

ALASKA OIL AND GAS CONSERVATION COMMISSION

Before Commissioners:

Daniel T. Seamount, Chair
Cathy Foerster
John K. Norman

In the Matter of the Notice of)
Inquiry into by the State of Alaska,)
Alaska Oil and Gas Conservation)
Commission, Changes or Additions)
Needed to AOGCC Regulations)
Governing drilling, rig workover)
and well control in offshore and)
ultra-extended reach wells drilled)
in the State of Alaska under)
AOGCC's jurisdiction.)
_____)

Docket OTH-10-16

ALASKA OIL and GAS CONSERVATION COMMISSION
Anchorage, Alaska

September 16, 2010
9:00 o'clock a.m.

VOLUME II
PUBLIC HEARING

BEFORE:

Daniel T. Seamount, Chair
Cathy Foerster, Commissioner
John K. Norman, Commissioner

TABLE OF CONTENTS

Opening remarks by Chair Seamount	207
Testimony by Chancellor Ulmer	210
Testimony by Mr. Bowen Roberts	247
Testimony by Mr. Rick Steiner	283
Testimony by Ms. Delico Calcote	290
Testimony by Ms. Blatchford	308

1 PROCEEDINGS

2 (On record - 9:15 a.m.)

3 CHAIR SEAMOUNT: I'd like to call this hearing to order.
4 Before we get to the presentations we'll do some preliminary
5 discussions.

6 Today is Friday, September 16, 2011. It is 9:15 a.m.
7 We're located at 333 West Seventh Avenue, Suite 100, Anchorage,
8 Alaska. Those are the offices of the Alaska Oil & Gas
9 Conservation Commission.

10 For those of you who weren't here yesterday and everybody
11 -- well, everybody was, but anyway, for the record to my right
12 is Commissioner John Norman. To my left is Commissioner Cathy
13 Foerster and I'm Dan Seamount, the Chair.

14 If anyone has any special needs please see special
15 assistant Jody Colombie who is raising her hand over there.

16 I'm going to do something I don't think has ever been done
17 before, this morning there was an earthquake at 6:00 o'clock
18 and I was thinking we should probably have safety briefings at
19 these meetings, so in the event of a fire try to exit out that
20 door immediately. If there's blockage there to disregard the
21 AOGCC staff only signs and go out the door to the alley. If
22 both -- if both exits are blocked there's always chairs that
23 can go through windows, okay. And then everybody should muster
24 across the street in the parking lot to the south across
25 Seventh Avenue just to make -- so we can make sure everybody

1 got out of the building.

2 I doubt if an earthquake would do much damage to this
3 building. It would have to be an awfully big one. It's a very
4 sturdy building, but if there was an earthquake does heavy
5 damage to the building wait until the shaking stops then exit
6 the same way you would as a fire, okay.

7 R & R Court Reporting will be recording the proceeding.
8 You can get a copy of the transcript from R & R Court
9 Reporting.

10 We'd like to remind those who are testifying to please
11 speak into the microphones so that persons in the rear of the
12 room can hear and so the Court Reporter can get a clear
13 recording.

14 I think that -- oh, and the other thing is please try to
15 stay on focus regarding things are under AOGCC's jurisdiction.

16 I think we're going to have four speakers today. Three of
17 them have not arrived yet, but hopefully they -- they will.

18 Okay. This is a continuation of Docket OTH-10-16. It was
19 continued from yesterday. We had a number of very interesting
20 and helpful recommendations and discussions. This is an
21 inquiry into whether changes or additions may be needed to the
22 AOGCCs regulations governing drilling, rig workover and well
23 control in offshore and in ultra-extended reach wells drilled
24 in the State of Alaska under AOGCC's jurisdiction.

25 In other words, this inquiry is for the purposes of

1 potential rulemaking. As we have emphasized over and over
2 yesterday we don't want another Macondo type tragedy ever to
3 occur in Alaska.

4 Public comments have been submitted by DNR, Division of
5 Oil and Gas, ConocoPhillips, North Slope Borough, Kachemak Bay
6 Conservation Society and the Alaska Oil and Gas Association.
7 This hearing was noted and is being held in accordance with 20
8 AAC 25.540 of the Alaska Administration Code. Those are
9 regulations governing public hearings.

10 If anyone has any questions of the person testifying write
11 them down, hand them to special assistant Jody Colombie and she
12 will forward them to the Commission.

13 Okay. Before we continue do either of the Commissioners
14 have any opening remarks?

15 COMMISSIONER NORMAN: I have nothing.

16 COMMISSIONER FOERSTER: I see a lot of the same faces that
17 were here all day yesterday and I want to thank you for your
18 interest, your involvement. It takes a lot of fortitude to sit
19 through two days of sometimes highly technical and for many
20 people probably boring information, but it's very important and
21 I commend you on your interest and your desire to be involved.

22 CHAIRMAN SEAMOUNT: Okay. For our first presenter we're
23 happy to have Chancellor Fran Ulmer take time out to address
24 this hearing. She a former Chancellor of the University of
25 Alaska - Anchorage and former Lieutenant Governor. And I think

1 all Alaskans should be proud that she was an integral member of
2 the President Obama's National Commission on the BP Deepwater
3 Horizon Oil Spill and Offshore Drilling. Welcome, Chancellor
4 Ulmer.

5 CHANCELLOR ULMER: Thank you, Mr. Chairman. Thanks to the
6 Commissioners for not only holding this hearing, the work that
7 you do, but thank you for inviting me to speak a bit this
8 morning about the findings from the Oil Spill Commission and to
9 the members of the audience I would just say this is going to
10 be less technical than yesterday probably was.

11 This is going to be at the level that is, kind of, a once
12 over lightly on the Commission's findings and recommendations
13 with the caveat that at the end of the presentation that I will
14 go through relatively quickly I'd like to make some personal
15 observations about what I learned that are a little bit
16 different than what the Commission actually ended up with.

17 And I just differentiate because the Commission had six
18 months to do its work and we produced a report in January and
19 since that time there have been a number of other reports that
20 have been issued by other entities and reviews that have been
21 done and that had added a little bit to my broader view, shall
22 we say about some of the things, lessons learned and things
23 that as a nation we need to do as we go forward.

24 So just very briefly the Commission was appointed shortly
25 after the Deepwater Horizon on April 20th. I don't know about

1 you, but this seems like forever ago. If you think about how
2 day after day after day it was in the news and it was
3 constantly in our consciousness and now it's, kind of, like
4 disappeared which is really quite remarkable if you think about
5 it because it's something that occupied our attention for such
6 an intense period of time. I think in part because it wasn't
7 like an accident and then we went on to clean it up. It was a
8 continuing day after day after day not being able to stop the
9 oil flow meant that, that tragedy, kind of, continually
10 reignited every day in our lives. It's quite stunning to me
11 how much has disappeared from our sense of national purpose
12 about what we ought to be talking about and doing anything
13 about.

14 It was a disaster that in many ways impacted the lives of
15 thousands, maybe millions of people. Obviously 11 men died,
16 dozens were injured, a lot of oil was spilt, but there was also
17 a huge economic and social impact in the region. And that's
18 another thing I think particularly as Alaskans we can relate to
19 because those of us who were here after the Exxon Valdez oil
20 spill understood how much that impacted the social and cultural
21 nature of the state, not just that spill, but in terms of what
22 it did to the fishing industry, the tourism industry, the
23 general sense of healthy community or not, damaged community,
24 so the costs were significant.

25 And if you were in Louisiana today people would still be

1 talking about it. They may not be talking about it nationally,
2 but it's still very much a part of the sense of what's going on
3 in the Gulf of Mexico.

4 The Commission, seven member Commission appointed by the
5 President, we had a very tight timeline. We were basically
6 told you have six months to do you work and we actually did
7 complete our work on time, under budget and with a unanimous
8 decision which is fairly unique for national commissions I
9 might note.

10 Our mission, we basically had two missions. One, to look
11 at the underlying causes of the disaster and explain them. And
12 number two, to make recommendations to reduce the chances of
13 such a disaster happening in the future.

14 There were a lot of things we didn't do. Our purpose was
15 not, you know, energy policy writ large. It was not really to
16 do the liability assessment which we know a lot of lawsuits are
17 all about that. It wasn't that. It was really to look at the
18 causes, the big picture causes. And as both our report and the
19 Joint Investigating Team that was released they were -- the
20 government released their report on Wednesday, very similar
21 conclusions.

22 Serious safety, management system failures, communication
23 failures, well design that was risky, a failed cement job.
24 Work place safety was not at the level of consciousness and
25 priority as it needed to be. There were for many reasons more

1 of a -- I guess you would say a management failure than a
2 technology failure and if you actually look at most of the
3 major accidents that have taken place that we talk about, think
4 about it is the same story.

5 We could go into a fair amount of depth about the
6 specifics. I know that we really don't have time to do that,
7 but for those of you who are interested in it the Oil Spill
8 Commission.gov site on the web has a very in depth description
9 of the various pieces of the equation that went wrong, but I'll
10 just read one paragraph from the report that I think is
11 relevant to the hearing that you are holding.

12 BP and the Macondo team were aware of ways to carry out
13 its temporary abandonment procedure that could have reduced
14 risk. BP decided to set a lock down sleeve during temporary
15 abandonment operations rather than later in the well project to
16 save time and cost. Its engineers also believed that they
17 should set a backup cement plug and a lock down sleeve as the
18 last steps in the temporary abandonment sequence. Because of
19 these decisions BP instructed the rig crew to displace over
20 3,000 feet of heavy drilling mud from the well with seawater
21 severely under-balancing the well before setting additional
22 backup areas to hydrocarbon flow.

23 The Macondo team knew this was unnecessary and that they
24 could have used alternative procedures to avoid under-balancing
25 the well before setting additional barriers.

1 I could go on and on. Let's just say that in the last
2 week the well abandonment procedure changed four times. You
3 can imagine the kind of confusion that, that left in the minds
4 of people who were working on the rig about what to do when,
5 how to do it and what was actually going on, on the rig during
6 the last 24 hours.

7 The misinterpretation of the negative pressure tests
8 remain in my mind something that really cannot be explained
9 except to admit that when people are under pressure both from
10 the standpoint of time and money and, perhaps, a desire to
11 finish a job that admittedly throughout its job was considered
12 by the folks who worked on the rig the well from hell, it comes
13 to ones mind that there really needs to be safety management
14 procedures in place that protect against the human instinct to
15 just get it done.

16 And there were a lot of specific examples of that, but
17 let's just say that this was a case study in how much the
18 attention to safety and the culture, the safety culture really
19 has to be not only on the rig, on the shore, but something that
20 is ingrained in all of the people who are working at the
21 various levels in these very dangerous operations. And to be
22 able to do that gives rise to a whole other discussion about
23 the alternative approach to regulating these high risk
24 operations. One that really puts performance measures in place
25 as opposed to prescriptive regulations in place. One that

1 requires the industry itself to really work through with all of
2 its various companies, contractors and subcontractors a rig
3 specific plan to minimize risk.

4 Again, we could go through these, but both from the
5 standpoint of the cement job, the decisions about displacing
6 the mud, the choice to use what would have to be described as
7 procedures that did not maximize risk management was not just
8 unique to this particular well operation.

9 And I guess I would have to say that there were a number
10 of things about the industry I learned in the process of
11 serving on this Commission that I really didn't want to know.
12 And one of them was that there have been a fair number of
13 incidents in the Gulf of Mexico that fortunately did not result
14 in the level of accident that this incident did, but that have
15 pretty consistently indicated that improvements need to be made
16 in the safety culture of the industry from the standpoint of
17 fires and unintended releases, deaths and injuries.

18 Our record does not compare favorably with countries like
19 Norway to the extent that we can actually assess what our
20 record as a nation or in this case the Gulf of Mexico is.
21 Unfortunately over the years MMS has not been able to
22 concentrate sufficient energy, effort or, perhaps, regulatory
23 authority to get the kind of results about accidents that you'd
24 like to have to really be able to track where you could make
25 change to improve safety.

1 You track accidents not to just blame someone for doing
2 something wrong, but rather to get a better understanding of
3 how to change your management procedures so that you can reduce
4 risk. And unfortunately in this country our ability to collect
5 the kind of data that you need about accidents, about fires,
6 about unintended loss of well control has not been adequate to
7 really be able to answer some of the fundamental questions
8 about how would you change business practices to really reduce
9 risk.

10 And, again, we could spend a fair amount of time talking
11 about why, but, you know, just very, very briefly, the offshore
12 oil and gas industry in this country is regulated by a variety
13 of agencies with a variety of laws. ARC's (ph) law is only one
14 of a number of laws that govern how these activities are
15 actually controlled. It's a patchwork quilt of laws and
16 regulations that can arguably lead to confusion not only by the
17 industry, but the regulators.

18 I might note just as a footnote on that comment, as you
19 know Norway is the largest producer of oil and gas in the
20 world, offshore oil and gas activity in the world. And in 2001
21 Norway looked at the patchwork quilt of laws and regulations
22 that, that country had and decided that they really needed to
23 streamline and change the way they do business. And so they
24 set in motion a very different process and for the last decade
25 they have been operating in a much different way than they used

1 to and a much different way than the United States does.

2 And I do think that at least again, this is my comment,
3 based on not only comparisons with peer nations, but also
4 comparisons with other pieces of legislation and regulations of
5 complex industries that it's probably time for the United
6 States to do something to do something other than just a
7 bandaid approach to how we regulate a very complicated industry
8 that really needs streamlining both from the standpoint of how
9 industry can get the job done, but also how we can be more
10 efficient as regulators.

11 Let me continue briefly, it's not just about the laws and
12 regulations. It's also about supporting the agencies that do
13 the work. At the very time that oil and gas production was
14 increasing in the Gulf of Mexico, MMS budget was being reduced,
15 inspections were being reduced, so what you need to really have
16 an effective regulatory regime is to have some of the resources
17 not only in budgets and in numbers of people, but also in
18 expertise.

19 And frankly over the last decade or so MMS for a wide
20 variety of reasons has been faulted for not being the kind of
21 regulator that people expected them to be. And I would just
22 say that, that isn't just the fault of the agency. It's the
23 fault of Congress for not providing sufficient resources or
24 sufficient support.

25 When MMS did try to do things like adopt the SENS (ph)

1 rules they got huge push back from the industry and from
2 Congress, so it's a mixed picture of why things evolved the way
3 they did.

4 At any rate, there are a number of things that point to
5 changes that could or should be made in how the Federal
6 Government regulates offshore oil and gas activity from the
7 standpoint of streamlining, simplifying and clarifying the laws
8 and regulations and making clearer about what the functions
9 within the Department of Interior are and not having the kind
10 of blurred responsibilities that MMS previously had.

11 So the Commission made a number of recommendations for
12 federal agencies, for the industry and for Congress. And this
13 is a very brief version -- I might just note the report is
14 rather lengthy. The summary recommendations is much slimmer.
15 If you look primarily at what the focus is for the federal
16 agency recommendations it is that the responsibilities within
17 former MMS and now BOEMRE gets separated. That has happened
18 and I want to credit the Federal Government for taking some
19 important steps in changing business practices including
20 creating a separate safety authority within the Department of
21 Interior and separating out that function from the leasing
22 function which I might note is very similar to what Norway did
23 when Norway reconfigured its regulatory regime.

24 We also recommended that we look at the way in which
25 Norway uses -- safety case isn't the term they use, they use

1 performance regulations as opposed to prescriptive regulation
2 because it really emphasis the responsibility of industry to be
3 primarily focused on the appropriate safety procedures given
4 the conditions of any particular well and the technology and
5 techniques that will be used -- to use to -- to develop that
6 well.

7 Let's go on to some of the recommendations for Congress.
8 Congress has a role to play because some of the changes that
9 need to be made must be made either with appropriations or with
10 changes to the underlying law, changes to OCSLA (ph). Clearly
11 the ability for the agency to function effectively is in part
12 about the budgets that they receive, but it's also about the
13 signals that get sent to industry about the importance of
14 safety. And increasing the liability cap and financial
15 responsibility requirements for industry is a great example of
16 that.

17 The limit on liability was set in OPA-90 (ph) back after
18 the Exxon Valdez in 1989. Clearly a long time has past since
19 then and I think the amount of money that BP has made available
20 to deal with this disaster, thank goodness BP has the deep
21 pockets that they have, to be able to address the loss issues.
22 You can imagine what our circumstance would be like today had
23 it not been a company that had the kind of resources that BP
24 had.

25 Obviously the Gulf of Mexico was a severely compromised

1 eco system before the oil spill and requires investment by our
2 country if we're going to have the opportunity to really
3 restore the Gulf of Mexico. It's essential to the commerce of
4 the nation.

5 If you think about the Mississippi River and what the
6 Mississippi River does by way of a transportation corridor for
7 the industrial and for the agricultural midwest, the mouth of
8 the Mississippi is at risk if we don't protect it from
9 hurricanes, if we don't protect it from further erosion, that's
10 a whole other speech, but let me just say that it's a national
11 treasure. Just as we think of the Arctic as a national
12 treasure, so is the Gulf of Mexico and only Congress can really
13 help with the kind of funding that is necessary. And certainly
14 the Clean Water Act penalties being dedicated to the Gulf of
15 Mexico restoration is a piece of that.

16 We made a number of recommendations to industry including
17 that industry should adopt the approach that the nuclear
18 industry and other high risk industries have done in creating
19 its own safety institute that will concentrate on improving the
20 best practices and the ability to use the best technology
21 available in the context of managing risk. So the whole
22 process safety management, as well as the techniques and the
23 technology is what we would hope a safety institute run by the
24 industry would help not in a replacement for what government is
25 doing, but in a parallel course.

1 The nuclear industry has done that and interestingly
2 enough the separately funded and operated Nuclear Safety
3 Institute actually grades the nuclear operators on how well
4 they do, not the government, but the private section safety
5 institute. And the insurance rates that they pay, guess what,
6 it's based on the grade they get from that industry led safety
7 institute. So there's a direct connection in terms of a
8 pocketbook issue not only because people want to be safe, but
9 because it affects their insurance rates. It has definitely
10 increased the consciousness and the ability of the industry to
11 run safer operations.

12 Clearly the oil and gas industry is very different from
13 the nuclear industry and the approach that a safety institute
14 in the oil and gas industry would take would be different.

15 The good news is, is API has said that they are going to
16 create a safety institute within API that will be more focused
17 on creating the best practices and raising the bar of safety
18 operations. We'll see how that goes.

19 There are a number of other recommendations that we made
20 for industry and I guess I would just say the good news is
21 there are many indications that industry is taking this
22 seriously not just with the creation of a safety institute, but
23 with the progress that they have made for coming up with two
24 approaches for containment in the Gulf of Mexico that, of
25 course, didn't exist before April 20th, but that now are likely

1 to be very useful if heaven forbid another accident of this
2 magnitude takes place.

3 A number of recommendations about response and
4 containment. I'm not going to go into those today because
5 they're a little further afield from the Commission's work, but
6 suffice is to say that there were a things that we learned
7 about the way in which both the responsible party, which was
8 BP, the Coast Guard and all the Federal agencies and the way in
9 which they were or were not able to work with local responders
10 really gave us a lot of information about how to be better
11 prepared both from the standpoint of the response planning
12 process, the area plans that get created and the individual
13 industry plans for a specific project, how those get
14 integrated.

15 And how local people and regional organizations can be in
16 better communication and better trained to be able to be co-
17 responders the way they are in Alaska thanks to RCACs and the
18 ability in Alaska to really focus on coordination with local
19 governments, the University and the industry to be better
20 prepared. Unfortunately that was not the case in the Gulf of
21 Mexico.

22 So in terms of the future the Commission, although not
23 specifically tasked with looking at the Arctic, it was quite
24 clear that when you look at the additional resources that are
25 available for development, there's a lot more development in

1 super deep water in the Gulf of Mexico and the Arctic, so we
2 did make some recommendations with regard to the Arctic.

3 Not getting to specific, we did not review the specific
4 plans of any of the companies that are seeking permits in
5 Alaska, we felt that, that was way beyond our mission, but we
6 did make some general recommendations specifically with regard
7 to encouraging both government and industry to step up to the
8 plate in investing in the research needed to assure that the
9 kind of work that we are prepared to do in the Arctic is based
10 on Arctic conditions and not based on simply transporting
11 technology, techniques, people, equipment from a very different
12 area like the Gulf of Mexico to the Arctic.

13 Clearly from the standpoint of Coast Guard assets
14 additional investments needs to be made by our nation not only
15 for the oil and gas industry, but for the shipping industry,
16 for tourism, et cetera. Having the kind of capability in the
17 Arctic whether its ice breakers or ice capable vessels or ports
18 of refuge. We have a long way to go as a nation in investing
19 in the kind of Arctic infrastructure that will make it more
20 likely that we will be prepared for the kind of shipping, the
21 kind of tourism, the kind of oil and gas activity that is
22 ahead.

23 We also talked a bit about the importance of thinking
24 about the Arctic as an international zone because I think for
25 those of us who live in Alaska we think of -- when we hear

1 Arctic oil and gas development, we think Alaska, but with the
2 recent developments that have taken place, for example, Russia
3 and the -- Russia and Exxon have recently entered into an
4 agreement for Arctic development off the coast of Russia.
5 What's happening in Norway, what might happen in Greenland,
6 what may happen in Canada, the Arctic is a place where there is
7 increased interest, attention and investment.

8 And the Arctic because it is really a shared space in a
9 sense, it makes sense for us to think cooperatively and
10 collaboratively with other the nations in the Arctic about
11 setting best practices, higher standards, Arctic specific
12 response capability. Now some of these things are underway
13 under the umbrella of the Arctic Council because the Arctic
14 Council has moved forward with an oil spill response and
15 emergency rescue initiative.

16 There are things underway, but our Commission recommended
17 that the United States take a leadership role in working with
18 the other Arctic nations to come up with Arctic specific
19 standards and think about standards that we can initiate that
20 really create a high -- a very high level, a high benchmark of
21 activity, so let me just say lessons learned from the
22 experience.

23 These are the things that hopefully will come as a result
24 of this tragedy. Clearly a disaster like this is an
25 opportunity for us to learn and an opportunity for us to

1 improve the way we do business both from the standpoint of
2 industry and government.

3 It is a wake up call for us to get outside of our comfort
4 zone and our sense of we know how to do things. How we've
5 always done things in the past will be good enough. It's a
6 time for us all to look at ourselves and say how can we improve
7 the safety of offshore operations. How can we do a better job
8 of safeguarding the environment. What are the steps that we
9 can take that will assure a higher level of confidence about
10 oil and gas -- offshore oil and gas activity in the United
11 States.

12 I just wanted to take a moment to remind us that after the
13 Exxon Valdez oil spill a lot of changes were made in our
14 country. Think about it, double hulled tankers, escort
15 vessels in and out of Prince William Sound, the adoption of the
16 Oil Pollution Act of 1990 which I might note was adopted by
17 Congress unanimously. Doesn't that seem impossible in this day
18 in age. The Oil Pollution Act of 1990 was adopted by Congress
19 unanimously. It was an opportunity for people to say there are
20 changes that need to be made and we're going to step up to the
21 plate and make them. And it is my hope, perhaps a naive one,
22 that the Deepwater Horizon event like the Exxon Valdez event,
23 will provide us an opportunity to do things better.

24 So those are the reports available on line. The
25 oilspillcommission.gov site has in addition to the full report,

1 the recommendations. It also has Staff papers that were
2 prepared on a whole variety of topics from corporate
3 accountability to spill response preparedness, so there's just
4 -- there's a lot of material there and I encourage you to go
5 visit.

6 So let me add just a couple of observations of my own.
7 The interesting thing, that comparison with Norway and I would
8 just note this is the annual report that was produced from the
9 Norwegian Safety Institute and the Norwegian folks spent a fair
10 amount of time with us talking through the different ways in
11 which regulation in Norway works from regulation in the United
12 States.

13 And I realize that we're a different country and, you
14 know, there are a lot of cultural differences as well, but I
15 would just note that the key difference that I mentioned
16 earlier and that is the prescriptive approach that the United
17 States has versus the approach that says industry has a
18 responsibility, performance based regulation that really takes
19 into consideration the unique conditions of each well, each
20 location, each team that comes together to work on a particular
21 project and involve a safety case for that particular
22 operation.

23 It's a very different mind set. It puts a bigger burden
24 on the companies that are involved in that particular
25 development. It also requires a much better partnership

1 between the regulator and the industry to share common goals
2 about how to get to that safer operating condition that manages
3 risk more effectively.

4 In Norway it's quite clear that there is a higher degree
5 of mutual trust between the regulator and the industry. It is
6 less of a confrontational situation than it is in the United
7 States. There are fewer lawsuits. There's also more support
8 culturally, support for the idea that we want to do it right
9 and regulate it appropriately than there is in this country
10 frankly. I mean, I turn on the radio this morning and what I
11 hear from Washington D. C. is cut out regulations and we'll
12 grow jobs.

13 Well, if turns out that, you know, regulations actually
14 help industry help people help the environment. Help from the
15 standpoint of creating a safer working condition for workers if
16 it's done right. And I think our takeaway isn't so much that
17 we need more regulations, it's that we need a different way of
18 approaching this partnership between industry and government to
19 assure the safe kind of operations that everybody should have
20 an interest in.

21 It's not just about doing it quickest, cheapest. It's
22 about doing it best and safest. And there are a number of ways
23 in which I think again we can learn from our peer nations and
24 think differently about how we do business.

25 You know, the -- I mentioned the patchwork quilt before of

1 regulations, you know, we think OSHA regulates safety for
2 worker safety. OSHA doesn't regulate worker safety in offshore
3 oil and gas activity. On OCS rigs it's -- on offshore oil and
4 gas rigs it's the Coast Guard. I thought that was, again, one
5 of those things that came as a complete surprise for me.

6 Now, the Coast Guard doesn't have the expertise in
7 regulating workers safety that OSHA does, but yet it's the
8 Coast Guard who is supposed to be responsible. Well, fine
9 except it turns out the Coast Guard has other priorities
10 particularly after 9-11, so 9-11 -- you know, 9-11 was, kind
11 of, a big changeover point for the Coast Guard in terms of how
12 much resources it would devote to its traditional things like
13 search and rescue or fisheries management, not to mention
14 worker safety on an oil and gas development, so guess what,
15 Coast Guard delegates its inspection responsibility to MMS.

16 You know, I mean, it's very confusing. It was one of
17 those things it was, sort of, like peeling back an onion for
18 me. The more peeling I did, the more I realized that from both
19 an operator's perspective to the industry's perspective, as
20 well as the individual agency personnel, the way we're doing
21 business is very confusing and results I think in missed
22 opportunities.

23 Processed safety is a science and yet the process safety
24 science that you would think would be built in to how we do
25 business in very high risk industries like particularly

1 deepwater oil and gas drilling in the Gulf of Mexico is pretty
2 much not part of the equation or at least it wasn't part of the
3 equation before April 20 in the way in which MMS did business.

4 MMS relied very, very heavily on industry for basically
5 setting standards. The approach that MMS used was that API
6 would set the industrial standards. More-or-less there was a
7 delegation by MMS to API. That sounds like a good idea from
8 the standpoint of API and the industry having a lot of
9 expertise, but if you realize that it also sits within an
10 industry that has the responsibility to lobby for its members
11 against additional costly regulations you can see the kind of
12 internal conflict that, that might create for API.

13 And yet MMS over the years was losing the necessary
14 technical expertise that might actually have helped them decide
15 what the appropriate standards would be because they did this
16 delegation.

17 Again, it's not something that obvious to the casual
18 observer about how this works. And I would say that, again,
19 over time it has led to a sense of competency and lack of
20 confidence that we actually know what the rules are, know what
21 the standards are or that we feel as though we have best
22 practices.

23 Now, a lot of people in the United States want to believe
24 that we do things the safest, that we are the gold standard.
25 And I'm afraid to say that, that at least from our ability to

1 analyze the information that was available, and as I mentioned
2 before the lack of data collection by the federal agencies
3 about the specific numbers of fires and accidents and deaths
4 and loss of well control, the lack of really good data makes
5 it, kind of, blurry.

6 But the Wall Street Journal did a comparison last year.
7 The Wall Street Journal did a comparison and, you know, you
8 just had to walk away from looking at the Wall Street Journal's
9 comparison and say well, that's the best data that was
10 available, but the conclusion is we don't have a handle on the
11 best way to regulate or to manage risk if we really want to be
12 the best in the world. If we really want to be the gold
13 standard we're going to have to actually admit that there are a
14 few places like Norway that we can learn from and make changes.

15 So I think that I have gone on longer probably than you
16 wanted me to go on. Let me just see if there's anything else
17 that I wanted to say. We could talk a lot about the
18 environmental risk issues that are associated with the way in
19 which categorical exclusions and the way in which EIS' have
20 been done. I know that's far afield of your principle mission
21 so I think I will skip comments about that and simply say that,
22 you know, to the extent that I understand what you are trying
23 to accomplish in these reviews of both your regulations and
24 looking at both what the industry, the public and other people
25 like myself have to offer, I just want to thank you for using

1 this time as an opportunity for you to ask yourselves is Alaska
2 doing the best job it possibly can and look for ways that you
3 can do it better. Thank you very much.

4 CHAIRMAN SEAMOUNT: Thank you very much, Chancellor Ulmer,
5 for a very interesting, insightful and informative presentation
6 and you did not go on too long. Everything you said is going
7 to be very helpful to us.

8 We're going to have some questions, but before we do you
9 introduced an 11 (sic) page document that was released on
10 January 11th, 2011 and it's title, Oil Spill Commission
11 Landmark Report on Gulf Disaster Proposes Urgent Reform of
12 Industry and Government Practices to Overhaul U.S. Offshore
13 Drilling Safety. And I think that's already been entered into
14 the record, is that correct? If you don't know maybe we should
15 go check. It hasn't been?

16 COMMISSIONER FOERSTER: I don't think it has been (ph).

17 CHAIRMAN SEAMOUNT: Okay. Then I.....

18 COMMISSIONER FOERSTER: I move that it be entered into the
19 record.

20 COMMISSIONER NORMAN: Second.

21 CHAIRMAN SEAMOUNT: All in favor say aye?

22 IN UNISON: Aye.

23 CHAIRMAN SEAMOUNT: Oil Spill Commission Landmark Report
24 on Gulf Disaster Proposes Urgent Reform of Industry and
25 Government Practices to Overhaul U.S. Offshore Drilling Safety

1 is unanimously entered into the record.

2 Commissioner Norman, do you have any questions or
3 comments?

4 COMMISSIONER NORMAN: I do. First I want to note that
5 last year when co-chairman Reilly was up here you were good
6 enough to invite the three Commissioners to spend an hour with
7 you all in your office and we did appreciate that opportunity
8 to share some of our perspectives with you.

9 Much has been said about the culture, safety culture in a
10 company, in an industry, in an agency and so forth and I found
11 myself asking assuming all corporations start out with just
12 pieces of paper and they, kind of, are brought into the world
13 and they start cer- -- presumably with a clean slate.

14 What in your opinion creates a good safety culture within
15 a company? What drives that? And the flip side of that
16 question is what features prevent a company from having a good
17 safety culture?

18 CHANCELLOR ULMER: Commissioner Norman, I might note that
19 during our hearings when the Commission held meetings both in
20 Washington D.C. and in the Gulf of Mexico region we invited
21 testimony specifically from industry people to come talk to us
22 on a wide variety of things and because we didn't have subpoena
23 power it was, sort of, up to the industry to step forward and
24 many people did.

25 And I remember particularly with regard to the question

1 that you're asking a day in Washington D.C. at one of our
2 hearings where Rex Tillerson (ph), the president of Exxon and
3 Marvin Odem (ph), the president of Shell came before the
4 Commission and spoke to this question of safety culture.

5 Both of them described at some length the changes that
6 those two companies have undertaken over the years to attempt
7 to create for workers at all levels of the organization a
8 commitment to continual improvement when it comes to safety and
9 process safety.

10 And I don't have independent knowledge of what they have
11 done so I am simply telling you what they told us which is that
12 you have to reward people for the right thing. So if you
13 create within a company a reward structure that is all about
14 shaving time off or shaving money off a business operation, you
15 will get a corporation that is primarily preoccupied with
16 shaving time off and money off. If you reward people for
17 taking the extra step with regard to safety you will encourage
18 that behavior. Now that's one level.

19 There are other things as well, but I specifically
20 remember what Marvin Odem (ph) said to illustrate that. They
21 have a policy as he described it of a stop work, so if anybody
22 on an offshore oil and gas rig feels as though there is
23 something that is dangerous they can say stop and everything
24 has to stop.

25 And he described an event in the Gulf of Mexico where a

1 worker did so, everything stopped and it turned out the problem
2 that, that worker identified really wasn't a problem, but in
3 spite of that Marvin Odem helicoptered out to that rig and,
4 sort of, pinned a metal, you know, on this person to say thank
5 you for doing it because it was important to us that everybody
6 knew that it was a good thing and that you wouldn't get
7 penalized for that. You'd get rewarded for it. Now that's
8 what he described.

9 That's very different than a company in which you would
10 say to that person, you know, you get docked two weeks pay
11 because you ended up costing us a million dollars 'cause we
12 stopped work that day. So a piece of it is the leadership and
13 that kind of encouragement and a reward structure.

14 I think another important piece of it is recognizing that
15 process safety and safety management is a science and it's not
16 something that you just, kind of, do because you announce in
17 the morning -- this is not an insult, that this is how you get
18 out of the building if there's an earthquake. I mean, that's a
19 piece of it, but it's actually built into the engineering of
20 projects and you involve everyone, the principal operators, the
21 contractors, the subcontractors. You involve people, the
22 workers, Unions if you have them.

23 I mean, Norway has Union representatives at the table when
24 they develop their process safety case for a particular
25 project. You involve people and you structure it in a way that

1 actually minimizes the risk to the extent practical and I think
2 that's something we ought to acknowledge. You can never
3 eliminate risk from these very high risk operations, but you
4 can actually build into your business plan by using process
5 safety science ways in which you minimize.

6 And clearly when you look at the temporary abandonment
7 plan that ended up being used on the Deepwater Horizon you can
8 -- you know, if you were grading that paper as a teacher, you
9 know, it would be an F because of the many, many, many steps
10 along the way that should have, could have kept that from
11 happening.

12 A process safety management approach that actually builds
13 into the system the kind of governing -- you know, here -- here
14 -- your tripwire. Negative pressure test, somebody on shore
15 has to look at why, not just somebody on that rig or a third --
16 I mean, there are a number of ways you can build in against
17 that, sort of, human error never completely eliminating it, but
18 there's a lot that can be done about that.

19 And, again, that's one of the reasons that we recommended
20 that industry create its own safety institute so it's not just
21 about government telling, but it's about industry helping,
22 perhaps, some of the slower learners.

23 You know, the oil and gas industry isn't just a bunch of
24 big guys. It's big guys. It's little guys. It's medium guys.
25 It's specialty guys. It's people that are more like holding

1 companies that don't do much of the work, they just have a
2 whole bunch of other people do it. There are some that are
3 vertically integrated. It's a very diverse industry.

4 So it's complicated, but creating these incentives both
5 within a company and creating the science of process safety and
6 creating the best practices that really up everybody's safety
7 record, I think that's what really needed.

8 COMMISSIONER NORMAN: I have one more question, Mr.
9 Chairman, (simultaneous speech).....

10 CHAIRMAN SEAMOUNT: Okay.

11 COMMISSIONER NORMAN: You touched briefly on this,
12 Chancellor Ulmer, but was there discussion in the course of
13 your deliberations at that National Commission about how things
14 might have played out had the operator been a company without
15 the financial resources of BP, a much smaller operator, who
16 would have stepped in and managed this situation if that
17 smaller operator's financial capabilities made it impossible
18 for a response?

19 CHANCELLOR ULMER: We did not spend a lot of time with
20 that question because given our assignment and a six month
21 deadline we had to pretty much focus on what was in front of
22 us. We did talk about it in general terms when we made
23 recommendations, for example, along the lines of increasing the
24 cap on the liability which I mentioned earlier.

25 I mean, either individuals and companies and businesses

1 whether it's a fishing industry, a oyster farm or whatever,
2 would end up completely without being able to get any resources
3 from anybody or the Federal Government would have to step it.
4 And at a time when we're very preoccupied with cutting the
5 Federal Government's expenditures, the idea that you would just
6 allow an operator to walk free and clear doesn't seem like a
7 good social solution.

8 I mean, the alternatives really are the company pays, the
9 Federal Government pays or the people who are injured pay.
10 Take your pick. So increasing the liability limit and
11 increasing financial responsibility requirements or insurance
12 requirements or some other way to make sure that the operator,
13 the principal responsible party is able to deal with whatever
14 accident occurs seems to be the appropriate notion.

15 It's why, frankly, Norway and some other countries have
16 such a high threshold in terms of a company's ability to
17 actually get a lease. Their approach is not you put, you know,
18 a bunch of land on the market and you just whoever pays the
19 highest price gets it. You have to have a very different level
20 of reassurance to the government that you would be able to
21 handle the situation both from the standpoint of technological
22 capability, but also from the standpoint of financial
23 responsibility.

24 So we talked about it in that context and made a fewer
25 recommendations that relate to that, but clearly it would be a

1 very different world than the one we're in right now when BP
2 has already written out hundreds of millions of dollars of
3 checks to individuals, to the research community, to the
4 universities, not to mention for the spill costs themselves.
5 We'd be in a very different situation as a nation if it had
6 been somebody else.

7 COMMISSIONER NORMAN: One short follow-up question, Mr.
8 Chair.

9 My question was slightly more focused, not so much on who
10 would be -- respond for damages, who would compensate the
11 oyster farmers, the -- clean up the coast line, but as I recall
12 at the time as events were unfolding there was a frustration on
13 the part of the public, the administration that this couldn't
14 be brought under control and there was some suggestion it
15 should be transferred over to the Coast Guard or the Navy or
16 the military and as I recall there were some pretty candid,
17 honest statements that we don't have the capability to take
18 this over, so that left it up to BP.

19 And as far as I can think it through what would have had
20 to have happened is the rest of the industry would have had to
21 come in and combine and take this over, the government not
22 having the ability to do that.

23 CHANCELLOR ULMER: Well, the Federal law, EXLU (ph),
24 requires the responsible party, the lessee, BP, to do the
25 response, that is -- that is the law. It doesn't say the Coast

1 Guard will do it or the Navy will do it. It says the
2 responsible party is responsible. And that the Coast Guard
3 under the National Incident Command System becomes a partner.
4 I mean, they hated using that word and they said we're not
5 partners, but in a sense the Coast Guard does become a partner.
6 The responsible party is primarily the entity that does it,
7 runs it, pays for it, but the Coast Guard is supposed to be
8 there, kind of, as a partner.

9 And clearly Thad Allen (ph) who was the incident
10 commander, Admiral -- former Admiral from the Coast Guard made
11 a couple of very, you know, clear statements about, you know,
12 the public doesn't accept BP being the entity that's supposed
13 to do the clean-up. The public expect us to do it and the
14 Coast Guard doesn't have the authority. Doesn't have the
15 ability. Doesn't have the capability. Doesn't have assets.
16 doesn't have the resources to do this. I mean, it's not the
17 way we're structured.

18 Now, you could structure it that way. I mean, I guess,
19 you know, if Congress wanted to give the Coast Guard the money
20 and the ships and the people that would be standing at the
21 ready for oil spill response, we could run our business that
22 way, but that isn't what the law provides.

23 It's not how it's done in this country, but having said
24 that as Thad Allen often said, the Federal Government has to be
25 capable of being the backstop or in some sort of partnership

1 with others whether it's local entities employing local
2 fishermen, you know, with their ships of -- boats -- ships of
3 opportunity -- vessels of opportunity, that's the term and, of
4 course, we did that in Alaska, too, you know, where people get
5 hired on to help.

6 There's no way that you can have enough boats, enough
7 people. You have to use a variety of techniques to respond to
8 something as massive as this spill was in terms of the
9 geographic area and the way in which the oil dispersed, et
10 cetera, but the question you raise is back to if it hadn't been
11 BP and had it been a smaller company or -- yes, I guess, both
12 the Coast Guard and other Federal assets, maybe the Navy and
13 others, yes, other companies. You know, other companies did
14 come in and help with the containment effort, the -- adding
15 both engineering expertise and business expertise and it was an
16 amazing group of people who came together to engineer the
17 response at least from the standpoint of the containment.

18 I guess, it's cert- -- it's a good question that we need
19 to ask ourselves as a nation. We say that we want to cut
20 government, but when something like this happens we want
21 government to be ready to be able to save our shorelines and,
22 you know, rescue people where maybe we -- we say one thing and
23 mean something else as a nation. I don't know.

24 Clearly in the Arctic it is still the case that the
25 Federal law will require the responsible party to step forward

1 with the capability to respond. To contain, to clean-up the
2 spill. And I know that the companies that are applying and
3 hope to move forward are standing up, some pretty remarkable
4 capacity beyond what they're actually required to do by Federal
5 law.

6 Having said that, if an incident were to happen in the
7 Arctic, I think we all know that we would expect the Coast
8 Guard to be there not just to respond to a spill, but to be
9 there to rescue people in case of, you know, ships going down
10 or whatever and the Arctic is a very challenging place, so I
11 guess we need to do both, Commissioner. We need to do whatever
12 we can to assure that the industry is capable and we have to do
13 a better jobs of assuring that our governmental agencies, like
14 the Coast Guard, have the assets they need and the training
15 that they need to be able to be there when we need them.

16 COMMISSIONER NORMAN: Okay.

17 CHAIRMAN SEAMOUNT: Thank you, Commissioner Norman.
18 Commissioner Foerster.

19 COMMISSIONER FOERSTER: I have a few questions. First,
20 thank you for coming and I'd heard this before. We sat on a
21 panel at UAA many months ago and I really enjoyed your comments
22 then and I get a little bit more out of them each time I hear
23 them so, thank you.

24 My first question is just more curiosity. You show the
25 Arctic research boundaries and it's a perfect circle except

1 around Alaska and Russia, do you have any insights into why
2 that was 'cause I looked over on the east side and I thought
3 well, you know, you could have (indiscernible) that island or
4 that coast?

5 CHANCELLOR ULMER: The map that I showed is the definition
6 of the Arctic under the U. S. Arctic Research and Policy Act
7 that was adopted in 1984.

8 COMMISSIONER FOERSTER: Oh, okay, ancient history.

9 CHANCELLOR ULMER: So I -- there are many different
10 definitions of the Arctic, I might just note. Scientists,
11 policy people, the Arctic Council, there are lots of different
12 definitions. That happened to be the boundary that comes out
13 of an Act passed by Congress when they created the U. S. Arctic
14 Research Commission.

15 COMMISSIONER FOERSTER: '84, okay, thank you, that was --
16 I loved your question, is Alaska doing the best that it
17 possibly can and your anecdotes about OSHA points to the Coast
18 Guard, the Coast Guard points to somebody else. You know, here
19 in Alaska, is Alaska doing the best it possibly can, about a
20 year or so ago there was a whistleblower complaint at Oooguruk
21 and a lot of the complaints were outside of our jurisdiction
22 and they looked to be more general worker safety.

23 So I contacted the State OSHA and asked them if they had
24 seen the report. Yes, they had. Were they going to do
25 anything about it and their answer was no, Oooguruk is an

1 island. We don't have jurisdiction over that, that's the
2 Federal OSHA. And to which I replied well, there is an island,
3 but there's also on shore facilities as well, would you have
4 jurisdiction over those and the answer was well, we didn't
5 realize there were on shore facilities at Oooguruk.

6 Is the State of Alaska doing the best that it possibly
7 can, I would cite that in that instance that wouldn't be
8 demonstrated.

9 As someone that I would love the opportunity to have a
10 chance to vote for, for Governor, what would you say we need to
11 do about that kind of an attitude? Did I say that.....

12 CHANCELLOR ULMER: It's hard for me to comment.....

13 COMMISSIONER FOERSTER:sweetly enough?

14 CHANCELLOR ULMER:on that. Let's just say that the
15 ability to grasp all of the LARS (ph) regulations and different
16 agency jurisdictions about what we're describing here this
17 morning is really hard. And I'm sorry to say that in this day
18 and age there seems to be a preoccupation at many levels at
19 taking complex problems and coming up with very simplistic
20 solutions. And, I mean, there's that old saying for every
21 complex problem there's a simple solution and it's pretty much
22 always wrong.

23 And in this case you'd actually need some sort of a wall
24 chart. I mean, maybe a three dimensional wall chart with state
25 jurisdiction, federal jurisdiction and even within the federal

1 jurisdiction, you know, what's Coast Guard, what's EPA.

2 You know, EPA regulates dispersents, right. So you've got
3 dispersents by EPA. You've got worker safety by the Coast
4 Guard. You've got leasing and theoretically, you know, the
5 management of safety by MMS, now BOEM. You've got the Coast
6 Guard that's supposed to -- it's a bit of a mess. And so for
7 us to tease out the boundary between state jurisdiction and
8 federal jurisdiction, I'm not capable of doing that.

9 It would be lovely is somebody, a graduate student maybe
10 at the University would draw a simpler map of that so that
11 people could see what kind of issues are falling through the
12 cracks and so that there could be a bit of a manual for both
13 the regulators and the industry about whose jurisdiction are
14 you really in for what kinds of issues.

15 That is exactly what gave rise to Norway's attempt to
16 reframe their regulatory regime in 2001 which came up with this
17 different approach that basically has one agency that's all
18 about regulating the safety and one that's about leasing the
19 areas and managing the resource for purposes of, you know,
20 where you develop, under what circumstances, so they've
21 simplified down dramatically to two entities.

22 And, by the way, I will leave one of these for each of you
23 and I will also leave this, but I'd like it back and this is
24 the Petroleum Safety Agency of Norway's description of some of
25 the changes they've recently made in their regulatory regime.

1 I think there is a way that we could puzzle through. The
2 problem is I don't know how the Federal Government is going to
3 end up reformulating its regulatory regime 'cause there's just
4 so much that the Department of Interior can do without OCSLA
5 (ph) amended without some of the other federal laws being
6 amended.

7 So obviously, you know, BOEMRE, they're making a lot of
8 changes both in terms of how their organized and what
9 regulations they're adopting, what standards they're setting,
10 but this patchwork quilt of other agencies being involved,
11 NOAH, EPA, Coast Guard and DOI, that is something Congress is
12 going to have to address if anybody is going to address it.

13 And I don't know that Congress right now is in the right
14 frame of mind to view offshore oil and gas regulatory
15 streamlining as a plus. They should because it would, I
16 believe, cut costs for both industry and federal regulatory
17 agencies without reducing risk.

18 I think you could make an excellent case that industry
19 would waste less time and less money on unnecessary filings,
20 paperwork and lawsuits and you could make an excellent case
21 that federal agency personnel could be better trained, have
22 more expertise and be more focused on their mission if you
23 reorganized the way in which we are doing business at the
24 federal level.

25 How the state fits into that, you probably have a working

1 knowledge in your own head of how you'd want to change that and
2 it probably is way better than mine, but I think it's one of
3 the things that I would love to see as a legacy from this
4 experience.

5 I hate to say this, but I actually have a doctor's
6 appointment at 10:30, so I probably have time for one more
7 question.....

8 COMMISSIONER FOERSTER: Okay, I do have one more.....

9 CHANCELLOR ULMER:and then I've got to go.

10 COMMISSIONER FOERSTER:question that's a follow-up
11 to that one.

12 CHANCELLOR ULMER: Okay.

13 COMMISSIONER FOERSTER: When I had that conversation with
14 the Department of Labor Alaska OSHA employee and I pointed out
15 that they did have some on shore facilities and asked were you
16 going to follow-up and investigate this, the answer was no and
17 they didn't. And I was shocked and troubled by that and I
18 think I should have been, but maybe you disagree, but I look
19 out here today. We're got BLM, ERE, ML- -- LMRST (ph). We've
20 got DEC. We're got DNR. We've got people from every state
21 agency, but we don't have anybody from Labor and if workers'
22 safety is one of the most important things that we hope to get
23 out of this, should I be troubled that they're not here?

24 Okay, that was a rhetorical question. You need a doctor's
25 appointment.

1 CHAIRMAN SEAMOUNT: Okay, again, thank you very much
2 Chancellor Ulmer and we appreciate the time you've taken to
3 come and address us -- this hearing.

4 CHANCELLOR ULMER: Thank you very much for the
5 opportunity. I hope it was somewhat helpful and as I said I
6 will leave this with you and would like to get this one back,
7 but I'll bring more of these. I'm almost out, but I'm happy to
8 have them. And, again, I really thank you for what you do for
9 Alaska and what you're doing now to improve safety. Thank you.

10 CHAIRMAN SEAMOUNT: Thank you.

11 COMMISSIONER NORMAN: Thank you.

12 COMMISSIONER FOERSTER: Thank you.

13 CHAIRMAN SEAMOUNT: Our next scheduled speaker is Bowen
14 Roberts from ConocoPhillips. Is he here? Oh, okay, good.
15 What we'll do is take a -- why don't we take a 15 minute break
16 and we'll return at 10:35.

17 (Off record comments)

18 CHAIRMAN SEAMOUNT: We'll return at 10:36. The time right
19 now is 10:22 and we're off the record.

20 (Off record - 10:22 a.m.)

21 (On record - 10:38 a.m.)

22 CHAIRMAN SEAMOUNT: Our next presenter is Mr. Bowen
23 Roberts from ConocoPhillips. Welcome, Mr. Roberts and thank
24 you so much for taking your time to come down and present.

25 MR. ROBERTS: Thank you for the opportunity and the

1 invitation.

2 Good morning Chairman Seamount and Commissioners Foerster
3 and Norman. My name is Bowen Roberts. This morning I'm
4 representing ConocoPhillips Alaska. I'm the chief drilling
5 engineer and completion manager for ConocoPhillips in the
6 Drilling and Wells Group. I'm a registered professional and
7 mechanical engineer. I hold an undergraduate degree in
8 Environmental Studies with an emphasis in Mechanical
9 Engineering. And have over 30 years experience in the oil and
10 gas industry. My assignments have included well engineering
11 superintendent and managerial positions in California,
12 Indonesia, Equator, India, Egypt and Alaska.

13 In addition to myself I'd like to recognize Mike Winfree.
14 He's a principal drilling engineer with ConocoPhillips in
15 Alaska. I'm sure some of you know Mike.

16 I'd like to take the opportunity to review the written
17 comments that ConocoPhillips Alaska submitted to the Commission
18 on September 14th on Docket OTH-10-16 and ask that they be
19 entered into the record.

20 CHAIRMAN SEAMOUNT: Do we have those comments with us?

21 COMMISSIONER NORMAN: We do, right here.

22 (Simultaneous speech)

23 COMMISSIONER FOERSTER: You should have them.

24 CHAIRMAN SEAMOUNT: I've got so much stuff up here.

25 COMMISSIONER NORMAN: They've been -- they've been entered

1 into the record.

2 CHAIRMAN SEAMOUNT: They've been entered, okay.

3 COMMISSIONER FOERSTER: (Simultaneous speech).....

4 MR. ROBERTS: The Docket OTH-10-16 seeks comments
5 concerning whether changes or additions may be needed to the
6 Commission's regulations governing drilling, rig workover and
7 well control in offshore and ultra-extended reach wells drilled
8 in the State of Alaska under the Commission's jurisdiction.

9 It should be noted that there is no regulatory or commonly
10 accepted definition of ultra-extended reach wells. In order to
11 promulgate regulations, the Commission must first define what
12 is being regulated and hence, must first define the category of
13 wells that are ultra-extended reach wells.

14 ConocoPhillips comments here are general enough to apply
15 to a general category of wells without a precise definition of
16 ultra-extended.

17 In general, ConocoPhillips Alaska believes that the
18 current Commission regulatory regime effectively regulates and
19 ensures well control for offshore wells and ultra-extended
20 wells within the State of Alaska and under the Commission's
21 jurisdiction. ConocoPhillips Recognizes that deep water
22 offshore drilling presents unique circumstances. Deepwater
23 drilling conducted on the Outer Continental Shelf would be
24 regulated by the United States government, currently through
25 the Bureau of Ocean Energy Management, Regulation and

1 Enforcement commonly known as BOEMRE.

2 Deepwater wells are drilled from floating rigs and utilize
3 different blowout preventors, casing technology and cement
4 technology than are used for shallower water wells that are
5 drilled from a jack-up. In general, drilling from floating
6 rigs is much more complex than drilling from either land or
7 offshore jack-up rigs. This distinction is important to note.

8 ConocoPhillips' comments here do not address deepwater
9 offshore drilling, but focus on drilling from land rigs and
10 offshore jack-up rigs that utilize surface blowout preventor
11 equipment.

12 The safety record to date for drilling, rig workover and
13 well control in Alaska shows that the Commission's existing
14 regulations have provided effective regulatory oversight for
15 exploration and development activity in the State of Alaska.

16 The Commission has historically updated these regulations
17 as necessary to ensure they address advances in operations and
18 technology. The process of updating specific regulations often
19 includes obtaining the input of a Commission sponsored
20 technical working group and also includes public posting of
21 specific regulations for public comment, which allows other
22 regulatory entities, industry, non-governmental organization
23 and private citizens an opportunity to provide input to the
24 rulemaking process.

25 Finally, the Commission's current regulatory structure is

1 not overly prescriptive and allows for flexibility in oil and
2 gas operations to accommodate situations not necessarily
3 contemplated by the regulations by allowing for variances from
4 the existing regulations where there is a good engineering
5 justification and within the approval of the Commission.

6 ConocoPhillips believes that this regulatory approach
7 results in innovative and effective designs and operations and
8 has been a key basis for the historic success the Commission
9 has achieved in ensuring safe operations in the oil and gas
10 industry in Alaska.

11 In Docket OTH-10-16, the Commission has requested comments
12 on issues that do not appear to be specific to shallow offshore
13 or ultra-extended reach wells. For example, casing design and
14 cementing are not topics specific to these type of wells and we
15 see no difference in the principles or requirements for a
16 casing design and cementing practices for regular on shore
17 wells compared to offshore wells drilled from a jack-up rig or
18 ultra-extended reach wells.

19 So there are 14 specific areas mentioned in the inquiry.
20 I'm only going to review the areas where we had specific
21 comments rather than go through all of them.

22 Number 4 was whether regulations should be adopted to
23 require third-party certifications of blowout prevention
24 equipment. And this would be a new area of regulation in
25 Alaska and ConocoPhillips would support forming a Commission

1 sponsored technical working group to review the merits and
2 impacts of requiring third party certifications of blowout
3 preventors.

4 Number 8, Commission regulations governing casing and
5 cementing programs and evaluation of same, including without
6 limitation, whether there is need for a new regulation
7 governing performance of cement bond tests, whether there is
8 need for a new regulation prescribing procedures for use of
9 centralizers and whether there is a need for new regulation
10 governing use of lock-down sleeves.

11 These questions raised all fall within the general topic
12 of forming effective barriers in a well, that is, what barriers
13 should be in place in a well while drilling and completion
14 activity and how to get them in place. This would be a new
15 topic for possible regulation in Alaska and would require
16 extensive discussion and analysis of what, if anything, might
17 be appropriate and effective.

18 ConocoPhillips Alaska would support forming a Commission
19 sponsored technical working group to review and discuss the
20 merits and impacts of developing a section in the Application
21 for Permit to Drill that would specify what barriers would be
22 in place during the drilling and completion of a well.

23 Number 10, casing requirements for offshore and ultra-
24 extended reach drilling, including use of single casing strings
25 versus tie-backs and this is similar to the last topic. Some

1 of the information used in casing design would include
2 formation pressure, fracture gradient, borehole stability and
3 temperature including maintaining barriers within hydrocarbon
4 zones. Use of long strings versus liners with tiebacks should
5 be based on the pressure regime of the well and be addressed in
6 the Application to Permit to Drill process.

7 The key issue is to incorporate barriers into the well
8 design and verify of the barriers status during well
9 construction and completion. ConocoPhillips believes that
10 requiring one particular design would be overly prescriptive
11 and could not account for the unique situation that each new
12 well may present.

13 Number 11, should the Commission require operators
14 drilling offshore or ultra-extended reach wells to demonstrate
15 the ready capability to drill a relief well if necessary.

16 In general there are three possible ways to regain well
17 control in the event that loss of control has occurred or is
18 imminent. (1) utilization of the blowout preventor on the rig
19 that is drilling the well. (2) utilizing well capping
20 equipment/technology. And (3) drilling a relief well.

21 Oil and Hazardous Substances Pollution Control regulations
22 at 18 AAC 75 emphasize the utilization of well capping
23 technology as a viable technique for reestablishing well
24 control. Well capping technology has been effectively utilized
25 in reestablishing well control in hundreds of well control

1 events world wide. Nonetheless, addressing the specifics in
2 request for the comment, ConocoPhillips believes an operator
3 should have a plan that identifies the requirements that would
4 be needed in a relief well and the availability of a relief
5 well rig.

6 Number 12, should the Commission consider requiring
7 concurrent relief well drilling in offshore and ultra-extended
8 reach drilling operations. The short answer is no.

9 The long answer is adequately designing and developing
10 directional plans for a relief well requires detailed bottom
11 hole information of the target well and the exact location of
12 the target well. Having a precise directional plan for a
13 relief well is critical to ensuring success.

14 These and other issues involve unique risks and
15 circumstances associated with drilling relief wells, most of
16 which would not be known with any precision until the incident
17 giving rise to consideration of a relief well happens. These
18 risks at the time need to be compared with the risks and
19 potential benefits of a well capping technology before
20 selecting a well control option. Requiring concurrent relief
21 well drilling in offshore and ultra-extended reach drilling
22 operations would be unprecedented to ConocoPhillips' knowledge
23 and would result in substantial unnecessary expenditures with
24 little, if any, benefit and would cause otherwise viable and
25 economic wells to not be drilled.

1 Thank you for the opportunity to comment and
2 ConocoPhillips looks forward to working with the Commission in
3 technical working groups to discuss and evaluate the topics
4 indicated in my testimony.

5 CHAIRMAN SEAMOUNT: Thank you, Mr. Roberts.

6 Commissioner Foerster, do you have any questions.....

7 COMMISSIONER FOERSTER: Yes, I do.

8 CHAIRMAN SEAMOUNT:or comments?

9 COMMISSIONER FOERSTER: Yes, I do. Mr. Roberts, thank you
10 very much for the comments provided by ConocoPhillips. My
11 first question I'm going to show unusual restraint and not ask.
12 All right, so, for the record I again showed restraint which I
13 rarely do.

14 My second question.....

15 CHAIRMAN SEAMOUNT: I'm surprised.

16 COMMISSIONER FOERSTER: I know, everyone should go
17 (indiscernible). You recommend a few work groups. The last
18 few work groups that the AOGCC has initiated have taken -- I
19 think one of 'em took almost a decade to get anything useful
20 out of it, but do you have any suggestions on how to make one
21 of these work groups something other than a permanent stalling
22 tactic.....

23 MR. ROBERTS: Well, certainly that wouldn't be a --.....

24 COMMISSIONER FOERSTER:or semi-permanent?

25 MR. ROBERTS:not the strategy that we're advocating

1 here. Our -- we're advocating working together and
2 accomplishing something.

3 COMMISSIONER FOERSTER: Which has been the advocacy in the
4 previous ones as well, but the experience in the seven years
5 I've been here, six, 12, it seems like forever, it was they
6 just bogged down into unless we can reach consensus we're not
7 going to move, so I'd really appreciate some thoughts on how to
8 make these work groups more productive than they have been in
9 the past.

10 MR. ROBERTS: Well, I'd have to get back to you on that.
11 I wasn't prepared to discuss the actual structure of the work
12 group, how it would function.

13 COMMISSIONER FOERSTER: Okay. That's al- -- oh, wait, I
14 did have one more. I know that from an industry perspective
15 the easy, comfortable answer is we don't need your help
16 regulators, so I really wasn't expecting a whole lot of oh, you
17 should add these regs and blah, blah, blah, but what I'd like
18 for you to think about for a minute is, you know, as a drilling
19 manager you've probably been to some company training or
20 management planning meetings since the Macondo disaster on what
21 internal policies are going to change within ConocoPhillips or
22 what's going to be reinforced.

23 And I'd like for you to think for a minute and maybe you
24 can get back to me later if you don't have an answer now, but
25 what are some things that Conoco has either enacted as internal

1 policy or reinforced within existing internal policies as a
2 result of the evaluation of the Macondo disaster that might be
3 gaps in our regulations that were you sitting here instead of
4 there with the knowledge that you have, you'd be whispering to
5 those two guys that we should do?

6 MR. ROBERTS: That's a good questions, so we've done a
7 couple of things and concurrently doing a couple of things in
8 response to -- into Macondo. Actually both the things that we
9 were -- well, there's several. We're -- they were already in
10 plans, but we've accelerated some of them. We've initiated a
11 new wells management system policy that's part of our corporate
12 health, safety and environment policy. And it has -- it has 16
13 different elements which I thought you might ask a similar
14 question so I happened to jot down the elements on my speaker
15 notes in case we needed to talk about it.

16 So they are policy and leadership. The second one is risk
17 assessment. Legislation -- the third one is legislation,
18 regulations and standards and, of course, that's telling
19 ourselves that we have to follow all the regulations. Programs
20 and procedures which has -- it's actually a fairly short
21 document, but it has requirements on what needs to be included
22 in a written program and procedure for different types of work.

23 The fifth one is well design envelop where we specify the
24 safe operating envelop for wells after they're constructed.
25 The sixth section deals on -- with management of change which,

1 of course, we already had a management of change policy, but
2 this is reinforcing that.

3 Number seven is emergency preparedness. Number eight is a
4 section on well control equipment. Number nine, well integrity
5 which has to do more with the integrity of the wells after --
6 when they're doing -- under production which a lot of that
7 input, by the way, came from our Alaska group or in our company
8 leader in that area.

9 Number 10 is awareness training and competency of company
10 personnel. And number 11 is awareness training and competency
11 of our contractors and, of course, that's I think a popular
12 topic with a lot of groups these days. Number 12 deals with
13 roles (ph) and responsibilities. Number 13 communications.

14 Fourteen, well hand over. How do you deal with once the
15 well is drilled and produced by one group how do you hand it
16 over to the operating group and if it needs repair how do you
17 hand it back to the group that's going to do that repair.

18 COMMISSIONER FOERSTER: Mr.....

19 MR. ROBERTS: You can call me Bowen, I don't mind.

20 COMMISSIONER FOERSTER: I apologize. After -- you speak
21 faster than I write. After competency of contractors?

22 MR. ROBERTS: Um-hum, rules and responsibilities was
23 number 12.

24 COMMISSIONER FOERSTER: Rules and resp- -- okay. I got --
25 and I got well hand-over and --.....

1 MR. ROBERTS: 13 was communications.

2 COMMISSIONER FOERSTER:and communications. Yeah.

3 MR. ROBERTS: 14 was well hand-over.

4 COMMISSIONER FOERSTER: Okay.

5 MR. ROBERTS: 15 is audits which deals with how the system
6 is going to be audited internally. And then 16 is system
7 review which is basically how we -- we audit ourselves. So
8 that -- that policy was put in place in August of 2010 and
9 became auditable (ph) in January and, again, it's part of the
10 -- actually part of the health, safety and environmental
11 organization, not the drilling and wells organization so we
12 would be audited by the -- by the safety group. So that.....

13 COMMISSIONER FOERSTER: Would you be willing to share that
14 -- the 16 pieces with our Staff?

15 MR. ROBERTS: You know, I'd have to check.

16 COMMISSIONER FOERSTER: Okay.

17 MR. ROBERTS: I know it's an internal document and.....

18 COMMISSIONER FOERSTER: Okay. I'd appreciate it if you'd
19 check.

20 MR. ROBERTS: But we could certainly arrange maybe a
21 presentation on what's in it rather than turning over the
22 document. I don't know.....

23 COMMISSIONER FOERSTER: That's fine.

24 MR. ROBERTS:I'll check with my lead counsel.

25 COMMISSIONER FOERSTER: The meat of the -- the meat of

1 what the document -- you know, like (ph).....

2 MR. ROBERTS: Yeah.

3 COMMISSIONER FOERSTER:a list of 16 isn't -- you
4 know, in my bad handwriting isn't going to be of value to the -
5 -.....

6 MR. ROBERTS: Okay.

7 COMMISSIONER FOERSTER:the Staff.

8 MR. ROBERTS: Okay. Well, the -- and it's -- that whole
9 document is only about eight pages long and what it requires is
10 each operating asset within ConocoPhillips put together their
11 own well management plan that meets those guidelines. So we're
12 in the process of putting that plan together and we'd have a
13 score card we've -- we put together on upgrading ourselves on
14 each of these elements and identifying what we need to improve
15 on.

16 Also we -- ConocoPhillips revised the corporate well
17 control manual. That was just released late August or early
18 September of this year. We revised primarily the subsea
19 section of it with -- and the equipment section of the drilling
20 part. There's a workover -- a separate workover section that's
21 being revised now and -- and then there -- we have a barrier
22 section in that manual that addresses what barriers need to be
23 in place when -- when the primary control system is taken off a
24 well.

25 In other words, before you take off the BOP or before you

1 take off the tree to install the BOP. And the Corporation is
2 currently revising a stand alone document to cover barriers
3 because is it such an important issue in well construction.

4 We've also -- internally working on -- on competency, you
5 know, we believe our people our competent, but we want -- we
6 need a way to try to figure out a way to document that which is
7 sometimes difficult when you have somebody whose basic
8 competency may be based on 30 years experience. How do you
9 prove that -- that, that led to competency, that's difficult.

10 COMMISSIONER FOERSTER: One more question. Have you
11 looked at any of your systems or processes or maybe just
12 philosophies on as Ms. Ulmer said, you know, you're rewarding
13 the right things, you know.....

14 MR. ROBERTS: Yeah, I can talk about that, no problem. So
15 -- so I was listening in the lobby and while she was talking
16 about safety systems and rewards versus punishment and I'm
17 proud to say our company has a reputation for rewarding good
18 behavior rather than punishing poor behavior.

19 We are -- we have a very strong program right now on
20 working towards a zero incident culture and matter-of-fact,
21 we're -- we've been doing a set of workshops with our employees
22 and contractors for the last -- it's been going on at least the
23 last eight or nine months. We're planning the next one within
24 a month or so and one of the key -- we do believe zero
25 incidents are possible and that's our goal.

1 The -- one of the key elements of that to get to the next
2 stage is interdependence and where instead of being sure that
3 everybody is doing -- doing their own work correctly, trying to
4 foster an environment where people are looking out for each
5 other more.

6 COMMISSIONER FOERSTER: So are you -- are you being
7 careful that the zero incident culture isn't a zero reporting
8 culture with walking wounded?

9 MR. ROBERTS: We've being very careful of that, yeah, so
10 we're.....

11 COMMISSIONER FOERSTER: And what are you doing to --.....

12 MR. ROBERTS: Well, we.....

13 COMMISSIONER FOERSTER:what are you doing in that
14 regard (ph)?

15 MR. ROBERTS: So in our basic metrics that we cover
16 besides incident rates one of them is what we call proactive
17 measures and primarily stop cards or different hazard analysis
18 or job safety analysis is -- analyses and so we put that metric
19 up on the screen every morning in our operations meeting. It's
20 -- it's up around 2,000 per -- I can't remember the unit now,
21 but it's basically a couple per hitch per person is what we're
22 shooting for.

23 And we -- excuse me. We also have guidelines on when to
24 report to the medic and in response to a couple of people that
25 had fairly minor first aid issues that got worse because they

1 didn't go to the medic, so we re-emphasized the guidelines of,
2 you know, anything that breaks the skin, any bruise. There's a
3 list that you must go to the medic.

4 And we're also -- right now we've been doing safety hazard
5 hunts on a regular basis on all our rig sites, not just the rig
6 sites, all our work sites because some of them don't have rigs.

7 And the last one in the winter in February was the
8 Iditarod -- our Iditarod hazard hunt where we had a contest
9 between all the working groups and every week they would follow
10 -- they would do a hazard hunt on a different theme, whether
11 it's falling objects or electricity or pressure release and
12 send in their top four and we voted on them and then they got
13 so many miles per the qual- -- based on the quality of their --
14 their analysis and they raced to Juneau -- I'm sorry, not
15 to.....

16 COMMISSIONER FOERSTER: Nome.

17 MR. ROBERTS: Nome, thank you. That took a while at 20
18 miles a pop, so the current one we've -- we're.....

19 COMMISSIONER FOERSTER: Nobody beat Lance Mackey?

20 MR. ROBERTS: No, nobody beat the dogs.

21 COMMISSIONER FOERSTER: Okay.

22 MR. ROBERTS: The current one, which we're four weeks into
23 now, is in response to the Most Dangerous Catch. We're having
24 a safest catch and they're being judged in pounds of crab per,
25 so but those are examples of things we're trying to do to get

1 people to look for hazards and feel comfortable in stopping the
2 job and things like that.

3 COMMISSIONER FOERSTER: But nothing in a finding that
4 resulted in a change in practice that falls outside of or more
5 stringent than our regulations? Do you know -- you know what
6 I'm asking?

7 MR. ROBERTS: No, could you ask again, please (ph).

8 COMMISSIONER FOERSTER: Okay. I'm say- -- I'm saying, did
9 you come up with internal policies that require you to follow
10 more stringent cementing or casing or blow-out prevention
11 requirements as a standard practice than our regulations
12 require?

13 MR. ROBERTS: I just went through Chapter 25 yesterday to
14 make sure I could -- was, you know, familiar with all the --
15 with all of it. I don't remember seeing anything (simultaneous
16 speech).....

17 COMMISSIONER FOERSTER: I'd appreciate a follow-up on that
18 if you -- if you.....

19 MR. ROBERTS: I mean, there are -- well, we talked about
20 here too about barriers in terms of casing and cement that is
21 something that, you know, I think we should talk about because
22 our barriers primarily -- our current barrier policy is based
23 on what you can do before you can take the BOP off so it's
24 really focused around what's the inside of the well and -- and
25 the Macondo -- the Macondo event had a lot to do with the

1 quality of the cement job as well and -- and.....

2 COMMISSIONER FOERSTER: So maybe the two areas that you
3 recommended work groups are areas where you see some potential
4 for (simultaneous speech).....

5 MR. ROBERTS: Well, barriers is something I think we
6 should -- we could.....

7 COMMISSIONER FOERSTER: Okay. So maybe that's the answer
8 to my question is that.....

9 MR. ROBERTS: The other one -- the other one I mentioned
10 was certification of -- third party certification of blowout
11 provision equipment, that's something that's not in the
12 regulations.

13 COMMISSIONER FOERSTER: Okay. All right. I had one last
14 question. You know, ConocoPhillips is, kind of, a hodgepodge
15 of different legacies right now from ARCO, ConocoPhillips,
16 several other, but part of the Conoco legacy was being owned by
17 Dupont for a while.

18 MR. ROBERTS: Um-hum. (Affirmative)

19 COMMISSIONER FOERSTER: Is there an impact of that? Is it
20 positive? I know Dupont is -- or used to be recognize as the
21 leader in safety, are there any things from the Dupont legacy
22 that you guys have.....

23 MR. ROBERTS: You know -- well, we have a very broad
24 based, behavior based safety program which is a legacy to the
25 Dupont stop system.

1 COMMISSIONER FOERSTER: Okay, okay, thank you.

2 CHAIRMAN SEAMOUNT: Commissioner Norman, do you have any
3 questions?

4 COMMISSIONER NORMAN: I do, Mr. Chairman.

5 Mr. Roberts, I think you described your title as chief
6 drilling engineer, is that -- is that the title you hold.....

7 MR. ROBERTS: No, it's a long one. It's chief drilling
8 engineer and completion manager, so it's really two -- two
9 separate functions.

10 COMMISSIONER NORMAN: Okay. And -- it's impressive.
11 And.....

12 MR. ROBERTS: Well, it's long. I don't.....

13 COMMISSIONER NORMAN: Earned I'm sure. Could you expand
14 on that a little bit and tell me the first -- first of all the
15 geographic area that you're chief of and secondly what slice of
16 the operations that you.....

17 MR. ROBERTS: Certainly.

18 COMMISSIONER NORMAN:oversee?

19 MR. ROBERTS: Certainly. So -- well, yeah, I can address
20 the overall organization of ConocoPhillips Alaska a little bit,
21 too. The head person in the drilling and wells organization is
22 the drilling and wells manager, his name is Mike Wheatall. And
23 then there are -- he has three direct reports. There's a
24 drilling manager, a wells manager and myself.

25 So the drilling manager is responsible for the operation

1 of the rotary drilling rigs. The wells manager is responsible
2 for the workover rig, the coil (ph) tubing drilling rig, the --
3 and the intervention operations.

4 And then as completion manager I manage the completion
5 engineers and the completion primarily of new wells, but
6 sometimes we consult on other wells as well. So completion
7 meaning once the well is drilled, logged and evaluated, how to
8 prepare for completion whether it's perforating the casing or
9 installing a gravel pack (ph) or liner, et cetera, the other
10 half of my job as the chief drilling engineer.

11 So we all have responsibility over Alaska. We're not --
12 we're not organized by fields. We're organized by function.

13 So as chief drilling engineer I'm responsible for
14 basically anything that is not specifically drilling and not
15 specifically wells. A lot of it has to do with the quality of
16 the operations.

17 I have -- we have a network of chief drilling engineers in
18 all our officers and we meet once a month by phone call to talk
19 about all kinds of issues that have to do with well integrity,
20 operations integrity, integrated planning, so forth. When the
21 well control manual was revised by ConocoPhillips I was on the
22 working group that consulted with that.

23 Then working for me besides the completion engineers are
24 we have the compliance engineer who is Randy Kanady (ph). He's
25 well known here. And then I have a performance engineer, some

1 technicians and functions like that.

2 COMMISSIONER NORMAN: The revision to well control manual,
3 what would involved under that general umbrella blowout
4 prevention equipment, safety valve systems, balancing and
5 drilling muds, integrity.

6 MR. ROBERTS: Right.

7 COMMISSIONER NORMAN: What else

8 MR. ROBERTS: Equipment, configuration, standards of the
9 requirements of the -- of mechanical requirements, closing
10 systems, testing frequency, testing procedures, well shut-in
11 procedures, kill procedures. It's pretty all encompassing.

12 COMMISSIONER NORMAN: Okay. Well, I want to thank you for
13 making yourself available to us today and through you, your
14 company ConocoPhillips, also.

15 The Alaska Oil and Gas Association, I think, does an
16 excellent job of representing the industry here. I want to
17 make that real clear and it certainly makes our job easier to
18 have a professional association that we can -- we can go to and
19 exchange ideas and get feedback. And yesterday, why, there was
20 testimony delivered by Ms. Moriarty. She did her usual good
21 job and her credibility with this agency is sky high.

22 So -- but that said, it is -- I'll just speak from the
23 standpoint of the public member of this Commission. It's
24 disappointing to me that we put a lot of time into planning
25 this hearing. We did not rush in to any judgment. We've

1 compiled an extensive record. We have tried to make it
2 convenient for people to appear and attend and yet you really
3 are the only company person here with drilling experience that
4 has come before us.

5 Our purpose is not to find fault and I do recognize that
6 there are some questions of liability. And that it is
7 sometimes uncomfortable whenever there's been an event even
8 though we're not well beyond it, it's tough to come in and
9 speak and wonder if you're -- what you say might later be held
10 against you, but in our case the Commission has embarked on a
11 sincere effort, we hope with the cooperation of the industry,
12 to make operations safer in Alaska and the end result we had
13 hoped would be then to be able to assure the Alaska public and
14 that's where we're lined up, I guarantee. We will be able to
15 assure the Alaska public that we learned from events elsewhere
16 in the world.

17 But I must say again that I'm disappointed that there are
18 not more people that could talk with practical, on hand
19 experience to us directly and provide some specific insights
20 given the worldwide operations of many of the companies that
21 operate here. It's almost as if there has been a determination
22 to boycott this meeting, I see it, by the industry.

23 Again, I want to end that portion of my comment by
24 complimenting Ms. Moriarty for appearing as she always does and
25 the Alaska Oil and Gas Association. She attends every meeting.

1 The Alaska Oil and Gas Association is exceptionally responsive,
2 so I don't mean to in any way denigrate her good testimony, but
3 I thank you for you and ConocoPhillips for making you
4 available.

5 I would like now to go to item eight of your letter on
6 page 3. This was addressing some of the specific questions put
7 forth by the Commission. Mr. Danenberger, who had decades of
8 experience working in the area of offshore drilling, I believe
9 yesterday -- and would ask to be corrected, but I believe he
10 said yesterday that at least 50 percent, possibly as much as --
11 then 60 percent of the losses of well control blow-outs that he
12 has seen in his career had been the result of failure of
13 cementing programs.

14 First of all, would you -- would you comment on that based
15 on your experience?

16 MR. ROBERTS: Based on my -- I have limited experience
17 with well control failures. I have a couple I could probably
18 talk about, but the -- you know, the statistic that I'd heard
19 before 'cause I haven't studied this, so I don't want to act
20 like I'm an expert on the statistics, that actually most or at
21 least half of the well control events actually occur doing --
22 during workovers and production operations and not during
23 drilling operations because pulling packers and tools that have
24 tight clearances and so forth can lead to swapping (ph) of
25 wells.

1 Cementing operations can lead to -- to well cont- --
2 improper cementing operations can lead to well control
3 problems, I would agree with that.

4 COMMISSIONER NORMAN: Okay. And I think you said 50
5 percent were a result of workover operations so.....

6 MR. ROBERTS: Well, again, that's.....

7 COMMISSIONER NORMAN: I -- I understand.

8 MR. ROBERTS: Yeah, half of it (ph).

9 COMMISSIONER NORMAN: Sure, rough -- roughly half, but
10 then of the other half -- and I'm trying to zero in because
11 that struck me from Mr. Danenberger's testimony that if that is
12 correct that could be just his perspective, but that's huge.
13 That's a huge percentage and it tells me that our attention
14 should be really focused on cementing practices.

15 MR. ROBERTS: Well, our -- you know, the -- the incidents
16 that we've had in Alaska where we -- you know, we had well
17 control incidents where -- during drilling. I'm trying to
18 think, the last one -- I think were all during the drilling
19 phrase, so that statistic is surprising to me.

20 COMMISSIONER NORMAN: And it may reflect his experience
21 elsewhere in the Gulf of Mexico, too, that's what I was getting
22 at. And were your experiences in loss of well control, were
23 they gas -- all gas pockets,.....

24 MR. ROBERTS: No.

25 COMMISSIONER NORMAN:gas related.....

1 MR. ROBERTS: No, they were oil related.

2 COMMISSIONER NORMAN: Okay.

3 MR. ROBERTS: We'll say fluid related or liquid.....

4 COMMISSIONER NORMAN: Could you expand a little bit on --
5 on the answer two item 8.....

6 MR. ROBERTS: Yeah, I'd be glad to.....

7 COMMISSIONER NORMAN:where -- yeah.

8 MR. ROBERTS: Yeah, so I can talk about the three sub-
9 items that are there a little bit. And the previous speaker
10 also mentioned, you know, the desire to get away from
11 prescriptive regulations and more towards performance
12 regulations, you know, we would -- we would support a move like
13 that. And these particular things would be by -- by trying to
14 regulate those things in particular would be more towards the
15 prescriptive style of regulation.

16 You know, we're -- we're normally testing on cement bond
17 when we -- when we drill out the (indiscernible) intermediate
18 casing and do the pressure test of the cement bond and in my
19 opinion that's the most concrete way you can test cement,
20 that's pun --.....

21 COMMISSIONER FOERSTER: Pun intended.

22 MR. ROBERTS:pun intended. I mean, you can run a
23 bond log which we just recently ran one on a well where we
24 questioned the cement bond and it's open -- they're always
25 opened to interpretation and it can be difficult. Where you can

1 do a pressure test it's better.

2 Centralization to get a good cement job is one way that
3 you can improve a cement job. Also by movement of the pipe
4 while you're cementing it whether by reciprocation or rotation
5 is another way to improve the cement bond, so centralization is
6 -- is one way that works, but too many centralizers can make it
7 difficult to get the casing to go into the ground especially in
8 a horizontal well, so forth, so it's difficult to regulate
9 that.

10 And then lock-down sleeves, there's a lot of kinds of --
11 there's a lot of different types of lock-down sleeves in the
12 industry. I assumed based on the topic that we're talking
13 about lock-sleeves on casing (indiscernible) since that was an
14 issue with the Macondo event.

15 And interestingly I read the Executive -- well, I haven't
16 made it all the way through, part of the Executive Summary of
17 the report that came out this week from the Joint Task Force,
18 the second volume deals with the well control issues and they
19 -- in the Executive Summary they said there was a problem
20 related to not -- to installing the lock-down sleeve and I had
21 always understood that they had not installed the lock-down
22 sleeve, so there's -- I'm a little confused on that issue and
23 looking forward to reading more of the report.

24 We do use lock-down mechanisms in our surface casing
25 hangers and, of course, that particular wellhead was a subsea

1 head -- a subsea wellhead which is different from what we
2 commonly use in Alaska on land or even offshore on the
3 platforms. And so that -- whether then trying to regulate
4 those individual things, we think it's better to talk about
5 what barriers are planned for the well when it's constructed
6 and how those barriers will be verified after they are put in
7 place, so that's what led us to the more general answer to that
8 -- that item.

9 COMMISSIONER NORMAN: Okay, thank you. On a -- to go back
10 to the cement bond log, that is susceptible to being read and
11 interpreted, is that a correct statement?

12 MR. ROBERTS: Yes.

13 COMMISSIONER NORMAN: And how reliable as a predictor --
14 as a predictive of a good or bad cement job is the cement bond
15 log?

16 MR. ROBERTS: If there's no cement behind the casing a
17 cement bond log can show that. If there's very good cement
18 behind the casing, a bond log can show that, but when it's
19 mediocre maybe it's good enough, maybe it's not, it's difficult
20 to tell.

21 COMMISSIONER NORMAN: Okay. I'd like to go now to page 4
22 and the response on item number 11. And I'll just read,
23 ConocoPhillips Alaska believes an operator -- I'm reading from
24 the last sentence there. ConocoPhillips believes an operator
25 should have a plan that identifies the requirements that would

1 be needed in a relief well rig and the availability of a relief
2 well rig.

3 As you, I'm sure are aware, this is a question about
4 availability of a relief rig and should -- I mean, we've heard
5 testimony all the way from there should be concurrent drilling
6 of a relief well as I'm thinking -- envisioning it parallel
7 with the well so that you have it immediately available. There
8 -- then I've heard our Canadian friends talk about having the
9 same season capability to move in with a relief well.

10 Would you expand on last sentence if you are able to and
11 just tell us what you envision would fit that, a plan that
12 identifies the requirements that would be needed in a relief
13 well and availability of relief well rig?

14 MR. ROBERTS: Well, yeah, and actually there's a typo in
15 there. It should be, identifies the requirements that would be
16 needed in a relief well, strike rig, and the availability of a
17 relief well rig, so -- well, so the plan would be to identify
18 -- excuse me, the configuration of a relief well, what size
19 casing, how many casing strings it would have, where you would
20 get the casing from, you know, where is it available and then
21 what size of rig that would be available and what
22 characteristic the rig should have and where the closest one
23 is.

24 For example, we have a rig sharing agreement with BP so
25 that if we -- if we need relief rig and we don't have one

1 working for us we can get one from them and we also have
2 identified rigs in the Lower 48 that could be flown up.

3 COMMISSIONER NORMAN: And is that the case anytime you
4 have a well drilled offshore you have that or on any well or --
5 or.....

6 MR. ROBERTS: For our operations?

7 COMMISSIONER NORMAN: Yes, yes.

8 MR. ROBERTS: Yeah, well, we only have the one platform
9 offshore here which would require a -- usually we'd use a
10 platform rig or it could be drilled with a jack-up rig, so that
11 -- currently there are jack-ups in the -- in the Inlet, but
12 there aren't always.

13 COMMISSIONER NORMAN: Right. Well, again, I thank you.
14 And this was not intended to interrogate you on ConocoPhillips
15 procedures, but I want you to know we do appreciate you coming,
16 being in the hot seat and.....

17 MR. ROBERTS: My pleasure to be here. It's -- you know,
18 it's a lot easier for me to talk -- answer direct questions
19 like this than it is to prepare a written statement, so.....

20 COMMISSIONER NORMAN: Of course.

21 And, Mr. Chairman, finally I will note that I would expect
22 our record will remain open and consequently if there are any
23 other comments that would be submitted later on we would
24 welcome them because this has not been an exercise in trying to
25 find fault.

1 We're sincerely trying to do the best we can as regulators
2 to design some regulations. And if in the event we finally
3 work through this and come out with something and then in this
4 very room we find an array of industry personnel telling us why
5 it was wrong headed, I'm going to be very irritated and
6 wondering where they were today or yesterday.

7 But that -- that was a statement not directed at you or
8 ConocoPhillips or the Alaska Oil and Gas Association which we
9 very much appreciate their presence here. Thank you so much.

10 MR. ROBERTS: Thank you.

11 CHAIRMAN SEAMOUNT: Mr. Roberts, as usual Commissioners
12 Foerster and Norman stole most of my questions so I won't have
13 too many of 'em. Both you -- both ConocoPhillips and AOGA were
14 concerned that -- that there is no definition of ultra-extended
15 reach wells, well, of course, that would be part of the public
16 process if we did decide to go through regulatory -- regulation
17 modifications, that sort of thing, that -- yeah, that would
18 probably be one of the first things that we'd come up with.

19 Also I'd like to go to item number 11 about the relief
20 well. You stated in here that, well capping technology has
21 been effectively utilized in re-establishing well control in
22 hundreds of well control events world wide and I assume you're
23 talking about Red Adare (ph) coming in and sticking a big old
24 cement block on the well.

25 I guess I understand why it took so long to design the

1 well cap for the Macondo well, but my question is, is well
2 capping equipment in Alaska right now or do you have to design
3 it for each specific event?

4 MR. ROBERTS: It's not in Alaska. There is -- there is
5 some equipment in Alaska. There's a -- I believe there's an
6 ATHEE (ph) wagon here that's used to pull equipment away from
7 the well so you can access it, but the specialized equipment
8 would be flown in.

9 CHAIRMAN SEAMOUNT: Is there a way to have that equipment
10 on the shelf in the field already designed?

11 MR. ROBERTS: For each well? Yeah, I.....

12 CHAIRMAN SEAMOUNT: For each type of well I would say.

13 MR. ROBERTS: I don't -- I don't know.

14 CHAIRMAN SEAMOUNT: Okay.

15 MR. ROBERTS: Yeah. The -- of course, the Macondo was
16 deepwater, highly specialized, a totally different thing.
17 Normally the well capping operations that Red Adare and Wild
18 Well Control (ph) do is a lot simpler.

19 CHAIRMAN SEAMOUNT: Okay. Commissioner Foerster has a few
20 more questions as usual.

21 COMMISSIONER FOERSTER: I wanted to reiterate what
22 Commissioner Norman said about thanks for being a technical
23 bulls-eye for us as the only drilling engineer who has come up
24 here. All the questions that we have in that regard you're
25 having to field so I apologize for that and thank you for your

1 patience in taking all of the heat.

2 MR. ROBERTS: No apology necessary. It's my pleasure to
3 be here.

4 COMMISSIONER FOERSTER: And this might be the time when
5 you're thinking why did we leave OAGA because if we haven't
6 then Kara would have -- never mind.

7 But the first thing had me put my hat back in and say got
8 more questions was when you were talking about well control
9 incidents and you said a couple I couldn't talk about made me
10 remember what Ms. Ulmer said about the difficulty in getting
11 industry experience shared with other companies and with the
12 indust- -- and with the regulatory framework so that we can
13 develop adequate performance based measures and regulations.
14 And I just wanted to comment it's the couple you can't talk
15 about that might be the most useful and ask if you had any
16 comments on that?

17 MR. ROBERTS: Well, I -- I didn't want to talk about it
18 just because the details are -- if I get details wrong in a
19 public testimony then there's nothing good from that can come.
20 The -- also, you know, I was involved in a well control
21 incidence in Indonesia when I worked for a previous company and
22 I don't know if it's -- if I should talk about that in public
23 or not. You know, it's public testimony and can be.....

24 COMMISSIONER FOERSTER: Okay.

25 MR. ROBERTS:sensitive sometimes, but, you know, all

1 our drilling records and everything thing that happens on our
2 rigs, of course, are -- the reports come here so you have all
3 the information we have.

4 COMMISSIONER FOERSTER: Okay, okay. Two more questions.
5 Blowout contingency plan authority currently resides with the
6 Department of Environmental Conservation and their authority is
7 limited to requiring that an operator have a plan. And they
8 don't have any approval of that plan, so if your plan is -- if
9 we have a blowout I'm going to run like crazy and try to blame
10 somebody else, that's a plan. So DEC currently has no
11 authority to say that's an inadequate plan, give me a different
12 one.

13 So one of the things that's being tossed around is the
14 idea of transferring or adding authority to the AOGCC as part
15 of the Permit to Drill approval process that before a Permit to
16 Drill can be issued there has to be a blowout contingency plan
17 and we have to approve of it. How do you react to that?

18 MR. ROBERTS: Well, are you envisioning that as a -- on a
19 well by well basis or would you have one plan for the field
20 or.....

21 COMMISSIONER FOERSTER: Well by well basis.

22 MR. ROBERTS: Yeah, our well contingency plans are a
23 pretty complicated document and I would, you know, be more
24 comfortable with having one for each reservoir or each field or
25 something like that rather than having to submit a new one

1 that's identical to the last one every time, but certainly we
2 have a blowout contingency plan and I think, you know, we
3 wouldn't have any problem with having it reviewed by AOGCC. It
4 would be better if we only had to have it reviewed by one
5 agency within the state rather than having it duplicated.
6 Duplicated responsibilities between agencies would be -- make
7 it confusing.

8 COMMISSIONER FOERSTER: Currently does DEC review your
9 blowout contingency plans?

10 MR. ROBERTS: Yes, I believe so.

11 COMMISSIONER FOERSTER: To what extent do they review
12 them?

13 MR. ROBERTS: I don't know, I'd have to check.

14 COMMISSIONER FOERSTER: Do you send them a copy, they read
15 it and file it or do they give feedback to you and say this
16 isn't acceptable?

17 MR. ROBERTS: I.....

18 COMMISSIONER FOERSTER: I mean, 'cause if -- if review
19 means circular file it then that's not a review.

20 MR. ROBERTS: Yeah, I don't know. I haven't -- I don't
21 know what their review process is.

22 COMMISSIONER FOERSTER: Okay. Could you get me that
23 answer?

24 MR. ROBERTS: Sure.

25 COMMISSIONER FOERSTER: Okay.

1 CHAIRMAN SEAMOUNT: You might want to ask DEC that
2 question.

3 COMMISSIONER FOERSTER: That's a -- yeah, but from the
4 operator's experience what has been the feedback was -- is my
5 question.....

6 CHAIRMAN SEAMOUNT: Okay.

7 COMMISSIONER FOERSTER:to ConocoPhillips, but --
8 yeah, DEC will have a different perspective on that answer.
9 One last question.

10 MR. ROBERTS: Um-hum. (Affirmative)

11 COMMISSIONER FOERSTER: When you were listing your prior
12 experiences did I hear Norway? That's not the question.

13 MR. ROBERTS: No, you didn't.

14 COMMISSIONER FOERSTER: Okay. So you -- you don't have
15 any experience with -- we've been hearing a lot about how
16 Norway's safety case.....

17 MR. ROBERTS: Yeah, I.....

18 COMMISSIONER FOERSTER:revision has, you know,.....

19 MR. ROBERTS: I've not work there. We had a --
20 ConocoPhillips has operations there, but I -- I haven't worked
21 there.

22 COMMISSIONER FOERSTER: Do you have any feeling from --
23 feedback from your cohorts as to whether that's a better
24 regulatory environment or -- no? Okay.

25 MR. ROBERTS: No, I don't.

1 COMMISSIONER FOERSTER: Okay, that's it. Thank you for
2 your time.

3 MR. ROBERTS: You're welcome.

4 CHAIRMAN SEAMOUNT: Commissioner Norman, do you have any
5 more comments, questions?

6 COMMISSIONER NORMAN: No. Only to add my thanks again to
7 Mr. Roberts.

8 CHAIRMAN SEAMOUNT: Okay. I had another question, but it
9 slipped my mind. It had something to do with Norway, too. Do
10 you know what my question was, Commissioner Foerster?

11 COMMISSIONER FOERSTER: Is it cold in Norway?

12 CHAIRMAN SEAMOUNT: Well, I guess we'll just skip it. It
13 must not have been important. I'd like to thank you again very
14 much, Mr. Roberts, for taking the time out to come and talk to
15 us. Thank you.

16 Okay. Our next speaker, presenter is Professor Rick
17 Steiner. Welcome, Professor Steiner. We're -- again we're
18 happy that you took the time out to come and talk to us.

19 MR. STEINER: Delighted to. Thank you very much, Mr.
20 Chairman and members of the Commission. I have nothing formal
21 to testify to today. Just a very broad, general comment or two
22 and then one specific recommendation that I think is critical
23 to the future safety of drilling and production on the North
24 Slope offshore and on.

25 First of all, I'm not an engineer. I may be in a room of

1 engineers here. I'm a biologist so I'm -- generally I work
2 around the world on issues when engineers fail and we have
3 catastrophic oil spills and such.

4 The first thing I'd like to say is I'm sorry I missed Fran
5 Ulmer's presentation this morning, but the National Oil Spill
6 Commission made about -- well, specifically 30 specific
7 recommendations to government issued in January and to my
8 knowledge none -- none of those have been fully implement yet
9 and here we're charging forward with additional offshore
10 drilling both in the Gulf and in the Arctic. It's almost as
11 though we haven't learned the lesson.

12 I appreciated ConocoPhillips comments here just now. It
13 sounds like each individual company has learned some from this
14 event, the Macondo, but collectively we haven't implemented --
15 we haven't done the job yet and we need to.

16 I wrote the White House a letter earlier this week asking
17 them for a specific recommendation. By recommendation update
18 on where they are in implementing those 30 government
19 recommendations. I would encourage the Commission here to do
20 the same. I realize most of those are federal, but they do
21 have bearing on state -- state jurisdiction as well.

22 Secondly I'd like to support -- I just looked at these
23 comments from the North Slope Borough, Mayor Itta, from the
24 Kachemak Bay Conservation Society and Lois Epstein and I'd like
25 to support all three of those submissions to the Commission. I

1 haven't looked at -- read the in detail, but from what I see
2 they're all very well thought through and very specific.

3 My final specific recommendation is found in one of the
4 Oil Spill Commission's recommendations. It came from our work
5 a couple of years prior to and that is that a Regional Citizens
6 Advisory Council be established for the Arctic.

7 I think this is such a critical issue, without it I and
8 many of the -- Commissioner Norman you mentioned the public in
9 this and there's many people in the public that simply don't
10 have time to pay too close attention to these issues, don't
11 have the technical capability. I certainly don't on many of
12 the engineering issues and so with government and industry
13 dealing with all this without having this third leg here, the
14 public, actively engaged in the legitimate, well funded,
15 continuous fashion with an RCAC it's bound to fail and I'm very
16 concerned about that.

17 Just very quick history, before the Exxon Valdez oil spill
18 and I was the University's marine advisor in Prince William
19 Sound for 14 years stationed in Cordova and we knew there was a
20 problem in Valdez. And I took this lesson from Solumvou (ph)
21 in Scotland and proposed it to Alyeska that they set up a
22 Citizens Advisory Council two years prior to Exxon Valdez. I
23 met with the president of Alyeska. He essentially said get
24 lost, why would I want the citizens in my business, breathing
25 down my neck on something that we know how to do this. It

1 seemed rationale and reasonable at the time.

2 Two years later Exxon Valdez within one month we had
3 commitment from the industry to establish an RCAC. This was
4 done without legislation. It was done without regulation. It
5 was a commitment from the industry to the citizens that this
6 makes sense, we're going to do it.

7 Fast forward now to after Macondo -- even before Macondo
8 we were trying to set up an Arctic Regional Citizen Advisory
9 Council here in Alaska to, sort of, give some legitimate
10 citizen input into this whole issue. There was dramatic
11 resistance from Shell. You know, why the industry -- and even
12 after Macondo there's been resistance and opposition from the
13 industry.

14 I would echo Commissioner Norman's statement earlier that
15 I think it's pretty outrageous that the only industry
16 representative that came before you here is ConocoPhillips. I
17 don't get it. I mean, it's almost like the AOGCC needs
18 subpoena power and you need to require these people to sit in
19 front of you and tell you their plans and have a more
20 deliberate interaction.

21 Regardless, on an RCAC the issue -- the specific issue is
22 that a lot of people will say well, Congress has to do that.
23 Well, it doesn't. We set up the Prince William Sound RCAC
24 before OPA-90 required it and it was a simple contract between
25 the pipeline company and the citizens that pre-existed federal

1 statute. We can do the same here. I think if the AOGCC could
2 stipulate that any driller in the Arctic has to be -- as a
3 condition of its permit has to be a participant in a
4 legitimate, well represented RCAC for the Arctic, when we're
5 there.

6 You can even take monies to fund such a thing out of the
7 -- what's it call, what we used to call the 470 Fund or the Oil
8 Spill Liability Trust Fund federally. There are monies around
9 to do this and it -- I frankly think it's a very, sort of,
10 binary question. If you have an RCAC, we've got some
11 confidence in the safety of drilling in the Arctic. If we
12 don't, quite frankly, I have no confidence. I mean, I think
13 we're bound to make similar mistakes to what we've been making.

14 So, I think, that's all I had to say and if there's any
15 questions I'm delighted. Again, I apologize for not having any
16 formal comments submitted to you, but I would encourage you to
17 think very, very long and hard about this issue of requiring
18 all the drillers in the Arctic on shore and offshore to be
19 participants in a legitimate RCAC for the Arctic or they don't
20 get their permits. Thank you very much.

21 CHAIRMAN SEAMOUNT: Thank you, Professor Steiner.

22 Commissioner Norman, do you have any questions, comments?

23 COMMISSIONER NORMAN: No, I think Professor Steiner was
24 very clear and understood.

25 COMMISSIONER FOERSTER: Ditto.

1 CHAIRMAN SEAMOUNT: Okay. I have -- well, are you
2 presently residing in Alaska?

3 MR. STEINER: Yeah.

4 CHAIRMAN SEAMOUNT: In Anchorage?

5 MR. STEINER: Yeah.

6 CHAIRMAN SEAMOUNT: Okay. Your statement about how long
7 it's taken the Federal Government to implement these
8 recommendations, I would hope that Alaska agencies and
9 legislators are small enough and nimble enough to where we can
10 get things done a lot faster than the Federal Government and I
11 think we've shown that in the past.

12 I did remember what I was going to say about Norway, is
13 there's been -- there's been a big outcry about the Legislature
14 sending all our people to Norway and after hearing this
15 testimony for the last two days I'm thinking maybe it's a good
16 idea they went and maybe we should have gone, too, but.....

17 Okay. Well, thank you, Professor and thanks again for
18 your time.

19 MR. STEINER: A pleasure.

20 CHAIRMAN SEAMOUNT: I guess at this time we've got one
21 more person requesting to give statements. And I guess Delice
22 Calcote is not here. She's scheduled for the afternoon, so we
23 will a recess till 1:15 and hopefully she'll be here at that
24 time. So we're going off the record unless, do any of the
25 Commissioners -- other Commissioners have any statements to

1 make?

2 COMMISSIONER FOERSTER: Or is -- none, but is there
3 anybody else in the audience?

4 CHAIRMAN SEAMOUNT: Is there anybody else in the audience
5 that would like to make a statement? Okay.

6 COMMISSIONER NORMAN: If -- maybe to enlarge that question
7 so we could gauge the day for everyone. Does anyone, including
8 Ms. Colombie and Staff, know of anyone else that's indicated a
9 request....

10 MS. COLOMBIE: I do not.

11 COMMISSIONER NORMAN: Very well. So as far as we know
12 we'll recess, we'll come back, listen to Ms. Calcote and then
13 that will complete the hearing.

14 CHAIRMAN SEAMOUNT: I'm wondering is it appropriate to
15 discuss the continuation of the hearing until after various --
16 do we do that now or later?

17 COMMISSIONER FOERSTER: Both.

18 CHAIRMAN SEAMOUNT: Okay. We will -- unless there's any
19 objection from the other two Commissioners, I think we ought to
20 instead of adjourning this -- this hearing today, we need to
21 continue it until -- well, first of all the Joint Investigation
22 Team report just came Wednesday so people need a month to
23 digest that, but also just as much important the National
24 Academy of Science is going to come out with a report and we
25 don't know when that would be, so I would think that we ought

1 to continue the hearing until one month after the National
2 Academy of Science -- Scientists put out their report and I'm
3 hoping that it doesn't take a year.

4 COMMISSIONER FOERSTER: Do you need a motion for that?

5 CHAIRMAN SEAMOUNT: Do I hear a motion?

6 COMMISSIONER FOERSTER: You hear one.

7 COMMISSIONER NORMAN: Second.

8 CHAIRMAN SEAMOUNT: All those opposed? Hearing none, we
9 will leave the record open and continue the hearing, if we have
10 to contin- -- I mean, if we have to meet again it will be one
11 month after the National Academy of Science report is out.

12 And with that we are recessed until 1:15. At this time is
13 12:42.

14 UNIDENTIFIED VOICE: 11:42.

15 CHAIRMAN SEAMOUNT: 11:42.

16 (On record - 11:43 a.m.)

17 (On record - 1:18 p.m.)

18 CHAIRMAN SEAMOUNT: We are going to continue our hearing.
19 The time is 1:18. And I guess maybe should I give notice -- I
20 guess I'll give notice after the presentation -- the final
21 presentation is made of what our plans are for the future.

22 So the next presenter is -- tell me if I'm pronouncing
23 your name correctly. It's Delice Calcote.

24 MS. CALCOTE: Yup, that's right. You got it right.

25 CHAIRMAN SEAMOUNT: Cook Inlet Marine Mammal Council.

1 MS. CALCOTE: Yup.

2 CHAIRMAN SEAMOUNT: Welcome and thank you for taking your
3 time to come here.

4 MS. CALCOTE: Yeah, thank you.

5 CHAIRMAN SEAMOUNT: I hear you're -- I hear you're --
6 pardon me?

7 MS. CALCOTE: Do you want me to sit over there?

8 CHAIRMAN SEAMOUNT: Yes, please, right over there. I hear
9 you're a whaler, huh?

10 MS. CALCOTE: DJ's the whaler. I come from a family of
11 whalers though.

12 CHAIRMAN SEAMOUNT: Okay. Did you catch a whale this
13 year?

14 MS. CALCOTE: DJ, did you catch a whale this year?

15 MS. BLATCHFORD: I don't know if I should answer that or
16 not.

17 CHAIRMAN SEAMOUNT: We have nothing to do with whaling.

18 MS. BLATCHFORD: (Simultaneous speech) Cook Inlet so I
19 guess I can say yes.

20 CHAIRMAN SEAMOUNT: Okay, all right, fine. Please
21 proceed, Ms. Calcote.

22 MS. CALCOTE: Am I on a timeline? I'll try to be -- you
23 know, it's just a one pager and then the last sentence is right
24 here and then I just wanted to read these two little.....

25 CHAIRMAN SEAMOUNT: Okay.

1 MS. CALCOTE:paragraphs here.....

2 CHAIRMAN SEAMOUNT: That's fine.

3 MS. CALCOTE:and a paragraph here.

4 CHAIRMAN SEAMOUNT: Yeah.

5 MS. CALCOTE: Okay.

6 CHAIRMAN SEAMOUNT: You can take 20 minutes

7 MS. CALCOTE: Oh, gee, (indiscernible) get a lot said.

8 Okay. I am Delice Calcote. I am Alutiq of Afognak Island
9 on my Mother's side and her dad was from South Naknek and he's
10 part Saami, one of the Reindeer herders that moved to Alaska.

11 I was raised on Kodiak and Afognak Island and moved over
12 to the mainland here in '69. My very first job was Alaska
13 Federation of Natives during the Land Claims.

14 I've worked for Cook Inlet Marine Mammal Council since
15 1997 in the capacity of secretary. I have attended both
16 Federal hearings on the Cook Inlet Beluga, provided comments on
17 the Federal Notices on Endangered Species Listing, the
18 Environmental Impact Statements and the Critical Habitat for
19 the Cook Inlet Beluga. I've also worked and volunteered for
20 Alaska Inter-Tribal Council, a non-profit consortium of
21 Alaska's tribes that was created back in 1992.

22 I oppose and object to any exemption of 500 meters around
23 all marine vessels that produce noise, dump sewage, emit toxic
24 air particulate matter into the ambient airways. The industry
25 cannot prove that they will disproportionately affect the

1 communities of the Chuckchi, Beaufort Seas, nor the Cook Inlet,
2 Bristol Bay nor the Aleutian trenches. The industry cannot
3 prove that their air pollution is impacting our coastal
4 communities, their territories, nor the waterways that we have
5 used and occupied, that we have relied on for our traditional
6 and cultural foods.

7 I oppose an air permit to pollute our airways that have
8 already impacted with Arctic haze from developing nations,
9 carbon emissions that sink into Arctic areas and are noticeably
10 impacting the ice shelf of the Arctic.

11 I oppose any self-monitoring by the industry.
12 ConocoPhillips has shown it will com- -- it will not comply
13 with nitrogen standards. Their modeling shows they can cause
14 pollution levels to reach 98 percent of allowable
15 concentration. High levels of nitrogen dioxide can cause
16 breathing problems, asthma, heart problems. Fine particulate
17 matter also causes heart disease, can lead to death. Carbon
18 melts the ice, furthering climate changes.

19 I object to the rising health problems of asthma, lung
20 disease, brain damages, nerve related diseases and debilitating
21 nervous disorders that are here in Alaska and rising. No
22 industry has disproved their emissions do no harm. The
23 American Heart Association says there is no safe level of
24 particulate matter in the airways.

25 We have listened to our tribal leaders. Health care

1 workers note the physical changes that are occurring in our
2 peoples, the lands, the waters, the airways, the animals. We
3 have reports of babies that cannot return to their villages due
4 to the poor air quality and air alerts that seem to be like a
5 daily constant alert.

6 Our peoples have used and occupied the lands and
7 territories of Alaska. The ocean is our Safeway store and we
8 have not voted that it is up for industry to destruct, to harm,
9 to take our food resources, nor to destroy the critical
10 environment that they require to live, to exist. The mining
11 industry do not eat, nor rely on the living marine resources of
12 the oceans, but our peoples live and eat and rely on our
13 traditional and cultural resources since time immemorial (ph).

14 I object to over 200 abandoned pipelines in Cook Inlet,
15 the flaring from the pipeline, the oil, those platforms. This
16 is not allowed off the coast of Santa Barbara. Apparently all
17 their gas is to be re-injected until the oil is gone, then the
18 gas can be taken. I object to this practice. Section 404 of
19 the Clean Air Act is not a permit to pollute forevermore.

20 What is the Federal Trust responsibility to Indian Tribes?
21 The Federal Government maintains a special trust relationship
22 with Indian tribes pursuant to treaties, statutes, Executive
23 Orders, judicial decisions and other legal instruments.
24 Inherent in this relationship is an enforceable fiduciary
25 responsibility to Indian tribes to protect their lands and

1 resources, unless otherwise unencumbered through mutual
2 agreement, not manufactured, mutual.

3 What is meant by a government-to-government relationship?
4 The President's Executive Memorandum of April 29th, 1994
5 requires the Federal Government to recognize tribal governments
6 as the governments of separate, sovereign nations. This
7 relationship is unique as the Federal Government does not owe
8 any other entity, state or private, a trust responsibility.

9 I have worked for Chickaloon Village and one of our -- one
10 of their license plates -- or licenses was held up in Court for
11 a couple years. The State finally dismissed the case, but I'll
12 read you just this one paragraph on page 11 of 16, the opening
13 brief for Petition For Review. You know, they didn't reply in
14 90 days, 180 days.

15 Under the doctrine of discovery, *Oneida II*, 470 U.S. 226,
16 234, 84 L. Ed. 2nd 169, 105 Supreme Court 124- -- 1245 of 1985,
17 fee title to the lands occupied by Indians when the colonists
18 arrived became vested in the sovereign, first the discovering
19 European nation and later the original States and the United
20 States, *Oneida I*, 414 U.S. 661, 667, 39L. Ed. 2nd 73, 94
21 Supreme Court 772, 1974. In the original 13 States, fee title
22 to Indian lands or the pre-emptive right to purchase from the
23 Indians was in the State. *ID.*, at 670, I'll just -- I'll give
24 you guys a copy of this.

25 Both before and after the adoption of the Constitution,

1 New York State acquired vast tracts of land from Indian peoples
2 through treaties it independently negotiated, without National
3 Government participation.

4 The Federal Government initially pursued a protective --
5 policy protective of the New York Indians, undertaking to the
6 secure the tribes' rights to reserved lands: Handbook of
7 Federal Indian Law, da-da, da-da.

8 In 1790 Congress passed the first Indian Trade and
9 Intercourse Act, commonly known as the Nonintercourse Act and
10 the Act bars the sales of tribal land without the acquiescence
11 of the Federal Government and the effected tribe through treaty
12 or convention entered into pursuant to the Constitution.

13 Therefore, the State of Alaska and the United States of
14 America or that matter have no lawful right of jurisdiction or
15 dominion or control over any of the land or indigenous peoples
16 of Alaska due to the simple fact that there has never been any
17 treaty or convention entered into with the indigenous people of
18 Alaska by either the Russian, Spanish, Portuguese, British or
19 the United States of America governments pursuant to the Law of
20 Nations, International Law or the Constitution of the United
21 States of America.

22 And I also brought that 1790 Nuka (ph) Sound Convention
23 and on -- when they were gathering for the report to figure if
24 they wanted to gather all their sources to go fight, you know,
25 for the Nuka Sound and occupying our lands, the French gave the

1 report and Mayor Bue (ph) on page 426 of that book says, no
2 need to gather our sources and break our pact of peace up
3 because the Natives own the land. You know, I find that, you
4 know, ANCSA, statehood, the Treaty Accession (ph), they're
5 without our consent and, you know, violations are occurring and
6 -- but we have never given up. We have never ceded. There's
7 never been no war we with us. We are not anybody's war booty.

8 Thank you very much. I could read lots more. I have lots
9 more. You know, being a tribal court clerk I have -- I have
10 lots of cites and everything, but in the interest of brevity I
11 think that -- I think I said enough. Thank you very much.
12 Thank you for this opportunity.

13 And, you know, we all live here and we want the best for
14 all of us. We want the best for our children so that there are
15 generations to come for all of us, you know. We want to live
16 with everybody in health not in poisonous air, destroyed
17 waters, destroyed lands or our animals and resources and for us
18 not to be able to even go after them.

19 I'd like to show my map that shows all the declining
20 species that, you know, the State and the Fed are responsible
21 for and, you know, that's not a pretty sight. We have too many
22 declining species and we're not giving up our right to fish and
23 hunt and gather. Thank you very much.

24 CHAIRMAN SEAMOUNT: Well, thank you so much for coming in,
25 Ms. Calcote. And we may have some questions for you.

1 Commissioner Norman?

2 MS. CALCOTE: Oh, sorry.

3 COMMISSIONER NORMAN: Yes, thank you. We do appreciate
4 you coming in, Ms. Calcote.

5 MS. CALCOTE: Um-hum. (Affirmative)

6 COMMISSIONER NORMAN: We're glad to have someone of your
7 experience. What is your opinion of the action recently taken
8 by the Cherokee Nation effecting roughly almost 3,000 of its
9 members?

10 MS. CALCOTE: Yes, I -- I heard about that. You know,
11 during the Civil War back then the tribes went and helped out
12 the -- the Black people and they took care of them. And in our
13 way if our children have any connection to our mothers we are
14 to recognize them.

15 You know, I have an uncle that has -- that had seven wives
16 and as children got in trouble this one time for trying to make
17 some distinction between all my cousins. And I'm the oldest of
18 eight and I got it from my aunt, I got it from my grandmother,
19 I got it from my mother. My grandmother is one of 16 so by the
20 time that my dad came home that night, you know, we all knew
21 that we -- we can't deny who are family members are. And if
22 there is a connection to our family no matter, you know, if
23 they married a Black man, but if they have the connection.

24 Our mitochondrial DNA through our moms and that's how we
25 are recognized. When we all had to have our family trees done

1 it was all by where is your mom from and as the Tribal court
2 clerk that's one of the very first, you know, the forms that,
3 you know, I need to establish where's their tribe and who --
4 who is your mom because many times they may not know what
5 tribe, you know, in the -- I also have a copy of 1890 census
6 done by the Department of Interior and there's -- there were
7 511 tribes, but for purposes of enumeration they reported 309.
8 Today there's only 227 federally recognized tribes and two
9 consortium tribes, you know, Tlinget Haida Central Council and
10 TCC (ph). So.....

11 COMMISSIONER NORMAN: In Alaska?

12 MS. CALCOTE: In Alaska.

13 COMMISSIONER NORMAN: Yeah.

14 MS. CALCOTE: Yeah, so we have 227 individually federally
15 recognized tribes, but we have some tribes that aren't
16 recognized and don't really want to be recognized.

17 COMMISSIONER NORMAN: Well, but the question is your
18 opinion if you have one. You don't have to answer it, of
19 the.....

20 MS. CALCOTE: Okay. My opinion is that, you know, if
21 there's -- if.....

22 COMMISSIONER NORMAN:action taken by the Cherokee
23 Nation.

24 MS. CALCOTE:those Cherokee have a relation to their
25 mom who is from Cherokee then they rightfully should be

1 recognized, but, you know, that's also up to them. There's
2 been -- there was an opinion put out by the Solicitor's Office
3 on, you know, who is an Indian and they came down to the fact
4 and said we don't -- we don't have the authority to describe
5 who is an Indian and who is their family and who is their
6 members. It's up to our Indian tribes to have that.

7 You know, we don't tell the United States you shouldn't be
8 immigrating so and so, you know, we don't say that. We have,
9 like, an accepting policy. We helped a lot of people out --
10 survive up here, you know, there's lots of elders stories.
11 Many minors that would not have made it without our Indian
12 Village help. Hey, we even helped the military. They -- you
13 know -- her father-in-law was Percy Blatchford who helped the
14 military out here several winters. They were starving and if
15 it hadn't have been for our people helping out the military
16 many times, not just that one winter, you know, we don't have
17 that -- it's up to each tribe to make that decision. I can't
18 make that for the Cherokee.

19 COMMISSIONER NORMAN: Okay. No, that -- that's sufficient
20 and it's a pleasure to have someone as knowledgeable as you are
21 appear before us. Thank you so much.

22 MS. CALCOTE: Okay. Thank you so much for this
23 (indiscernible) and for listening.

24 CHAIRMAN SEAMOUNT: Commissioner Foerster, do you have any
25 questions?

1 COMMISSIONER FOERSTER: No, I don't. I just --.....

2 MS. CALCOTE: Oh, I'm sorry.

3 COMMISSIONER FOERSTER:I just appreciate you coming
4 and I appreciate the --.....

5 MS. CALCOTE: Yes. I -- in fact.....

6 COMMISSIONER FOERSTER:the heart with which you
7 deliver your message.

8 MS. CALCOTE: And I would have been a lot more prepared if
9 I had, had some notice, you know. Cook Inlet Marine Mammal
10 Counsel, Chief Peter Merryman (ph) just passed away and Jeff
11 Landmann (ph) right here is the Cook Inlet Marine Mammal
12 Council executive director. He was the Chair and has to take
13 on the Chair (ph) duties now and so we -- we can be found and
14 we can be noted -- contacted for all the proper notices. Our
15 numbers are.....

16 COMMISSIONER FOERSTER: And I can't imagine you being any
17 more eloquent or any better prepared.

18 CHAIRMAN SEAMOUNT: But, okay, so I recommend that you
19 talk to our special assistant Jody Columbie and she will get
20 you on the mailing list.

21 MS. CALCOTE: Wonderful.

22 CHAIRMAN SEAMOUNT: And I have another recommendation, a
23 lot of what you were discussing, we have no authority over and
24 it sounds more you ought to talk to the Department of
25 Environmental Conservation and the Department of Natural

1 Resources. And you may -- and the EPA and.....

2 MS. CALCOTE: Well, a lot of the stuff that I needed to
3 make claims and declarative (ph) statements because this is a
4 historic date, this -- Cook Inlet is a historic date, has been,
5 has had international status as and this has been recognized
6 prior to statehood. And to have all of these oil companies to
7 continue to have permits to pollute, you know, that's why, you
8 know, I believe we have OPA. We have the Clean Water Act and
9 the Clean Air Act which are trust documents with tribes. You
10 know, there is a fiduciary responsibility and the state is up
11 here, you know, our people were not allowed to vote on it. It
12 is not our document.

13 My mom was threatened with jail time and fined if she had
14 tried to vote. If she hadn't gone and been sponsored by five
15 white people to have it -- to have a high school education test
16 done on her and if she had tried to go to the few polling
17 places that were here she would have been arrested and/or
18 fined. \$500 back then was a lot of money.

19 Our people did not -- statehood wasn't put in their
20 language. We have 22 languages. When was it ever put into our
21 languages? The State of Alaska has a fiduciary responsibility
22 to their Constitution, Article 12, Section (indiscernible).
23 The Statehood Act Section 4, you know, those are our fishing
24 and hunting rights and our lands forever and forever is a very
25 long time.

1 COMMISSIONER NORMAN: I have one more question, Mr.
2 Chairman.

3 CHAIRMAN SEAMOUNT: Okay. Mr. Norman.

4 COMMISSIONER NORMAN: Ms. Calcote, I'd be interested -- it
5 was my understanding that the Supreme Cook made a determination
6 in the case of State of Alaska versus United States that Cook
7 Inlet is not an historic bay and that's the reason if you look
8 at the map there for the closure lines south of Kalgin Island,
9 the State of Alaska in that case had argued that it was an
10 historic bay and it was ruled against the State of Alaska.

11 MS. CALCOTE: Okay. Well, then further -- then let me say
12 further about the 1945 (indiscernible) Charter, Article 73.
13 This was supposed to be a vote for us, not for all the folks up
14 here who had their little green cards through Seattle to be up
15 here nor for the military who were paid for statehood, that was
16 an illegal, illicit vote. And for that President to declare
17 Alaska a statehood on the morning that he's leaving his office,
18 what did Proclamation of Statehood come after, a pardoning of
19 major crimes.

20 You know, statehood is -- was without our vote and that
21 was in direct violation of what the United States and over 150
22 countries had signed to on that 1945 UN charter. Alaska is a
23 non-self-governing territory with Hawaii, Puerto Rico, Guam,
24 Marshall Islands. Anyway, this is without our vote. Without
25 our consent. We have never ceded, never given it away. We are

1 not anybody's war booty. There is an international court case
2 -- you know, even the -- even the Pope has done away with that
3 Doctrine of Discovery, you know, they couldn't apply it above
4 that 55th parallel.

5 COMMISSIONER NORMAN: Yes, ma'am. Well, perhaps, you
6 could come back and.....

7 MS. CALCOTE: So this is.....

8 COMMISSIONER NORMAN:we'll pursue this at some
9 future hearing, but the reason --.....

10 MS. CALCOTE: This is illegal (simultaneous speech).....

11 COMMISSIONER NORMAN:the reason I mention it through
12 is it does affect the jurisdiction of this Commission because
13 within Cook Inlet our jurisdiction extends down, again, I point
14 out the lines there. Outside those lines, that is under the
15 jurisdiction of the United States and the reason it is, is
16 because of that Supreme Court case that I cited to you. So as
17 far as I know that's the law of the land and I think it would
18 be -- if you have anything to the contrary it would be of
19 interest to know it. Thank you so much.

20 CHAIRMAN SEAMOUNT: Thank you, Ms. Calcote.

21 Okay. I have one more thing to say and I said something
22 earlier about, you know, the future and I got slapped --
23 slapped around by the lawyers in my life who told me I didn't
24 say it right, so I'm going to repeat -- well, not repeat, but
25 I'm going to say it the right way.

1 Earlier I mentioned that we would leave the record open
2 and have a hearing 30 days after publication of the National
3 Academy of Sciences report, what the lawyers told me I meant to
4 say and I agree with them was that we would leave the record
5 open for written comments until 30 days after the publication
6 of the National Academy of Sciences report, then notice another
7 hearing if it's appropriate -- if the Commission thinks it's
8 appropriate or if we're requested to do so by a member of the
9 public.

10 Did I say it right this time? Okay, thank you.

11 Before we adjourn this hearing does Commissioner Foerster
12 have any closing comments?

13 COMMISSIONER FOERSTER: I just want to reiterate my thanks
14 to all of you who have had the fortitude to stay here through
15 two days of this. I appreciate your interest and your
16 recognition that this is a very serious matter.

17 CHAIRMAN SEAMOUNT: Commissioner Norman? Commissioner
18 Norman is the one who -- this is his idea to have this hearing
19 so we have to give him credit.....

20 COMMISSIONER FOERSTER: And the last word.

21 CHAIRMAN SEAMOUNT: And the last word. Well, no, I get to
22 adjourn it.

23 COMMISSIONER FOERSTER: Oh, okay.

24 COMMISSIONER NORMAN: Thank you, Chairman Seamount. I
25 think it's been a good hearing. We had some testimony from

1 some very experience people, some of them with decades of --
2 decades and decades of experience in operations in the Outer
3 Continental Shelf and some very knowledgeable people in the
4 area of oil and gas regulation.

5 We do work in a very specific area, but I think it's
6 important that the Commission take a very deliberate approach
7 to examining our own regulations from time to time and
8 particularly in light of the events that occurred in the Gulf
9 of Mexico last year. I think we have taken deliberate
10 approach. We have not rushed in. We've waited until and are
11 still going to wait until all of the studies of the various
12 bodies are in and we will carefully consider that.

13 But the point that I would like to make is that in order
14 for their to be resource development, particularly oil and gas
15 development in our State of Alaska there must be public
16 confidence that it's going to be done right. If there's not
17 public confidence it's going to be done right, then in one way
18 or another it's not going to occur.

19 So this agency exists to do what the public cannot do
20 because the average member of the public is busy at their own
21 jobs, so we exercise oversight and do our best with a very,
22 very capable staff and inspectors. Very, very experienced
23 inspectors that sometimes are working out in the cold and the
24 dark at the late of night alone, but they're the eyes and ears
25 of the people of Alaska to make sure that it is done right.

1 And it is within that context that this hearing was held. The
2 purpose was not to find fault with anyone, that is outside our
3 jurisdiction for any events that may have preceded this and it
4 also would be beyond the evidence before this Commission.

5 Our purpose, however, was to try to learn as much as we
6 could from knowledgeable people in the industry and toward that
7 end we did our best to put forth some questions that might
8 elicit testimony. We did not intend those questions to be all
9 inclusive and we were hopeful that industry and other members
10 of the public would respond in kind and provide us with
11 meaningful feedback so that when we do what we must do, which
12 is reexamine our regulations and make adjustments as necessary,
13 we would have the benefit of the thinking.

14 I thank very much.....

15 (Off record to change the tape)

16 COMMISSIONER NORMAN: Okay. So I do want to thank very
17 much the Alaska Oil and Gas Conservation Commission -- the
18 Alaska Oil and Gas Association for coming in and providing
19 meaningful, helpful comments on the issues we put forth. And
20 also I thank ConocoPhillips.

21 And I'm going to conclude by reiterating my disappointment
22 that we did not have more testimony from knowledgeable people
23 in the industry. And I do want to conclude by making a record
24 that the industry was given the opportunity and I don't want to
25 hear anyone say that they were not invited and that we were not

1 here to listen to them. Thank you, Mr. Chairman.

2 CHAIRMAN SEAMOUNT: Thank you, Commissioner Norman.

3 COMMISSIONER FOERSTER: Can I move it?

4 CHAIRMAN SEAMOUNT: Well, wait a minute. I forgot to ask
5 if there was anyone else from the public that would wish to
6 make a statement today? Please go to the table and identify
7 yourself.

8 MS. BLATCHFORD: Thank you. We're used to being
9 invisible.

10 CHAIRMAN SEAMOUNT: I try to be invisible.

11 MS. BLATCHFORD: It's a good thing many times. We like to
12 cloak. I am Inupiak (ph). I am from a tribe that was claimed
13 to be dead and when the people stood before me and said I
14 didn't exist I said how can you explain that my persona is
15 right here. I'm right here and you're telling me that my tribe
16 is dead. And I've known -- I can go all the way back to the
17 feet of Jesus with my family lineage, so we did intermix and
18 our people were always known for being able to work with other
19 people.

20 I here (ph), in this Cook Inlet, am one of the last female
21 whale hunters that have female whale hunters that are not
22 allowed to use our skills here to provide meat for our peoples.
23 There's various reasons. We're not blaming anyone. It's just
24 the way that progression goes. We'd like to see a little bit
25 more leeway in that. We'd like ConocoPhillips to work with us

1 a little more on that. They have worked with us in certain
2 areas. Shell has worked with us so I compliment them on their
3 efforts.

4 I am Inupiak, so like all of you sitting here I am a
5 guest. I never taken anything from this land that hasn't been
6 given to my family. I had land in Seward that was confiscated
7 by the State. That's still up for question, but there's
8 nothing you can do but go on. It effects our children and what
9 goes on with their lives. I think these meetings are very
10 important. I'm a guest here.

11 I'm Inupiak. My original people are from Barrow so I
12 remember that I'm a guest here. And when I'm on my land, that
13 land was originally given to my great grandfather as a gift
14 from one of the Indian Chiefs because we made them money and we
15 taught them how to survive in an area that they didn't quite
16 understand. So with our knowledge and their get together of
17 going forward we were able to mesh good. We've always tried to
18 do that.

19 I worked for seven years on research on how we can work
20 with the oil companies and inter-mesh working with our food,
21 our plants and land because we want clean water and clean land
22 and if you don't have either you have contamination and
23 toxicity. In working on that, I have a grant that I've been
24 working with, with the pharmaceutical companies to implement in
25 going forward. I don't think they're too cool to the idea yet,

1 but we're working on it.

2 I would like to see people go forward in the factor of
3 still gaining the knowledge of -- that we can mesh together
4 rather than being wars against each other. To learn to be
5 allies that can at least come and sit at the table and say this
6 is what we have, let's put it on the table and we'll inter-mesh
7 with everything that's going on here. And if we can do that, I
8 think that we will find that all of us will win.

9 It's like my mom and my grandmother always said, if you
10 work for others, your pay may not always be money, but when you
11 work for others you will pull ahead and do good financially and
12 any other way because you are one of the others and you are
13 part of them, so when you help them you're helping yourself and
14 it is no selfish thing. It's a progression thing, so I want to
15 thank you.

16 And the tribes that I represent are Tachuccheck (ph) Native
17 tribe out of Seward and they are not a recognized IRA, but I'm
18 also from the Fish River Tribe of White Mountain and of the
19 Adulmute Tribe which is claimed to be dead and here I sit.

20 So we are -- just to give you a little background. We
21 worked with the elements with non-Natives, with the military.
22 One of my things that -- Percy Blatchford was known for was for
23 working with the oil companies and with the military and he was
24 -- a lot of his stuff he couldn't talk about, but he told me I
25 could after he was gone and he gave me that go ahead, so he

1 worked with the Belugas.

2 And when he worked with the Belugas they spoke to him and
3 he had a part of his brain that was able to intelligently talk
4 to these animals and they talked backed to him and they warned
5 him of things that were coming of things they'd seen, of talks
6 they heard and knew of. And so he worked for the military and
7 they documented it and everything that he said that was told by
8 them to him actually came about and believe it or not that was
9 one of the reasons why our homelands was saved by the military,
10 so if our families could work on that.

11 He also saved the whole tribe of Tyonek which I knew Peter
12 Merryman (ph). We worked together on seismic crews for
13 ConocoPhillips Fairweather and Tyonek and it was a big help to
14 the studies of seeing how things operate to help the people go
15 forward, not something that was fighting them, something that
16 was going to be of a help. And I would like to see the
17 fighting stop and us work together a lot better in unity
18 because when it does everybody wins. Everybody does. It's a
19 win/win.

20 And I thank for your time. And we've always worked for
21 the health. The reason we work for the health as a whale
22 hunter the first thing that you do is the men are supposed to
23 do the shooting. Okay. Men have a focus. It's one direction
24 usually, not always. There's always exceptions. The women can
25 do five different thing on each side at one time. When you

1 mesh them together then they work in unity. It's when you
2 single them out and get them independent that they start to
3 work against each other.

4 So one of our jobs and because I was the oldest of the
5 grandchildren I got to learn the mens stuff and shoot and then
6 I got to be with the women and the first thing we did was we
7 cut the animal open and we examined the innards. If your
8 innards were contaminated the animal was burned and destroyed
9 because you didn't want contamination of something that was not
10 good. And after a while when you do a few of them you can look
11 and just glance and see if it's healthy or not. We've come
12 across more and more unhealthy ones and we don't like that.
13 That's not a good sign.

14 So for the health of not only you, but all of the people
15 of Alaska because it always goes out, whoever you touch and
16 whoever you're around is either going to be blessed or they're
17 going to have a negative, so when we want the good to come we
18 give the good out and that's what we'd like to see. We don't
19 want the genocidal act to take effect again. We want that
20 subdued.

21 And I'm from the belief of my people that love overpowers
22 anger and hatred and I proved it to ConocoPhillips out on the
23 seismic boat. We were in angry waters and they asked me to
24 come and do my stuff because I was from that tribe and I said
25 what stuff. I knew, but they have to specifically ask me and

1 when they did I said for how long and then I went into a
2 fasting. And fasting is not starving yourself. It is taking
3 something away from yourself that you know you're going to
4 need, but you are giving to others and when you do that it
5 comes back to you in a positive.

6 So the waves were getting up to like 45 feet and if you've
7 ever been out there in a little boat that's scary, but if
8 you're out in the ship, your ship just starts rocking. Well,
9 we had \$20 million worth of equipment floating behind us and it
10 was going to get all sloshed and ruined and pull apart. We
11 only had about three or four days left of the project.

12 So I went out there on the front of the help with the
13 bosses inside the helm and prayed and fast- -- started the
14 fast. Put my hands out and as soon as my hands were like this
15 the waters were calm. And when I came back in they said how
16 did you do that and where did you learn that? And I said it is
17 from my tribe. We were taught by the missionaries of Mary
18 Magdalene. And that it's from your own book of the Bible in
19 the very first chapter of Genesis, you take dominion over the
20 air, the land, the water and you cause the peace. And I'm only
21 one person so I'm trying to do the peace in my section so that
22 we get along, but if we had more people doing that and actually
23 taking accountability and using that and implementing that,
24 then it's a wonderful thing. If it's not then it goes with the
25 angry and the negatives.

1 So they all still looked at me, the bosses sitting in the
2 helm and said we are never upsetting you and I said it doesn't
3 work that way. You have to work with peace and love and it has
4 to rain over the anger and the hatred and the negatively. And
5 that's why it calmed is because I took their energy and mine
6 and pushed it out there so it was calm and it's something
7 anybody can do, but you have to practice it.

8 And I think you for your time and I just hope that all of
9 the peace comes out and that the good will go forth from this
10 because when we talk and we get things communicating, then
11 that's how people learn and I've learned so much in my almost
12 60 years of life that it's unbelievable. And I love Alaska. I
13 love its people. I love the people from everywhere because I
14 come from half side of whale hunters and half side of herders
15 so we were coastal and inland so our history goes way, way
16 back.

17 And we appreciate the effort that you have gave us to
18 speak and to be seen because we do cloak. Lots of time I will
19 cloak myself and people don't see me because I don't want to be
20 seen, but I want to hear and see what's going on, gather the
21 information, do the research and then get the facts and line
22 'em up.

23 One way that we can help with our toxicity, I wish the
24 mining companies would listen to our people a little bit more.
25 The people that they labeled Shamans are healers. As we have

1 good healers and bad healers. You take the good healers and
2 they will tell you, you take the mushrooms and you take the
3 juice and you put it in where the toxicity is and mushrooms are
4 a natural and they detoxify. They even detoxify in your body,
5 but your body has to get used to it, pushing it out. So the
6 land has to get used to it and it pushes it out, but the
7 (indiscernible) tribe, the healers, they are the ones that
8 taught me that and they proved it and so I don't question it. I
9 tried it on my own in little areas of toxic areas and guess
10 what it works, so we take dominion over the elements and we
11 work with each other on 'em instead of battling and we actually
12 win. So thank you for your time again.

13 CHAIRMAN SEAMOUNT: Thank you. And what was your name
14 again?

15 MS. BLATCHFORD: I'm D. J. Blatchford. My original
16 people, I'm Mukquruk from up north.

17 CHAIRMAN SEAMOUNT: Could you spell that for the reporter,
18 Mukquruk.

19 MS. BLATCHFORD: Mukquruk is M-u-k-q-u-r-u-k and it means
20 healer of plants and that was my mother's name and she passed
21 it down to me. My grandmother's name that she gave me was
22 (indiscernible) which is oldest child, which the oldest child
23 has to carry the knowledge and that's what I am and who I'm
24 from.

25 D. R. Blatchford is a derivative of your own paychecks.

1 My paychecks kept getting mixed up with Deborah because there
2 was so many Debbie's so I took the initials instead and that
3 way D. J. Blatchford is a little bit more distinct. Otherwise
4 it's Deborah Jean Blatchford. And I thank you.

5 CHAIRMAN SEAMOUNT: Well, thank you.

6 MS. BLATCHFORD: Any other questions?

7 CHAIRMAN SEAMOUNT: Thank you very much, Ms. Mukguruk.

8 COMMISSIONER FOERSTER: I just want to thank you. I agree
9 with you that, you know, we always impact people either
10 negative or positiv- -- negatively or positively and you've
11 been a very peaceful, positive influence today. I just enjoyed
12 listening to you speak, so thank you.

13 MS. BLATCHFORD: Thank you. And my family lineage thanks
14 you and the land thanks you.

15 CHAIRMAN SEAMOUNT: Commissioner Norman.

16 COMMISSIONER NORMAN: I have nothing to add.

17 CHAIRMAN SEAMOUNT: Do I hear a motion?

18 COMMISSIONER FOERSTER: I move we adjourn.

19 COMMISSIONER NORMAN: Second.

20 CHAIRMAN SEAMOUNT: All those opposed? Hearing none this
21 meeting is adjourned at 1:59.

22 (Recessed - 2:00 p.m.)

23

24

C E R T I F I C A T E

1 UNITED STATES OF AMERICA)
2)
3)ss.
4 STATE OF ALASKA)

5 I, Suzan Kay Olson, Notary Public in and for the State of
6 Alaska, residing at Anchorage, Alaska, and Reporter for R & R
7 Court Reporters, Inc., do hereby certify:

8 THAT the annexed and foregoing Public Hearing In the
9 Matter of the Notice of Inquiry into by the State of Alaska,
10 Alaska Oil and Gas Conservation Commission, Changes or
11 Additions Needed to AOGCC Regulations Governing drilling, rig
12 workover and well control in offshore and ultra-extended reach
13 wells drilled in the State of Alaska under AOGCC's
14 jurisdiction, given Docket Number OTH-10-16, was continued by
15 Suzan Olson on the 16th day of September, 2011, commencing at
16 the hour of 9:00 a.m., at the Alaska Oil and Gas Conservation
17 Commission, 333 West Seventh Avenue, Anchorage, Alaska;

18 THAT this Hearing Transcript, as heretofore annexed, is a
19 true and correct transcription of the proceedings taken and
20 transcribed by Suzan Olson;

21 IN WITNESS WHEREOF, I have hereunto set my hand and
22 affixed my seal this 29th day of September, 2011.

23
24 _____
25 Notary Public in and for Alaska
My Commission Expires: 08/1/15