) off the
7 hook, it all comes to the insurance company.

8 MR. PARKER: Okay, break for lunch. Reconvene at
9 one ten.

10 (Off the record)

11 (On the record)

12 MR. PARKER: The Alaska Oil Spill Commission
13 will reconvene and, Commissioner Sund, when he finishes
14 politicking in the building, he's here, he'll finish
15 politicking in the building soon and he'll rejoin us,
16 so..... This afternoon we've gotta really make some time
17 so we have adequate time tomorrow to resolve the knotty
18 issues and to prioritize our major recommendations. So,
19 let's go ahead with Page 3, Item B, a State Licensing
20 Board. Another new bureaucracy, Commissioner Wallis, that
21 -- but possibly we could find a state licensing board
22 already in existence if we do this. John? State licensing
23 board.

24 MR. HAVELOCK: Well, I think, you know, we've been over
25 the justification of this and the reason is the -- we get

1 all these operators that come in and run pump stations and
2 the like, and they don't come from Alaska by and large --
3 and they are moving on somewhere else after. They are not
4 familiar with Alaska laws regulating the environment. They
5 are not familiar with their ethical responsibilities with
6 respect to the people of the State. And they may or may
7 not be familiar with the particular technology that they
8 have to work with. That is, sometimes there's sort of
9 generic managers that are thrown into the shop and but then
10 sometimes they are real people with a technical background.
11 So, I guess if you wanted to make Alyeska and other
12 pipeline operating companies more Alaska companies one of
13 the things you can do is advice them to be accountable for
14 their professional performance to State institutions such
15 as licensing boards. I guess I like the Chair's suggestion
16 that we, rather than creating a new board, that we put this
17 on another one. I don't have an immediate inspiration as
18 to who I might drop it on, but I think that that's a real
19 possibility to add it on to the Board of Architects and
20 Engineers or whoever currently licenses sanitation people
21 and the like.

22 MS. HAYES: I guess the problem that I have with
23 this concept is that most boards and commissions --
24 licensing requirements -- if I'm thinking correctly, not
25 only do ethics but they also -- I mean, they -- their

1 licensing reflects years of education and experience and
2 training in the technical aspects of their job because of
3 the importance. Like water and wastewater engineers. But
4 the people that you want to influence -- or are most
5 important to influence in this particular regard -- are
6 managers, who may or may not be the technicrafts. In fact
7 -- and I'm -- my question is are we really trying to
8 license a single safety officer working in each facility or
9 are we trying to license the person that is the manager who
10 may be selected because he's a good bean-counter or because
11 he is a good person with personnel, or because he, you know
12 -- I guess I need a more focus on the type of person we're
13 trying to license.

14 MR. HAVELOCK: Well, I think that you've got a lot
15 of generic -- I mean, that the generic licensing approach
16 to handling the kind of problems we're talking about. And
17 you may notice that in the next subset we are going to
18 require the designation and isolation of functions relating
19 to safety -- environmental safety -- within the company.
20 Now I would assume that we are probably talking about
21 licensing those people who, indeed, have to -- the top one
22 of whom has to report to the chief executive of the
23 company. Now it's a deprivitization in a sense of some
24 functions relating to pipeline safety because of the
25 dominant public interest involved that you -- and I don't

1 have any problem with, you know, defining some educational
2 requirements if you wanted to throw that in, and training
3 requirements, and continuing education requirements and the
4 whole penelope of the things that are associated with
5 professional licensing boards. I assume both of these
6 people, incidentally, are engineers generically. I mean,
7 the oil company -- when they think of a manager they think
8 a manager is an engineer. They by and large don't like
9 people that've had an education that includes any human-
10 ities or social science.

11 MS. HAYES: Well -- but that's a good question.....

12 MS. WUNNICKE: Where are you, Mr. Wenk?

13 MS. HAYES:is whether you want to encourage
14 people with those directed -- if you make a requirement
15 that the only people who can be -- for instance, if you
16 decide to license the chief operating person in any
17 facility, the first person in charge, you almost guarantee
18 it becomes an engineer if your subject matter is going to
19 be parts-per-millions and fluid dynamics, and stuff like
20 that.

21 MR. HAVELOCK: Well, I think that for safety
22 purposes you probably -- the person you want is an environ-
23 mental engineer.

24 MR. WALLIS: Well, I don't think we can sit here
25 and predetermine that.

1 MR. HAVELOCK: Well, I would grant you that we
2 probably ought to look at who, in fact, they have in those
3 posts. And I guess what I'm saying is they probably have
4 petroleum engineers that they -- you know, who've been
5 adapted to that purpose. But I'm not sure.

6 MR. PARKER: I think the concept is right. In the
7 construction phase the major problems were caused by people
8 being in key positions of control as sector chiefs of
9 various areas, quality control, quality assurance officers
10 who had no particular training in that area and, you know,
11 in fact who were swept off the streets and who may have had
12 a Masters in Engineering, one specialty or another and so
13 forth, but who had no real training in the jobs they would
14 do to provide a higher level of quality control or assur-
15 ance than the engineer off the street, so to speak. And
16 that's, you know, why we have completely revamped the
17 structure 18 months into construction. And, you know, the
18 thing still hangs there, is that there is no quality
19 control over key personnel. So that's what brought it
20 here, and I think, you know, working out the nuts and bolts
21 is not for us to do but the concept, I think, is valid.

22 MR. DOOLEY: The Coast Guard does license in-
23 dividuals such as tankermen (indiscernible) for the barge
24 operations. That is strictly to lash up the hoses to
25 terminal plackets and run the (indiscernible) off the

1 barge. But that's a licensed procedure. So if those are
2 licensed the questions might be asked, why aren't others in
3 the system also go through a similar test of qualification.

4 MR. SUND: Back to the question of what's broken,
5 I guess, and why this recommendation -- and maybe I missed
6 the answer.....

7 MR. HAVELOCK: The issue is the one that -- and
8 this is, you know, or the section is it's responding to
9 this concern that the corporate mentality is to ignore
10 safety criteria and to ignore Alaska concerns. And I am
11 sure these people will be much more cognizant of Alaska
12 concerns if they job -- holding their job depends holding
13 a State license.

14 MR. SUND: Is that much like the same situation of
15 our pilots? We have State-licensed pilots on board which
16 give us -- the State, theoretically, an independent party
17 on the bridge of ship during certain passage in State
18 waters.

19 MR. HAVELOCK: Yes.

20 MR. SUND: And that's not a company person -- in
21 that case it's an independent, but they have certain,
22 quote, "loyalties" to themselves or their license that hold
23 them off and apart from --.....

24 MR. HAVELOCK: Well, they can be employed by the
25 company, too. A State license doesn't prevent you from

1 being employed.

2 MR. SUND: Right.

3 MR. PARKER: Ed.

4 MR. WENK: Two general points. One, the way this
5 is currently written it isn't quite clear within the full
6 range of personnel who are involved, which are to be
7 licensed. Nor does it say what the qualifications are, it
8 simply says have educational qualifications to pass
9 examinations. Now, it turns out the process of examining
10 and passing people is fairly costly if you're talking about
11 a large number. This is the reason why the Coast Guard
12 changed their examination procedures that some of us feel
13 are deficient. I can remember the counterpart to that with
14 proposals that come up repeatedly that operators of fishing
15 vessels should be licensed. And they are not. In the
16 extreme, operators of pleasure craft should be licensed.
17 And the usual argument against all of that is the bureau-
18 cracy and the cost and so on would be excessive. So all of
19 this boils down to asking the question, which people are we
20 talking about and how many, because I think that it is
21 necessary to make some kind of cut-off in terms of the ones
22 to be addressed.

23 MR. HAVELOCK: Yeah, I would assume that you're
24 looking at pump station managers, and the terminal mana-
25 gers. Maybe 25 people.

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MR. WENK: Well, if that's the number it seems.....

MR. HAVELOCK: How much do you want to get a hold on the industry, I guess is the question.

MR. WENK: Well, I'd feel more comfortable with that than some other number that might've been 10 to 100 times that, but any -- or 10 times that. But maybe you could even use that kind of language rather than the generic, environmental safety personnel. That would help a whole lot. And I think it would also make the point a little bit more emphatically.

MR. PARKER: And I think, you know, in making the point it refers to the fact that fishing boat personnel are not licensed, and of course the fishing fleet has the worst accident rate in the country, of all occupations. It is the worst.

MR. SUND: Yeah. If I could say something there, there's a lot of people in the fleet trying to lead the way towards licensing because of the -- they get crashed into the same insurance regime as the cowboys, so to speak, so.....

MR. DOOLEY: I might suggest, though, the number's going to be higher than 25. We're talking about Alyeska in one context. We keep forgetting that other facilities are involved in the same terminal and petroleum product transfer. Tesoro runs a barge around a half a dozen bulk -

1 - every bulk plant would qualify for someone under this
2 kind of definition.....

3 MR. WENK: Let me support this with just one other
4 little analogy. Again, hazy recollection. There is a
5 class of individuals called stationary engineers who run
6 the boilers in -- I can't quite say. I know, for example,
7 in a hospital you have a stationary engineer who is
8 licensed, and probably a guy running the boiler of a
9 heating plant for this building is licensed. So there's an
10 analogy here, it seems to me, with this concept of station-
11 ary engineers, and I just don't know enough about it beyond
12 that point. But they are licensed. They're required to be
13 licensed for the same reason you mention, it mainly has to
14 do with public safety.

15 MR. PARKER: Tim.

16 MR. WALLIS: Mr. Chairman, I wonder if we could
17 either scratch the word "educational qualification," or
18 "educational," or add "and/or experience."

19 MR. HAVELOCK: No problem. Unanimous consent.

20 MR. SUND: How 'bout the issue that does this
21 Commission want to proceed with this licensing concept or
22 not? And then let the Staff work out the detail so we can
23 move on.

24 MR. HAVELOCK: Right. That's the issue.

25 MS. WUNNICKE: Okay, two questions. Is there a

1 profession -- Ed just mentioned stationary engineers -- is
2 there a profession of environmental safety officers?

3 MR. HAVELOCK: There are environmental engineers.
4 I don't know whether there's a professional society for
5 ones that are, quote, "safety" engineers or not.

6 MR. PARKER: The closest you have in hydraulics,
7 which this is a form of, would be the people running the
8 sewer plants, as far as I know our licensing.....

9 MR. DOOLEY: Either that or your Association of
10 Mechanical Engineers. We're gonna be varying disciplines
11 when we move from one facility to another. And a marine
12 terminal superintendent will be a different make than the
13 guy managing the (indiscernible).

14 MS. WUNNICKE: Exactly. My second point would be,
15 if this is the case then would you also add this criteria
16 to the qualifications of people in the regulatory agencies?
17 That they be also licensed as environmental engineers?

18 MR. PARKER: I would myself, but -- you know, when
19 we hire a nurse to work in a public facility, why we
20 require her to be licensed the same as the nurse working in
21 the private facility, so.....

22 MR. SUND: I think for all State-run terminals they
23 ought to be licensed.

24 MR. HERZ: I think what happens in practice is if
25 you look at the people in the agencies they usually have -

1 - they hire the same people out of the same degree pro-
2 grams, which is some (indiscernible) -- I had an amazing
3 conversation in California with the guys who do the
4 examining of the platforms out in the ocean for safety.
5 And I asked them whether they go out there and really check
6 carefully, and they said, naw, we don't have to do that.
7 We know these guys, we went to school with them. We speak
8 the same language. So -- I mean, the fact that they have
9 the same degree may mean that they know the same technol-
10 ogy, but it doesn't necessarily -- I mean, because they
11 belong to the same professional societies and so on, they
12 may tend to not be as diligent in executing their respon-
13 sibilities, too (indiscernible).

14 MR. WALLIS: Is (indiscernible) brotherhood
15 fraternity?

16 MR. WENK: Two quick points, coming back to this
17 process that we've been formally adopted of having evidence
18 and then a finding and then a recommendation. My recollec-
19 tion is, in our visit to Alyeska, that the station manager
20 -- and I'm not sure that's the exact title -- was intro-
21 duced to us, and someone asked him how long he had held
22 this post, and it was quite a short time and what has been
23 his prior post -- well, he ran the police department or
24 whatever. And I think this sort of underscores the issue
25 that's been raised here.

1 Second related point on again, analogies. My
2 recollection is that all of the welders on the pipeline,
3 any pipeline, or any particular type of structure where
4 there's a public safety issue involved, have to be cer-
5 tified welders. And these -- this process of certification
6 is undertaken by the State in connection with one of the
7 professional societies -- and I think it's the American
8 Welding Society. But the point is, they have to have a
9 license, or supposed to, in order to demonstrate the skills
10 of welding where the risk of failure is serious. So I
11 think there are a log of analogies here.

12 MR. PARKER: Is there any objection to B?

13 MS. HAYES: Me still.

14 MR. PARKER: Okay.

15 MS. HAYES: I'm not convinced yet, because I -- I
16 mean, one of the reasons I'm not convinced yet is because
17 I think that the problem we've identified is a problem of
18 the set of values and the method that we're trying to use
19 to cure is one of technical skill. And because I -- you
20 know, if what we're trying to do is make sure that the
21 people that are working are technically proficient, then
22 there's already the professional engineering program that
23 just simply say that everybody that runs one of these
24 things has to be a professional engineer. I'm not sure
25 what classes you take that give people an understanding of

1 what happens to the environment when you spill oil. Or
2 what happens to a community when they don't fish, or a
3 Native community when they can't eat subsistence food-
4 stuffs. And that's my problem.

5 MR. HERZ: One of the things -- at least that has -
6 - I think I mentioned this yesterday -- that the other
7 thing that certification and licensing does is -- it means
8 that if an operator knowingly -- is tempted to knowingly
9 bypass some process that they're supposed to be following,
10 or some procedure, they jeopardize their working ticket.
11 And there's -- at least in the water/wastewater treatment
12 business the self-monitoring program is based on the fact
13 that falsification of data, self-monitoring data, jeopard-
14 izes -- because you have to sign a little affidavit every
15 time you send in one of these reports -- jeopardizes that
16 person's future employment, and therefore it holds people
17 in line. So, I -- it sounds reasonable to me that it does
18 exert some control.

19 MR. PARKER: I don't view this as a -- technically
20 -- as much as I do in an effort to ensure that the people
21 running the land-side devote as much attention to the
22 adequacy of the people they have put in key positions on
23 the land-side to do the job as we're gonna require -- or
24 that we do on the marine-side of the system. So the
25 terminal manager, you know, is not somebody who's just run

1 in there because he doesn't fit in out on Bragaw Street or
2 something.

3 MR. WENK: Bearing on this -- and this may not have
4 come to Counsel's attention -- but the draft report of the
5 Puget Sound Water Quality Authority talks about operator
6 training and licensing. These are now draft recommenda-
7 tions. It starts off by saying operational errors are the
8 primary -- or one of the primary causes of -- they're
9 talking hazardous substance spills but they include oil -
10 - and they go on to say that operators should be licensed
11 by the State to develop -- and now they use a term "an
12 operator's card" program, mandate State-certification of
13 training, develop regulations describing minimum training
14 standards, recommend strengthening qualifications for more
15 advanced so on, so on, so on. And then finally, promote
16 industry self-regulation. I only bring this in from the
17 point of view of the same idea being on somebody else's
18 mind and I will have to say I don't think this is gonna go
19 very far in the State of Washington. That is the report,
20 I don't mean that particular provision. But apparently
21 it's being thought about.

22 MR. DOOLEY: There is a requirement here for
23 professional engineers to be registered in Alaska.

24 MS. HAYES: Right.

25 MR. DOOLEY: (Indiscernible) in addition to

1 wherever they've been certified in Arctic engineering. Why
2 would not also that same parallel, some sort of course
3 requirement if you're in certain positions, whether or not
4 you're an engineer -- I'm not sure all these people are
5 engineers -- be required to take some sort of course
6 that'll -- at such an interval in terms of environmental
7 consequences, whether it's through the University auspices
8 or whatever.

9 MR. PARKER: They require upgrade training in most
10 professions.

11 MS. HAYES: But if what we're saying is that we
12 want them to be technically proficient and to be engineers,
13 then why not just say that they should be TE's. And that -
14 - registered in Alaska.

15 MR. PARKER: Tim.

16 MR. WALLIS: Let me just throw out a couple
17 comments here in dealing with the disciplines that's going
18 to be required. In here we say environmental safety
19 personnel. I think we're having a little bit of trouble
20 trying to determine what is an environmental safety
21 personnel. I think, you know, if we're going to talk about
22 it we ought to have, say, a safety personnel and the
23 required discipline would depend on what the function's
24 going to be, whether it's going to be terminal, whether
25 it's going to be switchboard, or whatever. And, you know,

1 I don't know what type of test is going to be required. I
2 would assume that it would be on one, whatever the dis-
3 cipline is, familiarization with the panel, or whatever,
4 make sure he knows how to operate it, and I would assume
5 with some of State laws and requirements. Something
6 similar to being familiar with building codes, as an
7 example. I think we ought to take the word "environmental"
8 out of there and simply say "safety personnel." If we're
9 gonna talk about anything, and I think as it gets down into
10 if -- the legislative aspect of it, then they would try to
11 determine the various disciplines on down the road that are
12 gonna be required.

13 MS. WUNNICKE: Mr. Chairman. One corollary of what
14 Tim is getting at, I think, is -- it often is a stipulation
15 in terms of oil and gas leasing, for example -- or permits
16 in that connection with respect to drilling for oil -- that
17 the personnel will complete a course on environmental
18 matters, particularly as they pertain to the Arctic or
19 particularly as they pertain to the Bering Sea and so
20 forth. That's often a stipulation in those permits and so
21 one other way of accomplishing this, rather than a licen-
22 sing procedure, would be a stipulation in terms of getting
23 permits issued by the State. My concern about --I don't
24 guess I know a lot of pump station managers, but I would
25 wager that very few of them hold professional engineering

1 degrees. And I think that you may be over-qualifying a lot
2 of people for some of your positions that you're talking
3 about.

4 MR. PARKER: But most people who hold licenses
5 don't have professional degrees either. The great number
6 or great bulk of licensed people are people who are
7 licensed because of their proficiency gained through
8 experience.

9 MS. HAYES: Mr. Chairman, I guess I would say that
10 I could support the idea of having a license for environ-
11 mental safety officers like there are for industrial health
12 officers. Lots of places employ people that are knowledge-
13 able, have training, experience and some kind of background
14 in industrial health and safety. And I could support
15 having some kind of position like that for environmental
16 safety officers, similar to what the consequences of error
17 are. And if that -- the job of those people are to look
18 for places, opportunities in the work places where environ-
19 mental health or environmental safety is jeopardized. And
20 having those people report (indiscernible) to the chief
21 executive officer, I don't have any problem with that. I
22 don't have any problem with requiring them to have environ-
23 mental safety officers on the staffs of people that are
24 shipping Alaskan crude. But my problem is trying to get at
25 a value statement through a licensing process with the

1 chief exec -- with the chief operating officers.

2 MR. HAVELOCK: Well, we do that. I mean that --
3 there's a section on the bar exam for State of Washington,
4 State of Alaska, that's called legal ethics. And there's
5 more than one lawyer had to wait an extra year in failing
6 to pass that section. So I think you can get at values
7 indirectly.

8 MR. PARKER: Anything else on B. How about C?

9 MR. WALLIS: Yeah. Just a little technical one if
10 you will. Where it says identify an adequate environmental
11 safety command. No I guess -- I'm reading it wrong. Okay.
12 I'm sorry.

13 MS. HAYES: The question I had was the divorce from
14 other duties.

15 MR. HERZ: Well, could we have an expansion on what
16 you mean by -- what the intent is, it's sufficiently --
17 it's interesting.

18 MR. HAVELOCK: What I was responding to here was
19 the mention that had been made by a number of the Commis-
20 sioners that the disfunction -- that safety and safety
21 concerns tend to get lost in other functions. Most
22 conspicuously cost-accounting, and that decisions are made
23 entirely on a cost-accounting basis without reference to
24 safety and the like -- is that, that person should be
25 licensed. So -- and then if you isolate the responsibility